Town Code
Town of Walkersville

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ARTICLE I

Incorporation, Corporate Name and General Powers

§ C1-1. Incorporation.

The citizens of the Town of Walkersville residing and included within the corporate limits legally established from time to time are hereby constituted and continued a body corporate. The repealing of the former Section 829 of Article 11 of the Code of Public Local Laws of Maryland (1930 Edition) and the enactment of this new section shall not be construed as terminating the existence of the corporation known as the "Burgess and Commissioners of Walkersville" and creating a new corporation by the name of the "Burgess and Commissioners of Walkersville", but shall be construed as continuing the existence of the said corporation known as the "Burgess and Commissioners of Walkersville."

§ C1-2. Corporate Name.

The corporate name of the Town of Walkersville shall be the "Burgess and Commissioners of Walkersville, MD."

§ C1-3. General Powers.

A. The municipal corporation here continued, under its corporate name, has all the powers and privileges incident to or that may attach to a municipal corporation or body corporate by that name to:

(1) Sue and be sued, to plead and be impleaded and to defend and be defended in any and all courts of law or equity in all actions whatsoever.
(2) Acquire by purchase, gift, condemnation or in any other lawful manner real, personal and mixed property and also any rights or interest therein which, in the opinion of the Commissioners, may be deemed advisable for municipal purposes and to hold, use, manage or dispose of the same for municipal purposes and for the benefit of said town.
(3) Pass and adopt all ordinances, resolutions and bylaws necessary or proper to exercise the powers granted herein or elsewhere.
(4) Execute contracts.
(5) Be vested with the powers of eminent domain to condemn and convert property to the public use of the town for the purposes of widening or constructing streets, widening or constructing sidewalks, for drainage projects, for parks, playgrounds and parking areas, for municipal buildings, for public utilities and for other municipal purposes in such manner and procedure as is or shall be provided by the laws of the State of Maryland for state and county purposes.
(6) Have and use a common seal which may be altered at pleasure.

(7) Have perpetual succession, unless the Charter and the corporate existence are legally abrogated.

B. All property and franchises of every kind belonging to or in possession of the “Commissioners of Walkersville” or the “Town of Walkersville” or of the “Burgess and Commissioners of Walkersville” are vested in the “Burgess and Commissioners of Walkersville.” The town may receive in trust and control, for any general corporate purpose of such trust or for the benefit of the town, all money and other property bestowed upon it by will, deed or any other form of gift or conveyance, in trust for any general corporate purpose, in and of the indigent poor, for the general purpose of education or for charitable purposes of any description of the town.

ARTICLE II
Corporate Limits

§ C2-1. Corporate Boundaries.

The corporate limits of the Town of Walkersville, Frederick County, Maryland, shall include all land lying within the following boundaries: Beginning for the same at a Rebar & Cap found at the Corner of Lot 225, as laid out and shown on a plat entitled “Final Plat, Lots 244-264, Section 5, Plat 2, Deerfield” and recorded among the Land Records of Frederick County, Maryland, in Plat Book 52, at page 138, which is designated thereon as point number 1906, said point also having been situated at the northern most corner of a prior plat entitled “Combined Preliminary/Final Subdivision Plat of Hazel Lewis Estate, Section IV, Lot No. 401 & Resubdivision of Section II Lot No. 1” and recorded among the aforesaid Land Records in Plat Book 23, at page 13, which is designated thereon as point number 11, said point beginning having coordinates of North 664,416.085, and East 1,218,204.161, as surveyed in July, 2006, by Whitney, Bailey, Cox & Magnani, LLC, with reference to the Maryland State Plane Coordinate System (NAD 83/91) as determined from Frederick County Survey Control monuments “Water,” “High” and “Devil”;

Thence leaving said POINT OF BEGINNING, referring all courses of this description to the Meridian of said Maryland State Plane Coordinate System, in part binding on the outline of the first herein mentioned plat (52/138) for a distance of 118.90 feet to a tack & shiner found at the western most corner thereof, and at the northernmost corner of a plat entitled “Final Plat, Lots 1-11, 106, 107 and 273-285, Section 1, Plat 1, Deerfield,” and recorded among the aforesaid Land Records in Plat Book 36, at page 52, which point is designated as point number 414 on said plats (52/138 & 36/52), and in part, continuing the same course on the outline of the last mentioned plat (36/52), in all, binding on the outlines of the second herein mentioned prior plat (23/13)

1) South 64° 31' 53" West, 200.00 feet to the point designated number 10 on said second herein mentioned prior plat (23/13), and designated 1905 on the third herein mentioned plat (36/52); thence binding on the outlines of said second herein mentioned prior plat (23/13), and on the southeast side of Maryland Route 194 as laid out and shown on State Roads Commission of Maryland Plats numbered 15479 and 15478 the four (4) following courses and distances, viz;

2) South 55° 40' 45" West, 119.86 feet to the point designated number 3 on said second herein mentioned prior plat (23/13); thence

3) Southwesterly along a curve to the right having a radius of 4,523.37 feet, for an arc length of 221.80 feet, said curve being subtended by a chord of South 41° 08' 41" West, 221.78 feet, to a point on curve designated number 4 on said second herein mentioned prior plat (23/13); thence continuing along the same curve

4) Southwesterly along a curve to the right having a radius of 4,523.37 feet, for an arc length of 507.40 feet, said curve being subtended by a chord of South 45° 45' 46" West, 507.13 feet to a point of compound curve designated number 2 on said second herein mentioned prior plat (23/13); thence

5) Southwesterly along a curve to the right having a radius of 9,162.70 feet, for an arc length of 321.16 feet, said curve being subtended by a chord of South 49° 59' 00" West, 321.14 feet to the point where a Concrete Monument was heretofore found at the Northeast corner of a plat entitled "Gladetown" and recorded among the aforesaid Land Records in Plat Book 8, at page 149; thence crossing said Maryland Route 194

6) North 39° 00' 45" West, 150.00 feet to intersect the northwest right-of- way line thereof; thence binding on said northwest right-of-way line of Maryland Route 194 the three (3) following courses and distances, viz;

7) Northeasterly along a curve to the left having a radius of 9,012.70 feet, for an arc length of 315.89 feet, said curve being subtended by a chord of North 49° 59' 00" East, 315.87 feet to a Point of Compound Curve; thence

8) Northeasterly along a curve to the left having a radius of 4,373.37 feet, for an arc length of 410.95 feet, said curve being subtended by a chord of North 46° 17' 04" East, 410.80 feet to a point of tangency; thence

9) North 43° 37' 39" East, 158.39 feet to intersect the outline of a plat entitled “Glade Manor Section One, sheet 1 of 3" and recorded among the aforesaid Land Records in Plat Book 14, at page 161 at the point designated No. 13 thereon; thence binding on the outline thereof

10) South 64° 01' 37" West, 670.96 feet to a point where a stone was heretofore found marked “B-29” at the point designated No. 14 on the last mentioned plat (14/161); thence, in part, binding on the outline of the last herein mentioned plat (14/161) and, in part, continuing the same course binding on the outline of a plat entitled “Glade Manor, Section One, sheet 3 of 3” and recorded among the aforesaid Land Records in Plat Book 16, at page 139, in all

11) South 66° 07' 58" West, 760.41 feet to a point where an Iron Pipe was heretofore found at a corner of property now or formerly of Hazel DeCaro; thence binding on the outlines thereof the three (3) following courses and distances, viz;

12) South 20° 02' 23" East, 179.17 feet to a point where an Axle was heretofore found; thence

13) North 65° 46' 09" East, 73.22 feet to a point where a Fence Post was heretofore found; thence

14) South 29° 00' 17" East, 208.59 feet to intersect the aforesaid northwest right-of-way line of Maryland State Route 194 at a point on curve; thence binding thereon

15) Southwesterly along a curve to the right having a radius of 8,560.37 feet, for an arc of 238.39 feet, said curve being subtended by a chord of South 54° 59' 14" West, 238.38 feet; thence leaving said right-of-way and running

16) North 20° 55' 09" West, 431.59 feet to a point located at the southwest corner of the last herein mentioned plat (16/139) and at the point designated No. 15 thereon; thence binding on the line dividing said plat (16/139) from a plat entitled “Addition to Edwin F. Nikirk Property” and recorded among the aforesaid Land Records in Plat Book 14, at page 70

17) North 28° 04' 24" West, 580.73 feet to a point where an Iron Pipe was heretofore found at the northwest corner of the last herein mentioned plat (14/70) and at the point designated No. 16 on the previously mentioned plat (16/139); thence, in part, binding on the outline of the last mentioned plat of "Glade Manor" (16/139) and, continuing the same course binding on the outline of a plat entitled “Glade Manor Section One, sheet 2 of 3” and recorded among the aforesaid Land Records in Plat Book 18, at page 69, in all

18) North 03° 30' 59" East, 652.42 feet to a point where an Iron Pipe was heretofore found at the point designated as number 2 on the last herein mentioned plat (18/69); thence binding on the outline thereof

19) North 15° 15' 40" East, 746.92 feet to a point where an Iron Pipe was heretofore found at the point designated as number 18 on the last herein mentioned plat (18/69); thence binding on the lines dividing sheets 2 and 1 of section one of Glade Manor as laid out on said plats thereof (18/69 and 14/161) from section two of Glade Manor as laid out and shown on plats 6, 5 and 1 thereof, said plats being recorded among the aforesaid land Records in Plat Book 35, at page 93, in Plat Book 33, at page 105, and in Plat Book 30, at page 53, respectively for the ten (10) following courses and distances, viz;

20) South 75° 54' 27" East, 170.04 feet to a point where an Iron Pipe was heretofore found; thence

21) South 15° 15' 45" West, 120.03 feet to a point where an Iron Pipe was heretofore found; thence

22) South 75° 54' 27" East, 800.00 feet to a point where an Iron Pipe was heretofore found; thence

23) South 64° 29' 20" East, 90.00 feet to a point where an Iron Pipe was heretofore found; thence

24) South 64° 29' 20" East, 115.53 feet to a point where an Iron Pipe was heretofore found; thence

25) South 03° 15' 01" East, 101.03 feet to a point where an Iron Pipe was heretofore found; thence

26) South 39° 33' 13" East, 248.11 feet to a point where an Iron Pipe was heretofore found; thence

27) South 88° 36' 50" East, 181.64 feet to a point where an Iron Pipe was heretofore found; thence

28) North 51° 46' 37" East, 87.80 feet to a point where an Iron Pipe was heretofore found; thence

29) North 87° 11' 23" East, 119.42 feet to a point where an Iron Pipe was heretofore found; thence in part, binding on the Outline of said Section two, Plat 1 (30/53) and, in part, continuing the same course binding on the outline of Section two, Plat 2 of "Glade Manor," which plat is recorded among the aforesaid Land Records in Plat Book 30, at page 54,

30) North 36° 31' 19" East, 734.90 feet to intersect the south right of way line of Devilbiss Bridge Road, 100 feet wide, as shown on said plat of Section two, Plat 2 (30/54) and as laid out and dedicated on a plat entitled “Section 1 Lots 2 & 3 Cramer Subdivision,” which plat is recorded among the aforesaid Land Records in Plat Book 9, at page 32; thence binding on said south right of way line of Devilbiss Bridge Road as laid out and shown on the last mentioned plat (9/32) the four (4) following courses and distances, viz;

31) North 26° 28' 39" West, 104.58 feet to a point of curve; thence

32) Northwesterly along curve to the left having a radius of 611.11 feet, for an arc length of 311.82 feet, said curve being subtended by a chord of North 41° 05' 43" West, 308.45 feet to a point of compound curve; thence

33) Northwesterly along a curve to the left having a radius of 1,223.23 feet, for an arc length of 431.13 feet, said curve being subtended by a chord of North 65° 48' 37" West, 428.90 feet to a point of tangency; thence

34) North 75° 54' 26" West, 1,265.68 to the northwest corner of said last mentioned plat (9/32) and of the plat of Section two, Plat 6 of “Glade Manor,” which plat is recorded among the aforesaid Land Records in Plat Book 35, at page 93; thence leaving said south right-of-way line of Devilbiss Bridge Road binding on the outlines of the last mentioned plats (9/32 & 35/93) running to exclude the property now or formerly of Atlee Huffer as shown thereon

35) South 15° 15' 43" West, 512.91 feet to a point where a Fence Post was heretofore found; thence

36) North 74° 33' 14" West, 668.07 feet to a point where a Fence Post was heretofore found; thence

37) North 02° 08' 49" West, 75.56 feet to a point where an 18" Tree was heretofore found; thence

38) North 20° 32' 56" East, 161.72 feet to intersect the aforesaid south right-of-way line of Devilbiss Bridge Road at a point on curve; thence binding thereon the three (3) following courses and distances, viz;

39) Northwesterly along a curve to the right having a radius of 602.96 feet, for an arc length of 185.56 feet, said curve being subtended by a chord of North 82° 10’ 02” West, 184.83 feet to point of tangency; thence

40) North 73° 21' 04" West, 750.20 feet to a point of curve; thence

41) Northwesterly along a curve to the right having a radius of 2,894.79 feet, for an arc length of 292.20 feet, said curve being subtended by a chord of North 70° 27' 02° West, 292.08 feet; thence crossing said Devilbiss Bridge Road

42) North 31° 06' 18° East, 70.83 feet to intersect the north right-of-way line of said Devilbiss Bridge Road at a point on curve; thence

43) Southeasterly along a curve to the Left having a radius of 2,824.79 feet, for an arc length of 202.11 feet, said curve being subtended by a chord of South 69° 48’ 56” East, 202.07 feet to intersect the outline of a plat entitled “Plat of Lot Created by Public Taking Patterson Farms,” which plat is recorded among the aforesaid Land Records in Plat Book 30, at page 162, and to intersect the Easterly Right of Way line of a 60.00 foot Railroad Right of Way; thence binding thereon and on the outlines of said plat (30/162) the six (6) following courses and distances, viz;

44) North 31° 06' 28" East, 62.27 feet to a point of curve; thence

45) Northeasterly along a curve to the left having a radius of 3,490.05 feet, for an arc length of 378.61 feet, said curve being subtended by a chord of North 28° 00' 00" East, 378.42 feet to a point of tangency; thence

46) North 24° 53' 32" East, 874.50 feet to a point of curve; thence

47) Northeasterly along a curve to the right having a radius of 4,925.22 feet, for an arc length of 495.21 feet, said curve being subtended by a chord of North 27° 46' 22" East, 495.00 feet to a point of tangency; thence

48) North 30° 39' 11” East, 688.50 feet to a point of curve; thence

49) Northeasterly along a curve to the right having a radius of 3,550.82 feet, for an arc length of 136.06 feet, said curve being

subtended by a chord of North 31° 45' 03" East, 136.05 feet; thence crossing said railroad right-of-way and binding on the outline of said last mentioned plat (30/162)

50) North 57° 16' 01" West, 65.02 feet to a point where a Steel Pin was heretofore found; thence still binding on the outlines of said last mentioned plat (30/162) the six (6) following courses and distances, viz;

51) North 57° 16' 01" West, 2,412.73 feet to a point where a Steel Pin was heretofore found; thence

52) South 17° 43' 16" West, 333.55 feet to a point where a Rebar was heretofore found; thence

53) South 23° 29' 12" West, 264.11 feet to a point where a Rebar was heretofore found; thence

54) South 15° 18' 41" West, 313.72 feet; thence

55) South 05° 45' 28" West, 312.38 feet; thence

56) North 42° 28' 12" West, 246.48 feet to intersect the Easterly right-of-way line of Glade Road; thence binding thereon and on the outlines of said last mentioned plat (30/162) the two (2) following courses and distances, viz;

57) South 16° 56' 17” West, 1,589.51 feet; thence

58) South 13° 12' 13” East, 51.89 feet to intersect the aforesaid north right-of-way line of said Devilbiss Bridge Road at a point on curve; thence binding thereon and on the outline of said last mentioned plat (30/162)

59) Southeasterly along a curve to the left having a radius of 612.96 feet, for an arc length of 23.93 feet, said curve being subtended by a chord of South 40° 49' 29" East, 23.93 feet; thence leaving said road and still binding on the outlines of said last mentioned plat (30/162) for the two (2) following courses and distances, viz;

60) South 63° 18' 43" East, 145.46 feet; thence

61) South 02° 11' 17" West, 149.70 feet to again intersect the aforesaid northerly right-of-way line of Devilbiss Bridge Road; thence binding thereon the three (3) following courses and distances, viz;

62) South 26° 00' 06" East, 7.77 feet to a point of curve; thence

63) Southeasterly along a curve to the left having a radius of 480.87 feet, for an arc length of 327.74 feet, said curve being subtended by a chord of South 45° 31' 36" East, 321.43 feet to a point of tangency; thence

64) South 65° 03' 06" East, 388.02 feet; thence crossing said Devilbiss Bridge Road

65) South 24° 56' 54" West, 70.00 feet to intersect the southerly right of way line of said Devilbiss Bridge Road; thence binding thereon the seventeen (17) following courses and distances, viz;

66) North 65° 03' 06" West, 388.02 feet to a point of curve; thence

67) Northwesterly along a curve to the right having a radius of 550.87 feet, for an arc length of 375.44 feet, said curve being subtended by a chord of North 45° 31' 35" West, 368.22 feet to a point of tangency; thence

68) North 26° 00' 05" West, 110.19 feet to a point of curve; thence

69) Northwesterly along a curve to the left having a radius of 542.96 feet, for an arc length of 281.50 feet, said curve being subtended by a chord of North 40° 51' 15" West, 278.36 feet to a point of tangency; thence

70) North 55° 42' 25" West, 254.03 feet to a point of curve; thence

71) Northwesterly along a curve to the left having a radius of 924.93 feet, for an arc length of 209.49 feet, said curve being subtended by a chord of North 62° 11' 44" West, 209.04 feet to a point of tangency; thence

72) North 68° 41' 02" West, 94.70 feet to a point of curve; thence

73) Northwesterly along a curve to the right having a radius of 1,939.86 feet, for an arc length of 221.98 feet, said curve being subtended by a chord of North 65° 24' 21" West, 221.86 feet to a point of tangency; thence

74) North 62° 07' 39" West, 216.69 feet to a point of curve; thence

75) Northwesterly along a curve to the right having a radius of 1,462.39 feet, for an arc length of 260.19 feet, said curve being subtended by a chord of North 57° 01' 49" West, 259.85 feet to a point of tangency; thence

76) North 51° 56' 00" West, 261.26 feet to a point of curve; thence

77) Northwesterly along a curve to the left having a radius of 1,402.39 feet, for an arc length of 145.11 feet, said curve being subtended by a chord of North 54° 53' 51" West, 145.05 feet to a point of tangency; thence

78) North 57° 51' 43" West, 521.23 feet to a point of curve; thence

79) Northwesterly along a curve to the left having a radius of 606.62 feet, for an arc length of 345.47 feet, said curve being subtended by a chord of North 74° 10' 37" West, 340.82 feet to a point of tangency; thence

80) South 89° 30' 30" West, 1,116.41 feet to a point of curve; thence

81) Northwesterly along a curve to the right having a radius of 746.20 feet, for an arc length of 229.17 feet, said curve being subtended by a chord of North 81° 41' 37" West, 228.27 feet to a point of tangency; thence

82) North 72° 53' 43" West, 885.14 feet; thence leaving said Devilbiss Bridge Road running with a truncated line

83) South 62° 05' 45" West, 42.35 feet to intersect the easterly right-of-way line of Dublin Road; thence binding thereon the three (3) following courses and distances, viz;

84) South 16° 59' 10" West, 264.82 feet to a point of curve; thence

85) Southwesterly along a curve to the right having a radius of 984.93 feet, for an arc length of 230.57 feet, said curve being subtended by a chord of South 23° 41' 32" West, 230.04 feet to a point of tangency; thence

86) South 30° 23' 55" West, 1,051.52 feet; thence leaving said Dublin Road binding and on lands now or formerly of J. Alton Smith

87) South 42° 03' 18" East, 414.43 feet to a PK nail in a fence post; thence binding on said lands of Smith and on the outlines of a plat entitled “Final Plat Section 3, Block A Green Village Estates,” which plat is recorded among the aforesaid Land Records in Plat Book 16, at page 89, the two (2) following courses and distances, viz;

88) North 71° 26' 37" East, 453.98 feet to a ½ “ Rebar found; thence

89) South 28° 10' 00" East, 491.42 feet to a Rebar & Cap marked “TMA PLS 411” found; thence, in part, binding on the outline of said last mentioned plat (16/89) and, in part, continuing the same course binding on the outline of a plat entitled “Final Plat Section 3, Block B Green Village Estates,” which plat is recorded among the aforesaid Land Records in Plat Book 18, at page 38, in all

90) South 60° 55' 33" West, 1,527.56 feet to a point where an Iron Pipe was heretofore found; thence, in part, binding on the outline of said last mentioned plat (18/38) and, in part, continuing the same course binding on the outline of a plat entitled “Final Plat Section 3, Block C Green Village Estates,” which plat is recorded among the

aforesaid Land Records in Plat Book 18, at page 39, in all

91) South 37° 45' 56" East, 1,243.07 feet; thence binding on the outline of said last mentioned plat (18/39)

92) South 57° 51' 20" West, 501.41 feet to a point where an Iron Pin was heretofore found; thence binding on the outlines of a plat entitled “Final Plat Section 3, Block D Green Village Estates,” which plat is recorded among the aforesaid Land Records in Plat Book 18, at page 40 for the two (2) following courses and distances, viz;

93) South 19° 47' 37" East, 260.58 feet to a point where a Tee Bar was heretofore found; thence

94) South 57° 44' 34" West, 1,126.77 feet to intersect the aforesaid easterly right-of-way line of Dublin Road; thence binding thereon

95) South 26° 30' 03" East, 427.84 feet; thence leaving said Dublin Road, running to exclude lands now or formerly of Shirley R. Buza, the three (3) following courses and distances, viz;

96) North 63° 01' 11" East, 172.26 feet to a point where an Iron Pipe was heretofore found; thence

97) South 25° 58' 55" East, 132.46 feet to a point where an Iron Pipe was heretofore found; thence

98) South 62° 57' 19" West, 171.06 feet to again intersect the aforesaid easterly right-of-way line of Dublin Road; thence binding thereon the two (2) following courses and distances, viz;

99) South 26° 30' 03" East, 234.15 feet to a point of curve; thence

100) Southeasterly along a curve to the right having a radius of 388.10 feet, for an arc length of 126.48 feet, said curve being subtended by a chord of South 17° 09' 52" East, 125.92 feet to intersect the western boundary of the Elsie M. Ramsburg Property; thence binding thereon the two (2) following courses and distances, viz;

101) South 26° 01' 56" East, 438.07 feet to a point where an Iron Pipe was heretofore found; thence

102) South 62° 36' 28" West, 224.55 feet to again intersect the aforesaid easterly right-of-way line of Dublin Road at a point on curve; thence binding thereon the two (2) following courses and distances, viz;

103) Southeasterly along a curve to the left having a radius of 686.20 feet, for an arc length of 26.57 feet, said curve being subtended by a chord of South 06° 34' 54" East, 215.67 feet to a point of tangency; thence

104) South 15° 37' 23" East, 1,664.53 feet to intersect the southerly right-of-way line of Biggs Ford Road; thence binding thereon

105) South 70° 54' 35" West, 459.43 feet; thence leaving said Biggs Ford Road and running with a truncated line

106) South 33° 17' 17" West, 47.52 feet to intersect the easterly right-of-way line of Fountain Rock Road; thence binding thereon

107) South 04° 20' 02" East, 1,434.05 feet; thence leaving said Fountain Rock Road and, in part, binding on the southern outline of Parcel “A” as laid out and shown on a plat entitled “Plat of Addition Joseph W. & Kathleen V. Wachter & Spring Garden Partnership Addition to The Burgess and Commissioners of the Town of Walkersville,” which plat is recorded among the aforesaid Land Records in Plat Book 60, at page 53, in all

108) South 84° 39' 53" East, 2,113.65 feet to intersect the centerline of right-of-way of the Maryland Transit Administration (formerly Pennsylvania RR, as shown on said plat (60/53) at a point on curve; thence binding thereon the two (2) following courses and distances, viz;

109) Southwesterly along a curve to the right having a radius of 3,243.29 feet, for an arc length of 1,054.50 feet, said curve being subtended by a chord of South 61° 05' 55" West, 1,049.86 feet to a point of tangency; thence

110) South 70° 24' 47" West, 1,150.08 feet to again intersect the easterly right-of-way line of Fountain Rock Road; thence for a new line of annexation as shown on a plat titled “The Century Center, Annexation of the Town of Walkersville,” Prepared by J.F. Brown & Assoc., Inc., Dated November 6, 2009.

111) South 82° 11' 37" West, 4.18 feet to a point in the centerline of the Mid-Maryland Railway, as owned by the State of Maryland Department of Transportation, Maryland Transit Administration as recorded in Liber 1169 at folio 712, one of the Land Records of Frederick County, Maryland, said point having a centerline station of 3375+76.00 and being North 70° 24’ 37” East, 23.99 feet from a PK Nail set at the intersection of the railroad and the centerline of Fountain Rock Road (50.00’ right-of-way); thence leaving the centerline of said railroad

112) North 19° 35’ 23” West, 42.50 feet to the northerly right-of-way line of said railroad at a point right of station 3375+76.00; thence with the northerly right-of-way line for the following ten (10) courses and distances; and crossing Fountain Rock Road

113) South 70° 24' 37" West, 40.00 feet; thence

114) South 68° 40' 38" West, 314.14 feet; thence

115) South 75° 17' 55" West, 152.55 feet; thence

116) South 67° 26' 01" West, 250.34 feet; thence

117) South 71° 11' 48" West, 255.02 feet; thence

118) South 69° 44' 15" West, 298.02 feet; thence

119) South 73° 10' 16" West, 197.23 feet; thence

120) South 67° 42' 15" West, 201.22 feet; thence

121) South 70° 24' 37" West, 654.00 feet; thence

122) South 71° 46' 27" West, 252.07 feet to a point 34.00 feet right of station 3401+89.00; thence continuing with said northerly right-of-way line and crossing Retreat Road (50.00' right-of-way)

123) South 70° 08' 15" West, 315.00 feet to a point 37.50 feet right of station 3405+31.00, said point is North 00° 32' 37" East 39.94 feet from a PK Nail set in a railroad tie at the intersection of the centerline of Retreat Road and the centerline of the railroad at station 3405+17.70; thence continuing with the northerly right-of-way line on said railroad for the following eight (8) courses and distances:

124) South 70° 24' 37" West, 27.00 feet; thence

125) South 69° 23' 43" West, 254.04 feet; thence

126) South 70° 24' 37" West, 576.00 feet; thence

127) South 72° 12' 37" West, 175.09 feet; thence

128) South 69° 15' 37" West, 274.06 feet; thence

129) South 70° 24' 37" West, 170.00 feet; thence

130) South 71° 28' 16" West, 405.07 feet; thence

131) South 67° 58' 03" West, 225.93 feet to a point 33.00 feet right of station 3426+00.00; thence with a spiral curve to the left to a gradually increasing right-of-way to 37.50 feet subtended by a chord bearing of

132) South 62° 26' 31" West, 401.59 feet to a point 37.50 feet right of station 3429+95.00; thence with a spiral curve to the left with a gradually decreasing right-of-way to 35.14 feet subtended by a chord bearing of

133) South 52° 42' 02" West, 157.64 feet to a point 35.14 feet right of station 3431+55.46; thence leaving said right-of-way and with the Nycor Acquisition Corporation property as recorded in Liber 1863 at folia 1326, of said Land Records, for the following three (3) courses and distances

134) South 88° 30' 56" West, 363.45 feet; thence

135) North 00° 29' 32" East, 1,128.27 feet to the center point of a sanitary sewer manhole; thence

136) North 61° 47' 41" East, 506.02 feet to a Steel Bar and Survey Cap found on the south fence line of the William Crum Farm as recorded in Liber 625 at folio 538, of said land records in the abovementioned courthouse in the abovementioned county; thence with the William Crum Farm

137) North 64° 30' 04" West, 434.70 feet to a 24-inch planted Stone found marked #18 on the east bank of the Monocacy River; thence for the following nine (9) courses and distances with the meander line of the Monocacy River:

138) South 55° 15' 56" West, 503.25 feet; thence

139) South 53° 15' 56" West, 495.00 feet, thence

140) South 45° 15' 56" West, 792.00 feet; thence

141) South 21° 15' 56' West, 189.75 feet, thence

142) South 01° 44' 04" East, 198.00 feet, thence

143) South 26° 44' 04" East, 247.50 feet, thence

144) South 42° 44' 04' East, 627.00 feet, thence

145) South 47° 44' 04" East, 429.00 feet, thence

146) South 61° 44' 04" East, 215.17 feet to the westerly right-of-way line of the aforementioned railroad 33.00 feet right of station 3444 + 00.20; thence

147) South 61° 44' 04" East, 32.33 feet; thence

148) South 76° 44' 04" East, 34.30 feet to a point 33.00 feet left of station 3443 + 97.25; thence leaving said easterly right-of-way line of the railroad and continuing with the meander line of the Monocacy River

149) South 76° 44' 04" East, 526.70 feet; thence

150) South 53° 44' 04" East, 504.40 feet; thence

151) South 68° 44' 04" East, 412.50 feet; thence

152) South 59° 14' 04" East, 247.50 feet; thence

153) South 53° 29' 04" East, 420.75 feet; thence

154) South 64° 29' 04" East, 115.50 feet; thence

155) South 79° 14' 04" East, 280.50 feet; thence

156) South 88° 59' 04" East, 41.25 feet; thence leaving the meander line of the Monocacy River and with the west side of the Jane B. Idoine Property as recorded in Liber 2500 at folio 759 in said Land Records for the following three (3) courses and distances:

157) North 23° 54' 22" East, 40.60 feet to a 36-inch planted stone now set with coordinates North 654,397.45 and East 1,203,839.59; thence

158) North 23° 54' 22" East, 3,020.38 feet to a 36-inch planted stone now set; thence

159) North 23° 54' 56" East, 16.27 feet to a point in Retreat Road; thence

160) North 69° 35' 04" West, 477.75 feet to a PK Nail; thence

161) North 11° 54' 56" East, 45.83 feet to a point 37.32 feet left of station 3405 +40.95 of the abovementioned railroad, said point is in Retreat Road South 12° 16’ 43” East, 43.95 feet from a PK Nail set in a railroad tie in the centerline of the intersection of Retreat Road and the railroad at station 3405_17.75; thence with the southerly right-of-way line of said railroad for the following twelve (12) courses and distances:

162) North 71° 25' 29" East, 9.95 feet; thence

163) North 70° 24' 37" East, 27.00 feet; thence

164) North 70° 40' 59" East, 315.00 feet; thence

165) North 69° 02' 47" East, 252.07 feet; thence

166) North 70° 24' 37" East, 654.00 feet; thence

167) North 73° 06' 59" East, 201.22 feet; thence

168) North 67° 38' 58" East, 197.23 feet; thence

169) North 71° 04' 59" East, 298.02 feet; thence

170) North 69° 37' 26" East, 255.02 feet; thence

171) North 73° 23' 13" East, 250.34 feet; thence

172) North 65° 31' 19" East, 152.55 feet; thence

173) North 72° 08' 36" East, 314.14 feet to a point in the westerly edge of Fountain Rock Road; thence crossing said road and continuing with the railroad right-of-way

174) North 70° 24' 37" East, 32.42 feet to a point 42.50 feet left of station 3375+73.58; thence rejoining the aforesaid Legal Description:

Town of Walkersville Boundary written by Whitney, Bailey, Cox & Magnani, LLC, Dated September 19, 2006 and binding on the following four (4) courses:

175) South 03° 55' 29" East, 1,542.13 feet; thence

176) South 04° 54' 00" East, 1,210.44 feet to a point of curve; thence

177) Southeasterly along a curve to the left having a radius of 138.70 feet, for an arc length of 179.01 feet, said curve being subtended by a chord of South 41° 52' 23" East, 166.84 feet to a point of tangency; thence

178) South 78° 50' 38" East, 1,101.12 feet; thence crossing said road and continuing the same course, in part, binding on the western outline of Lot 3 as laid out and shown on a plat entitled “Grossnickle Farms Subdivision Lots #2 and #3 Section I,” which plat is recorded among the aforesaid Land Records in Plat Book 22, at page 130, in all

179) South 09° 09' 00" West, 492.23 feet to a point where an Iron Pipe was heretofore found at the southwest corner of said Lot 3 of the “Grossnickle Subdivision” (22/130); thence binding on the northwestern outline of the parcel designated “Remainder” on a plat entitled “Final Plat Lot 1, Remainder & SWM Outlet Walkersville Light Industrial Park,” which plat is recorded among the aforesaid Land Records in Plat Book 76, at page 50,

180) South 65° 13' 14" West, 429.60 feet to the westernmost corner of the last mentioned plat (76/50); thence binding on the northwest outline of the parcel designated “Remaining Lands of Ralph U. Grossnickle & Doris Grossnickle” as laid out and shown on a plat entitled “Boundary Survey Grossnickle Property ‘First’,” recorded among the aforesaid Land Records in Plat Book 70, at page 52; thence for revised boundary of the Town of Walkersville Boundary

181) South 39° 13’ 55” East, 474.95 feet; thence

182) South 09° 08’ 21” West, 296.38 feet; thence

183) South 08° 31’ 57” East, 185.98 feet; thence

184) South 04° 52’ 33” West, 209.99 feet; thence

185) South 54° 10’ 01” East, 50.00 feet; thence continuing to bind on the revised boundary of The Town of Walkersville

186) South 35° 33’ 05” West, 1,146.57 feet;

187) South 69° 24’ 39” West, 692.71 feet; thence binding along the Monocacy River the following four courses and distances:

188) South 36° 55’ 07” East, 576.14 feet;

189) South 30° 09’ 55” East, 429.00 feet;

190) South 01° 05’ 05” West, 330.04 feet;

191) South 04° 05’ 05” West, 361.43 feet; to intersect with northerly the Right of Way line, as laid out and shown on State Roads Commission of Maryland Right of Way Plat No. 50130

192) North 74° 54’ 39” East, 35.06 feet;

193) North 80° 18’ 00” East, 52.20 feet;

194) North 63° 36’ 03” East, 300.00 feet;

195) North 58° 21’ 49” East, 53.94 feet;

196) North 60° 15’ 13” East, 50.25 feet;

197) North 57° 55’ 15” East, 20.12 feet; thence departing said Right of Way, running with and binding on the first and second course of the parcel designated “Thomas Robert Reid Item No. 74992 Extra Land Area,” as laid out and shown on the last mentioned plat No. 50130, the two following course and distances:

198) North 08° 29’ 48” West, 33.30 feet;

199) North 71° 47’ 31” East, 106.13 feet; to intersect with the westerly Right of Way of Maryland State Route 26, as laid out and shown on said last mentioned plat No. 50130

200) North 51° 26’ 42” East, 9.44 feet;

201) North 46° 26’ 42” East, 44.31 feet;

202) North 54° 01’ 48” East, 45.85 feet;

203) North 36° 26’ 42” East, 45.19 feet;

204) North 31° 26’ 42” East, 45.19 feet;

205) North 26° 26’ 42” East, 45.19 feet;

206) North 21° 26’ 42” East, 45.19 feet;

207) North 22° 43’ 24” East, 45.68 feet;

208) North 17° 39’ 50” East, 46.11 feet;

209) North 52° 10’ 27” East, 15.44 feet; to intersect with the westerly Right of Way of Maryland State Route 194, as laid out and shown on said last mentioned plat No. 50130 and continuing on State Roads Commission of Maryland Right of Way Plats No. 15466 through 15469 as shown

210) North 10° 16’ 01” East, 19.76 feet;

211) North 16° 08’ 32” East, 15.13 feet;

212) North 10° 11’ 02” East, 35.01 feet;

213) North 09° 41’ 36” East, 50.01 feet;

214) North 10° 05’ 22” East, 37.16 feet;

215) North 10° 31’ 17” East, 63.08 feet;

216) North 14° 34’ 49” East, 10.08 feet;

217) Northeasterly along a curve to the right having a radius of 11,254.09 feet, for an arc length; of 943.29 feet, said curve being subtended by a chord of North 11° 15’ 46” East, 943.29 feet; thence

218) North 13° 36’ 51” East, 807.92 feet; to the beginning of the 187th or North 13° 36’ 51” East, 852.52 foot line of the existing Boundary of the Town of Walkersville; as previously described in a legal description prepared by RK&K LLP on November 6, 2009; thence binding thereon

219) North 13° 36’ 51” East, 852.52 feet to a Rebar and Cap marked “Prop. Cor. 207” found at the southeast corner of the aforesaid plat recorded among the said land Records in Plat Book 76, at page 50; thence binding on the eastern outline thereof and on the aforesaid western Right of Way line of Maryland State Route 194, as laid out and shown on State Roads Commission of Maryland Right of Way Plats No. 15468 and 15469.

220) North 13° 36’ 51” East, 500.65 feet to the southeast corner of a plat entitled “Lot #1 Section I, Grossnickle Farm Subdivision,” which plat is recorded among the aforesaid Land Records aforesaid in Plat Book 58, at page 90; at the South Side of Stauffer Court; thence binding on the eastern outline thereof and on said western Right of Way line of Maryland State Route 194 as laid out and shown on State Roads Commission of Maryland Right of Way Plat No. 15469

221) North 13° 36’ 51” East, 129.31 feet to the point where the filet connecting the North Side of said Stauffer Court with the highway widening strip shown on the aforesaid plat (58/90), as extended northeasterly, intersects the said western Right of Way line of Maryland State Route 194; thence continuing on the eastern outline of said plat (58/90) and western Right of Way line of Maryland State Route 194

222) North 13° 36’ 51” East, 272.93 feet to the southeast end of the filet connecting the south side of the aforesaid Fountain Rock Road with said western Right of Way line of Maryland State Route 194 as shown on the last mentioned plat (58/90); thence crossing said Fountain Rock Road binding on said western Right of Way line of Maryland State Route 194

223) North 13° 36’ 51” East, 155.19 feet to the northeast end of the filet connecting the north side of the aforesaid Fountain Rock Road with said western Right of Way line of Maryland State Route 194 as shown on the aforesaid Plat No. 15469; thence binding on said western Right of Way line of Maryland State Route 194 as laid out and shown on State Roads Commission of Maryland Right of Way Plats No. 15469, 15470, 15471 and 15450, for the four (4) following courses and distances, viz

224) North 13° 36’ 51” East, 664.37 feet to a point of curve; thence

225) Northeasterly along a curve to the right having a radius of 5,763.58 feet, for an arc length of 1,162.97 feet, said curve being subtended by a chord of North 19° 23’ 41” East, 1,161.00 feet to point of tangency; thence

226) North 25° 10’ 31” East, 777.36 feet to a point of curve; thence

227) Northeasterly along a curve to the right having a radius of 5,763.58 feet, for an arc length of 850.85 feet, said curve being subtended by a chord of North 29° 24’ 16” East, 850.08 feet to point of tangency located North 39° 51’ 29” West, 134.59 feet from the aforesaid Frederick County Survey Control monument designated “High,” said monument having coordinates of North 658,314.858, and East 1,210,877.418, as referred to the Maryland State Plane Coordinate System (NAD 83/91); thence binding on the northwest Right of Way line of Frederick Street (formerly Maryland Route 71) as shown on State Roads Commission of Maryland Right of Way Plats No. 15450, 15451 and 15473, for the seven (7) following courses and distances, viz

228) North 33° 42’ 02” East, 579.84 feet; thence

229) North 33° 38’ 01” East, 306.93 feet to a point of curve; thence

230) Northeasterly along a curve to the right having a radius of 5,759.58 feet, for an arc length of 315.63 feet, said curve being subtended by a chord of North 35° 12’ 13” East, 315.59 feet; thence departing said curve at an angle

231) North 29° 17’ 39” East, 15.21 feet; thence

232) North 33° 45’ 35” East, 50.38 feet; thence

233) North 52° 34’ 35” West, 5.00 feet; thence

234) North 38° 30’ 01” East, 71.43 feet; thence crossing said Frederick Street and, in part, continuing the same course binding on lands formerly of the heirs of John D. Nicodemus, and lately of the Glade Valley Nursing and Rehabilitation Center, Inc. as described in a deed dated 21 February, 1996, and recorded among the aforesaid land Records of Frederick County in Liber CCK 2162, at folio 835, and, in part, continuing the same course across Maryland State Route 194, in all

235) South 24° 02’ 37” East, 543.88 feet to a point where an iron Pipe was heretofore found; thence, in part, binding on the eastern outline of a plat entitled “Spring Garden Estates, Plat No. I,” and recorded among the said Land Records in Plat Book 4, at folio 22, and, in part, continuing the same course binding on the eastern outline of a plat entitled “Spring Garden Estates Plat No. II,” and recorded among said Land Records in Plat Book 4, at folio 79, in all

236) South 14° 19’ 38” East, 1,753.13 feet to a point where an Iron Pipe was heretofore found; thence binding on the southern outline of the last mentioned plat (4/79)

237) South 88° 50’ 06” West, 484.69 feet to a point where an Iron Pipe was heretofore found at the northeast corner of a plat entitled “Discovery – Single Family Section Nine,” and recorded among the said Land Records in Plat Book 15, at folio 49; thence, in part, binding on the eastern outline of the last mentioned plat (15/49) and, in part, continuing the same course binding on the eastern outline of a plat entitled “Discovery Section VIB,” and recorded among the said Land Records in Plat Book 14, at folio 2, and, in part, continuing the same course binding on the eastern outline of a plat entitled “Discovery Section VI-A,” and recorded among the said Land Records in Plat Book 12, at folio 98, in all;

238) South 08° 32’ 12” East, 2,293.08 feet to intersect the northern right of way of Stauffer Road; thence binding thereon for the three (3) following courses and distances, viz;

239) North 72° 18’ 28” East, 2,356.50 feet to a point of curve; thence

240) Northeasterly along a curve to the left having a radius of 3,249.05 feet, for an arc length of 170.66 feet, said curve being subtended by a chord of North 70° 48’ 11” East, 170.64 feet to a point of tangency; thence

241) North 69° 17’ 54” East, 218.61 feet to a point in Israel’s Creek; thence running with Israel’s Creek for the eight (8) following courses and distances, viz;

242) North 18° 45’ 20” East, 409.12 feet; thence

243) North 16° 44’ 53” West, 222.77 feet; thence

244) North 65° 38’ 16” East, 206.74 feet; thence

245) North 07° 49’ 14” West, 1,258.37 feet; thence

246) North 66° 56’ 38” East, 654.17 feet; thence

247) North 21° 37’ 14” East, 328.12 feet; thence

248) North 73° 24’ 27” East, 367.37 feet; thence

249) North 87° 42’ 08” East, 385.14 feet; to the westerly right of way of Crum Road; thence binding thereon

250) North 07° 50’ 20” West, 50.00 feet; thence crossing said Crum Road

251) North 82° 09’ 40” East, 60.00 feet to the easterly right of way of Crum Road; thence binding thereon

252) South 07° 50’ 20” East, 56.48 feet to again intersect Israel’s Creek; thence running with Israel’s Creek for the six (6) following courses and distances, viz;

253) North 88° 57’ 14” East, 1,290.94 feet; thence

254) North 12° 08’ 29” East, 1,044.43 feet; thence

255) North 44° 00’ 16” East, 705.09 feet; thence

256) North 36° 52’ 46” West, 192.86 feet; thence

257) North 37° 05’ 48” West, 322.40 feet; thence

258) North 14° 15’ 27” West, 595.39 feet to intersect the southern outline of the plat entitled “Lots 13 thru 32, Block A, Lots 11 thru 28, Block C, Glade Towne,” and recorded among the said Land Records in Plat Book 12, at folio 98; thence binding on said southern outline thereof for the two (2) following courses and distances, viz;

259) North 83° 40’ 55” East, 395.06 feet; thence

260) North 25° 40’ 55” East, 63.57 feet to a point where a Concrete Monument was heretofore found at the southeast corner of the aforesaid plat entitled “Combined Preliminary/Final Subdivision Plat of Hazel Lewis Estate, Section iv, Lot #401 & Resubdivision of Section II Lot #1” (23/13); thence binding on the outline of the last mentioned plat (23/13), for the six (6) following courses and distances, viz;

261) North 80° 31’ 59” East, 699.65 feet; thence

262) North 50° 01’ 57” East, 99.95 feet; thence

263) North 35° 02’ 02” East, 116.61 feet; thence

264) South 67° 57’ 55” East, 396.79 feet; thence

265) South 53° 09’ 06” East, 158.54 feet; thence

266) North 61° 28’ 59” East, 453.68 feet to intersect the westerly right of way line of Water Street Road; thence binding thereon for the eleven (11) following courses and distances, viz;

267) North 27° 51’ 46” West, 11.94 feet to a point of curve; thence

268) Northwesterly along a curve to the right having a radius of 150.00 feet, for an arc length of 139.59 feet, said curve being subtended by a chord of North 01° 12’ 11” West, 134.61 feet to a point of tangency; thence

269) North 25° 27’ 23” East, 119.74 feet to a point of curve; thence

270) Northeasterly along a curve to the left having a radius of 274.23 feet, for an arc length of 144.31 feet, said curve being subtended by a chord of North 10° 22’ 51” East, 142.65 feet to a point of tangency; thence

271) North 04° 41’ 41” West, 769.64 feet to a point of curve; thence

272) Northwesterly along a curve to the left having a radius of 317.25 feet, for an arc length of 156.85 feet, said curve being subtended by a chord of North 18° 51’ 31” West, 155.26 feet to a point of tangency; thence

273) North 33° 01’ 22” West, 302.60 feet to a point of curve; thence

274) Northwesterly along a curve to the right having a radius of 530.00 feet, for an arc length of 497.57 feet, said curve being subtended by a chord of North 06° 07’ 39” West, 479.50 feet to a point of tangency; thence

275) North 20° 46’ 04” East, 574.18 feet to a point of curve; thence

276) Northwesterly along a curve to the left having a radius of 207.09 feet, for an arc length of 184.73 feet, said curve being subtended by a chord of North 04° 47’ 17” West, 178.67 feet to a point of tangency; thence

277) North 30° 20’ 38” West, 709.59 feet to intersect the prolongation in a northeasterly direction of the southeastern outline of a plat entitled “Hazel Lewis Subdivision Section I Lots 1 & 2,” and recorded among the aforesaid Land Records in Plat Book 11, at folio 119; thence leaving said Water Street Road, in part, binding on said prolongation, and, in part, continuing the same course binding on said southeastern outline of the last mentioned plat (11/119), in all

278) South 70° 44’ 28” West, 489.61 feet to a point where a Concrete Monument was heretofore found at the southernmost corner of the last mentioned plat (11/119); thence binding on the southwestern outline thereof

279) North 19° 15’ 32” West, 206.08 feet to intersect the southern right of way line of Daysville Road at a point located South 42° 45’ 37” East, 616.10 feet from the aforesaid Frederick County Survey Control monument designated “Devil”, said monument having coordinates of North 665,259.997, and East 1,218,578.968, as referred to the Maryland State Plane Coordinate System (NAD 83/91); thence running in the right of way of Daysville Road as laid out and shown on the aforesaid plat entitled “Final Plat, Lots 244-264, Section 5, Plat 2, Deerfield” (52/138) binding on the southern right of way line of Daysville Road as it existed prior to said plat

280) South 68° 17’ 07” West, 286.31 feet; thence, in part, running through Daysville Court as shown on a plat entitled “Addition Plat Shoemaker Property,” and recorded among the aforesaid Land Records in Plat Book 53, at folio 140, and, in part, continuing the same course running through the parcel designated “Area to be Added to Lot 3” on said plat, in all, continuing along the original southern right of way line of Daysville Road

281) South 64° 34’ 27” West, 598.71 feet to intersect the southwestern outline of the last mentioned plat; thence, in part, binding thereon for a distance of 6.67 feet to a Tack and Shiner found at the corner common to the last mentioned plat (53/140) and the previously mentioned plat of “Deerfield” (52/138), and, in part, continuing the same course binding on the outline of the last mentioned plat (52/138), in all

282) South 25° 27’ 52” East, 31.67 feet to the True Point of Beginning.

CONTAINING 130,799,005 square feet or 3,003 acres of land, more or less, within the Corporate Limits of the Town of Walkersville.

[This description was composed by combining the legal Description shown on the subdivision plat title “The Century Center, Annexation of the Town of Walkersville, Survey and Plat by J.F. Brown & Assoc., INC., Dated November 6, 2009 into the Legal Description: Town of Walkersville Boundary written by Whitney, Bailey, Cox & Magnani, LLC Dated September 19, 2006. And removing the Legal Description: Annexation To The Town of Walkersville Ralph U. & Doris Grossnickle written by Whitney, Bailey, Cox & Magnani, LLC Dated September 19, 2006, which was not annexed into the Corporate Boundary.

This description was prepared without the benefit of a field survey or title search and is based solely on information provided by the Town of Walkersville located in Frederick County, Maryland]

§ C2-2. Filing of Corporate Limits.

The courses and distances showing the exact corporate limits of the town shall be filed at all times with the Clerk of the Circuit Court for Frederick County, the Commissioners of the Land Office of Maryland and the Director of the Department of Legislative Reference of Maryland, and a copy of the courses and distances describing the corporate boundaries shall be on file in the Town Office of the town and in the office of either the Burgess or the Town Clerk. All future changes in said corporate limits, by annexation or otherwise, shall likewise be filed with said officials or their successors and with such other officials as may be required from
time to time by the State of Maryland. All officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

ARTICLE III
Officers

§ C3-1. Burgess and Commissioners.

The government of the town shall be vested in a Burgess and five (5) Commissioners to be elected as hereinafter provided. All legislative powers of the town shall be vested in the Commissioners.

§ C3-2. Restrictions on Elected Officials of the Town.

A. Municipal contracts. Except where authorized by law or ordinance, no elected official shall hold any other remunerative office under the town during his term of office; neither shall an elected official, either directly or indirectly, through the medium or agency of other persons, enter into a contract or contracts with the town nor derive any pecuniary benefits from such a contract or contracts; neither shall any elected official be reimbursed nor receive any compensation of any kind from the town other than the remuneration hereinafter provided for.

B. Retaining eligibility for office. Each elected official must continuously reside in the town during his term of office, and each elected official shall retain throughout his respective term of office all the qualifications necessary for his election. The failure to retain all such qualifications shall ipso facto cause a forfeiture of the office.

C. Each elected official may not miss more than two consecutive regular scheduled meetings unless excused by vote of the Burgess and Commissioners for health or other personal issues. If an elected official misses more than three regular scheduled meetings within a calendar year of October 1st to September 30th, then that elected official would not receive compensation for the month(s) when the fourth or more absence occurs.

§ C3-3. Selection and Term of Commissioners.

Each Commissioner shall hold office for a term of three (3) years or until his successor is duly qualified and takes office. The regular term of each Commissioner shall begin at the time of the first regular meeting in the month following his election. Commissioners holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected and until each succeeding Commissioner takes office under the provisions of this Charter. Commissioners shall be elected as hereinafter stated. [Resolution 2007-02 passed 4/11/07]

§ C3-4. Qualifications of Commissioners.

Each Commissioner shall have resided in the town for at least one (1) year immediately preceding the date to file a Certificate of Candidacy, shall be a qualified voter of the town, shall be at least twenty-five (25) years of age and shall be a citizen of the United States and a resident of the State of Maryland.

§ C3-5. Salary of Commissioners.

Each Commissioner shall receive an annual salary which shall be equal for all Commissioners, but may be reduced in accordance with §C3-2 absence provision, and shall be as specified from time to time by an ordinance passed by the Commissioners in the regular course of their business; provided, however, that no ordinance increasing such salary shall become effective until the date of commencement of the terms of Commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least three (3) months.

§ C3-6. Expenses of Burgess and Commissioners.

The Burgess and Commissioners shall receive, in addition to any salary established from time to time, their actual and necessary expenses incurred in the performance of their duties of office.

§ C3-7. Meetings of Commissioners.

The Commissioners shall meet regularly at such times their rules may prescribe, but not less than once each month. The Town Clerk may call special meetings upon the request of the Burgess or a majority of the Commissioners. All meetings shall be open to the public, except when the Maryland Open Meetings Act permits closed sessions. Residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any town question.

§ C3-8. Commissioners to be Judge of Qualification of their Members.

The Commissioners shall be the judge of the election and qualification of their members and of the grounds for forfeiture of their office and for the office of Burgess; for that purpose, they shall have the power to subpoena witnesses, administer oaths and require the production of evidence. A Commissioner or the Burgess charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the town at least one (1) week in advance of the hearing. Decisions made by Commissioners under this section shall be subject to review by the courts.

§ C3-9. President of the Commissioners.

The Burgess shall serve as President of the Commissioners. The Burgess may take part in all discussions, but he shall have no vote except in the case of a tie vote. The Commissioners shall elect a Vice President of the Commissioners from among their members, who shall act as Burgess and have all the powers and duties of that office during the absence or illness of the Burgess.

§ C3-10. Quorum.

A majority of the Commissioners shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected as Commissioners.

§ C3-11. Procedure of Commissioners.

The Commissioners shall determine their own rules and order of business. They shall keep a journal of their proceedings and enter therein the yeas and nays upon final action on any question, resolution or ordinance or at any other time if required by any one (1) Commissioner. The journal shall be open to public inspection.

§ C3-12. Commissioner Vacancy.

Commissioner vacancies shall be filled as provided in Article VI of this Charter.

§ C3-13. Ordinances.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Commissioners held not less than six (6) nor more than ninety (90) days after the meeting at which an ordinance was introduced, it shall be passed, passed as amended, rejected or its consideration deferred to some specified future date. In cases of emergency, the above requirements may be suspended by the affirmative votes of four (4) Commissioners. Every ordinance, unless it is passed as an emergency ordinance, shall, unless otherwise provided in the ordinance, become effective at the expiration of twenty (20) calendar days following approval of the ordinance by the Burgess or passage by the Commissioners over his veto. A fair summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation in the town within thirty (30) days of its effective date. An emergency ordinance shall become effective on the date specified in the ordinance. No ordinance, emergency or otherwise, shall become effective until approved by the Burgess or passed over his veto by the Commissioners. *(Zoning Chapter has 15 day advertising minimum, before public hearing.)* [Amended 8-9-00 by Ord. 2000-5]

§ C3-14. Veto.

All ordinances and resolutions passed by the Commissioners shall be promptly delivered by the Administrator to the Burgess for his approval or disapproval. If the Burgess approves any ordinance or resolution, he shall sign it. If the Burgess disapproves any ordinance or resolution, he shall not sign it. The Burgess shall return

all ordinances and resolutions to the Administrator within twelve (12) days after delivery to him [excluding the day of delivery, including the day of return and excluding any Sunday(s)] with his approval or disapproval. Any ordinance approved by the Burgess shall be law. Any resolution approved by the Burgess shall become effective. Any ordinance or resolution disapproved by the Burgess shall be returned with a message stating the reasons for his disapproval. Any disapproved ordinance shall not become law unless subsequently passed by a favorable vote of four-fifths (4/5) of the whole number of Commissioners within thirty-five (35) calendar days from the time of the return of the ordinance. Any disapproved resolution shall not become effective unless subsequently passed by a favorable vote of four-fifths (4/5) of the whole number of Commissioners within thirty-five (35) calendar days from the time of the return of the resolution. If the Burgess fails to return any ordinance or resolution within twelve (12) days of its delivery as hereinbefore defined, it shall be deemed to be approved by the Burgess and shall become law or effective in the same manner as an ordinance or resolution signed by him/her.

§ C3-15. Referendum.

If, before the expiration of twenty (20) calendar days following approval of any resolution or ordinance by the Burgess or passage of any resolution or ordinance over the Burgess's veto, a petition is filed with the Town Clerk containing the signatures of not less than twenty per centum (20%) of the qualified voters of the town and requesting that the resolution or ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town for their approval or disapproval, the Commissioners shall have the resolution or ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the town at the next regular town election or, in the discretion of the Commissioners, at a special election occurring before the next regular election. No resolution or ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty (60) days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty (60) days following receipt of the petition, the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, requested for referendum that is disapproved by the voters shall stand repealed. The provisions of this section shall not apply to any resolution or ordinance, or part thereof, passed under the authority of Article IX regarding the levying of property taxes for the payment of indebtedness, but the provisions of this section shall apply to any resolution or ordinance,

or any part thereof, levying special assessment charges under the provisions of Article XIII. The provisions of this section shall be self-executing, but the Commissioners may adopt resolutions and ordinances in furtherance of these provisions and not in conflict with them.

§C3-16. File of Ordinances and Resolutions.

Ordinances and resolutions shall be permanently filed by the Town Clerk in at least two (2) separate locations and shall be kept available for public inspection.

§C3-17. Selection and Term of Burgess.

The Burgess shall be elected as hereinafter provided and shall hold office for a term of three (3) years or until his successor is duly elected, duly qualified and takes office. The newly elected Burgess shall hold office at the next regular meeting in the month following his election. The Burgess holding office at the time this Charter becomes effective shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. [Resolution 2007-02 04/11/07]

§ C3-18. Qualifications of Burgess.

The Burgess of the town shall be not less than thirty (30) years of age, a citizen of the United States, a resident of the State of Maryland and a registered voter in the town and shall have resided in the town for at least one (1) year immediately preceding the date to file a Certificate of Candidacy.

§ C3-19. Salary of Burgess.

The Burgess shall receive an annual salary as set from time to time by an ordinance passed by the Commissioners in the regular course of business. No change shall be made in the salary for any Burgess during the term for which he was elected. The ordinance making any change in the salary paid to the Burgess, either by way of increase or decrease, shall be finally ordained prior to the town election to elect the next succeeding Burgess and shall take effect only as to the next succeeding Burgess.

§ C3-20. Powers and Duties of Burgess.

A. General. The Burgess shall see that the resolutions and ordinances of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.

B. Appointments. The Burgess, with the approval of the Commissioners, shall appoint the heads of all offices, departments and agencies of the town government as established by this Charter or by ordinance. All office, department and agency heads shall serve at the pleasure of the Burgess but may be removed by him only with cause and with the approval of the Commissioners. All subordinate officers and employees of the offices, departments and agencies of the town government shall be appointed and removed by the applicable office, department or agency head, subject to the approval of the Burgess, in accordance with procedures in the Personnel Manual.

C. Reports. The Burgess each year shall report to the Commissioners the condition of town affairs and make such recommendations as he deems proper for the public good and the welfare of the town.

D. Vetoes. The Burgess shall have the power to veto ordinances passed by the Commissioners as provided in § C3-14 of this Article III.

E. Finances. The Burgess shall have complete supervision over the financial administration of the town government. He shall prepare or have prepared annually a budget and submit it to the Commissioners. He shall supervise the administration of the budget as adopted by the Commissioners. He shall supervise the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded without the approval of the Commissioners.

F. Other. The Burgess shall have such other duties as may be prescribed by this Charter or as may be required of him by the Commissioners not inconsistent with this Charter.

§ C3-21. Competitive Bidding Required for Certain Materials and Supplies.

Repealed 8-14-96, See new **§ C9-21.**

ARTICLE IV
Powers

§ C4-1. General Powers and Exemption from County Laws. [Amended 12-14-83, effective 2-2-84]

The Commissioners shall have and are hereby granted the powers and authority to exercise all powers relating to and to pass all such ordinances and to take all such measures not contrary to the Constitution and laws of the State of Maryland or this Charter as they may deem necessary for the good government and improvement of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, morals, comfort, convenience, welfare and happiness of the citizens of, residents of, visitors in and sojourners of the town. The town shall have all powers possible for a town to have under the Constitution and laws of this state, as fully and completely as though they were specifically enumerated in this Charter. To the extent permitted by law, the town may exempt itself from county laws.

§ C4-2. Construction.

The powers of the town under this Charter shall be liberally construed in favor of the town, and the mention of particular powers in this Charter shall not be construed as limiting in any way the general powers stated in this Article.

§ C4-3. Intergovernmental Relations.

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or civil divisions, or agencies thereof, or the United States, or any agency thereof, or contract with another agency to do so, or with any other body politic or political subdivision for any necessary purpose.

§ C4-4. Specific Powers.

A. The Commissioners shall have, in addition, the power to pass ordinances and resolutions not contrary to the laws and Constitution of this state for the specific purposes provided in the following subsections of this section.

(1) Administration: to provide for the general administration of the town.

(2) Admissions and amusement tax: to levy, assess and collect admission and amusement taxes.[1]
(3) Advertising: to provide for advertising for the purposes of the town and for printing and publishing statements as to the business of the town.
(4) Agreements and contracts with other agencies: to enter into agreements and contracts with other agencies where such agreements are necessary to secure benefits not obtainable by the town alone.
(5) Air pollution: to prevent air pollution.[2]
(6) Aisles and doors: to regulate and prevent the obstruction of aisles in public halls, churches and places of amusement and to regulate the construction and operation of the doors and the means of egress therefrom.
(7) Amusements: to provide, in the interest of the public welfare, for licensing, regulating or restraining theatrical or other public amusements.
(8) Appointments: to appoint such town officers, department and agency heads and employees, including a Town Attorney, Town Treasurer, Town Clerk, Supervisors of Elections, Supervisor of Public Works, Auditor and such other officers, department and agency heads and employees as the Burgess and Commissioners deem necessary, at such compensation or without compensation, to serve at the pleasure of the Burgess and Commissioners as hereinbefore set forth. The duties of all officers and department and agency heads shall be determined by the Burgess and Commissioners.
(9) Appropriations: to appropriate town moneys for any purpose within the powers of the Commissioners.
(10) Auctioneers: to regulate the sale of all kinds of property at auction within the town and to license auctioneers.
(11) Band: to establish a town band, symphony orchestra or other musical organization and to regulate by ordinance or resolution the conduct and policies thereof.
(12) Billboards: to license, tax, regulate, restrain or prohibit the erection and maintenance of billboards within the town; the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole or other place within the town; and to phase out, within a reasonable time, non-conforming signs.[3]
(13) Bridges: to erect and maintain bridges.
(14) Building lines and regulations: to provide by ordinance for the establishment of building lines and building regulations.[4]
(15) Buildings: to make reasonable regulations in regard to buildings and signs to be erected, constructed or

[1] Editor's Note: See Ch. 74, Taxation, Art. II
[2] Editor's Note: See Ch. 5, Air Pollution.
[3] Editor's Note: See Ch. 88, Zoning, § 88-14.
[4] Editor's Note: See Ch. 15, Building Construction; Electrical Standards.

reconstructed in the town and to require and grant building permits for them; to formulate a Building Code and a Plumbing Code and to appoint a Building Inspector and a Plumbing Inspector and to require reasonable charges for permits and inspections; and to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof, in whole or in part, when dangerous or insecure and to require that such buildings and structures be made safe or be taken down.[5]

(16) Cemeteries: to regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(17) Codification: to provide for the codification of all ordinances which have been or may hereafter by passed, and for the printing thereof, and for the printing of the Charter of the town.[6]

(18) Community services: to provide, maintain or operate community services and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the town.

(19) Cooperative activities: to make agreements with other municipalities, towns, counties, districts, bureaus, commissions and governmental authorities for the joint performance of, or for cooperation in the performance of, any governmental functions.

(20) Curfew: to prohibit the youth of the town from being in the streets, lanes, alleys or other public places at unreasonable hours of the night.

(21) Dangerous conditions: to compel persons about to undertake dangerous improvements or activities or to otherwise create dangerous conditions to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work or activity which may be sustained by any person or property.

(22) Departments and offices: to create, change and abolish departments, offices or agencies, including but not limited to appeal boards, task forces and advisory groups, other than the ones established by this Charter, and to assign additional functions or duties to those established by this Charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

(23) Disorderly houses: to suppress bawdy houses, disorderly houses and houses of ill fame.

(24) Dogs, bitches, cats, fowl and other animals: to regulate the keeping of dogs, bitches, cats, fowl and other animals in the town and to provide, wherever the county does not license

[5] Editor's Note: See Ch. 15, Building Construction; Electrical Standards; Ch. 55, Plumbing; and Ch. 88, Zoning, § 88-14.

[6] Editor's Note: See Ch. 1, General Provisions, Art. I, Adoption of Code.

or tax dogs, bitches and cats, for the licensing and taxing of them; to provide for the disposition of homeless dogs, bitches, cats, fowl and other animals and of dogs, bitches and cats on which no license fee or taxes are paid; and to provide for penalties and fines when found in violation of the ordinances provided in such cases.[7]

(25) Elections; conduct and procedure: to adopt by ordinance any procedures and regulations, consistent with the provisions of this Charter and with the election laws of the State of Maryland, necessary to provide for the conduct of town elections, including but not restricted to absentee ballots and for write-in candidates, and to provide for special elections for town purposes, at such times and places as may be determined, subject to the provisions of this Charter.[8]

(26) Electricity: to construct or purchase, own, improve, extend, repair, maintain and operate an electric plant for the purpose of lighting the town streets and building, etc., and for furnishing electricity for light and power for the use of the citizens of the town and, to this end, to acquire, by gift, grant, lease, purchase, condemnation or any other lawful means, the lands, tenements, rights, ways, privileges and franchises necessary to carry this power into effect.

(27) Elevators: to require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(28) Equipment: to acquire, maintain and dispose of such equipment, including motor vehicles of any type, as may be necessary and proper to carry out any power or authority granted by this Charter.

(29) Erosion and sediment control: to regulate grading and construction to control erosion and sediment.[9]

(30) Explosives and combustibles: to regulate or prevent the storage of gunpowder, oil or any other explosive or combustible material and to regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.[10]

(31) Filth: to compel the occupant of any premises, building or outhouse situated in the town, if it has become filthy or unwholesome, to abate and cleanse the condition and, after reasonable notice to the owners or occupants, to authorize such work to be done by the proper officers and to assess the expense thereof against the property, making it collectible by taxes, or against the occupant or occupants.

[7] Editor's Note: See Ch. 9, Animals.

[8] Editor's Note: See Article VII, Elections, of this Charter; Ch. 22 , Elections.

[9] Editor's Note: See Ch. 73, Grading, Erosion and Sediment Control.

[10] Editor's Note: See Ch. 33, Hunting and Firearms.

(32) Finances: to levy, assess and collect ad valorem property taxes; to expend town funds for any public purpose; to have the general management and control of the finances of the town; and to designate by ordinance or resolution the bank or banks or trust company or trust companies in this state in which shall be deposited all funds belonging to the town.

(33) Fires: to suppress fires and prevent the dangers thereof and to establish and maintain a Fire Department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards; to issue regulations concerning fire hazards and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs, where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(34) Food: to inspect and to require the condemnation of, if unwholesome, and to regulate the sale of any food products.

(35) Franchises: to grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, cable television companies, other public and quasi-public corporations and any others which may be deemed advantageous and beneficial to the town; subject, however, to the limitations and provisions of the Annotated Code of Maryland, as amended from time to time. No franchise shall be granted for a period longer than fifty (50) years.[11]

(36) Gambling: to restrain or prohibit gambling.

(37) Garbage: to regulate or prevent by penalties and fines the deposit of any unwholesome substance either on private or public property and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points or to require the occupants of the premises to place them conveniently for removal; to regulate or prevent by penalties and fines the throwing or depositing of any dirt, garbage, trash or liquids on any private or public property; to provide for the proper disposal of such materials and to levy such fees as may be necessary for the town collection of such materials; and to provide means for the collection and removal of garbage, trash, rubbish and other refuse matter within the town and on property owned by the town.[12]

(38) Grants-in-aid; other funds: to accept gifts and grants of federal, state and county funds from the federal, state and county governments or any agency thereof or from any

[11] Editor's Note: See Ch. 18, Cable Television Franchise; Ch. 31, Gas Company Franchise

[12] Editor's Note: See Ch. 30, Garbage, Rubbish and Refuse, and Ch.36, Littering.

other available sources and to expend the funds for any lawful public purpose agreeable to the conditions under which the gifts or grants were made.

(39) Hawkers: to license, tax, regulate, restrain, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the town, including but not restricted to solicitors for charitable causes, and to revoke such licenses for any action or threat of action by such a licensee in the course of his occupation which causes or threatens harm or injury to inhabitants of the town or to their welfare or happiness.[13]

(40) Health: to protect and preserve the health of the town and its inhabitants; to appoint a Public Health Officer and to define and regulate his powers and duties; to prevent the introduction of contagious diseases in the town; to establish quarantine requirements and regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate and abate any buildings, structures or places or movement of night soil which cause or may cause unsanitary conditions or conditions detrimental to health; and to have, within the corporate limits, the same powers as the Maryland State Board of Health, provided that nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health or any public general or local law relating to the subject of health.

(41) House numbers: to regulate the numbering of houses and lots and to compel owners to renumber them or, in default thereof, to authorize and require work to be done by the town at the property owner's expense, such expense to constitute a lien upon the property, collectible as tax moneys.

(42) Housing: to establish a Housing Code and provide for the enforcement thereof.

(43) Jail: to establish, enact, erect, maintain and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.

(44) Licenses: subject to any restrictions imposed by the Public General Laws of the State of Maryland, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise or services; to license and regulate any business, camping, occupation, trade, calling or place of amusement or business; and to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.[14]

(45) Liens: to provide that any valid charges, taxes or assessments made against any real property within the town

[13] Editor's Note: See Ch. 47, Peddling and Soliciting.
[14] Editor's Note: See Ch. 47, Peddling and Soliciting.

shall be liens upon the property, which liens may be enforced by distraints and sale in the same manner as the collection of corporate taxes are enforced.

(46) Lights: to provide for the lighting of the town.

(47) Livestock: to regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs, bitches, cats or any other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance provided in such cases; and to authorize fines and penalties provided in such cases.[15]

(48) Markets: to obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the town.

(49) Merit system: to establish a merit system for the town's employees not elected or appointed under the Constitution or Public General or Public Local Laws of the State of Maryland or this Charter.

(50) Minor privileges: to regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements and display of goods, wares and merchandise.[16]

(51) Motor vehicles: to regulate the speed, weight and operation of motorcycles, motorbikes, motor scooters, buses, trucks, motor vehicles and locomotives within the town limits.[17]

(52) Noise: to regulate or prohibit the unreasonable ringing of bells, crying of goods, sounding of whistles or horns or other noise or sound making devices, machinery or mechanical contrivances or any other unnecessary or unreasonable noise in any vicinity where it affects the public health, safety, welfare and happiness of the citizens.[18]

(53) Nuisances: to prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this Charter, by the laws of the State of Maryland or by the laws of the United States, whether or not they are herein specifically named; and to regulate, promote, control the location of or require the removal from the town of all trading in, handling of, transporting or traffic in or manufacture of any commodity which is or may become offensive, obnoxious or injurious to the public comfort, health, welfare or happiness. In this connection, the town may regulate, prohibit, control the location of or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries and renderies. This listing is by way of enumeration, not limitation.

[15] Editor's Note: See Ch. 9, Animals.
[16] Editor's Note: See Ch. 69, Streets and Sidewalks, Art. II.
[17] Editor's Note: See Ch. 80, Vehicles and Traffic.
[18] Editor's Note: See Ch. 45, Peace and Good Order.

(54) Obstructions: to prevent and remove all nuisances and obstructions from the streets, sidewalks, lanes and alleys, and from any property adjoining thereto, and any other places within the town or owned by the town.[19]

(55) Parking facilities: to license and regulate and to establish , obtain by purchase, gift, lease, rent or any other legal means, own, construct, operate and maintain parking lots and other facilities for off-street parking.[20]

(56) Parking meters: to install parking meters on the streets and public places of the town in such places as are determined by ordinance and, by ordinance, to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Highway Administration or the State Roads Commission of Maryland must first be approved by said authority.

(57) Parks and recreation: to establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs to promote health, welfare and enjoyment of the inhabitants of the town.[21]

(58) Pensions: to provide a retirement or pension system or a group insurance plan for the officers or employees of the town or for including its officers and employees in any retirement or pension system operated by or in conjunction with the state on such terms and conditions as the laws of the State prescribe.[22]

(59) Police force: to establish, operate and maintain a police force; to enter into contract with the state, county or any other agency or government available and qualified to render such police service to the town; and to provide for additional police and equipment in cases of emergency affecting the health, welfare, safety and happiness of the citizens of the town. All town policemen, within the town, shall have the powers and authority of constables and other police in this state to enforce the laws of the State of Maryland and County of Frederick and the Charter and ordinances of the town.

(60) Police powers: to prohibit, suppress and punish within the town all vice, gambling and games of chance not operated under the provisions of the Constitution and laws of the state, prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill repute or ill fame, tramps, vagrants, all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, drunkenness, drug usage and impersonation of a police officer.[23]

(61) Ponds, pools and lakes: to regulate or prohibit by ordinance the construction and maintenance of artificial ponds, pools

[19] Editor's Note: See Ch. 69, Streets and Sidewalks, Art. II.
[20] Editor's Note: See Ch. 88, Zoning, § 88-10.
[21] Editor's Note: See Ch. 43, Parks Committee.
[22] Editor's Note: See Ch. 66, Social Security.
[23] Editor's Note: See Ch. 45, Peace and Good Order.

and lakes on any property within the town limits and to build any ponds, pools and lakes for the entertainment and amusement of the town citizens on property owned by the town, and to set and charge fees for the use thereof in order to defray costs.

(62) Property: to acquire, by conveyance, gift, purchase, condemnation or any other lawful means, real or leasehold property, improved or unimproved, rights-of-way, easements, water rights or watercourses for any public purpose; to erect buildings, structures, sewers, drains, utility lines, etc., thereon for the purposes and benefit of the town and its inhabitants and to sell, at public or private sale after twenty (20) days public notice, and to convey to the purchaser or purchasers thereof any real or leasehold property, etc., belonging to the town when such legislative body determines that the same is no longer needed for any public use; to control, protect and maintain public buildings, grounds and property of the town; to take, by purchase, gift, grant, bequest, devise or any other legal means, and to hold real, personal or mixed property absolutely or in trust for parks or gardens or for the erection of statues, monuments, buildings, or structures, or for any public use, upon such terms and conditions as may be prescribed by the grantor or donor and accepted by the town; to provide for the proper administration of the same; and to convey the same when such legislative body determines that it is no longer needed for any public purposes or use, subject to the terms and conditions of the original grant or purchase.

(63) Public improvements and utilities: to make and maintain public improvements and utilities and to acquire property within or without the town limits necessary for such improvements and utilities.

(64) Quarantine: to establish quarantine regulations in the interest of the public health.

(65) Rent control: to pass such ordinances controlling, limiting or restricting the rent charged by property owners or their agents or assigns to tenants with regard to property, improved or unimproved, within the town.

(66) Regulations: to adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking and other similar regulations not in conflict with the laws of the State or with this Charter.[24]

(67) Salaries: to fix the salary or compensation of all elected and appointed town officials and of all employees of the town.

(68) Sewerage and drainage systems: to construct, own, operate and maintain sewerage and storm drainage systems.

[24] Editor's Note: See Ch. 15, Building Construction; Electrical Standards; Ch. 55, Plumbing; and Ch. 80, Vehicles and Traffic.

(69) Sidewalks: to regulate the use of sidewalks and all structures in, under or above them; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions, including but not restricted to overhanging hedges, weeds, brush and trees; and to prescribe hours for cleaning sidewalks.[25]

(70) Streets: to regulate, control, open, close and maintain all dedicated and accepted public streets within the town limits.[26]

(71) Streets and sidewalks: to survey, grade, pave, repair, drain, lay out, extend, open, close, straighten, relocate, widen, narrow, regulate, construct and improve curbs, streets, gutters, storm sewers, bridges, culverts, sidewalks, driveways and alleys in the town or immediately adjacent thereto; to locate and determine the size and design of catch basins and the materials of which they shall be constructed and the formula, if any, according to which the town may or may not participate in the cost of construction; to provide for the lighting of streets; to assess the abutting property owners for any costs of construction, improvement, repair, grading, paving, etc.; and to require bond for property owners or the construction agents to meet standards specified by the Burgess and Commissioners.[27]

(72) Surveys: to order surveys made by competent engineer, where deemed necessary, and to provide by ordinance for the surveys deemed necessary.

(73) Sweepings: to regulate and prevent the throwing or depositing of debris, sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, oils, grease and volatile liquids, or other automobile refuse, or any other unwholesome materials whatsoever into any public way or on any public or private property in the town, including but not limited to gutters, sewers, catch basins, ditches or streams.[28]

(74) Tax exemptions: to allow certain tax exemptions or tax credits from the town property tax to certain senior or disabled citizens.

(75) Taxes: to levy, assess and collect taxes and to borrow money on the credit of the town and to levy and collect special assessments for benefits obtained, as hereinafter provided for.[29]

(76) Taxicabs: to license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters, expressmen and all other persons pursuing like occupations.

[25] Editor's Note: See Ch. 69, Streets and Sidewalks.
[26] Editor's Note: See Ch. 69, Streets and Sidewalks.
[27] Editor's Note: See Ch. 69, Streets and Sidewalks.
[28] Editor's Note: See Ch. 30, Garbage, Rubbish and Refuse; Ch.36, Littering; and Ch. 69, Streets and Sidewalks, Art. II.
[29] Editor's Note: See Ch. 74, Taxation, and Ch. 85, Water, Art. I.

(77) Television: to license and franchise community antenna or other subscription television systems.[30]

(78) Trees: to provide for the setting out of, trimming, spraying and removal of trees on or along any street, sidewalk, alley, lane or property owned by the town.[31]

(79) Vehicles: to regulate and license wagons and other vehicles not provided for or subjected to the licensing powers of the state.

(80) Voting machines: to purchase, lease, borrow, install and maintain voting machines for use in town elections.

(81) Walls, fences, hedges, vines and shrubbery: to regulate the height of walls, fences, hedges, vines and shrubbery on or along any street, sidewalk, alley or lane and to provide for their trimming, removal or setback.

(82) Water: to construct, own, operate and maintain a public water supply system for consumers, who shall include but not be limited to all residents and businesses in the town.[32]

(83) Weeds, refuse, etc: to provide for the removal of weeds and refuse, etc., from improved or unimproved lots or other property and to assess the costs against the owner of the property.[33]

(84) Zoning: to exercise the powers as to planning and zoning conferred upon municipal corporations generally by the Annotated Code of Maryland, as amended, and such other legislation as the General Assembly of Maryland has, is or may subsequently pass.[34]

B. Saving clause. The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

C. It is not intended that the aforementioned powers be exercised so as to conflict with normal agricultural activities on agriculturally zoned land. [Added 3-14-79]

§ C-4-5. Exercise of Powers.

For the purpose of carrying out the powers granted in this Charter, the Commissioners may pass all necessary ordinances and resolutions. All the powers of the town shall be exercised in the manner prescribed by this Charter or, if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

[30] Editor's Note: See Ch. 18, Cable Television Franchise.
[31] Editor's Note: See Ch. 77, Trees.
[32] Editor's Note: See Ch. 85, Water.
[33] Editor's Note: See Ch. 13, Brush, Grass and Weeds.
[34] Editor's Note: See Ch. 88, Zoning.

§ C4-6. Enforcement.

To assure the observance of the ordinances of the town, the Commissioners shall have the power to provide that violation thereof shall be a misdemeanor or unlawful and shall have the power to affix thereto penalties of a fine not exceeding one thousand dollars ($1,000.), unless otherwise provided in the ordinance, or imprisonment not exceeding thirty (30) days, unless otherwise provided in the ordinance, or both such fine and imprisonment. Any person subject to any fine, forfeiture or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within ten (10) days as provided by the General Law of the State of Maryland. The Commissioners may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. All fines, penalties or forfeitures imposed by this Charter or any town ordinance may be recovered in the name of the Burgess and Commissioners of Walkersville in the appropriate courts of Frederick County or the State of Maryland as debts of similar size are recovered, and the money arising therefrom shall be paid to the Burgess and Commissioners for the use of the town.

ARTICLE V
Authority to Borrow Funds

§ C5-1. Bonds, and Borrowing from Financial Institutions.

The town is hereby empowered to borrow money for any proper public purpose, including but not limited to the refinancing of any outstanding indebtedness, and to evidence such borrowing by:

(a) The issuance and sale of its general obligation bonds, and/or
(b) The execution of promissory note(s) or other debt instrument(s) in favor of one or more financial institutions.

The manner of Authorization and Issuance of the town's general obligation bonds is set forth in Article V §C5-3 of the Charter.

The manner of Authorization and Procedures for borrowing money from financial institutions is as follows:

A. The town may borrow money from, or otherwise incur indebtedness to, any one or more financial institutions in such amounts, and on such terms and conditions, as the Town deems proper, subject to the maximum debt limitation set forth in Article V §C5-7 of the Charter.

B. The town shall not be required to advertise for or solicit competitive bids for such loans or other indebtedness.

C. The town may obtain and evidence such loan(s) or other indebtedness through the execution and delivery of promissory note(s) or other debt instrument(s) as may be required by the financial institution(s), and in conjunction with such loans or other indebtedness may execute such additional documentation as may be required by the financial institution.

D. The town may secure such loan(s) or other indebtedness with any type of real or personal property collateral or other form of security, through the execution and delivery of such security instruments or other documentation as may be required by the financial institution.

E. All loans or other indebtedness to a financial institution shall be authorized by resolution or ordinance of the Burgess and Commissioners, which shall include a statement of the principal amount of the loan or other indebtedness being authorized, and a statement of the public purpose for which the money is being borrowed.

§ C5-2. Tax, Bond, grant and Approved Loan Anticipation Notes.

The town is hereby empowered to borrow money in anticipation of the issuance of general obligation bonds, in anticipation of the receipt of the current taxes, in anticipation of the receipt of grants and also in anticipation of the receipt of approved lower interest loans, and to evidence such borrowing by the issuance and sale of bond, tax, grant or approved loan anticipation notes, payable as to principal and interest from the sale of said bonds or from the moneys received from said taxes, grants or loans when received. "Approved loans" means loans which have been applied for a lower interest rate than the notes issued in anticipation of the receipt of the moneys, which loans have been approved by the lender but which moneys resulting from said loans, though encumbered by the lender, will not be received by the town until after the money, or any part thereof, is needed by the town.

§ C5-3. Manner of Authorization and Issuance.

A. All bonds of the town shall be authorized by resolution of the Burgess and Commissioners, which resolution shall contain the following:

(1) A statement of the public purpose upon which the proceeds of said bonds must be expended.
(2) The complete form of said bonds, which shall include:
  (a) The place or places and time or times of payment thereof.
  (b) The rate or rates of interest payable thereon, or a space for the insertion of such rate or rates of interest upon a determination thereof.
  (c) The title of the officials whose signatures shall be affixed to or printed on said bonds.
  (d) The authority for issuance thereof.
  (e) The taxes and any special revenues from which the principal of and interest on said bonds will be payable.
(3) Form of notice.
  (a) The form of the notice soliciting bids for the purchase of said bonds, which shall set forth:
    [1] The date, place and time for the receiving and opening of bids.
    [2] A brief description of the purpose or purposes for which said bonds are to be issued.
    [3] A brief description of the denominations, maturities, terms and conditions of said bonds.
    [4] A statement of the rate or rates of interest to be borne by said bonds, or the manner of determining the same.
    [5] A precise statement of the manner in which the best offer for said bonds will be determined and a reference to the resolution authorizing the same.

Said notice of sale may also require the prospective purchasers to accompany their bids with good faith

deposits in specified amounts, may make appropriate provisions for approval of legality of such bonds and may contain a financial statement of the town.

(b) The aforegoing provisions which may be included in such a notice of sale may also be separately set forth in a circular or official statement, the form of which shall likewise be adopted by resolution or ordinance of the town.

(4) Specific provisions for the appropriation and disposal of the proceeds of the sale of any such bonds and any specific provision for the payment of the principal thereof and the interest thereon, which provision specifies the source or sources of payment and shall constitute a covenant binding the town to provide the funds from such source or sources as and when said principal and interest shall be due and payable.

B. If the ordinance or ordinances authorizing the issuance and sale of any such bonds or notes shall so specify, the bonds or notes may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids, unless the laws of the State of Maryland forbid sale in such manner at the time of the issuance and sale.

§ C5-4. Adoption of Resolution.

Each such resolution shall be adopted by the Burgess and Commissioners by a majority vote of the Commissioners, and it shall not be necessary to submit any such resolution to a referendum of voters unless such resolution shall so provide. Each such resolution may contain such other provisions, not inconsistent with this Article, deemed appropriate by the Burgess and Commissioners.

§ C5-5. Issuance of Bond, grant, Tax or Approved Loan Anticipation Notes.

The procedure for the issuance of bond, tax, grant or approved loan anticipation notes shall be as prescribed above for the issuance of bonds, including the ability to issue and sell them by private negotiation.

§ C5-6. Limitations.

The limitations prescribed by the Laws of Maryland in Article 23A, Section 34, 1957 Edition, as amended from time to time, are placed on the issuance by the town and also the following limitations on bonds and bond, tax, grant or approved loan anticipation notes.

§ C5-7. Maximum Debt Limit.

The amount of money borrowed by the town shall not exceed at any one time the total sum of ten percent (10%) of the assessed valuation of all real and personal property in the town appearing on the assessment books of Frederick County, Maryland.

§ C5-8. Miscellaneous.

The funds derived from the sale of bonds or other certificates of indebtedness shall be deposited by the Burgess and Commissioners at some safe banking institution in the State of Maryland to be determined by them and to be subject to the check of the Town Treasurer only when countersigned by the Burgess. Out of said funds shall be paid only the proper expenses for the negotiation of the sale and liquidation of said bonds or other certificates of indebtedness and for the planning and construction or repair of all types of public improvements and utilities and the sites therefor and for the acquisition of equipment to provide the necessary or desirable public services.

§ C5-9. Effect and Repayment of Bonds and Notes.

The issuance and sale of general obligation bonds or bond, grant, tax or approved loan anticipation notes shall constitute a pledge of the full faith and credit of the Burgess and Commissioners to the prompt payment, when due, from ad valorem taxes and such other revenues as may be described in authorizing ordinance or ordinances, of principal of and interest on such bonds or notes. The maturing principal of and interest on any general obligation bonds may be paid, on whole or in part, from the proceeds of such benefit assessments or charges, or any combination thereof, as the Burgess and Commissioners may impose and collect during the life of the bonds, the power and authority so to do being hereby specifically granted where appropriate to the public purpose for which the bonds may be issued. The Burgess and Commissioners shall, if and to the extent necessary, annually levy upon all property subject to taxation within the corporate limits of the town ad valorem taxes sufficient to provide for the payment of the maturing principal of and interest on any such bonds or notes, without limitation as to rate or amount, notwithstanding any limitation contained in this Charter or in any other law, and the issuance and sale of any such bonds or notes shall constitute a covenant to that effect.

§ C5-10. Other Acts Authorized.

The Burgess and Commissioners are hereby authorized and empowered to do all acts, by ordinance or otherwise, deemed necessary to issue and sell said bonds or other certificates of indebtedness and for the regulation, efficient operation and maintenance of any work, plant or system of public improvement, or any part thereof, financed pursuant to the authority of this section.

§ C5-11. Supplementary Authority and Powers.

The authority and powers contained in this section shall be supplementary to existing law, and such authority and powers may be exercised by the Burgess and Commissioners notwithstanding any other provision or limitation of law.

ARTICLE VI
Vacancies; Forfeiture of Office; Filling of Vacancies

§ C6-1. Vacancies.

The office of the Burgess or a Commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.

§ C6-2. Forfeiture of Office.

The Burgess or a Commissioner shall forfeit his office if he:

A. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law.

B. Violates any express prohibition of this Charter.

C. Is convicted of a crime involving moral turpitude.

D. Fails to attend three (3) consecutive regular meetings of the Commissioners without being excused by the Commissioners.

§ C6-3. Filling of Vacancies.

A vacancy in the office of the Burgess or of a Commissioner shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy, but the Commissioners, by a majority vote of all of its remaining members, shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Commissioners fail to do so within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VII, Elections.

ARTICLE VII
Elections

§ C7-1. Registration of Voters.

Registration shall be essential to the right to vote at any election held under the provisions of this Article or under the provisions of any act of the General Assembly of the State submitting any proposition or question to the decision of the voters of the town. Provisions for registration shall be made by ordinance by the Burgess and Commissioners and may be made in a manner different from that provided by this Charter.

§ C7-2. Board of Supervisors of Elections.

There shall be a Board of Supervisors of Elections consisting of five (5) members, who shall be appointed by the Burgess, with the approval of the Commissioners, on or before the first Tuesday of the month of June in each election year. The terms of the members of the Board of Supervisors of Elections begin on the first Tuesday in June in the year in which they are appointed and run for three (3) years or until their successors take office. Members of the Board of Supervisors of Elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their terms of office. The Board shall appoint one (1) of its members as Chairman. Vacancies on the Board shall be filled by the Burgess, with the approval of the Commissioners, for the remainder of the unexpired term. The compensation of the members of the Board, if any, shall be determined by the Commissioners.

§ C7-3. Duties.

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all town elections. The Board may appoint election clerks or other employees to assist in any of its duties.

§ C7-4. Notice of registration Days and Elections.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every registration day and every election by an advertisement published in at least one (1) newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

§ C7-5. Revision of Registration; Records.

In every election year, on the last Tuesday of the month of June, the Board of Supervisors of Elections appointed by the Burgess shall sit as officer or officers of registration for the purpose of revising the registration. Such revision shall be made in conformity with the provisions of the law of the state in force from time to time relating to the registration of voters. The officers of registration shall transfer voters' names from one address to another in case such voters have changed their residence, shall add the names of voters qualified to register at that time and shall strike from the registration lists the names of those persons who have died or become disqualified. When the registration books in use shall become worn out, dilapidated or unfit for further use, the Burgess and Commissioners shall provide similar books to replace the used ones, and the names of the voters shall be transcribed therein or new lists made or an entire new registration had, as determined by ordinance. If necessary for the performance of registration or the convenience of the citizens of the town, the Burgess may designate additional days as registration days. Registration shall be permanent. The Commissioners, by ordinance, shall adopt and enforce any provisions necessary to establish and maintain a system of permanent registration.

§ C7-6. Appeals; Powers and Duties of Officers of Registration.

Every such officer of registration shall cause a copy of the lists of persons disqualified to be published by handbills posted in such public places about the town as he may select within five (5) days after the close of such registration. Any person considering himself aggrieved by the action of the officer of registration in striking his name from the list of qualified voters may appeal to the Burgess who is hereby authorized to hear such appeal and to make such correction in the registration list, by the hand of the Town Clerk, as just and right, in the judgment of the Burgess. During the appointed time of their respective sittings, the officers of registration shall have, in addition to the duties and authority given them herein, such other powers and authority as is conferred on officers of registration by the Annotated Code of Maryland, as amended from time to time.

§ C7-7. Qualifications of Voters.

Any citizen of the state and a citizen of the United States who is a resident of the Town of Walkersville and who, at the date of any town election therein, is respectively eighteen (18) years of age, is qualified and entitled to vote under the Constitution and laws of the state at any state election held in the state, has been a bona fide resident of the town for thirty (30) days next preceding the election and is registered as required by this Article shall be entitled to vote at all town elections. [Amended by Ordinance 2003-03 5/14/03]

§ C7-8. Nomination of Candidates.

All nominations for Burgess and Commissioners shall be made pursuant to nomination forms, rules, and times as provided in Chapter 22 of the Town Code.
[Amended 12/10/2003 by Resolution 2003-05].

§ C7-9. Elections; Terms of Office.

An election shall be held on the second Monday of September beginning in September 2006 and every three (3) years thereafter. Special elections may be held at other times as the Charter and Code provides. The Board of Supervisors of Elections shall provide for a suitable polling place and shall provide the official ballots and/or voting machines for the election. The Board shall also provide the official registration of voters for each election. They shall keep the polls open from 7:00 a.m. to 8:00 p.m.
[Amended 5/9/2018 by Resolution 2018-01].

§ C7-10. Bribing, etc., of Voters Prohibited.

Any person who bribes, coerces or intimidates any voter, or attempts to bribe, coerce or intimidate any voter, at any election held under the direction of the Burgess and Commissioners shall be guilty of a misdemeanor and, on conviction thereof before any appropriate court of the County of Frederick or the State of Maryland, shall be fined for each and every offense or confined in the county jail, or both confined and imprisoned, at the discretion of the court having jurisdiction and hearing the case. The Burgess and Commissioners shall establish by ordinance from time to time the maximum fine or jail term for such cases.

§ C7-11. Vote Count.

Within forty-eight (48) hours after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and certify the results of the election to the Town Clerk, who shall record the results in the minutes of the Commissioners. The candidate receiving the highest number of votes for the office of Burgess shall be declared as elected. The candidates receiving the highest number of votes for the offices of Commissioner being elected in that year shall be declared as elected. If the Board of Supervisors of Elections is unable to determine who is to be declared elected due to an equal number of votes being cast for two (2) or more candidates, the Board of Supervisors of Elections shall determine the candidate elected by a method to be determined by the incumbent Burgess and Commissioners.

§ C7-12. Preservation of Ballots.

All ballots used in any town election shall be preserved for at least six (6) months from the date of the election.

§ C7-13. Regulation and Control by Commissioners.

The Commissioners have the power to provide by ordinance, in every respect not covered by the provisions of this Charter, for the conduct of registration, nomination and town elections and for the prevention of fraud in connection therewith and for a recount of ballots in case of doubt or fraud. They shall also provide by ordinance for voting in any town election by absentee ballot.

ARTICLE VIII
Town Property

§ C8-1. Acquisition, Possession and Disposal.

The town may acquire real, personal or mixed property within and without the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation or in any other lawful manner and may sell, lease or otherwise dispose of any property belonging to the town. All town property, funds and franchises of every kind belonging to or in the possession of the town at the time this Charter becomes effective are vested in the town, subject to the terms and conditions thereof.

§ C8-2. Condemnation.

The town may condemn property of any kind, or interest therein, or franchise connected therewith, in fee or as an easement, within the corporate limits of the town for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other state law applicable to the town is a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established by the Annotated Code of the Public General Laws of Maryland.

§ C8-3. Town Buildings.

The town may acquire, obtain by lease or rent, purchase, construct, operate and maintain all buildings and structures it deems necessary for the operation of the town government.

§ C8-4. Protection of Town Property.

The town may do whatever may be necessary to protect town property and to keep all town property in good condition.

§ C8-5. Designation or Naming of Town Property Including Streets.

No town property shall be designated or named after any member of the Commissioners, including the Burgess, who is in office at the time of the naming or designation.

ARTICLE IX
Finance

§ C9-1. Town Treasurer.

There shall be a Town Treasurer appointed by the Burgess with the approval of the Commissioners. The Treasurer shall serve at the pleasure of the Burgess. The Treasurer's compensation shall be determined by the Commissioners. The Town Treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this Charter, shall be exercised by the Town Treasurer under the direct supervision of the Burgess.

§ C9-2. Powers and Duties.

Under the supervision of the Burgess, the Town Treasurer shall have the authority and shall be required to:

A. Prepare, at the request of the Burgess, an annual budget to be submitted by the Burgess to the Commissioners.

B. Supervise and be responsible for the disbursement for all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

C. Maintain a general accounting system for the town in such form as the Commissioners may require, not contrary to state law.

D. Submit at the end of each fiscal year, and at such other times as the Commissioners may require, a complete financial report to the Commissioners through the Burgess.

E. Ascertain that all taxable property within the town is assessed for taxation.

F. Collect all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.

G. Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.

H. Do such other things in relation to the fiscal or financial affairs of the town as the Burgess or the Commissioners may require or as may be required elsewhere in this Charter.

§ C9-3. Fiscal Year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July in each year and end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year and the accounting year.

§ C9-4. Budget.

The Burgess, on such date as the Commissioners by ordinance determine, but at least thirty-two (32) days before the beginning of any fiscal year, shall submit a budget to the Commissioners. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming fiscal year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Town Treasurer, open to public inspection by anyone during normal business hours.

§ C9-5. Adoption.

Before adopting the budget, the Commissioners shall hold a public hearing thereon after two (2) weeks' notice thereof in some newspaper or newspapers having general circulation within the town. The Commissioners may insert new items or may increase or decrease the items of the budget. If the Commissioners increase the total proposed expenditures, they shall also increase the total anticipated revenues in an amount at least equal to the total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Commissioners is necessary for adoption.

§ C9-6. Appropriations.

No public money may be expended without having been appropriated by the Commissioners. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

§ C9-7. Transfer of Funds.

Any transfer of funds between major appropriations for different purposes by the Burgess must be approved by the Commissioners before becoming effective.

§ C9-8. Overexpenditures Forbidden.

No officer or employee during any budget year may expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter is null and void. Nothing in this section contained, however, prevents the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds nor the making of contracts of leases or for services for a period exceeding the budget year in which the contract is made, when the contract is permitted by law.

§ C9-9. Appropriations Lapse After One Year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. Setting aside and designating the use of funds shall be considered lawfully encumbering funds.

§ C9-10. Checks.

All checks issued in payment of salaries or other town obligations shall be issued and signed by the Town Treasurer and shall be countersigned by the Burgess.

§ C9-11. Taxable Property.

All real property and all tangible personal property within the corporate limits of the town and personal property which may have a situs there by reason of the residence of the owner therein is subject to taxation for town purposes, and the assessment used shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

§ C9-12. Budget Authorizes Levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax constitutes a determination of the amount of the tax levy in the corresponding tax year.

§ C9-13. Notice of Tax Levy.

Immediately after the levy is made by the Commissioners in each year, the Town Treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. The Treasurer shall make out and mail or deliver in person to each taxpayer or to his or her agent at his or her last known address a bill or account of the taxes due from him or her. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay, on the dates established by this Charter, all taxes levied on his or her property.

§ C9-14. When Taxes Overdue.

The taxes provided for in § C9-12 of this Article are due and payable on the first day of July in the year for which they are levied and are overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at a rate to be determined by the Burgess and Commissioners from time to time for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in § C9-15 of this Article.

§ C9-15. Sale of Tax-delinquent Property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by § C9-14 of this Article shall be turned over by the Town Treasurer to the official of the county responsible for the sale of tax-delinquent property as provided by law. All property listed thereon, if necessary, shall be sold for taxes by the said county official in the manner prescribed by state law.

§ C9-16. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town.

§ C9-17. Audit.

The financial books and accounts of the town shall be audited annually as required by the Annotated Code of Maryland.

§ C9-18. Tax Anticipation Borrowing.

During the first six (6) months of any fiscal year, the town may borrow in anticipation of the collection of the property tax levied for that fiscal year and may issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six (6) months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which the notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The Commissioners shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes not otherwise provided for in this Charter.

§ C9-19. Payment of Indebtedness.

The power and obligation of the town to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited, and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes or other evidences of indebtedness and interest thereon without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes or other evidences of indebtedness issued under the authority of this Charter, whether or not such pledge is stated in the bonds, notes or other evidences of indebtedness or in the ordinances authorizing their issuance.

§ C9-20. Previous Issues.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this Charter and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth.

§ C9-21. Purchasing and Contracts.

All purchases and contracts for the town government shall be made by the Town Treasurer. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than five thousand dollars ($5,000.) shall be made by written contract. The Commissioners may provide, by

resolution, rules and regulations regarding the use of competitive bidding and sealed bids for all town purchases and contracts. The Commissioners may, by resolution, authorize town personnel to approve purchases and contracts involving less than five hundred dollars ($500). The Burgess may approve purchases and contracts involving less than five thousand dollars ($5,000). The Commissioners shall approve purchases and contracts involving five thousand dollars ($5,000) or more. The Town, at any time in its discretion, may utilize its own employees for the construction or reconstruction of public improvements without advertising/readvertising for or receiving bids. All written contracts shall be protected by such bonds, penalties and conditions as the town may require. [Amended 8-14-96 by Resolution 96-8]

ARTICLE X
Personnel

§ C10-1. Town Clerk.

The Town Clerk shall serve as clerk to the Commissioners, attend every meeting of the Commissioners and keep a full and accurate account of the proceedings of the Commissioners and perform such other duties as may be required by this Charter or the Commissioners.

§ C10-2. Town Treasurer.

The Town Treasurer shall serve as Treasurer to the town and keep such records and perform such other duties as may be required by this Charter or the Commissioners.

§ C10-3. Town Attorney.

The Burgess, with the approval of the Commissioners, may appoint a Town Attorney. The Town Attorney shall be admitted to practice before the Maryland Court of Appeals and shall be the legal adviser of the town. The Attorney shall perform such duties in this connection as may be required by the Burgess or Commissioners. The Attorney's compensation shall be determined by the Commissioners. The town has the power to employ such legal consultants as it deems necessary from time to time.

§ C10-4. Authority to Employ Personnel.

The town may employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and to operate the town government.

§C10-5. Merit System Authorized.

The town may provide by ordinance for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose, the Commissioners may adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things, these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action and vacation and sick leave regulations. The town may request and avail itself of the facilities of the Commissioner of State Personnel for the administration of its merit system, as provided in state law.

§ C10-6. Unclassified and Classified Service.

A. Civil service divided into unclassified and classified service. The civil service of the town shall be divided into the unclassified and classified service.

B. Unclassified service. The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

(1) The Burgess, the Councilmen and persons appointed to fill vacancies in these positions.

(2) The Clerk, Treasurer and Town Attorney.

(3) The heads of all offices, departments and agencies and members of town boards and commissions.

(4) Part-time, temporary and unpaid offices and positions.

C. Classified service. The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

§ C10-7. Prohibitions and Penalties.

A. Prohibitions.

(1) If a merit system is adopted, no person in the classified service of the town or seeking admission thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work.

(2) No person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this Charter or of the rules and regulations made thereunder.

(3) No officer or employee in the classified service of the town shall continue in such position after becoming a candidate for nomination or election to any public office.

(4) No person seeking appointment to or promotion in the classified service of the town shall, either directly or indirectly, give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his appointment, proposed appointment, promotion or proposed promotion.

(5) No person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the town.

(6) No person holding a position in the classified service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party or candidate for public office further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

B. Penalties. Any person who by himself or with others willfully or corruptly violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars ($100.) or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who is convicted under this section is ineligible for a period of five (5) years for appointment to or employment in a position in the town service and, if he is an officer or employee of the town, shall immediately forfeit the office or position he holds.

§ C10-8. Retirement System.

The town may do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town.[35]

§ C10-9. Compensation of Employees.

The compensation of all officers and employees of the town shall be set from time to time by an ordinance passed by the Commissioners, subject to the restrictions imposed upon establishing the salaries of the Commissioners and the Burgess.

§ C10-10. Employee Benefit Programs.

The town, by ordinance, may provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees and may expend public moneys of the town for such programs.

[35] Editor's Note: See Ch. 66, Social Security.

ARTICLE XI
Public Ways and Sidewalks[36]

§ C11-1. Definition of Public Ways.

The term “public ways” as used in this Charter includes all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

§ C11-2. Control of Public Ways.

The town has control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town.

§ C11-3. Powers of Town as to Public Ways.

The town may:

A. Establish, regulate and change from time to time the grade lines, width and construction materials of any town public way, or part thereof, bridges, curbs and gutters.

B. Grade, lay out, construct, open, extend and make new town public ways.

C. Grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.

D. Pave, surface, repave or resurface any town public way or part thereof.

E. Install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.

F. Construct, reconstruct, maintain and repair bridges.

G. Name town public ways.

H. Have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof.

I. Require and order the owner of any property abutting on any public way in the town and any utilities having easements within any of said public ways to either do the work required at the expense of said owner or utility or require and order the said owner or utility to perform any projects authorized by this

[36] Editor's Note: See Ch. 69, Street and Sidewalks.

article at the owner's or utility's expense according to reasonable plans and specifications, and if, after due notice, the owner or utility fails to comply with the order within a reasonable time, the town may do the work at the expense of said owner or utility. If the town does the work at the expense of the said owner or utility, the expense shall be a lien on the property or utility and shall be collectible in the same manner as are town taxes or by suit at law.

§ C11-4. Powers of Town as to Sidewalks.

The town may:

A. Establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.

B. Grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.

C. Require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.

D. Require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

ARTICLE XII
Water and Sewers [37]

§ C12-1. Powers of Town.

The town may:

A. Construct, operate and maintain a water system and water plant.

B. Construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.

C. Construct, operate and maintain a stormwater drainage system and stormwater sewers.

D. Construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above plants and systems.

E. Have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

F. Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.

§ C12-2. Placing Structures in Public Ways.

Any public service corporation, governmental agency, company or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section is guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, sewerage or stormwater systems, the town may order it removed.

§ C12-3. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits, or other structures in on or over any public way in the town or in the county which impede the establishment, construction or operation of any town sewer or water main shall, upon reasonable notice, remove

[37] Editor's Note: See Ch. 85, Water.

or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers in § C8-2. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§ C12-4. Entering on County Public Ways.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant or stormwater sewers provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

§ C12-5. Connections.

The town may provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the town, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§ C12-6. Connection Charge.

The town may make a charge, the amount to be determined by the Commissioners, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

§ C12-7. Changes in Plumbing, etc., to Prevent Waste or Improper Use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use.

§ C12-8. Private Systems.

The town, by ordinance, may provide that no water supply, sewerage, or stormwater drainage system, and no water mains, sewers, drains or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§ C12-9. Extensions Beyond Boundaries.

The town may extend its water or sewerage systems beyond the town limits.

§ C12-10. Right of Entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the town, has a right of entry, for access to water or sewer installations, at all reasonable hours and, after reasonable advance notice to the owner, tenant or person in possession, upon any premises and into any building in the town or in the county served by the town's water or sewage disposal system. Any restraint or hindrance offered to the entry by any owner, tenant or person in possession, or the agent of any of them, by ordinance, may be made a misdemeanor.

§ C12-11. Pollution of Water Supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the town water supply system. Any violation of the provisions of this section is a misdemeanor.

§ C12-12. Contracts for Service.

The town, if it deems it advisable, may contract with any party or parties inside or outside the town to obtain water or to provide for the removal of sewage.

§ C12-13. Charges.

The town may charge and collect such service rates, water rents, ready-to-serve charges or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the Clerk-Treasurer and, if bills are unpaid within thirty (30) days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law.

ARTICLE XIII
Special Assessments

§ C13-1. Power of Town to Levy Special Assessments.

The town may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction of water mains, sanitary sewer mains, stormwater sewers, curbs and gutters and by the construction and paving of public ways and sidewalks, or parts thereof, and it may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment.[38] The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the town and any other item of cost which may reasonably be attributed to the project.

§ C13-2. Procedure.

A. Provided. The procedure for special assessments, wherever authorized in this Charter, is as provided in this section.

B. Assessment of cost. The cost of the project being charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the Commissioners.

C. Amount. The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

D. Uniformity of rates. When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

E. Levy of charges; public hearing; notice. All special assessment charges shall be levied by the Commissioners by ordinance. Before levying any special assessment charges, the Commissioners shall hold a public hearing. The Clerk-

[38] Editor's Note: See Ch. 85, Water, Art. I.

Treasurer shall cause notice to be given, stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Commissioners and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The Clerk-Treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) days and not more than thirty (30) days after the Clerk-Treasurer shall have completed publication and service of notice as provided in this section . Following the hearing, the Commissioners, in their discretion, may vote to proceed with the project and may levy the special assessment.

F. Right of appeal. Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the circuit court for the county within ten (10) days after the levying of any assessment by the Commissioners.

G. Payments; interest. Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten (10) years, and in such manner as the Commissioners shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Commissioners.

H. When due; lien on property; collection. All special assessment installments are overdue six (6) months after the date on which they became due and payable. All special assessments shall be liens on the property, and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

I. Clerk-Treasurer. All special assessments shall be billed and collected by the Clerk-Treasurer.

ARTICLE XIV
County Road Taxes and Franchise Taxes

§ C14-1. County Road Taxes.

The Board of County Commissioners of Frederick County shall pay or cause to be paid annually to the Burgess and Commissioners three-fourths (3/4) of the full amount of the road and bridge tax levied and collected each fiscal year from property taxed for such purposes with the limits of the town. Any portion of said three-fourths (3/4) of said road and bridge tax collected by said County Commissioners after the fiscal year for which the same was levied shall be accounted for and paid over to the said Burgess and Commissioners from time to time in the year in which the same shall be collected. Said road and bridge tax shall be refunded and paid for the fiscal year 1977 and for each fiscal year thereafter. The money so received by the Burgess and Commissioners shall be used for the repair and improvement of the streets, avenues and roads within the town limits.

§ C14-2. Franchise Taxes.

The Board of County Commissioners of Frederick County shall pay over annually to the Burgess and Commissioners one-fourth (1/4) of the franchise tax received by the County Commissioners under the provisions of the Annotated Code of Maryland, as amended from time to time, from every savings bank, institution or corporation organized for receiving deposits of money and paying interest thereon located within the taxable limits of the town and having its principal office therein.

ARTICLE XV
General Provisions

§ C15-1. Oath of Office.

A. Oath. Before entering upon the duties of their offices, the Burgess, the Commissioners, the Town Clerk, the members of the Board of Supervisors of Elections and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe to the following oath or affirmation:

I, ..., do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of . . . . . , according to the Constitution and laws of this state.

B. Administration of oath. The Burgess shall take and subscribe to this oath or affirmation before the Clerk of the Circuit Court for the county or before one (1) of the sworn deputies of said Clerk. All other persons taking and subscribing to the oath shall do so before the Burgess.

§ C15-2. Official Surety Bonds.

The Town Treasurer, and such other officers or employees of the town as the Commissioners or this Charter may require, shall give bond in such amount and with such surety as may be required by the Commissioners. The premiums on such bonds shall be paid by the town.

§ C15-3. Prior Rights and Obligations.

All right, title and interest held by the town or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Charter had not become effective.

§ C15-4. Misdemeanors.

Every act or omission which, by ordinance, is made a misdemeanor under the authority of this Charter, shall, unless otherwise provided, be punishable upon conviction before any Judge of a District Court of the state or in the Circuit Court for the county within which the offense is committed by a fine not exceeding one thousand dollars ($1,000.) or imprisonment for ninety (90) days in the county jail, or both, in the discretion of the court. The party aggrieved has the right to appeal as is now provided under the general laws of the state. Where the act or omission is of a continuing nature and is persisted in, a conviction for one (1) offense is not a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

§ C15-5. Effect of Charter on Existing Ordinances.

A. Preexisting ordinances, resolutions, rules and regulations not in conflict with Charter. All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of the Charter.

B. Preexisting ordinances, resolutions, rules and regulations in conflict with Charter. All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter are repealed to the extent of such conflict.

§ C15-6. Severability.

If any section or part of a section or Article of this Charter shall be held invalid by any court of competent jurisdiction, such holding shall neither affect the remainder of this Charter nor the context in which said section or part of a section or Article so held invalid appears, except to the extent that an entire section or part of a section or Article to which such holding shall directly apply.

Chapter 1

GENERAL PROVISIONS

ARTICLE 1
Adoption of Code

§ 1-1. Adoption of Code.
§ 1-2. Code supersedes prior ordinances.
§ 1-3. When effective.
§ 1-4. Copy of Code on file.
§ 1-5. Publication; filing.
§ 1-6. Amendments to Code.
§ 1-7. Code book to be kept up-to-date.
§ 1-8. Sale of Code book.
§ 1-9. Altering or tampering with Code; penalties for violation.
§ 1-10. Severability.
§ 1-11. Repeal of ordinances.
§ 1-12. Ordinances saved from repeal.
§ 1-13. Changes in previously adopted ordinances.
§ 1-14. Inclusion of ordinance in Code.
§ 1-15. General exemption from county laws.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville: Art. I, 9-27-78 as Ord. No. 101. Amendments noted where applicable.
Superceded by Ord. 98-14, Adopted 9-9-98]

ARTICLE I
Adoption of Code

Be it enacted and ordained by the Burgess and Commissioners of the Town of Walkersville, Maryland, as follows:

§ 1-1. Adoption of Code.

The ordinances and certain resolutions of the Town of Walkersville of a general and permanent nature, adopted by the Burgess and Commissioners of the Town of Walkersville, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 90, together with an Appendix, are hereby approved, adopted, ordained and enacted as the “Code of the Town of Walkersville,” hereinafter known and referred to as the “Code.” References to the “Code” shall also be deemed to include the Charter of the Town of Walkersville, which is published in the volume containing the Code of the Town of Walkersville.

§ 1-2. Code Supersedes prior Ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When Effective.

All provisions of this ordinance and of the Code shall become effective twenty (20) days after approval by the Burgess or passage by the Commissioners after his veto.

§ 1-4. Copy of Code on File.

A copy of the Code in loose-leaf form has been filed in the office of the Town Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Town of Walkersville by impressing thereon the seal of the town, to be made available to persons desiring to examine same during all times while said Code is in effect.

§ 1-5. Publication; filing.

The Clerk of the Town of Walkersville shall, in the manner required by the Charter, cause to be published a fair summary of this adopting ordinance in a newspaper of general circulation in the town. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-6. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into the Code so that reference to the "Code of the Town of Walkersville" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk, or someone authorized and directed by him or her, to keep up-to-date the certified copy of the book containing the Code required to be filed for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification, which shall be adopted in such manner as to be understood to be a part of the Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code Book.

Copies of the Code book containing the Code may be purchased from the Clerk upon the payment of a fee to be set by resolution of the Commissioners, who may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-9. Altering or Tampering with Code; Penalties for Violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Walkersville to be misrepresented thereby. Any violation of this section shall be punishable as a misdemeanor as provided in the Charter of the Town of Walkersville.

§ 1-10. Severability.

A. Severability of Code provisions. Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereto.

B. Severability of ordinance provisions. Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereto.

§ 1-11. Repeal of Ordinances.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this adopting ordinance, except as hereinafter provided.

§ 1-12. Ordinances Saved from Repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-11 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal.

A. Any ordinance adopted subsequent to June 30, 1998. [Ordinance 98-14, 9-9-98]

B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.

C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.

D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.

E. Any franchise, license, right, easement or privilege heretofore granted or conferred.

F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place, or any portion thereof.

G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the town's indebtedness.

H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.

I. The levy or imposition of taxes, assessments or charges, or exemptions therefrom.

J. The dedication of property or approval of preliminary or final subdivision plats.

K. Ordinances establishing the amount and manner of payment of salaries or compensation of officers and employees or establishing workdays and working hours for certain employees.

L. Ordinances providing for the annexation of land.

M. Any ordinance providing for the regulation and control of dogs or other animals.

N. Any ordinance establishing special districts for such purposes as sanitary garbage collection and disposal, water supply, sanitary sewage disposal, lighting, fire protection, etc.

§ 1-13. Changes in Previously Adopted Ordinances.

In compiling and preparing the ordinances for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention of the Commissioners that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

§ 1-14. Inclusion of Ordinance in Code.

This ordinance shall, upon adoption, be included in the Code as Chapter 1, General Provisions, Article I, Adoption of Code.

§ 1-15. General Exemption from County Laws. [Added 1-11-84]

Under the authority conferred by Article 23A ,§ 2B (a) (3), of the Annotated Code of Maryland, the Town of Walkersville, effective January 1, 1984, exempts itself from the provisions of all laws of Frederick County enacted before or after that date and dealing with matters in which the town is lawfully empowered by state law or its own Charter to act. The only laws of Frederick County which will henceforth apply within the Town of Walkersville are those defined by Maryland law to apply and those which have been expressly adopted by reference by the

town. This exemption shall not prevent the Town of Walkersville from reaching mutual agreement with Frederick County for the enforcement of specific laws of the county or town by county officials or their agents.

Chapter 2

ADEQUATE PUBLIC FACILITIES

ARTICLE 1
In General

§ 2-1. Title.

§ 2-2. Authority.

§ 2-3. Jurisdiction.

§ 2-4. Intent.

§ 2-5. Definitions.

§ 2-6. General Requirements.

§ 2-7. Exemptions.

§ 2-8. Approval of Preliminary Plat.

ARTICLE II
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§ 2-20. Administrative Agency Designated.

§ 2-21. Referral to Other Agencies/Public Comment.

§ 2-22. Fees.

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§ 2-30. (Reserved).

§ 2-31. Determination of Adequacy.

ARTICLE IV
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§ 2-40. Thresholds.

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ARTICLE V
Scope of Chapter

ARTICLE VI
Effective Date

ARTICLE VII
Text Amendments

[Ordinance 2007-10 adopted 8/22/2007]

ARTICLE 1
In General

§ 2-1. Title.

This chapter shall be known and cited as the Adequate Public Facilities Ordinance of the Town of Walkersville, Maryland.

§ 2-2. Authority.

This chapter is established in accordance with the provisions of §10.01 of Article 66B of the Annotated Code of Maryland.

§ 2-3. Jurisdiction.

The provisions of this chapter shall apply to all lands within the territorial limits of the Town of Walkersville.

§ 2-4. Intent.

The Burgess and Commissioners of Walkersville adopt this chapter with the intent that new residential, industrial and other development take place so as to ensure that adequate public facilities and services are available concurrent with new development so that orderly development and growth can occur. Provision of adequate facilities will take place in cooperation with other units of government especially when facilities outside the town are affected by new development which falls under the requirements of this chapter. For the purposes of this chapter, public facilities shall include public water and school facilities.

§ 2-5. Definitions.

In this chapter the following terms shall have the meanings indicated:

Approved Preliminary Plat - A Preliminary Plat which conforms to all of the following criteria:

The Town Planning Commission approved the plat;

The Developer satisfied any and all conditions imposed by the Town Planning Commission; and

The plat bears the signature of the Chairperson of the Town Planning Commission.

Developer – An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for any or all of the activities covered by this chapter and the Town Subdivision Regulations, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term “developer” is intended to include the term “subdivider”, even though the personnel involved in successive stages of the project may differ. The term “developer” also includes any entity that constructs improvements upon approved building lots.

Development – The area of land which is subject to change in use (preliminary plat approval) or expansion of existing use and which is subject to subdivision review.

Lot – A contiguous area of land separated from other areas of land by separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer or ownership or separate use.

Major Subdivision – Any change to a lot or part of any lot, which has been or is proposed to create five (5) or more lots or dwelling units.
[Amended 11-10-04 by Ordinance 2004-09]

Minor Subdivision – Any change to a lot or part of any lot, which has been or is proposed to create four (4) or fewer lots or dwelling units.
[Amended 11-10-04 by Ordinance 2004-09]

Planning and Zoning Department – A department within the Town government that performs the administrative function for the Town Planning Commission and other functions as directed by the Town Planning Commission and/or the Burgess and Commissioners of Walkersville.

Preliminary Plat - The preliminary drawings and supplementary materials indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration and approval.

State Rated Capacity (SRC) – The maximum number of students, as determined by the State, that can be reasonably accommodated in a public school facility without significantly hampering delivery of the given educational program.

Subdivision – The division of a lot, tract or parcel of land into two (2) or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development. It includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

Water Source Facilities – Shall mean the source of the raw water treated by the Town's water treatment system. At the time of the adoption of this chapter, the sole water source facility is ground water from the Glade Creek watershed.

Zoning Administrator – The administrative officer in charge of zoning administration within the Town.

§ 2-6. General Requirements.

(A) In planning and developing any subdivision or any development, the developer shall comply with the general principles set forth in this Chapter for the provision of adequate facilities; and in every case the developer shall observe the procedure outlined in this Chapter.

(B) A developer shall not avoid the intent of this chapter by submitting piecemeal applications for preliminary plats. However, a developer may seek approval of only a portion of the subdivision or development, provided that the Town Planning Commission considers the impact from all previously approved preliminary plats or final plats from that development during adequate public facilities review of each subsequent portion of the development.

§ 2-7. Exemptions.

(A) Minor residential subdivisions, schools and public safety facilities are not subject to the requirements of this chapter.

(B) If the Developer of a major residential subdivision obtains an Approved Preliminary Plat of the subdivision before the effective date of this chapter, then the major residential subdivision shall be exempt from this chapter until January 1, 2006.

Example 1. Dan Developer obtained an Approved Preliminary Plat of his major subdivision before June 1, 1998. Dan's subdivision is exempt from the provisions of this chapter until January 1, 2006.

Example 2. The facts are the same as in the previous example, except that the date is January 2, 2006. Dan has not yet recorded all of the lots in his subdivision. Dan submits his Approved Preliminary Plat for renewal or extension. Dan's request to extend or renew his preliminary plat will be denied unless his preliminary plat meets the requirements of this chapter.

§ 2-8. Approval of Preliminary Plat.

(A) All preliminary plats received for approval, extension or renewal by the Town Planning Commission after the effective date of this chapter shall be denied unless the proposed preliminary plat meets the requirements set forth herein except as provided for in Section 89-7, Exemptions.

(B) The determination as to whether the proposed preliminary plat meets the requirements set forth herein shall be made as of the date the developer submits the proposed preliminary plat for approval, extension or renewal.

(C) Approval of adequate public facilities as set forth in this chapter shall be valid for the initial life of the Approved Preliminary Plat, not counting any extensions or renewals. If the initial Approved Preliminary Plat expires or is voided prior to the recording of all lots, the Preliminary Plat shall meet the requirements of this chapter prior to any extension or renewal of the initial Approved Preliminary Plat.

Example: After the effective date of this chapter, Dan Developer obtains initial approval of his proposed preliminary plat. Dan's Approved Preliminary Plat does not have to meet the requirements of this chapter again until his Approved Preliminary Plat is voided or expires.

(D) In the case of the renewal or extension of an Approved Preliminary Plat, approval of adequate public facilities as set forth in this chapter shall be valid for a period of two (2) years.

Example: The facts are the same as in the previous example except that Dan's Approved Preliminary Plat is about to expire. Dan obtains a renewal or extension of his Approved

Preliminary Plat. Dan's renewed or extended Approved Preliminary Plat does not have to meet the requirements of this chapter again for a period of two (2) years.

(E) A developer seeking approval, extension or renewal of a preliminary plat must comply with the Town Subdivision Regulations and Zoning Ordinance.

ARTICLE II
Administration

§ 2-20. Administrative Agency Designated.

The town planning and zoning department shall administer this Adequate Public Facilities Ordinance. All applications, maps and documents relative to subdivision approval and subject to the provisions of this chapter shall be submitted to the Town Planning and Zoning Department which will review all information and present the relevant information and its recommendations to the Town Planning Commission. Final determination of adequacy shall be the responsibility of the Town Planning Commission.

§ 2-21. Referral to Other Agencies/Public Comment.

(A) The Planning and Zoning Department may refer the subdivision, site and development plans to any Town or other governmental agency or any other agency it deems appropriate for its review, comments and recommendations pertaining to the adequacy of public facilities. The Planning Commission shall consider these recommendations in making its decision.

(B) The Planning Commission shall accept public comments and consider these comments as part of the record and its decision making process.

§ 2-22. Fees.

The Burgess and Commissioners shall have the authority to establish by resolution reasonable fees for Adequate Public Facilities related services specified in this Chapter, but in no event shall the fee charged be more than the costs incurred by the Town.

ARTICLE III
Public Water Supply

§ 2-30. (Reserved).

§ 2-31. Determination of Adequacy.

(A) The Town's water system shall be considered adequate by the Town of Walkersville if, given existing connections, future connections from buildings under construction, recorded lots for which allocations have been made, any allocations for

undesignated future nonresidential growth and multi-year tap agreements: (1) the water source facilities, water treatment system, water storage tanks, and local pumping stations have sufficient available capacity to provide maximum day demand to the proposed development and meet peak hour demand in addition to fire flow; and (2) the distribution system is capable of providing normal required pressure as well as minimal residual pressure to the proposed development.

(B) If the Town's water system is found to be inadequate by the Town of Walkersville, then the Town Planning Commission shall deny the proposed preliminary plat.

ARTICLE IV
Public Schools

§ 2-40. Thresholds.

This article applies only to residential development.

§ 2-41. Determination of Adequacy.

(A) At the time a developer submits a proposed preliminary plat for approval, all public elementary, middle and high schools serving the proposed subdivision shall be adequate.

(B) The current enrollment and state rated capacity for every elementary, middle and high school shall be determined as published by the Frederick County Public Schools as official September enrollment figures for each year. For determining adequacy, enrollment shall mean the Frederick County Public Schools official September enrollment and pupils generated from the proposed development. Pupil generation shall be determined using the formulas adopted by the Frederick County Public Schools. State rated capacities and pupil generation rates approved for use by the Frederick County Public Schools shall be used in all calculations.

(C) A public elementary, middle or high school shall be considered adequate if the enrollment is less than 105% of State Rated Capacity and if the estimated number of pupils generated by the proposed development would not cause the elementary, middle or high school's enrollment to exceed 105%of State Rated Capacity.

(D) If any public elementary, middle or high school serving the proposed subdivision is not adequate, then the Town Planning Commission shall deny the proposed preliminary plat.

§ 2-42. Independent Senior Living Communities Exemption.

[Adopted by Ordinance 2006-06 effective April 3, 2007]

(A) The development or construction of Independent Senior Living Communities (as defined in Chapter 88 of the Code of the Town of Walkersville) shall be exempt from the Public Schools Determination of Adequacy provisions of Section 89-41 above but only upon satisfaction of the following conditions:

(1) A request for this exemption shall be submitted in writing for review and approval, modification or denial by the Burgess and Commissioners pursuant to a public hearing at which the applicant shall present substantial evidence that the proposed Independent Senior Living Community complies with the definition contained in the Zoning Ordinance and otherwise meets and will continue to meet the requirements for "Housing for Older Persons" under the Fair Housing Act and under the Secretary of Housing and urban Development Rules and Regulations;

(2) All such communities and the real property contained within such communities shall be subject to "Appropriate Enforcement Mechanisms" (as hereinafter defined) including but not limited to a perpetual restrictive covenant in form and content satisfactory to the Burgess and Commissioners and recorded among the land records of Frederick County, Maryland and providing for the following:

(a) The Independent Senior Living Community shall be restricted to occupancy by older persons in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. Section 3607;

(b) No person under the age of fifty-five (55) years shall reside within any unit within the community as required under the Federal Fair Housing Act, as amended; and

(c) In the event that the restrictions set forth in Subsections (a) and (b) hereof are proposed to be modified or amended in any way or if such restrictions are violated by the owner of the property at the time the restrictions are proposed to be modified or amended or are violated, then the community shall thereupon be subject to all of the provisions and requirements of the APFO and the exemption hereunder shall automatically be deemed null and void.

(B) The restrictive covenant shall be recorded among the land records of Frederick County prior to the issuance of any building permits for units within the community and prior to the recording of any subdivision plats for the community.

(C) The Burgess and Commissioners may adopt such additional administrative regulations, guidelines and provisions for enforcement (including but not limited to terms and conditions of the restrictive covenant and appropriate enforcement mechanisms) as they deem necessary or appropriate to implement this section and ensure that any housing exempted from the Public Schools Determination of Adequacy hereunder

contains adequate age and occupancy restrictions to protect such public schools from overcrowding.

(D) Independent Senior Living Communities shall be subject to the requirements of article III of the APFO for public water supply.

(E) "Appropriate Enforcement Mechanisms" as used herein shall include but not be limited to restrictive covenants for the community that require the Homeowners Association or other similar entity responsible for managing the use and/or rental of properties within the Senior Living Community, through a property management agent, to enforce the age restrictions and ensure compliance with the requirements to qualify as housing for older persons under the Fair Housing Act (and as an Independent Senior Living Community under the Code of the Town of Walkersville) such that children will be excluded as residents. If more than one homeowners association is established for the community, then the homeowners association governing the housing for older persons (Independent Senior Living Community) shall have the primary responsibility for enforcing the age restrictions and ensuring compliance with the requirements to qualify as housing for older persons under the Fair Housing Act (and as an Independent Senior Living Community) such that children shall be excluded as residents. To the extent permitted by the Fair Housing Act and other applicable Federal, State, County, or local law or regulations, appropriate enforcement mechanisms may include the imposition of fines, penalties or other monetary assessments.

ARTICLE V
Scope of Chapter

This chapter shall apply to all applications for approval, extension or renewal of preliminary plats as required herein.

ARTICLE VI
Effective Date

This chapter shall take effect on June 1, 1998.

ARTICLE VII
Text Amendments

The procedures, standards and specifications contained in these regulations may, from time to time, be amended, changed, supplanted or modified when deemed necessary. The Burgess and Commissioners shall adopt a schedule of fees for review of adequate public facilities text amendments.

Chapter 5

AIR POLLUTION

§5-1. Definitions.
§5-2. Control and prohibition of open fires.
§5-3. Control and prohibition of visible emissions.
§5-4. Control and prohibition of particulate matter emissions.
§5-5. Control and prohibition of gas, vapor and odor emissions.
§5-6. Control and prohibition of installations and operations.
§5-7. Report of installations which may cause air pollution.
§5-8. Inspection and right of entry.
§5-9. Confidentiality of records.
§5-10. Violations and penalties; citations.
§5-11. Enforcement.
§5-12. Exemptions.
§5-13. Construction of provisions.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 6-13-73.[1] Sections 5-1 and 5-10A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 5-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

> AIR POLLUTION - The presence in the outdoor atmosphere of substances in quantities having characteristics and being of a duration which, from any single source or in combination with other sources, are, or may be predicted with reasonable certainty to be, injurious to human, plant or animal life or to property, or which unreasonably interfere with the proper enjoyment of the property of others, by reason of the emission of odors, solids, vapors, liquids or gases throughout the Town of Walkersville and in such areas of said town as are affected thereby.

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[1] Editor's Note: The preamble to this ordinance provided as follows: "WHEREAS, it is hereby declared to be the policy of the Burgess and Commissioners of the Town of Walkersville, Maryland, to maintain that degree of purity of the air resources of the Town of Walkersville which will protect the health, general welfare and property of the people of the town and in furtherance of these purposes to cooperate and coordinate these efforts with the Air Quality Control Program of the State of Maryland and of Frederick County; and "WHEREAS, pursuant to the authority of Article 43, Section 705, of the Annotated Code of Maryland this ordinance is adopted; "BE IT ENACTED AND ORDAINED BY THE BURGESS AND COMMISSIONERS...."

CONTROL OFFICER - The Deputy Health Officer of the Frederick County Health Department, the Supervisor of Air Quality Control, or his inspectors, of the Frederick County Health Department, or any employee designated by the Deputy State Health Officer of the Frederick County Health Department or any other person designated by the said Burgess and Commissioners of said town.

DEPARTMENT - The Frederick County Health Department or any other agency designated by the said Burgess and Commissioners of said town.

EMERGENCY - Any sudden, unexpected and unforeseen condition of such public gravity and exigency as to require immediate action, or a condition which is predicted with reasonable certainty to require immediate action to carry out the purposes of this chapter.

EMISSIONS - Any substance, other than water in an uncombined form, discharged directly or indirectly into the atmosphere, including but not limited to odors, particulate matter, vapors or gases, or any combination thereof.

INCINERATORS - Any equipment, device or contrivance used for the destruction of garbage, rubbish or other wastes by burning.

INSTALLATION - Any article, machine, equipment or other contrivance, including but not limited to emission control equipment, processing equipment, manufacturing equipment, fuel-burning equipment and incinerators, or any equipment or construction capable of generating, causing or reducing emission.

INSTALLATION, EXISTING - Those erected prior to July 1, 1973.[2]

INSTALLATION, MODIFIED - Those altered, changed or added to on or after July 1, 1973.[3]

NEW PLANT - Any installation for which the major proportion of the fuel-burning, incineration, processing or manufacturing equipment in the installation is erected on or after July 1, 1973. This definition is not intended to apply to a modified installation where new control equipment is added to an existing installation. In questionable cases, the determination of “new plant” shall be made by the Department.[4]

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[2] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[3] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[4] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ODOR - That property of an emission which stimulates the sense of smell.

OPEN FIRE - A fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

ORIGINATING OR ORIGINATED ON THE PREMISES - Materials or items on the premises, when and where they are to be disposed of and not brought to the premises by other persons for disposal.

PARTICULATE MATTER - Any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at a temperature of seventy degrees Fahrenheit (70^0) and a pressure of twenty-none and ninety-two hundredths (29.92) inches of mercury.

PERSON - Any individual, group of individuals, firm, partnership, voluntary association or private, public or municipal corporation or political subdivision of the state responsible for the use of property.

RINGELMANN SMOKE CHART - The chart, published and described in the latest applicable United Statues Bureau of Mines information circular, used in estimating the light-obscuring power of smoke. Any other method of grading smoke which is approved by the State Department of Health and Mental Hygiene as the equivalent of the Ringelmann Smoke Chart may be substituted therefor.

SOURCE - Any property, real or personal, or person contributing to air pollution.

§5-2. Control and prohibition of open fires.

A. General. No person shall cause, suffer, allow or permit an open fire except as provided in Subsection B.
B. Exceptions.

(1) Permits; applications and conditions.

(a) The control officer may, upon receipt of an application made on forms provided by the Department or local fire control agency, issue or approved a permit in writing allowing an open fire, provided that all of the following conditions are met:

[1] The control officer is satisfied that there is no practical alternate method to conduct the desired activity or to dispose of the material to be burned.

[2] No hazardous condition or air pollution or nuisance will be created.

[3] Fire-control laws or regulations of other governmental agencies will not be violated.

[4] No materials which produce dense smoke when burned, including but not limited to tires and roofing material, will be burned.

[5] The material to be burned shall have originated on the premises on which it is to be burned.

(b) The control officer may impose other conditions to minimize the creation of smoke, to prevent nuisance and air pollution and to protect the health, safety, comfort and property of any persons.

(2) Public officers, in the performances of their official duties, may set an open fire or give permission for an open fire, with the concurrence of the control officer, provided that all reasonable means are employed to minimize smoke if the fire is necessary for one (1) or more of the following reasons or purposes:

(a) For the prevention of a fire hazard that cannot be abated by other means.

(b) For the instruction of public fire fighters or of industrial employees under supervision of the appropriate fire control official.

(c) For the protection of public health or safety when other means for disposing of hazardous materials are not available.

(3) Provided that no nuisances or air pollution is created, open fires otherwise in conformance with other governmental fire control ordinances are allowed without permission as follows:

(a) In those areas where no provision is made for the public collection of leaves, the open burning of leaves originating on the premises by householders is permitted. On and after July 1, 1973, no leaves shall be burned at locations closer than two hundred (200) feet to any neighboring habitable dwelling or place where people work or congregate.

(b) In those areas where no provision is made for the public collection of refuse, the burning of ordinary household trash, paper, tree limbs and dried weeds originating on the premises, excluding commercial establishments, by householders is permitted, provided that:

[1] Garbage or other materials which create unpleasant odors or dense smoke (emissions of an opacity or darkness greater than No. 2 on the Ringelmann Smoke Chart) are not to be burned.

[2] On and after July 1, 1973, no refuse shall be burned at locations closer than two hundred (200) feet to any neighboring habitable dwelling or place where people work or congregate.

(c) Fires for the cooking of food.

(d) Fires set in the course of agricultural operations in growing crops or raising fowl or animals or in accepted forestry practice. In no case shall this provision be construed as allowing the burning of materials which produce dense smoke, such as tires, oil, etc.

(e) Fires for recreational purposes, such as campfires.

(f) Oil- or gas-fired salamanders or similar devices designed specifically for space heating or the warming of outdoor workers, etc., provided that no visible emissions are created.

(g) Warming fires for outdoor workers, provided that smoke emissions are not darker than No. 2 on the Ringelmann Smoke Chart and the fires are located no closer than two hundred (200) feet to any neighboring habitable buildings.

§ 5-3. Control and prohibition of visible emissions.

A. From new plants. No person shall cause, suffer, allow or permit the discharge of emissions from any new plant or building, other than water in an uncombined form, which are visible to human observers.

B. From existing and modified installations.

(1) Existing and modified bituminous concrete manufacturing plants. No person shall cause, suffer, allow or permit the discharge of emissions from any existing or modified bituminous concrete manufacturing installation, other than water in an uncombined form, which are visible to human observers.

(2) Other existing and modified installations. No person shall cause, suffer, allow or permit emissions from any other existing installation, modified installation or building that are darker in shade or appearance than that designated as No. 1 on the Ringelmann Smoke Chart or of such opacity as to obscure an observer's view to a degree greater than does smoke designated as No. 1 on the Ringelmann Smoke Chart.

C. Exceptions.

(1) Subsections A and B shall not apply to emission during the building of a new fire, the cleaning of fires, soot blowing, start-up and process modification or adjustment or occasional cleaning of control equipment, the shade or appearance of which is not darker than No. 2 on the Ringelmann Smoke Chart, for a period or periods aggregating no more than four (4) minutes in any sixty (60) minutes.

(2) Subsection A shall not apply to emissions of the following:

(a) From the burning of wood in fireplaces on premises used for residential or recreational purposes.

(b) From open fires (except salamanders) permitted under provisions of § 5-2B of this chapter.

(3) The control officer may grant exceptions to Subsection B above under the following conditions:

(a) When the application of Subsection B to a residential building housing two (2) or less families creates undue economic hardship on individuals residing therein.

D. Beyond the property line. No person shall cause, suffer, allow or permit visible emissions beyond the lot line of the property on which the emissions originate.

§ 5-4. Control and prohibition of particulate matter emissions.

No person shall cause, suffer, allow or permit any material to be handled, transported or stored or a building, its appurtenances or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions shall include, when appropriate as determined by the control officer, but not be limited to the following:

A. The use of water or chemicals for the control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land.

B. Applications of asphalt, oil, water or suitable chemicals on dirt roads, materials, stockpiles and other surfaces which can create airborne dusts.

C. The installation and use of hoods, fans and dust collectors to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during the sandblasting of buildings or other similar operations.

D. The covering, at all times when in motion, of open-bodied vehicles transporting materials likely to create air pollution. Alternate means may be employed to achieve the same results as would covering.

E. The paving of roadways and their maintenance in a clean condition.

F. The prompt removal, from paved streets, of earth or other material which has been transported thereto by trucks or earth-moving equipment or erosion by water.[5]

§ 5-5. Control and prohibition of gas, vapor and odor emissions. [Amended 3-14-79]

No person shall cause, suffer, allow or permit the discharge into the atmosphere of gases, vapors or odors beyond the property line in such a manner that a nuisance or air pollution is created, with the exception of normal agricultural activities on agriculturally zoned land.

§ 5-6. Control and prohibition of installations and operations.

No installations or premises shall be operated or maintained in such a manner that a nuisance or air pollution is created. Nothing in this chapter shall in any manner be construed as authorizing or permitting the creation or maintenance of a nuisance or air pollution.

A. Circumvention. No person shall install or use any articles, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total weight of emissions, conceals or dilutes an emission which would otherwise constitute a violation of any applicable air pollution control regulation, including all applicable sections of this chapter.

B. Malfunction of an installation: requirement for notification. When a malfunction in any installation occurs that can be expected to increase the emissions and to continue for a period greater than four (4) hours, the person responsible for the installation shall immediately notify the control officer by telephone. On receipt of this notification, the control officer may permit the continuance of the operation for a period not to exceed ten (10) days, provided that written application is made to the control officer. Such application shall be made within twenty-four (24) hours of

[5] Editor's Note: See also Ch. 36, Littering.

the malfunction or within such other time period as the control officer may specify.

C. Refuse burning prohibited in certain installations. No person shall burn refuse in any plant, installation or equipment not specifically designed, constructed or modified for that purpose.

D. Prohibition of certain new fuel-burning plants.

(1) No person shall construct a new fuel-burning plant designed for the use of residual fuel oil in which any individual furnace has a rated heat input of less than five million (5,000,000) BTU's per hour, nor shall residual fuel oil be used at any time in any new fuel-burning plant having a rated heat input of less than five million (5,000,000) BTU's per hour.

(2) No person shall construct a new fuel-burning plant designed for the use of coal in which any individual furnace has a rated heat input of less than two hundred fifty million (250,000,000) BTU's per hour, nor shall coal be used at any time in any new fuel-burning plant having a rated heat input of less than two hundred fifty million (250,000,000) BTU's per hour.

§ 5-7. Report of installations which may cause air pollution.

Persons responsible for installations which may result in air pollution shall, if so requested by the Department, file with the Department reports containing information which shall include the following:

A. A description of the installation.

B. The design capacity of the process equipment, including process weight and process weight per hour.

C. The expected physical and chemical composition of the emission and pertinent design criteria, such as discharge rate, concentration, volume and temperature.

D. The type and general characteristics of the control equipment.

E. A description and evaluation of the location of the discharge point and other factors relating to dispersion and diffusion in the atmosphere.

F. Information on the relation of the discharge point to nearby structures and topography necessary to appraise the possible effects of the emissions.

G. Such other information as the Department may require.

§5-8. Inspection and right of entry.

Any duly authorized officer, employee or representative of the Department may enter and inspect any property, premises or place at any reasonable time for the purpose of investigating or testing either an actual or suspected source of air pollution or of ascertaining the state of compliance with this chapter. No person shall refuse entry or access to any authorized representative of the Department who requests entry for the aforementioned purposes and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection.

§5-9. Confidentiality of records.

Information relating to secret processes or methods of manufacture or production may be withheld by any person from disclosure at a public hearing before the Department under conditions which will prevent its public disclosure, and any such information which may be required, ascertained or discovered by any inspector or other employee of the Department shall be kept confidential.

§ 5-10. Violations and penalties; citations.

A. It is a misdemeanor for any person to violate any provision of this chapter and, upon conviction of such violation, said person shall be punished as provided in the Charter of the Town of Walkersville.[6]

B. The violation of any section or subsection of this chapter shall constitute a separate and distinct offense independent of the violation of any other section or subsection or of any order issued pursuant to this chapter. Each day of violation shall constitute an additional, separate and distinct offense.

C. Air pollution citation.

(1) Any such person charged with a violation of the provisions of this chapter shall be issued an air pollution citation requiring him to appear, on a day to be named therein, before the District Court for Frederick County. It shall be the duty of the control officer to issue such air pollution citations. Said citation shall contain the following:

(a) The name and address of the person charged with a violation of this chapter.

(b) The location or address and the date and time the alleged violation is said to occur or have occurred.

[6] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. For current penalty provisions, see Charter, § C15-4.

(c) The offense with which said person is charged.

(d) The time and place the person shall appear in court.

(e) A space in which the person may endorse the citation.

(f) Such other pertinent information as necessary.

(2) The person to whom a citation has been issued shall signify his willingness to appear before the District Court named, on the day named, by endorsing his name and address on said citation. If such person shall fail to appear, the District Court shall issue a warrant for the arrest of the said person or, in lieu of said warrant, may send a summons by certified mail to the violator at his last known address setting the case for trial on a date at least two (2) weeks subsequent to the original date of the trial.

(3) The time specified in the notice to appear shall be a minimum of five (5) days after the alleged violation, unless the person charged with the violation requests an earlier hearing.

(4) If a person does not willingly consent in writing to the issuance of the citation or is not a resident of the State of Maryland, the following action by any police officer(s) or control officer is authorized:

(a) If any police officer(s) witnessed the violation, proceed to arrest the person.
(b) If the control officer who witnessed the violation is not a police officer, proceed to obtain a warrant from a Commissioner of the District Court or a Judge of the District Court in the manner provided by law.

D. Action pursuant to Subsection A of this section shall not be a bar to the enforcement of this chapter, and orders made pursuant to this chapter, by injunction or other appropriate remedy, and the Town of Walkersville shall have the power to institute and maintain, in the name of the Town of Walkersville, any or all such enforcement proceedings.

E. Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property and to maintain any action or other appropriate proceedings therefor.

§ 5-11. Enforcement.

The Town Attorney for the Town of Walkersville shall enforce compliance with the requirements of this chapter through any appropriate legal remedies and shall prosecute violations in accordance with the provisions of this chapter.

§ 5-12. Exemptions.

Any person who, pursuant to Article 43, § 703(a) of the Annotated Code of Maryland, Revised 1957, 1971 Replacement Volume, has submitted a plan for compliance and has had that plan approved by the Secretary of Health and Mental Hygiene, or any person who has submitted such a plan for compliance and whom the Maryland State Department of Health and Mental Hygiene has certified is actively engaged in good faith negotiation of such a plan for compliance, shall not be considered to be in violation of this chapter as long as he acts in accordance with an approved plan for compliance or so long as the said State Department certifies that active good faith negotiations are being carried on.

§ 5-13. Construction of provisions.

This chapter is to be liberally construed to effectuate the purposes herein described. Nothing herein is to be construed as repealing or abridging the emergency posers of any agency or government except to the extent expressly set forth herein.

Chapter 9

ANIMALS

§ 9-1. Adoption of County Provisions.

§ 9-2. Administrative Body.

§ 9-3. Intent.

[HISTORY: Adopted by the Burgess and Commissioners of the Tow n of Walkersville 3-13-85. Amendments noted where applicable.]

§ 9-1. Adoption of County Provisions.[1]

The Burgess and Commissioners of the Town of Walkersville hereby adopt and incorporate all of the provisions of the ordinance governing animals and fowl (presently Chapter 1-5) of the Frederick County Code and all subsequent amendments, supplements and changes thereto or subsequent regulations which may be approved.

§ 9-2. Administrative Body.

The Board of County Commissioners of Frederick County, Maryland, or its designated agency, is hereby requested and is so authorized to administer said provisions of the ordinance governing animals and fowl and all subsequent amendments, supplements and changes thereto, including the collection of fees as set forth in said ordinance and including the enforcement and penalty provisions thereto.

§ 9-3. Intent.

It is not the intent of this chapter to restrict the use and ownership of animals and fowl on agriculturally zoned land for normal agricultural activities.

[1] See Appendix A92 for Frederick County Chapter 1-5, Animals and Fowl.

Chapter 13

BRUSH, GRASS AND WEEDS

§ 13-1. Height Restriction; Cutting and Removal.

§ 13-2. Maintenance of Sidewalk, Curb and Gutter Area.

§ 13-3. Performance of Work by Town in Cases of Noncompliance.

§ 13-4. Violations and Penalties.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Amendments noted where applicable.]

§ 13-1. Height Restriction; Cutting and Removal. [Amended 3-14-79]

It shall be unlawful for any owner, occupant or other person in control of any lots or lands located within the corporate limits of Walkersville to allow on any such lot or land any growth of grass, brush or weeds to a height of eight (8) inches or more, and any owner, occupant or other person in control of any lot or land within the town limits of Walkersville shall be responsible for the cutting and removal of the grass, brush or weeds, except for agriculturally zoned land.

§ 13-2. Maintenance of Sidewalk, Curb and Gutter Area.

Property owners, occupants or other persons in control of any lots or lands located in Walkersville shall maintain their respective curb, gutter and sidewalk bordering their parcels of land in such condition as to be clear of all growth of grass and weeds within the curb, gutter and sidewalk.

§ 13-3. Performance of Work by Town in Cases of Noncompliance.

In the event that the owner, occupant or other person in control of any such lot or land within the corporate limits of Walkersville shall fail or refuse to cut and remove such grass, brush or weeds after proper notification from the Burgess of Walkersville and within the time limit in said notification, the employees or agents of the Burgess and Commissioners of Walkersville shall cut and remove such grass, brush or weeds. The Town Clerk shall send a bill for all costs of such cutting and removal to the last known address of the aforesaid owner, occupant or other person in control of said lot or land. The bill shall be due and payable thirty (30) days after the Town Clerk sends

the bill. In the event such bill is not paid when it becomes due and payable, the amount of the bill shall be a charge against the lot or land, collectible in the same manner as town property taxes. **[Amendment effective 11-19-96]**

§ 13-4. Violations and Penalties.

Upon the failure, neglect or refusal of any owner, occupant or other person so notified to cut, destroy and remove such excessive growth of grass, brush or weeds, and any growth on curb, gutter and sidewalk, either or both, upon his property within five (5) days after the date of written notice from the Burgess, or upon expiration of ten (10) days after the date of such written notice in the event the Burgess, after making a reasonable effort to do so, has been unable to deliver said notice to such owner either by personal service or by registered mail, he shall be in violation of this chapter and shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in the Town Charter of Walkersville.[1] Every such person may be guilty of a separate offense for each and every day such violation shall continue. [Amended 7-10-02 by Ordinance 2002-10]

[1] Editor's Note: See Charter, §C15-4.

Chapter 15

BUILDING CONSTRUCTION; ELECTRICAL STANDARDS

§ 15-1. Adoption of County Provisions.

15-2. County to Administer and Enforce.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 3-13-85.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Plumbing - See Ch. 55.

Subdivision of land - See Ch. 71.

§ 15-1. Adoption of County Provisions. [Amended 2-28-1990 by Ord. No. 90-1]

The Burgess and Commissioners of the Town of Walkersville hereby adopt and incorporate all of the provisions of the Building Code (presently Chapter 1-6, Article II) and the Electrical Code (presently Chapter 1-7, Article III and Article IV) of the Frederick County Code and all subsequent amendments, supplements and changes thereto or subsequent regulations as may be approved.

§ 15-2. County to Administer and Enforce.

The Board of County Commissioners of Frederick County, Maryland, or its designated agency, is hereby requested and is so authorized to administer said provisions of the Building Code and Electrical Code and all subsequent amendments, supplements and changes thereto as may be adopted by the Board of County Commissioners of Frederick County, including the enforcement and penalty provisions thereto.

[1] Editor's Note: This ordinance superseded former Ch. 15, Building Construction; Electrical Standards, adopted 4-28-82 by resolution.

Chapter 18

CABLE TELEVISION FRANCHISE

§ 18-1. Definition of Terms.

§ 18-2. Grant of Authority.

§ 18-3. Construction and Maintenance of the Cable System.

§ 18-4. Service Obligations.

§ 18-5. Fees and Charges to Customers.

§ 18-6. Customer Service Standards; Customer Bills; and Privacy Protection.

§ 18-7. Oversight and Regulation by Franchising Authority.

§ 18-8. Transfer of Cable System or Franchise of Grantee.

§ 18-9. Insurance and Indemnity.

§ 18-10. System Description and Service.

§ 18-11. Enforcement and Revocation Proceedings.

§ 18-12. Competitive Equity.

§ 18-13. Miscellaneous Provisions.

§ 18-14. Government Access Channel.

[HISTORY: Resolution 2011-07, adopted 10-26-2011, Franchise Agreement granted Comcast of California/Maryland/ Pennsylvania/Virginia/West Virginia, LLC. The Town of Walkersville having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, enters into this agreement for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein. Resolution 2011-07 replaces Ordinance No. 88-3, adopted 5-11-88, granted to Tele-Media Company of Maryland, its successors and assigns, the non-exclusive right to erect, maintain, and operate in, under, over, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways, and other public places in Walkersville, Maryland and subsequent additions thereto, for the purpose and distribution via cable of television signals and other services to the inhabitants of Walkersville, Maryland. Amended by Resolution 92-1 on 1-8-92**]**

§ 18-1. Definition of Terms.

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C.§§ 521 – 631 (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words used to refer to the masculine include the feminine, and words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined in the Cable Act or herein shall be given their common and ordinary meaning.

A. "Cable Service" or "Service" means the one-way transmission to Subscribers of Video Programming or other Programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other Programming service.

B. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, and as further defined under Section 602(7) of the Cable Act.

C. "Customer" or "Subscriber" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's express permission.

D. "Effective Date" means the date on which all authorized persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature pages(s), unless a specific date is otherwise provided in the "Term" section herein.

E. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

F. "Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System.

G. "Franchise Agreement" or "Agreement" shall mean this Agreement and any amendments or modifications hereto.

H. "Franchise Area" means the present legal boundaries of the Town of Walkersville, as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

I. "Franchising Authority" means the Town of Walkersville or the lawful successor, transferee, designee, or assignee thereof.

J. "Grantee" shall mean Comcast of California/Maryland/ Pennsylvania/Virginia/West Virginia LLC.

K. "Gross Revenue" means revenue derived by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Service, calculated in accordance with generally accepted accounting principles ("GAAP"). Gross Revenue includes monthly basic cable, premium and pay-per-view video fees, installation fees and subscriber equipment rental fees. Gross Revenue shall not include program launch support payments, revenue from advertising and home shopping, refundable deposits, late fees, investment income, nor any taxes, franchise fees, or other fees or assessments imposed or assessed by any governmental authority. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with generally accepted accounting principles, provided however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in the Gross Annual Revenues in the period so collected.

L. "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

M. "Public Buildings" shall mean those buildings owned or leased by the Franchising Authority for municipal government administrative purposes, and shall not include buildings owned by Franchising Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

N. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

O. "Standard Installation" shall mean the standard one hundred twenty-five foot (125') aerial Drop connection to the existing distribution system.

P. "Video Programming" or "Programming" shall mean the programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

§ 18-2. Grant of Authority.

A. Franchise Grant. The Franchising Authority hereby grants to the Grantee a non-exclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

B. Term of Franchise. The term of the Franchise granted hereunder shall be fifteen (15) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act. This Franchise shall be automatically extended for three (3) additional terms of five (5) years each unless either party notifies the other in writing of its desire to enter renewal negotiations under the Cable Act at least one (1) year before the expiration date of the then-current Franchise Agreement, whether it be the initial term or a subsequent extended term.

C. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act [47 U.S.C. §546], as amended.

§ 18-3. Construction and Maintenance of the Cable System.

A. Permits and General Obligations. The Grantee shall be responsible for obtaining all generally applicable permits, licenses, or other forms of approval or authorization prior to the commencement of any activity that disturbs the surface of any street, curb, sidewalk or other public improvement in the Public Way, or impedes vehicular traffic. The issuance of such permits shall not be unreasonably withheld or delayed. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. Notwithstanding the requirements herein, Grantee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing

pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

B. Conditions of Street Occupancy.

(1) New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than thirty (30) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify Grantee of such funding and make available such funds to the Grantee.

(2) Relocation at Request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than thirty (30) business days advance written notice to arrange for such temporary relocation.

(3) Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that is shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

(4) Safety Requirements. The Grantee shall undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken

on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

(5) Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural vegetative growth encroaching or overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any collateral, real property damage caused by such trimming.

(6) Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable System transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in the Agreement shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

(7) Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Grantee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. Grantee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way. In the event that public and/or private funds are not available, Grantee reserves the right to pass its cost

through to its Subscribers in accordance with applicable law.

§ 18-4. Service Obligations.

A. General Service Obligation. The Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least forty (40) occupied dwelling units per mile and is within one (1) mile as measured in strand footage from the nearest point on the Cable System trunk or feeder line from which a usable cable signal can be obtained. For purposes of this section, a home shall be counted as a “dwelling unit” if, and only if, such home is within four hundred (400) feet of the public right of way. Subject to the density requirement, Grantee shall offer Cable Service to all new homes or previously unserved homes located within one hundred and twenty-five (125) feet of the Grantee’s distribution cable at the standard installation rate. Should, through new construction, an area within the Franchise Area meet the density requirements, Franchisee shall provide Cable Service to such area within one year after it confirms that the density requirements have been met following notice from the Franchising Authority that one or more residents has requested service.

The Grantee may elect to extend service to areas that do not otherwise qualify to receive service under this section if any resident or group of residents agree in writing to pay to Franchisee the cost of construction, including materials, labor, and the total cost of any easement(s) necessary to accomplish the proposed line extension. One half of the cost of construction shall be paid to the Franchisee prior to engineering and the balance shall be paid prior to installation.

B. Programming. The Grantee shall offer to all Customers a diversity of Video Programming services in accordance with federal law.

C. No Unfair Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area; provided, however, Grantee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or founded harassment or abuse of Grantee’s employees or agents. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person’s financial or other obligations to the Grantee are satisfied.

Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

D. New Developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments with the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer, as a condition of issuing the permit, to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days written notice of the date of availability of open trenches.

E. Prohibition Against Reselling Service. No Person shall resell, without the express prior written consent of the Grantee, any Cable Service, program or signal transmitted over the Cable System by the Grantee.

§ 18-5. Fees and Charges to Customers.

A. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

§ 18-6. Customer Service Standards; Customer Bills; and Privacy Protection.

A. Customer Service Standards. The Franchising Authority hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

B. Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section A. above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act [47 U.S.C. §542 (c)].

C. Privacy Protection. The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

§ 18-7. Oversight and Regulation by Franchising Authority.

A. Franchise Fees. The Grantee shall pay to the Franchising Authority a franchise fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other cable operator providing service in the Franchise Area. The payment of franchise fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each first, second and third calendar quarter (i.e. May 15, August 15, November 15) and sixty (60) days after the close of the calendar year (last day of February). Each franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the Franchise Fees paid during that period.

B. Franchise Fees Subject to Audit

(1) Upon notice pursuant to Section 13.2 herein, during Normal Business Hours at Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

(2) Upon completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Finally Settled Amount." For purposes of this Section, the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at

mediation, either party may bring an action to have the disputed amount determined by a court of law.

(3) Any "Finally Settled Amount(s)"due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the "Finally Settled Amount." Once the parties agree upon a Finally Settled Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and record.

C. Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to, at its sole cost and expense and upon reasonable prior written notice and in the presence of Grantee's employee, periodically inspect the construction and maintenance of the Cable System in the Franchise Area as necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement.

D. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. §76.601 et seq. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such altered, modified or emended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC rules.

E. Maintenance of Books, Records, and Files.

(1) Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority may review the Grantee's books and records regarding customer service performance levels in the Franchise Area to monitor Grantee's compliance with the provisions of this Franchise Agreement, upon reasonable prior written notice to the Grantee pursuant to the provisions of section 13.2 herein, at the Grantee's business office, during Normal Business Hours, and without unreasonably interfering with Grantee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of twenty-four (24) months.

(2) File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain at its business office, in a file available for public inspection

during normal business hours, those documents required pursuant to the FCC's rules and regulations.

(3) Proprietary Information. Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree, through the execution of a non-disclosure agreement, to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection, but not copying or removal of information by the Franchising Authority's representative. In the event that the Franchising Authority has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Grantee of such request and cooperate with Grantee in opposing such request.

§ 18-8. Transfer of Cable System or Franchise of Grantee.

A. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without prior written notice to the Franchising Authority. No prior notice shall be required, however, for:

(1) A transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness,

(2) A transfer to an entity directly or indirectly owned or controlled by Comcast Corporation, or

(3) The sale, conveyance, transfer, exchange or release of fifty percent (50%) or less of its equitable ownership. Within thirty (30) days of receiving a notice of transfer, the Franchising Authority may, in accordance with FCC rules and regulations, notify

the Grantee in writing of the additional information, if any, it requires regarding the legal, financial, and technical qualifications of the transferee or new controlling party.

§ 18-9. Insurance and Indemnity.

A. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of One Million Dollars ($1,000,000) for bodily injury or death to any one person, and One Million Dollars ($1,000,000) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars ($1,000,000) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement.

B. Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance, or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. The Franchising Authority agrees that it will take all necessary action to avoid a default judgment and not prejudice the Grantee's ability to defend the claim or action. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

(1) Grantee shall not be required to indemnify the Franchising Authority for negligence or misconduct on the part of the Franchising Authority or its officials, boards, commissions, agents, or employees, including any loss or claims related to PEG access Channels in

which the Franchising Authority or its designee participates, subject to Applicable Law.

§ 18-10. System Description and Service.

A. System Capacity. During the term of this Agreement, the Grantee's Cable System shall be capable of providing Video Programming with reception available to its customers in the Franchise Area in accordance with the Cable Act.

B. Cable Service to Governmental and Institutional Facilities. Upon request, the Grantee shall provide, at no cost to the Franchising Authority, Basic Cable Service and Standard Installation at one outlet to each Public Building located in the Franchise Area within one hundred twenty-five (125) feet of the Grantee's distribution cable. No charge shall be made for installation or service, except that Grantee may charge for installation beyond one hundred twenty-five (125) feet aerial distance of the cable plant and service for more than one (1) drop in each building. Public Buildings are those buildings owned or leased by the Franchising Authority for municipal government administrative purposes, and shall not include buildings owned by Franchising Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

§ 18-11. Enforcement and Revocation Proceedings.

A. Notice of Violation or Default and Opportunity to Cure. In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged non-compliance or default.

(1) Grantee's Right to Cure or Respond. The Grantee shall forty-five (45) days from the receipt of the Franchising Authority's written notice:

a. to respond to the Franchising Authority, contesting the assertion of non-compliance or default;

b. to cure such default; or

c. in the event that, by nature of the default, such default cannot be cured within the forty-five (45) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.

(2) Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business

days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

(3) Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

a. seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; or

b. in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of non-compliance by the Grantee, including two or more instances of substantial non-compliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the non-compliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response from the Grantee or upon receipt of the response does not agree that the allegations of non-compliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

(ii) At the designated public hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the state of Maryland, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of

the Franchising Authority "de novo" and to modify or reverse such decision as justice may require.

B. Technical Violation. The Franchising Authority agrees that it is not its intension to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

(1) in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

(2) where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

C. No Removal of System. Grantee shall not be required to remove its Cable System or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act, or any portion thereof [47 U.S.C. §621(b)].

§ 18-12. Competitive Equity.

A. Purposes. The Grantee and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to Borough/Township residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues. To foster an environment where video service providers using the public rights-of-way can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to Borough/Township residents; promote local communications infrastructure investments and economic opportunities in the Borough/Township; and provide flexibility in the event of subsequent changes in the law, the Grantee and the Franchising Authority have agreed to the provisions in this Section, and they should be interpreted and applied with such purposes in mind.

B. New Video Service Provider.

(1) Notwithstanding any other provision of this Agreement or any other provision of law, if any Video Service Provider ("VSP")

a. enters into any agreement with the Franchising Authority to provide video services to subscribers in the Town, or

b. otherwise begins to provide video services to subscribers in the Borough/Township (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Grantee, shall permit the Grantee to construct and operate its Cable System and to provide video services to subscribers in the Town under the same agreement and/or under the same terms and conditions as apply to the new VSP. The Grantee and the Franchising Authority shall enter into an agreement or other appropriate authorization (if necessary) containing the same terms and conditions as are applicable to the VSP within sixty (60) days after the Grantee submits a written request to the Franchising Authority.

(2) If there is no written agreement or other authorization between the new VSP and the Franchising Authority, the Grantee and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (if necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Grantee and other VSPs, taking into account the terms and conditions under which other VSPs are allowed to provide video services to subscribers in the Town.

C. Subsequent Change in Law. If there is a change in federal, state or local law that provides for a new or alternative form of authorization for a VSP to provide video services to Subscribers in the Franchise Area, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP providing video services to subscribers in the Franchise Area, the Franchising Authority agrees that, notwithstanding any other provision of law, upon Grantee's written request the Franchising Authority shall:

(1) permit the Grantee to provide video services to subscribers in the Franchise Area on the same terms and conditions as are applicable to a VSP under the changed law;

(2) modify this Agreement to comply with the changed law; or

(3) modify this Agreement to ensure competitive equity between the Grantee and other VSPs, taking into account the conditions under which other VSPs are permitted to provide video services to Subscribers in the Franchise Area. The Franchising Authority and the Grantee shall implement the provisions of this Section within sixty (60) days after the Grantee submits a written request to the Franchising Authority. Notwithstanding any provision of law that imposes a time or other limitation on the Grantee's ability to take advantage of the changed law's provisions, the Grantee may

exercise its rights under this Section at any time, but not sooner than thirty (30) days after the changed law goes into effect.

D. Effect on This Agreement. Any agreement, authorization, right or determination to provide video services to subscribers in the Franchise Area under Section B. or C. shall supersede this Agreement, and the Grantee, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

E. Video Service Provider. The term "Video Service Provider" or "VSP" shall mean any entity using the public rights-of-way to provide multiple Video Programming services to subscribers, for purchase or at no cost, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services, multi-channel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services, and Internet-Protocol based services.

§ 18-13. Miscellaneous Provisions.

A. Force Majeure. The Grantee shall not be held in default under, or in non-compliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such non-compliance or alleged defaults occurred or were caused by lightning strike, earthquake, flood, tidal wave, unusually severe rain, ice or snow storm, hurricane, tornado, or other catastrophic act of nature; riot, war, labor disputes, environmental restrictions, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

B. Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:
Town of Walkersville, Maryland
21 W. Frederick Street, PO Box 249
Walkersville, MD 21793
Attn: Burgess Ralph Whitmore

To the Grantee:
Comcast of California/Maryland/Pennsylvania/
Virginia/West Virginia, LLC
20 West Gude Drive
Rockville, MD 20850
Attn: Government Affairs Department

With Copies to:
Comcast Cable
1301 McCormick Drive, 4th Floor
Largo, MD 20774
Attn: Government Affairs Department

And to:
Comcast Cable Northeast Division
676 Island Pond Rd.
Manchester, NH 03109
Attn: Government Affairs Department

C. Entire Agreement. This Franchise Agreement and any exhibits or addendums hereto constitute the entire agreement between the Franchising Authority and the Grantee and supersedes all prior or contemporaneous agreements, ordinances, representations, or understandings – whether written or oral – of the parties regarding the subject matter hereof. Any agreements, ordinances, representations, or understandings or parts of such measures that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

D. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

E. Governing Law. This Franchise Agreement shall be deemed to be executed in the State where the Franchise Area is located, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of such State, as applicable to contracts entered into and performed entirely within the State.

F. Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

G. No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

H. Captions. Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions

shall not affect the meaning or interpretation of this Franchise Agreement.

I. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, which Grantee may have under federal or state law unless such waiver is expressly stated herein.

J. Incorporation by Reference.

(1) All presently and hereafter applicable conditions and requirements of federal, State and local laws, including but not limited to the rules and regulations of the FCC and the State where the Franchise Area is located, as they may be amended from time to time, are incorporated herein by reference to the extent not enumerated herein. All such general laws, rules and regulations, as amended, shall control the interpretation and performance of this Renewal Franchise to the extent that any provision of this Renewal Franchise conflicts with or is inconsistent with such laws, rules or regulations.

(2) Should the State, the federal government or the FCC require Franchisee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Franchising Authority and Franchisee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

K. Calculation of Time. Where the performance or doing of any act, duty, matter, payment, or operation is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first day and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

§ 18-14. Government Access Channel.

A. Use of channel capacity for governmental access shall be provided in accordance with federal law, 47 U.S.C. §531, and as further set forth below. Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for government access use. A government access user acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any governmental use of channel capacity, except Franchisee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity pursuant to Section 611 of the Cable Act. The Franchising Authority shall be responsible for developing,

implementing, interpreting and enforcing rules for Government Access Channel use which shall insure that the Government Access Channel and equipment will be available on a first-come non-discriminatory basis.

B. Franchisee shall designate capacity on one (1) channel for a Governmental Access Channel to be used for government video programming provided by the Franchising Authority. A Government Access Channel may not be used to cablecast programs for profit, political or commercial fundraising in any fashion. Unused capacity may be utilized by Franchisee subject to the provisions set forth in subsection (C) below.

C. In the event the Franchising Authority user elects not to fully program its Channel, Franchisee may reclaim any unused time on that channel.

D. The Franchising Authority and/or its access user designees shall indemnify Franchisee for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties or arising out of the content of programming shown on the government access channel and from claims arising out of the Franchising Authority's access channel rules or administration.

E. Other than the access support specifically agreed to in this Agreement, Franchisee shall not be required to provide technical or production staff, or obtain equipment or studio facilities for Governmental access channel programming.

Chapter 20

DESIGN MANUAL

§ 20-1. Adoption of Walkersville Design Manual.

§ 20-2. Purpose of Design Manual.

§ 20-3. Intent of Burgess and Commissioners.

[HISTORY: Adopted 5-13-98 by the Burgess and Commissioners with Ordinance 98-6]

§ 20-1. Adoption of Walkersville Design Manual.

The Burgess and Commissioners of the Town of Walkersville hereby adopt the 1997 Walkersville Design Manual relating to requirements and standards in public improvements, a copy of which is available at the Town Office and incorporated by reference into this ordinance.

§ 20-2. Purpose of Design Manual.

The purpose of the Design Manual is to provide developers and the consulting engineering community with the requirements, preferences, standards and procedures for the construction of roads, street lights, storm drains, and public water system in the Town of Walkersville.

§ 20-3. Intent of Burgess and Commissioners.

The intent of the Burgess and Commissioners in adopting the Design Manual is to achieve uniformity of approach, economy of design and schedule, technical quality improvement and information.

Chapter 22

ELECTIONS

§ 22-1. Nominations to be made by Certificate of Candidacy

§ 22-2. Where to file.

§ 22-3. Time for Filing Certificate of Candidacy.

§ 22-4. Form of Certificates of Candidacy.

§ 22-5. Absentee Ballots.

[HISTORY: Ordinance 98-1 adopted by the Burgess and Commissioners of the Town of Walkersville 1-28-98. §C7-8 of the Charter of the Town of Walkersville provides that nominations for Burgess and Commissioners shall be made by qualified voters of the town at a town meeting held for that purpose. §C7-8 of the Charter also provides that the Burgess and Commissioners may, by ordinance, provide for the method of making nominations in a manner different from that provided by the Charter. Ordinance 98-1 formally adopts the method used for nominations since 1992. Revised by Ord. 2018-03]

§ 22-1. Nominations to be made by Certificate of Candidacy

Each person seeking the office of Burgess shall file a Certificate of Candidacy for the Office of Burgess. Each person seeking the office of Commissioner shall file a Certificate of Candidacy for the Office of Commissioner. A person may not file a Certificate of Candidacy for more than one elected position.

§ 22-2. Where to file.

All persons shall file their certificates of candidacy in person at the Town Office. If any person wishing to file a certificate of candidacy is unable to do so in person by reason of illness, military service or temporary absence from the State of Maryland, such person shall file an affidavit setting out fully such facts as prevent the person from personally filing a certificate of candidacy and such affidavit shall be filed with the certificate of candidacy.

§ 22-3. Time for Filing Certificate of Candidacy.

All persons shall file certificates of candidacy no later than 4:30 p.m., thirty (30) days preceding an election. If that day of the month is a Saturday, Sunday, or a day when the Town Office is not open, then the deadline will be the first day thereafter which is not a Saturday, Sunday or day when the Town Office is closed. [Amended 2-25-04 by Ordinance 2004-01]

§ 22-4. Form of Certificates of Candidacy.

Certificates of candidacy for the offices of Burgess and Commissioners shall be as follows:

CERTIFICATE OF CANDIDACY
FOR BURGESS OF WALKERSVILLE

TO THE Board of Supervisors of Elections FOR WALKERSVILLE, MARYLAND

I hereby request that you place my name as hereon designated on the official ballot for the WALKERSVILLE GENERAL ELECTION on September 10, 2018 as a candidate seeking the office of BURGESS.

NAME TO APPEAR ON THE BALLOT _____
(Full Name)

I do certify that:

MY NAME IS _____

a registered voter of Walkersville, DATE OF BIRTH _____

I RESIDE AT _____

WALKERSVILLE, MARYLAND 21793

HOME TELEPHONE_____ BUSINESS TELEPHONE _____

I CERTIFY THAT: i) I HAVE BEEN A LEGAL RESIDENT OF THE TOWN OF WALKERSVILLE FOR ONE (1) YEAR IMMEDIATELY PRECEDING THE FILING OF THIS CERTIFICATE OF CANDIDACY; ii) I AM AT LEAST THIRTY (30) YEARS OF AGE OR WILL BE AT LEAST THIRTY (30) YEARS OF AGE AS OF THE DATE OF THE GENERAL ELECTION; AND
iii) I AM A QUALIFIED VOTER OF THE TOWN OF WALKERSVILLE.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING CERTIFICATE OF CANDIDACY ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

_____ _____
Date of this certificate **Signature of Candidate**

Subscribed and sworn before me this _____ day of _____, 2018.

_____
Signature of Notary Public

My commission expires _____

Distribution:
Original - Election Board
Copy - Candidate

THE CANDIDATE MUST COMPLETE AND FILE THIS CERTIFICATE TO THE WALKERSVILLE TOWN HALL BY 4:30 P.M. ON Monday, AUGUST 13, 2018.

CERTIFICATE OF CANDIDACY
FOR COMMISSIONER OF WALKERSVILLE

TO THE Board of Supervisors of Elections FOR WALKERSVILLE, MARYLAND

I hereby request that you place my name as hereon designated on the official ballot for the WALKERSVILLE GENERAL ELECTION on September 10, 2018 as a candidate seeking the office of COMMISSIONER.

NAME TO APPEAR ON THE BALLOT _____
(Full Name)

I do certify that:

MY NAME IS _____

a registered voter of Walkersville, DATE OF BIRTH _____

I RESIDE AT _____

WALKERSVILLE, MARYLAND 21793

HOME TELEPHONE_____ BUSINESS TELEPHONE _____

I CERTIFY THAT: i) I HAVE BEEN A LEGAL RESIDENT OF THE TOWN OF WALKERSVILLE FOR ONE (1) YEAR IMMEDIATELY PRECEDING THE FILING OF THIS CERTIFICATE OF CANDIDACY; ii) I AM AT LEAST TWENTY-FIVE (25) YEARS OF AGE OR WILL BE AT LEAST TWENTY-FIVE (25) YEARS OF AGE AS OF THE DATE OF THE GENERAL ELECTION; AND iii) I AM A QUALIFIED VOTER OF THE TOWN OF WALKERSVILLE.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING CERTIFICATE OF CANDIDACY ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

_____ _____
Date of this certificate **Signature of Candidate**

Subscribed and sworn before me this _____ day of _____, 2018.

_____
Signature of Notary Public

My commission expires _____

Distribution:
Original - Election Board
Copy - Candidate

THE CANDIDATE MUST COMPLETE AND FILE THIS CERTIFICATE TO THE WALKERSVILLE TOWN HALL BY 4:30 P.M. ON Monday, AUGUST 13, 2018.

§ 22-5. Absentee Ballots. [Added by Ord. 99-16 12/8/99]

A. Qualification

Any qualified voter registered to vote in the municipality pursuant to the Town Charter is entitled to vote in the municipal election by absentee ballot if the voter:

(1) will be absent on election day from the municipality;

(2) because of illness, accident, or physical disability, will be unable to go to the polling place on election day;

(3) is a student at an institution of higher education located outside of the municipality;

(4) is authorized under an applicable Maryland or Federal law to vote in the municipality by absentee ballot.

B. Application

An application for an absentee ballot shall be made in a written request that includes:

(1) the voter's name and residence address

(2) the reason as authorized in this Chapter for absentee voting

(3) the voter's signature

(4) if desired, the voter's request for a qualified agent to pick up and deliver an absentee ballot.

An application for an absentee ballot must be received by the Board of Supervisors of Elections not later than 5:00 p.m. on the Tuesday preceding the election.

C. Use of Agent

A qualified applicant may designate a duly authorized agent to pick up and deliver an absentee ballot. An agent of the voter under this section:

(1) Must be at least 18 years old

(2) May not be a candidate on the ballot or a Member of the Board of Supervisors of Elections.

(3) Shall be designated in a writing signed by the voter under penalty of perjury; and

(4) Shall execute an affidavit under penalty of perjury that the ballot was delivered to the voter who submitted the application and returned to the Board of Supervisors.

D. Authentication of Requests and Returned Absentee Ballots

The Board of Supervisors of Elections shall have the final authority on the issuance and acceptance of absentee ballots received prior to the closing of the polls. The Board of supervisors of Elections shall review all requests for absentee ballots on the Tuesday preceding the election. Those requests that comply with this Chapter shall either be mailed to the voter on the Wednesday preceding the election or allowed to be picked up by the voter's authorized agent beginning on the Wednesday preceding the election. The ballots shall include instructions for marking and returning of the ballots prior to the closing of the polls on election day.

E. Vote Count

All authenticated absentee ballots shall be counted pursuant to C7-11 of the Town Charter, and preserved pursuant to C7-12 of the Town Charter.

Chapter 26

CODE OF ETHICS

§ 26-1. Short Title.

§ 26-2. Applicability.

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[HISTORY: Ordinance 2012-05, introduced June 13, 2012, adopted June 27, 2012, replaces Ordinance 2011-07, introduced 12-14-2011, that expired, and replaces the previously established Code of Ethics for the Town of Walkersville, in order to comply with a State of Maryland law requiring ethical standards to be at least as stringent as the State's. Law relates generally to conflicts of interest by Town Officials and Employees, financial disclosures, lobbying disclosures, and establishes an Ethics Commission and prescribes certain criminal penalties with respect to prohibited activities. Authority: State Government Article, §§15-205,15-206, and Title 15, Subtitle 8, Annotated Code of Maryland]

§ 26-1. Short Title.

This chapter may be cited as the Town of Walkersville Public Ethics Ordinance. [Ordinance 2012-05, adopted 06/27/2012]

§ 26-2. Applicability.

The provisions of this Chapter apply to all Town of Walkersville elected officials, employees, and appointees to boards and commissions of the Town of Walkersville.

Complaints filed under this section must be done within 1 (one) year from the date of the alleged violation.
[Ordinance 2015-05, adopted 12/09/2015]

§ 26-3. Ethics Commission.

a. There is a Town of Walkersville Ethics Commission that consists of 3 members and 1 (one) alternate appointed by the Burgess. The alternate shall have all powers and duties of a member in the absence of the member. The Burgess may designate a temporary alternate when the alternate is absent. [Added 5/22/2013 by Ord. 2013-05]

b. The Ethics Commission shall:

1) Devise, receive, and maintain all forms required by this chapter;

2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;

3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and

c. The Town Attorney shall advise the Ethics Commission and prepare a transcript, if needed, and the minutes of its proceedings and submit for the records maintained at the Town office.

d. The Ethics Commission shall certify to the State Ethics Commission on or before October 1 of each year that the Town of Walkersville is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

e. The Ethics Commission shall determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Town Commissioners for enactment.

f. The Ethics Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

§ 26-4. Conflicts of Interest.

a. In this section, qualified relative means a spouse, parent, child, or sibling.

b. All Town elected officials, officials appointed to Town boards and commissions subject to this chapter, and employees are subject to this section.

c. Participation prohibitions. Except as permitted by Ethics Commission regulation or opinion, an official or employee may not participate in:

1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(i) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment.

(iv) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(v) An entity, doing business with the Town, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(vi) A business entity that:

(A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

3) A person who is disqualified from participating under paragraphs (1) or (2) of this subsection shall disclose the nature and circumstance of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

4) The prohibitions of paragraph 1 and 2 of this subsection do not apply if participation is allowed by regulation or opinion of the Ethics Commission.

d. Employment and financial interest restrictions.

1) Except as permitted by regulation of the Ethics Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

(A) Subject to the authority of the official or employee or the Town agency, board, commission with which the official or employee is affiliated; or

(B) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

2) This prohibition does not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Ethics Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Ethics Commission; or

(iv) Employment or financial interests allowed by regulation of the Ethics Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

e. Post-employment limitations and restrictions.

1) A former official or employee may not assist or represent any party other than the Town for compensation in a case, contract, or other specific matter involving the Town if that matter is one in which the former official or employee significantly participated as an official or employee.

2) Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the Town Burgess & Commissioners may not assist or represent another party for compensation in a matter that is the subject of legislative action.

f. Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the Town.

g. Use of prestige of office.

1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

2) This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

h. Solicitation and acceptance of gifts.

1) An official or employee may not solicit any gift.

2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has reason to know:

(i) Is doing business with or seeking to business with the Town office, agency board, or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

4) Paragraph (5) of this subsection does not apply to a gift:

(i) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(ii) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(iii) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

5) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

(i) Meals and beverages consumed in the presence of the donor or sponsoring entity;

(ii) Ceremonial gifts or awards that have insignificant monetary value;

(iii) Unsolicited gifts of nominal value that do not exceed $20 in cost or trivial items of informational value;

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

(v) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

(vi) A specific gift or class of gifts that the Ethics Commission exempts from the operation of this subsection 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 Town and that the gift is purely personal and private in nature;

(vii) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

(viii) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.

i. Disclosure of confidential information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for economic benefit of the official or employee or that of another person.

j. Participation in procurement.

1) An individual or a person that employs an individual who assists a Town agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

2) The Ethics Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

§ 26-5. Financial Disclosure – local elected officials and candidates to be local elected officials.

a. 1) This section applies to all local elected officials and candidates to be local elected officials.

2) Except as provided in subsection (b) of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:

(i) On a form provided by the Ethics Commission;

(ii) Under oath or affirmation; and

(iii) With the Ethics Commission.

3) Deadlines for filing statements.

(i) An incumbent local elected official shall file a financial disclosure statement annually no later than March 30 of each year for the preceding calendar year.

(ii) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(iii) (A) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.

(B) The statement shall cover:

1. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

2. The portion of the current calendar year during which the individual held the office.

b. Candidates to be local elected officials.

1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file a financial disclosure statement with the certificate of candidacy for the year of the election.

2) A candidate to be an elected local official shall file a statement required under this section:

(i) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;

3) If a candidate fails to file a statement required by this section after written notice is provided by the Town Clerk or Board of Election Supervisors at least 20 days before the election, the candidate is deemed to have withdrawn the candidacy.

4) The Town Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

5) Within 30 days of the receipt of a statement required under this section, the Town Clerk or Board of Election Supervisors shall forward the statement to the Ethics Commission or the office designated by the Ethics Commission.

c. Public record.

1) The Ethics Commission or office designated by the Ethics Commission shall maintain all financial disclosure statements filed under this section.

2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Ethics Commission.

3) If an individual examines or copies a financial disclosure statement, the Ethics Commission or the office designated by the Ethics Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

(ii) The name of the person whose financial disclosure statement was examined or copied.

4) Upon written request, the Ethics Commission or the office designated by the Ethics Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

d. Retention requirements. The Ethics Commission or the office designated by the Ethics Commission shall retain financial disclosure statements for four years from the date of receipt.

e. Contents of statement.

1) Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(ii) For each interest in real property, the schedule shall include:

(A) The nature of the property and the location by street address, mailing address, or legal description of the property;

(B) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property.

2) Interest in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the Town.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest,

and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (B)(ii) of this paragraph by reporting, instead of a dollar amount:

(A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

(B) For an equity interest in a partnership, the percentage, the percentage of equity interest held.

3) Interests in business entities doing business with the Town.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the Town, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if know, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by

purchase, the fair market value of the interest at the time acquired.

4) Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of $20 in value or a series of gifts totaling $100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town.

(ii) For each gift reported, the schedule shall include:

(A) A description of the nature and value of the gift; and

(B) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

5) Employment with or interests in entities doing business with the Town.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the Town.

(ii) For each position reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the business entity;

(B) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(C) The name of each Town agency with which the entity is involved.

6) Indebtedness to entities doing business with the Town.

(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit account, to persons doing business with the Town owed at any time during the reporting period:

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.

8) Sources of earned income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

f. For the purposes of §26-5(e)(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.

3) An interest held by a trust or an estate in which, at any time during the reporting period:

(i) The individual held a reversionary interest or was a beneficiary; or

(ii) If a revocable trust, the individual was a settlor.

g. 1) The Ethics Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

2) The Town Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

§ 26-6. Financial disclosure – employees and appointed officials.

a. This section only applies to the following appointed officials and employees: Town Manager, Employees of the Town of Walkersville, Members of the Planning Commission, Members of the Board of Appeals, Members of the Parks Committee, Members of the Library Board, Members of the Ethics Commission, and other Town groups as may be appointed.

b. A statement filed under this section shall be filed with the Ethics Commission under oath or affirmation.

c. On or before March 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the Town, including the name of the donor of the gift and the approximate retail value at the time or receipt.

d. An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

e. The Ethics Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in §26-5(c) and (d) of this chapter.

§ 26-7. Lobbying.

a. A person shall file a lobbying registration statement with the Ethics Commission if the person:

1) Personally appears before a Town official or employee with the intent to influence that person in performance of the official duties of the official or employee; and

2) In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of $500 on food, entertainment, or other gifts for officials or employees of the Town.

b. A person shall file a registration statement required under this section on or before the later of January 15 of the calendar year or within 5 days after first performing an act that requires registration in the calendar year.

c. 1) The registration statement shall identify:

(i) The registrant;

(ii) Any other person on whose behalf the registrant acts; and

(iii) The subject matter on which the registrant proposes to make appearances specified in subsection (a.) of this section.

2) The registration statement shall cover a defined registration period not to exceed one calendar year.

d. Within 30 days after the end of any calendar year during which a person was registered under this section, the person shall file a report with the Ethics Commission disclosing:

1) The value, date, and nature of any food, entertainment, or other gift provided to a Town official or employee; and

2) If a gift or series of gifts to a single official or employee exceeds $100 in value, the identity of the official or employee.

e. The Ethics Commission shall maintain the registrations and reports filed under this section as public records available for public inspection and copying for four years after receipt by the Ethics Commission.

§ 26-8. Exemptions and Modifications.

The Ethics Commission may grant exemptions and modifications to the provisions of § 26-4 and § 26-6 of this chapter to employees and to appointed members of the Town Boards and Commissions, when the Ethics Commission finds that an exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

a. Constitute an unreasonable invasion of privacy; and

b. Significantly reduce the availability of qualified persons for public service.

§ 26-9. Enforcement.

a. The Ethics Commission may:

1) Assess a late fee of $2 per day up to a maximum of $250 for a failure to timely file a financial disclosure statement required under §26-5 or §26-6 of this chapter;

2) Assess a late fee of $10 per day up to a maximum of $250 for a failure to file a timely lobbyist registration or lobbyist report required under §26-7 of this chapter; and

3) Issue a cease and desist order against any person found to be in violation of this chapter.

b. 1) Upon a finding of a violation of any provision of this chapter, the Ethics Commission may:

(i) Issue an order of compliance directing the respondent to cease and desist from the violation;

(ii) Issue a reprimand; or

(iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

2) If the Ethics Commission finds that a respondent has violated §26-7 of this chapter, the Ethics Commission may:

(i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under §26-7 of this chapter;

(ii) Impose a fine not exceeding $5,000 for each violation; and

(iii) Suspend the registration of an individual registered lobbyist if the Ethics Commission finds that the lobbyist has knowingly and willfully violated §26-7 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

c. 1) Upon request by the Ethics Commission, the Town Attorney may file a petition for injunctive or other relief in the circuit court of Frederick County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

2) (i) The Court may:

(A) Issue an order to cease and desist from the violation;

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to $5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

d. In addition to any other enforcement provisions in this chapter, a person who the Ethics Commission or a court finds has violated this chapter:

1) Is subject to termination or other disciplinary action; and

2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Ethics Commission or a court.

e. A Town official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

f. Violation of §26-7 of this chapter shall be a misdemeanor subject to a fine of up to $10,000 or imprisonment of up to one year.

g. A finding of a violation of this chapter by the Ethics Commission is public information.

Chapter 28

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE 8. Effective Date and Subsequent Amendments.

§ 28-38. Effective Date and Subsequent Amendments.

[Ordinance No. 92-1, adopted 2-26-92, establishes floodplain zones within the community of Walkersville and requires a permit for all development within the designated floodplain zone; provides certain minimum standards for construction within the floodplain zone; sets forth standards and procedures for submission and approval of plans for development; and establishes penalties for failure to comply with the provisions of the Ordinance.]

The Town of Walkersville has designated Frederick County as its enforcement agency, herein referred to as the "Local Permitting Official," who shall have the authority and responsibility to implement this Ordinance.

ARTICLE 1. Purpose and General Provisions

§ 28-1. Purpose and Authority

The purposes of this Ordinance are to protect human life and health, minimize property damage, encourage appropriate construction practices to minimize future damage, protect individuals from unwittingly buying land subject to flood hazards, and to protect water supply, sanitary sewage disposal, and natural drainage. The prevention of unwise development in areas subject to flgoding will reduce financial burdens to the community and the State, and will prevent future displacement and suffering of its resident. 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. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced.

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 Program (44 CRF 59-79); the State's

Waterway Construction Permit Program for nontidal floodplains; the State's Tidal and Nontidal Wetlands Permit Programs; the U.S. Army Corps of Engineers' Section 10 and 404 Permit Programs; and the State's Coastal Zone Management Program. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

§ 28-2. Abrogation and Greater Restrictions.

This ordinance supersedes any ordinance in effect in floodprone areas. However, any other ordinance shall remain in full force to the extent that its provisions are more restrictive.

§ 28-3. Applicability.

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

§ 28-4. 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.

§ 28-5. Disclaimer of Liability.

The degree of flood protection 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 employee thereof for any damage which may result from reliance on this Ordinance.

ARTICLE 2. Definitions.

§ 28-6. Definitions.

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) 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.

3) Basement – an enclosed area which is below grade on all four sides.

4) Certificate of Occupancy or Use – a permit to legally occupy or use a building for the intended purpose.

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.

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

7) 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.

8) 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).

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

10) Floodproofing – any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.

11) 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.

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

13) 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.

14) Floodway Map – map which depicts floodways and special flood hazard areas to be regulated by this Ordinance.

15) Floodway Fringe – that portion of the floodplain outside the floodway.

16) 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.

17) 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.

18) 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.

19) 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.

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

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

22) One Hundred (100) Year Frequency Flood – the base Flood, having a one chance in a hundred (one percent chance) of being equaled or exceeded in any year.

23) Permanent Construction – any structure occupying a site for more than 180 days per year.

24) 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.

25) Start of Construction – the date of issue of the building permit for any development, including new construction and substantial improvements, provided that the actual start of the construction or improvement was within 180 days of permit issuance. The actual start of construction is the placement of slab or footings, piles, columns, or actual placement of a manufactured home. For substantial improvement, the start of construction is the first alteration of any structural part of the building.

26) Structure – a walled and roofed building, including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns, and sheds.

27) 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.

28) Substantial Improvement – any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 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.

29) Temporary Structure – any structure completely removed within 180 days from issuance of the permit.

30) Variance – the grant of relief from a term or terms of this Ordinance.

31) Wetland – any land which is: (1) considered private wetland or State wetland pursuant to Title 9, Wetland and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined as wetland under the procedures described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, 1989, as amended.

ARTICLE 3. Permit Procedures.

§ 28-7. General.

A permit is required for all development in any Floodplain Zone. It shall be granted only after all necessary permit applications are submitted to Federal and State agencies. A permit issued by the Frederick County Office of Planning and Zoning under this Ordinance is not valid until all necessary permits for development are obtained. Receipt of Federal or State permits does not exempt development from the provisions of this Ordinance.

§ 28-8. 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. legal description of site location;
e. proposed uses for the site;
f. type, dimensions, and estimated cost of development proposed;
g. site characteristics and improvements; and
h. other information deemed appropriate by the Frederick County Office of Planning and Zoning.

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 (NGVD);
e. delineation of the 100-year flood elevation and boundary; and
f. proposed elevation of the lowest floor and method of elevation, if applicable.

The local permit official may require plans for tree maintenance, stormwater management, revegetation, establishment of vegetated buffers, and final grading as part of the permit application process.

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 Occupancy or Use may be issued. Work undertaken prior to submission of the certification is at the applicant's risk. For enclosed areas below the Flood Protection Elevation, a Nonconversion Agreement may be required, in addition to an agreement to install water equalizing vents as specified in §28-28 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 Frederick County Office of Planning and Zoning to allow a determination of substantial improvement. The Frederick County Office of Planning and Zoning may use tax assessment records to determine substantial improvement. In floodway areas, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

§ 28-9. Subdivision of Proposals.

In addition to the information required in §28-8, an applicant for subdivision in the nontidal floodplain zone shall submit a plan to demonstrate that a building site for each lot is outside of the 100-year floodplain. The Frederick County Office of Planning and Zoning shall assure that a plan for the perpetual protection of the floodplain areas in their natural state as required under §28-21 is included.

Plans for maintenance of forest cover, flood protection setbacks, revegetation, accommodation of stormwater runoff, prevention of erosion, and other plans required by the Frederick County Office of Planning and Zoning must be submitted with subdivision proposals. The plans shall be evaluated as a whole to achieve maximum preservation of the natural and beneficial floodplain functions, desirable resources, and characteristics of each site. The plan for utility ingress, stormwater drainage structures, road access, and other rights of way shall be evaluated in light of the site characteristics.

§ 28-10. Issuance of Permit.

1) Considerations

Prior to issuance of a permit, the Frederick County Office of Planning and Zoning shall determine the location of the project relative to floodways and floodplains, and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplains where an elevation is not available, the applicant shall be required to

obtain such elevation. The applicant must agree to secure all other required permits, and Elevation Certificate, Floodproofing Certificate, engineering analysis, or other required verifications deemed appropriate by the Frederick County Office of Planning and Zoning.

Permits shall be granted by the Frederick County Office of Planning and Zoning only after determining that the proposed development will be in complete conformance with the requirements of this Ordinance and all other applicable local codes and ordinances. All other necessary permits or approvals must be applied for or granted. Permits are valid only after all other necessary permits are granted.

2) Dam Safety

Caution should be exercised when approving development downstream of existing or proposed dams. The condition of the dam, as well as the design criteria, hazard class, and the danger reach, should be investigated to avoid increasing potential hazards. Dams must meet design criteria based on the potential impacts downstream of the dam. Downstream development within the dam break flood wave shall be denied unless the dam meets the design standards for a high hazard dam.

3) After Issuance and During Construction

After issuance of a permit, no changes of any kind 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 Frederick County Office of Planning and Zoning. 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 Frederick County Office of Planning and Zoning. 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 Frederick County Office of Planning and Zoning 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.

4) 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.

§ 28-11. Conditioned Permits For Accessory Structures and Garages.

A conditioned permit may be issued at the discretion of the Frederick County Office of Planning and Zoning 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 §28-32 must be met.

A conditioned permit is subject to the applicant's completion of a Nonconversion 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 §28-36, 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.

§ 28-12. Fees.

A fee may be charged at the time of application.

§ 28-13. Penalties.

A person who does not comply with a permit issued pursuant to the provisions of this Ordinance is guilty of a misdemeanor. Alternatively or in addition, he may be guilty of a civil infraction and a fine may be imposed, but this does not excuse the violation. Each day a violation continues is a separate offense. The violation must be corrected prior to any further work progressing on the project.

The Federal Insurance Administrator and the Water Resources Administration must be notified by the Frederick County Office of Planning and Zoning within 30 days after issuance of the citation of any violation which requires a fine or court appearance. New or renewal federal flood insurance may be denied any structure remaining in violation of this Ordinance. The violation may also violate State law, may be subject to separate action, and may incur a separate penalty.

ARTICLE 4. Establishment of Floodplain Zones.

§ 28-14. Identification of Zones.

The regulatory floodplain shall be those areas of the Town of Walkersville 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 the FIS, if available for the community, must be used. Areas along nontidal streams that do not have FEMA delineations as described above are subject to regulation by this Ordinance and the State.

§ 28-15. Floodplain Zones.

A community may have these 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.

§ 28-16. Floodplain Boundaries.

1) Floodplain Zone Determination

The Frederick County Office of Planning and Zoning 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.

2) 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 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 floodway analysis. For individual lot development, 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.

3) Unmapped Streams

In cases in which development is proposed in the vicinity of unmapped streams, which have no delineated 100-year floodplain, the 50 foot flood protection setback from the banks of the stream described in §28-20 may be used. State permits may be required and applicants are advised to seek a determination from the State.

ARTICLE 5. Development Regulations in Floodplain Zones.

In order to prevent excessive flood damage and 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 6 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 regulations.

Watercourses
In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance. All 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. It is State and federal policy that disturbance of wetlands shall be avoided. The applicant must demonstrate that no alternatives exist and the encroachment is the minimum necessary. Mitigation may be required by the appropriate regulatory authorities.

Sediment and Stormwater Management
Any land disturbance permitted in the floodplain must have a stormwater management and sediment and erosion control plan as required by State and local regulations. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties. Ground cover must be established immediately after disturbance, and a plan for permanent plantings, including trees, should provide for adequate vegetative cover within the flood protection setback from watercourses to prevent erosion.

Part A. Floodway Fringe

§ 28-17. General.

Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodplain and that encroachments onto the floodplain are minimized.

§ 28-18. Elevation Requirements.

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 §28-28.

§ 28-19. 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 Frederick County Office of Planning and Zoning may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill. The conditions described in §28-34 must be met whenever fill is used.

§ 28-20. Flood Protection Setback Requirements.

A minimum 100 foot flood protection setback shall be maintained from the edge of the banks of any watercourse delineated as having a floodplain on the Floodway Map or FIRM, except where the setback may extend beyond the floodplain. To prevent erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the water course, and conditions for replanting are suitable, high priority shall be given to planting trees in the setback area to stabilize banks and to enhance aquatic resources.

A minimum 50 foot flood protection setback shall be maintained from the top of the bank of any stream which has no designated floodplain. Natural vegetation shall be maintained and, if needed, trees planted.

The Frederick County Office of Planning and Zoning may consider a variance if the applicant demonstrates that it is possible to allow any development without encroachment into the flood protection setback area. The variance shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front, and back lot line setbacks. Necessary public works and temporary construction may be exempted from this Section.

§ 28-21. Subdivision Requirements.

To achieve long-term flood damage avoidance and protection of the natural and beneficial floodplain functions, creation of any new flood-prone building sites shall not be permitted in any new subdivisions regardless of size, number of lots, and location.

Within new subdivisions, the floodplain areas and their natural vegetation shall be preserved and dedicated to natural buffer areas, open space, recreation, and similar compatible uses by deed restriction, restrictive covenants, or donation to a land trust. At a minimum, the area preserved shall include the flood protection setback area, and, to the greatest extent possible, other floodplain areas. Steep slopes and forested areas adjacent to watercourses shall also be given high priority for preservation.

In new subdivisions in nontidal floodplains, each lot platted must have a suitable building site outside the floodplain. Consideration must be given to clustering development out of the floodplain. The flood protection setback requirement of §28-20 shall be met. An access road at or above the elevation of the 100-year flood shall be provided.

Part B. Floodways

§ 28-22. General.

Floodways shall be preserved to carry the discharge of the 100-year flood. Floodways present increased risks to human life and property because of their relatively faster and deeper flowing waters. Fill shall not be permitted. New buildings shall not be permitted. New development shall not be permitted in the floodway where alternatives exist elsewhere or if any increase in water surface elevations will result from the 100-year flood.

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 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.

§ 28-23. 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.

§ 28-24. 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 to a less hazardous site. 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 §28-18 of this Ordinance. Permits for incremental improvements shall be tracked by the Frederick County Office of Planning and Zoning, and if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of this Ordinance.

§ 28-25. Maintenance of Natural Channels.

The natural watercourse shall be maintained for protection of aquatic resources. A variance is required for alteration of watercourses. Any variance issued must assure that the conditions for encroachment in the floodway are met, adverse impacts to aquatic resources are minimized, and the public good outweighs the adverse impacts. The provisions of Article 5 pertaining to altering a watercourse must be met.

§ 28-26. 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 two wire fences, shall not be placed in the floodway.

ARTICLE 6. Specific Requirements.

In addition to the requirements outlined in Article 5, the following specific requirements must be applied.

§ 28-27. Placement of Buildings and Materials.

In general, buildings and accessory structures should be located entirely out of the floodplain, out of the flood protection setback, or on land that is least susceptible to flooding. 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.

§ 28-28. 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 (§ 28-32), 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 Nonconversion Agreement as described in §28-11 must be signed by the applicant.

§ 28-29. Manufactured Homes and Parks.

New manufactured homes and manufactured home parks are prohibited in the floodway. In the floodway fringe, all new, replacement, or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with
§28-18 of this Ordinance.

Methods of anchoring shall include use of over-the-top and frame ties to ground anchors. Pilings or columns shall be used to maintain storage capacity of the floodplain. Concrete block support pilings must be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement, and using mortar to cement the blocks together. FEMA Publication 85, "Manufactured Home Installation in Flood Hazard Areas", should be consulted for specific recommendations.

Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes must fully comply with §28-18.

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. A flood free access road shall be provided in all new manufactured home parks and subdivisions.

§ 28-30. 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.

§ 28-31. 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, distribution lines, 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 meet these same standards.

§ 28-32. Accessory Structures and Garages.

Where feasible, 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 located, oriented, and constructed so as to minimize flood damage; and
c. 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 §28-28, 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 Nonconversion Agreement as described in §28-11 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 §28-28, has all interior wall, ceiling, and floor elements below the Flood Protection Elevation unfinished, and has no machinery or electric devices or appliances located below the Flood Protection Elevation. A Nonconversion 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
§28-11.

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 §28-35 of this Ordinance.

§ 28-33. Recreational Vehicles.

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

a. located on the site less than 180 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. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this Ordinance.

§ 28-34. 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 registered professional geotechnical engineer. Landfills, rubble fills, dumps and sanitary fills are not permitted in the floodplain.

Fill used to support structures must be compacted to 95% of the maximum density obtainable by the Standard Proctor Test (ASTM Standard D-698), and its suitability to support structures certified by a 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 7. Variances.

§ 28-35. 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 variance action, and variance actions must be consistent with sound floodplain management. Variances may not be issued except as specified below, nor shall variances 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 variance action 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.

§ 28-36. 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 buildings 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 Frederick County Office of Planning and Zoning 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. The number of variance actions should be kept to a minimum.

§ 28-37. 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, port facilities that are necessary for the loading and unloading of cargo or passenger, and ship building and ship 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 §28-35 and §28-36 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 require human intervention.

ARTICLE 8. Effective Date and Subsequent Amendments.

§ 28-38. Effective Date and Subsequent Amendments.

This ordinance is hereby enacted and shall become effective March 17, 1992. 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 Management Agency and the Maryland Department of Natural Resources.

Chapter 30

GARBAGE, RUBBISH AND REFUSE

§ 30-1. Definitions.

§ 30-2. Collection, Conveyance and Disposal Regulated.

§ 30-3. Accumulations on Streets and Public and Private Property Restricted.

§ 30-3.1. Scavenging of Recyclable Materials.

§ 30-4. Violations and Penalties.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Section 30-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. § 30-3.1. added by Ordinance No. 95-9 at 1998 adoption of code. Amended 9-14-2016 by Ordinance 2016-07. Other amendments noted where applicable.]

GENERAL REFERENCES

Open Fires - See Ch. 5.
Littering - See Ch. 36.
Refuse on Streets and Sidewalks - See Ch. 69, Art. II.

§ 30-1. Definitions.

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

ASHES - The residue from the burning of wood, coal or other combustible materials.

GARBAGE - Waste foodstuffs or table wastes of animal or vegetable origin.

JUNK AND DEBRIS – Includes but is not limited to garbage, refuse, paper, cardboard, cartons, boxes, barrels, wood, lumber, concrete, appliances, furniture, glass, bottles, crockery, tin cans, vehicle parts, boats, and any other manufactured or constructed object which has outlived its usefulness in its original form (not withstanding the fact that the object may have scrap value or could be reconditioned with substantial repair) where such object, due to its present condition and/or visibility, may reasonably be construed to be unsightly, dangerous, or creating a condition that is detrimental or potentially detrimental to the health and/or safety of the inhabitants of the Town of Walkersville. As used herein, the phrase junk and debris does not include inoperable vehicles.

NON-CUSTOMARY OUTDOOR STORAGE – The accumulation of items in excess of what is reasonable and customarily necessary for the use of the property and/or which, by its placement and/or condition whether reusable or not has the potential to (1) cause, through visual blight or odor, impairment of the use or enjoyment of neighboring properties, (2) pose a risk to public health by creating conditions favorable for the harboring or vermin, (3) pose a risk of environmental contamination, and/or (4) pose a risk to the health and/or public safety of the inhabitants of the Town. Such material accumulation may include, but is not limited to junk and debris; rubbish, garbage or refuse; business supplies or inventory; construction materials not incidental to an active permitted construction project on-site; ground storage of construction materials for permitted construction project; tools; storage of yard maintenance equipment; vehicles, vehicle parts, recreational equipment or lawn furniture in numbers or variety beyond customarily necessary for the use of the property; any item in a visible state of deterioration as reasonable evidenced by rust or other condition; abandoned, discarded, or unused objects or equipment, not customarily stored outside such as indoor furniture, stoves, refrigerators, freezers, washer/dryers or other appliances, electronic equipment, boxes or other containers; clothing; or any combination thereof.

REFUSE - Garden, lawn or tree trimmings and leaves.

RUBBISH - The waste material from normal household living conditions, but not to include waste materials from building construction or repairs. “Rubbish” includes such items as paper, rags, bottles, tin cans, plastic containers and similar materials.

§ 30-2. Collection, Conveyance and Disposal Regulated.

All ashes, garbage, rubbish and refuse accumulated in the town shall be collected, conveyed and disposed of by the town or by the collector so designated by the town. The town shall have the authority to make regulations concerning the days and frequency of collections, type and location of waste containers and such other matters pertaining to the collection, conveyance and disposal as the town authorities shall deem proper and necessary, and to change and modify the same after reasonable public notice.

§ 30-3. Accumulations on Streets and Public and Private Property Restricted.

A. No person shall place any ashes, garbage, refuse or rubbish in any street, alley or other public place or upon any private property, whether owned by such person or not, within the town unless it is in proper containers for collection or under express approval granted by the Town Commissioners.

B. Any unauthorized accumulation of ashes, garbage, refuse or rubbish on any premises is hereby declared to be a nuisance and is prohibited.

C. Any unauthorized accumulation of junk and debris on any premises is hereby declared a nuisance and is prohibited.

D. Any unauthorized accumulation of non-customary outdoor storage is hereby declared a nuisance and is prohibited.

E. No person shall cast, place, sweep or deposit anywhere within the town limits any ashes, garbage, rubbish or refuse in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer or other public place or into any occupied premises within the town.[1]

§ 30-3.1. Scavenging of Recyclable Materials.

The provisions of Section 1-11-42 “Scavenging Unlawful” of the Frederick County Code (1979) and any subsequent amendments thereto shall be applicable to and enforceable in the Town of Walkersville, Maryland. **[Adopted 12-13-95 by Ordinance 95-9 to support Frederick County efforts to prevent persons from salvaging, scavenging or removing recyclable materials from curbside or recycling center containers.]**

§ 30-4. Violations and Penalties.[2]

Any person who violates any provision of this chapter shall, upon conviction thereof, by guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[3]

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[1] Editor's Note: See also Ch. 36, Littering.

[2] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

[3] Editor's Note: See Charter, § C15-4.

Chapter 31

GAS COMPANY FRANCHISE

§ 31-1. Grant of Authority.

§ 31-2. Terms and Conditions.

[HISTORY: Ordinance adopted 5-8-67 by the Burgess and Commissioners]

§ 31-1. Grant of Authority.

A franchise is hereby granted by the Burgess and Commissioners of Walkersville, to Frederick Gas Company, Inc., its successors and assigns, to lay, install, operate, and maintain its pipes or conduits and accessory equipment for the distribution and sale of gas and, in connection therewith, to make the necessary cuts and excavations in the sidewalks, streets, alleys, roads, highways, and other public places within the present or future limits of the Town of Walkersville.

§ 31-2. Terms and Conditions.

The following terms and conditions apply to the franchise granted:

A. Before said Company shall begin any such underground construction, it shall make application to and obtain from the Town of Walkersville a permit for such construction under such terms and conditions as the Burgess and Commissioners of Walkersville shall designate; and said Company shall make application to and obtain from the Public Service Commission of Maryland a schedule of Walkersville.

B. All cuts and excavations in the sidewalks, streets and highways of the Town of Walkersville made by said Company shall be repaired by said Company as soon as practicable.

C. The work to be done under this franchise shall be done in such a manner as to avoid damage to other underground installations or any construction performed by the Town.

D. Said Company shall indemnify and hold harmless the said Town of Walkersville from any and all claims of whatsoever nature against said Town arising from or out of the excavation and installation herein permitted, and shall reimburse the Town of Walkersville for any loss or expense, including reasonable attorney's fees, incurred by the said Town in the defense of any claim arising out of said excavations and installations.

E. Said Company shall proceed with all reasonable diligence to construct the proper system for the distribution and sale of gas as hereinbefore set forth, and shall construct and extend its distribution system in accordance with the General Service Provisions of said Company on file with the Public Service Commission of Maryland.

F. That said Company, as evidence of its acceptance of this franchise upon said terms and conditions and of its agreement to abide by and perform each and all of said terms and conditions, shall cause to be indicated on a copy of this ordinance its acceptance thereof in its corporate name signed by its Vice-President, its corporate seal to be thereto affixed and attested by its Secretary and shall file said acceptance with the Town of Walkersville.

Chapter 33

HUNTING AND FIREARMS

§ 33-1. Hunting of Game.

§ 33-2. Discharge of Firearm or Weapon; Carrying of Loaded Weapon.

§ 33-3. Exemptions.

§ 33-4. Seizure of Weapons Used in Violation.

§ 33-5. Intent and Purpose.

§ 33-6. Violations and Penalties.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 5-21-75. Amendments noted where applicable.]

§ 33-1. Hunting of Game.

A. It shall be unlawful for any person to hunt for, catch, take, wound or kill game of any kind through the use of a pistol, revolver, bow and arrow, slingshot, shotgun, gun or any firearm or weapon from which a shot or other object is discharged within the Town of Walkersville or on town-owned property outside of town limits.

B. The term “game,” as used in this chapter, shall mean and include all wild birds and wild animals, whether protected or unprotected under the game laws of the state, found in a wild state.

§ 33-2. Discharge of Firearm or Weapon; Carrying of Loaded Weapon.

A. It shall be unlawful to discharge a rifle, air rifle or air gun of any kind and description which impels with force a pellet of any kind or to discharge a bow and arrow, slingshot, shotgun, gun or any firearm or weapon from which a shot or other object is discharged within the Town of Walkersville or on town-owned property outside of town limits.

B. It shall be unlawful to carry, within the boundaries of the Town of Walkersville or on town-owned property outside of town limits, a gun loaded with shell or cartridge.

[Added 4-14-82].

§ 33-3. Exemptions.

The provisions of this chapter shall not apply to:

A. Properly authorized law enforcement officers or town employees acting in their line of duty or in training. [Ordinance 98-15, adopted 9-9-98]

B. The members of duly organized gun, rifle or archery clubs, or their bona fide guests, or of military organizations of the United States or Maryland government, upon the ranges of such clubs or organizations, under the control and supervision of the duly constituted officers of such clubs and organizations. [Amended 9-12-01 by Ord. 2001-07]

C. The patrons of commercial ranges.

D. Those persons in possession of permits issued by the town for hunting on town-owned property outside of town limits.

E. Agriculturally zoned land. **[Added 3-24-79].**

F. The use of blank firing weapons and devices for the purposes of re-enactment activities, military funeral details, or other activities, which have been authorized by the Burgess and Commissioners of the Town of Walkersville. [Added 9-12-01 by Ord. 2001-07]

G. The carrying of weapons under the provisions of the State of Maryland Handgun Permit. [Added 9-12-01 by Ord. 2001-07]

H. Authorized State of Maryland Hunter Safety, Firearms Safety, or Bow Safety courses or instruction as sponsored by the Department of Natural Resources. [Added 9-12-01 by Ord. 2001-07]

§ 33-4. Seizure of Weapons Used in Violation.

Authorized enforcing agents are hereby authorized to seize and retain any rifle, air rifle or air gun of any description, or ammunition or pellets for the same, or any bow and arrows, slingshots, shotguns, guns or any firearm or weapon from which a shot or other object is discharged which shall be used, discharged or possessed within the town or on town-owned property outside of town limits in violation of this chapter.

§ 33-5. Intent and Purpose.

It is the intent and purpose of this chapter that the killing of game or vermin of any kind through the use of a rifle, air rifle, air fun or bow and arrow, slingshot, shotgun, gun or any firearm or weapon from which a shot or other object is discharged shall be unlawful.

§ 33-6. Violations and Penalties.

Any person violating any of the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[1]

[1] Editor's Note: See Charter, § C15-4.

Chapter 34

ILLICIT DISCHARGE AND CONNECTION IN COMPLIANCE WITH MS4 PERMIT

§34-1. Purpose/Intent.

§34-2. Definitions.

§34-3. Applicability.

§34-4. Responsibility for Administration.

§34-5. Compatibility with Other Regulations.

§34-6. Severability.

§34-7. Ultimate Responsibility.

§34-8. Discharge Prohibitions.
- **§34-8.1. Prohibition of Illegal Discharge.**
- **§34-8.2. Prohibition of Illicit Connections.**

§34-9. Watercourse Protection.

§34-10. Industrial or Construction Activity Discharges.
- **§34-10.1. Submission of Notice of Intent to the Town of Walkersville.**

§34-11. Compliance Monitoring.
- **§34-11.1. Right of Entry: Inspection and Sampling.**
- **§34-11.2. Search Warrants.**

§34-12. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.

§34-13. Notification of Spills.

§34-14. Violations, Enforcement, and Penalties.
- **§34-14.1. Violations.**
- **§34-14.2. Warning Notice.**
- **§34-14.3. Notice of Violation.**
- **§34-14.4. (reserved)**
- **§34-14.5. Compensatory Action.**
- **§34-14.6. Suspension of MS4 Access.**
  - **§34-14.6.1. Emergency Cease and Desist Orders.**
  - **§34-14.6.2. Suspension due to Illicit Discharges in Emergency Situations.**
  - **§34-14.6.3. Suspension due to the Detection of Illicit Discharge.**

§34-14.7. Civil Penalties.
§34-14.8. Criminal Prosecution.

§34-15. Appeal of Notice of Violation.

§34-16. Enforcement Measures After Appeal.

§34-17. Cost of Abatement of the Violation.

§34-18. Violations Deemed a Public Nuisance.

§34-19. Remedies Not Exclusive.

§34-20. Adoption of Ordinance.

§ 34-1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Walkersville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

(1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.

(2) To prohibit illicit connections and discharges to the MS4.

(3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

§ 34-2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- Authorized Enforcement Agency - Employees or designees of the Town Public Works Department.
- Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- Clean Water Act - The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- Construction Activity - Activities subject to NPDES Construction Permits or Frederick County grading permit. These include construction projects resulting in land disturbance of 5,000 sq. ft. or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- Hazardous Materials - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- Illegal Discharge - Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.
- Illicit Connections - An illicit connection is defined as either of the following:
    - Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
    - Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- Industrial Activity - Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).
- Municipal Separate Storm Sewer System (MS4) - The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, storm water management ponds and facilities, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Walkersville and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.
- National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit - A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- Non-Storm Water Discharge - Any discharge to the storm drain system that is not composed entirely of storm water.

- Person - Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

- Pollutant - Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

- Premises - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and driveways.

- Storm Drainage System - Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

- Storm Water - Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

- Storm Water Management Plan (SWMP) - A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

- Wastewater - Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

- Watercourse – a brook, stream, or artificially constructed water channel.

§ 34-3. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town of Walkersville.

§ 34-4. RESPONSIBILITY FOR ADMINISTRATION.

The Town of Walkersville shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town of Walkersville may be delegated in writing by the Burgess and Commissioners of the Town of Walkersville to persons or entities acting in the beneficial interest of or in the employ of the Town.

§ 34-5. COMPATIBILITY WITH OTHER REGULATIONS.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

§ 34-6. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

§ 34-7. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

§ 34-8. DISCHARGE PROHIBITIONS.

§ 34-8.1. Prohibition of Illegal Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants, solid or liquids, or waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows, unless the discharge is deemed by the Town of Walkersville to be adverse:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; irrigation water; springs; lawn watering; flows from riparian habitats and wetlands; street wash water; car wash water from residential use (not commercial); any necessary materials or residuals utilized by the Town to maintain the health, safety and general welfare of the citizens of the Town of Walkersville; and naturally occurring substances or items that cannot be controlled by mankind.
2. Discharges or flow from firefighting, and other discharges specified in writing by the Town of Walkersville as being necessary to protect public health and safety.
3. Discharges associated with dye testing; however, this activity requires a notification and written approval from the Town of Walkersville prior to the time of the test.

4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

§ 34-8.2. Prohibition of Illicit Connections

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Town of Walkersville**.**
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Town of Walkersville requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Town of Walkersville.

§ 34-9. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 34-10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

§ 34-10.1. Submission of Notice of Intent to the Town of Walkersville

1. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Walkersville prior to the allowing of discharges to the MS4. Copies of the NPDES permits must be submitted to the Town with copies to the Director of Public Works and the Town Manager.

2. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Town of Walkersville at the same time the operator submits the original Notice of Intent to the EPA as applicable.
3. The copy of the Notice of Intent may be delivered to the Town of Walkersville either in person or by mailing it to:

   Notice of Intent to Discharge Storm Water
   Town of Walkersville
   C/o Public Works Department
   P.O. Box 249
   21 West Frederick Street
   Walkersville, MD 21793

4. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the NOI to do so to the Town of Walkersville.

§ 34-11. COMPLIANCE MONITORING

§ 34-11.1. Right of Entry: Inspection and Sampling.

The Town of Walkersville shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

1. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Walkersville.
2. Facility operators shall allow the Town of Walkersville ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The Town of Walkersville shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Town of Walkersville to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Town of Walkersville has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town of Walkersville and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Town of Walkersville access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Town of Walkersville reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

§ 34-11.2. Search Warrants.

If the Town of Walkersville has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town of Walkersville may seek issuance of a search warrant from any court of competent jurisdiction.

§ 34-12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

Town of Walkersville will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

Refer to Section 90 for guidelines on wellhead protection. The Wellhead Protection Ordinance will take precedence over this section unless the previously mentioned Section is not as strict; the more stringent will take priority in order of rank and therefore be the regulation.

§ 34-13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify

emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town of Walkersville in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Walkersville within **[3]** business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 10 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

§ 34-14. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

§ 34-14.1. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Town of Walkersville is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Town of Walkersville is authorized to seek costs of the abatement as outlined in § 34-17.

§ 34-14.2. Warning Notice.

When the Town of Walkersville finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town of Walkersville may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Town of Walkersville to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

§ 34-14.3. Notice of Violation.

Whenever the Town of Walkersville finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town of Walkersville may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;

4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the Town of Walkersville by filing a written notice of appeal within **[10]** days of service of notice of violation; and
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

§ 34-14.5. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town of Walkersville may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

§ 34-14.6. Suspension of MS4 Access.

§ 34-14.6.1. Emergency Cease and Desist Orders

When the Town of Walkersville finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town of Walkersville may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town of Walkersville may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Town of Walkersville may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town of Walkersville that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town of Walkersville within **[3]** days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

§ 34-14.6.2. Suspension due to Illicit Discharges in Emergency Situations

The Town of Walkersville may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town of Walkersville may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

§ 34-14.6.3. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Burgess and Commissioners of the Town of Walkersville or an agent designated by the Town will notify a violator of the proposed termination of its MS4 access. The violator may petition the Burgess and Commissioners of the Town of Walkersville for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town of Walkersville.

§ 34-14.7. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within **[3]** days, or such greater period as the Town of Walkersville shall deem appropriate, after the Town of Walkersville has taken one or more of the actions described above, the Town of Walkersville may impose a penalty not to exceed $**[1,000]** (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

§ 34-14.8. Criminal Prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of $**[1,000]** per violation per day and/or imprisonment for a period of time not to exceed **[365]** days. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

§ 34-15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Town of Walkersville the notice of appeal must be received within **[10]** days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within **[30]** days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

§ 34-16. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within **[3]** days of the decision of the municipal authority upholding the decision of the Town of Walkersville, then representatives of the Town of Walkersville shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

§ 34-17. COST OF ABATEMENT OF THE VIOLATION.

Within **[60]** days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within **[10]** days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Town of Walkersville by reason of such violation. The liability shall be paid in not more than **[5]** equal payments. Interest at the rate of **[12]** percent per annum shall be assessed on the balance beginning on the **[30th]** day following discovery of the violation.

§ 34-18. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 34-19. REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town of Walkersville to seek cumulative remedies.

The Town of Walkersville may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

§ 34-20. ADOPTION OF ORDINANCE.

This ordinance shall be in full force and effect **[20]** days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this 8th day of November , 2017.

Chapter 36

LITTERING

§ 36-1. Littering on Public Property and Streets.

§ 36-2. Distribution of Advertisements and Handbills.

§ 36-3. Littering From Vehicles.

§ 36-4. Truck Loads.

§ 36-5. Dirt Deposited by Truck Tires.

§ 36-6. Violations and Penalties.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Section 36-6 amended at time of adoption of Code; See Ch. 1, General Provisions, Art. 1. Other amendments noted where applicable.]

GENERAL REFERENCES

garbage, Rubbish and Refuse - See Ch. 30.
Refuse on Street and Sidewalks - See Ch. 69, Art. II.

§ 36-1. Littering on Public Property and Streets.

It shall be unlawful for any person or persons to throw or deposit any sweepings, dust, ashes, offal, dirt, garbage, dirty liquids, advertisements, circulars, handbills, wastepaper or other material into any street, alley or public place within the corporate limits of the Town of Walkersville, Maryland.

§ 36-2. Distribution of Advertisements and Handbills.

It shall be unlawful for any person or persons to cast, throw, place or distribute any advertisements, circulars, handbills or wastepaper in the vestibules, doorways, porches or yards of private property or upon private vehicles from which they may be blown upon and into the public streets, alleys or public places within the corporate limits of the Town of Walkersville.

§ 36-3. Littering From Vehicles.

No person shall throw or deposit litter from any vehicle upon any street or other public place within the Town of Walkersville or upon private property.

§ 36-4. Truck Loads.

A. No person shall drive or move any truck or other vehicle within the Town of Walkersville unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place or private property.

B. In case of the accidental dropping of any such substance upon any public street or place in the manner aforesaid, the offending party may relieve himself of the penalty provided in § 36-6 by immediately removing the substance so falling upon the public street or place, provided that the same is done before such party has been arrested or summoned for violation of this section.

§ 36-5. Dirt Deposited by Truck Tires.

A. No person shall drive or move any vehicle or truck within the Town of Walkersville so as to permit dirt, mud or other foreign matter adhering to the wheels or tires to be deposited in any street, alley or other public place.

B. Any person being the owner or operator of any such vehicle or truck shall, at the end of each working day, remove any dirt, mud or other substance deposited by any such vehicle or truck on a public street or place.

§ 36-6. Violations and Penalties.[1]

Any violator of any of the provisions of this chapter, convicted thereof, shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[2] Each day any violation of any provision of this chapter shall continue or reoccur shall constitute a separate offense.

[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.
[2] Editor's Note: See Charter, § C15-4.

Chapter 38

LOCAL GOVERNMENT INSURANCE TRUST

§ 38-1. Authorization.

§ 38-2. Establishment.

§ 38-3. Agreement to Capitalize.

§ 38-4. Additional Capital and Surplus.

§ 38-5. Documents for Implementation.

§ 38-6. Authority of Documents.

§ 38-7. Capital Contribution.

[HISTORY: Emergency Ordinance 89-3 adopted 5-24-89 authorized and empowered Burgess and Commissioners of Walkersville to participate in a program to enable the Local Government Insurance Trust to capitalize its insurance pools for the purpose of supporting additional coverages, including excess liability; authorized and directed Burgess and Commissioners of Walkersville to make a capital contribution to the Trust in cash in the amount of $6,182; approved, and authorized and directed the execution and delivery of, a Cash Contribution Coverage and Capitalization Agreement to be dated as of July 1, 1989, by and among the Trust and certain local governments participating in the Trust's capitalization program; approved, and authorized and directed the execution and delivery of, a Second Amended and Restated Local Government Insurance Trust Agreement to be dated as of July 1, 1989, by and among the Trust and those local governments participating in the Trust; pledged the full faith and credit and unlimited taxing power of Burgess and Commissioners of Walkersville to the prompt payment of all payment obligations under the Cash Contribution Coverage and Capitalization Agreement; authorizing and directing all officials, employees and agents of Burgess and Commissioners of Walkersville to take any and all action necessary or appropriate to effect the participation of Burgess and Commissioners of Walkersville in the Trust's capitalization program; making certain findings in connection with the participation of Burgess and Commissioners of Walkersville in the Trust's capitalization program; and generally relating to the participation of Burgess and Commissioners of Walkersville in the capitalization program of the Local Government Insurance Trust.]

§ 38-1. Authorization.

Political subdivisions and municipal corporations of the State of Maryland (collectively, "Local Governments"), including Burgess and Commissioners of Walkersville, are authorized by Article 48A, Section 482B of the Annotated Code of Maryland (1986 Replacement Volume and 1988 Cumulative Supplement) (the "Act"), to pool together for the purpose of purchasing casualty or property insurance or self-insuring casualty or property risks.

§ 38-2. Establishment.

The Local Government Insurance Trust (the "Trust") was established on July 1, 1987, pursuant to the Act and the Local Government Insurance Trust Agreement for the purpose of enabling Local Governments to pool together to provide insurance protection for casualty and property risks and to provide risk management and loss control services for Local Governments, all for the public purpose of minimizing the cost of casualty insurance and property insurance claims and administration to Local Governments.

§ 38-3. Agreement to Capitalize.

The Act, as amended by Chapter 459 of the Laws of Maryland of 1988, authorizes any Local Government to enter into an agreement to capitalize or otherwise fund an insurance pool established under the Act. The Act, as amended by Chapter 459 of the Laws of Maryland of 1988, further provides:

(A) that such agreement may have such provisions, terms and conditions, and may be of such duration, as the Local Government by ordinance may determine;

(B) that any payment obligation in such agreement shall be a general obligation of the Local Government to which its full faith and credit and unlimited taxing power is pledged and may not be subject to annual appropriation by the Local Government; and

(C) that such payment obligation may be undertaken

(1) without regard to any limitations set forth in the charter of the Local Government or other applicable public local or public general law that would otherwise apply, and

(2) without complying with any procedures set forth in the charter of the Local Government or other applicable public local or public general law that would otherwise be required.

§ 38-4. Additional Capital and Surplus.

Pursuant to the authority granted in the Act, as amended by Chapter 459 of the Laws of Maryland of 1988, the Trust and certain Local Governments, including Burgess and Commissioners of Walkersville, have determined that it is necessary and desirable to provide additional capital and surplus for the insurance pools administered by the Trust for the benefit of Local Governments covered by the insurance pools administered by the Trust (the "Capitalization Program").

§ 38-5. Documents for Implementation.

Pursuant to the authority of the Act, as amended by Chapter 459 of the Laws of Maryland of 1988, the following documents have been approved in order to implement the Capitalization Program:

A. A Cash Contribution Coverage and Capitalization Agreement dated July 1, 1989 (the "Cash Capitalization Agreement"), by and among the Trust and certain Local Governments participating in

the Capitalization Program (collectively, the "Cash Capital Participants"); and

B. the Second Amended and Restated Trust Agreement to dated July 1, 1989 (the LGIT Agreement"), by and among the Trust and those Local Governments participating in the Trust.

§ 38-6. Authority of Documents.

Collectively, the Cash Capitalization Agreement and the LGIT Agreement, shall:

A. enable the Trust to raise the capital necessary to support additional coverages, including excess liability coverage, environmental clean-up coverage and environmental liability coverage (the "Capital Coverage");

B. enable the Trust to make the Capital Coverage available to each Cash Capital Participant; and

C. require each Cash Capital Participant to make a Capital Contribution in cash on or before the date specified in the Cash Capitalization Agreement.

§ 38-7. Capital Contribution.

Burgess and Commissioners of Walkersville pay a Capital Contribution in the principal amount of $6,182, under the terms and conditions of the Cash Capitalization Agreement.

Under the terms of the Act, as amended by Chapter 459 of the Laws of Maryland of 1988, the Capital Contribution and any interest payable thereon will be a general obligation of the Burgess and Commissioners of Walkersville to which its full faith and credit and unlimited taxing power is pledged and will not be subject to annual appropriation by the Burgess and Commissioners of Walkersville.

Chapter 43

PARKS COMMITTEE

§ 43-1. Appointment of Committee; Terms of Office.

§ 43-2. Subsequent Appointments and Terms of Office.

§ 43-4. Compensation.

§ 43-4. Naming of Officers.

§ 43-5. Jurisdiction.

§ 43-6. Annual Report to Burgess and Commissioners.

[HISTORY: Adopted by the Burgess and Commi ssioners of the To wn o f Walkersville 12-1 4-77. 12-3 1-97 O rdinance 9 7-10. Amen dments n oted where applicable.]

§43-1. Appointment of Committee; Terms of Office.

The Burgess may appoint, subject to the approval of a majority of the Commissioners, a Parks Committee of seven (7) members, one of whom may be a Town Commissioner to serve in an ex officio capacity concurrent with his or her official term. Committee members shall serve terms of office of two (2) years or until the appointment and qualification of their successor.
[11-12-97 Ordinance 97-9, 12-31-97 Ordinance 97-10].

§ 43-2. Subsequent Appointments and Terms of Office.

Upon the expiration of the term of office of each of the members appointed under the preceding section, the Burgess may appoint a successor, subject to the approval of a majority of the Commissioners, whose term of office shall be two (2) years from the date of expiration of the term of his or her predecessor. Any vacancies that should occur will be filled by an appointment by the Burgess, with approval by a majority of the Commissioners.

§ 43-3. Compensation.

Compensation, if any, for members of the parks Committee shall be set by the Town Commissioners. [Amended 04-14-04 by Ordinance 2004-05]

§ 43-4. Naming of Officers.

The members of the Parks Committee shall name a Chairperson, Secretary and any other officers as they may deem proper.
[11-12-97 Ordinance 97-9].

§ 43-5. Jurisdiction.

The Parks Committee shall serve as advisors to the Burgess and Commissioners and shall advise and recommend to same policies and procedures for the use of all municipal parks.

§ 43-6. Annual Report to Burgess and Commissioners.

The Parks Committee shall submit a written report of its recommendations to the Burgess and Town Council on May 1 of each and every year.

Chapter 45

PEACE AND GOOD ORDER

§ 45-1. Loitering in or Obstructing Street or Public Places.

§ 45-2. Disturbing the Peace.

§ 45-3. Public Intoxication and Drinking in Public.

§ 45-4. Loitering About Streets and Disturbing Motor Vehicles.

§ 45-5. Indecent Exposure.

§ 45-6. Urinating on Streets.

§ 45-7. Loud and Unnecessary Noise.

§ 45-8. Establishment of Curfew; Violations and Penalties.

§ 45-9. Establishing a Distance at a Funeral.
[Ord. 2011-03 7-13-11]

§ 45-10 through 45-19. (Reserved)

§ 45-20. Violations and penalties.

§ 45-21. Applicability of Provisions.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 7-23-75. Section 45-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. §45-9 added by Ord. 2011-03, 7-13-2011]

GENERAL REFERENCES

Discharge of Firearms - See Ch. 33.

§ 45-1. Loitering in or Obstructing Streets or Public Places.

A. No person shall loiter, lounge or sleep in or upon any street, park or other public place or in any public building or obstruct the access to any public building or any part thereof or obstruct passage through or upon any public street, park or public place.

B. For the purpose of this section, the term “loiter” shall encompass, but shall not necessarily be limited to, one (1) or more of the following acts:

(1) Obstruction of the free, unhampered passage of pedestrians or vehicles.

(2) Obstructing, molesting or interfering with any person lawfully upon any street, park or other public place.

(3) Remaining idle in essentially one (1) location without being able to establish having a legitimate business or purpose in so remaining idle or by general conduct exhibiting the absence of a lawful purpose in so remaining idle.

(4) Conduct involving the concept of standing idly by, loafing, walking about aimlessly without purpose and including the colloquial expression of “hanging around.”

(5) Refusing to move on when so requested by a peace officer, provided that the peace officer has exercised his discretion reasonably under the circumstances in order to preserve or promote public peace and order.

C. For the purpose of this section, the term “other public place” shall be deemed to include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette or other place of business and shall include also any parking lots or other vacant private property not owned or under the dominion of the person charged with a violation of this section.

D. Park Property. [Added 6-27-84]

(1) No person shall remain upon park property at any time between closing time of said park and opening time the following day, except by written permit issued by the Commissioners of the Town. The Commissioners are hereby authorized to establish, from time to time, the opening and closing times and dates for any parks within the limits of the Town of Walkersville.

(2) No person shall remain upon park property after a lawful command by any law enforcement officer or by the Commissioner of the Parks and Recreation Committee or his authorized representative.

§ 45-2. Disturbing the Peace.

It is hereby declared to be unlawful for any person to disturb the peace, order or quiet of Walkersville in any manner, and any person violating the provisions of this section shall be subject to fines and penalties hereafter provided.

§ 45-3. Public Intoxication and Drinking in Public. [Amended 9-12-79]

A. It shall be unlawful for any person to be in an intoxicated condition upon any of the streets, alleyways, public lands or in any place or establishment habitually frequented by the general public within the limits of the Town of Walkersville.

B. It shall be unlawful for any person to consume any alcoholic beverage, or have in his possession any unsealed alcoholic beverage container with alcoholic beverage therein, or discard any alcoholic beverage container:

(1) While in or on a public street, lane roadway, avenue, sidewalk, public parking place, park, playground, recreation area or any other public or quasi-public place or upon any land owned or occupied by any federal, state, county or municipal government.

(2) While in a private motor vehicle while the same is in motion or parked in any public street, lane, alley, public parking lot or other public or quasi-public place.

(3) While upon any private property, not his own, without permission of the owner or such other person having authority to grant such permission.

(4) While in or about any other public or quasi-public place or a place where the public is invited, including but not limited to any business, church, institutional, commercial or professional premises, except where such consumption or possession is with the express permission of the owner or other person having the authority to grant such permission.

C. For the purpose of this section, “alcoholic beverage” shall mean alcohol, brandy, whiskey, rum, gin, cordials, beer, ale, stout, wines, cider and any other spirituous, vinous, malt or fermented liquor or compound by whatever name called, containing one-half of one percent (1/2 of 1%) or more of alcohol by volume and which is fit for beverage purposes.

D. For the purpose of this section a container shall be regarded as “unsealed” when its top, tab or cork has been removed; or any of the contents have been removed; or any seal or stamp has been removed or broken; or where the container has been opened in any manner.

E. Exceptions to the foregoing provisions of Subsection B shall apply as to public or quasi-public areas where the consumption of alcoholic beverages is specifically permitted by resolution of the Burgess and Commissioners of the Town of Walkersville.

§ 45-4. Loitering About Streets and Disturbing Motor Vehicles.

No person shall loiter about the streets, lands or alleys of Walkersville nor trespass, jump, cling or climb upon any car or motor vehicle, nor disturb the passengers or occupants thereof.

§ 45-5. Indecent Exposure.

It shall be unlawful for any person within the town limits of Walkersville to wantonly and intentionally expose his person in such manner as to be offensive to decency.

§ 45-6. Urinating on Streets.

It shall be unlawful for any person to urinate on the streets, lanes or alleyways of the town of Walkersville.

§ 45-7. Loud and Unnecessary Noise. [Amended 9-8-99]

A. It shall be unlawful for any person to make or continue, or cause to be made or continued, or to allow their animal to make or continue, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others or to create any unreasonably loud, disturbing and unnecessary noise of such character, intensity or duration as is detrimental to the life or health of any individual or persons within the town limits of Walkersville. **[Amended 9-8-99 by Ordinance 99-4]**

B. "Noise" which is prohibited by subsection (A) hereof shall include, but not be limited to, the following:

(1) Noise made by the operation of any radio, television, loud speaker or loud speaking device, music making machine, sound amplified high fidelity equipment, musical instrument, drum or similar device which produces, reproduces or amplifies sound when such noise is unreasonably or unusually loud or disturbing when considering the time, place and manner of the noise.

(2) Any vocal noise including yelling, shouting, whistling or singing, which is unreasonably or unusually loud or disturbing when considering the time, place and manner of the noise.

(3) The sounding of any horn or signaling device on any automobile, motor vehicle or other vehicle, except as a danger warning, when such sounding creates an unreasonably or unusually loud, disturbing or harsh sound when considering the time, place and manner of the sound. [Added 8-9-95]

(4) Frequent or long continued noise from an animal, when such noise is unreasonable or disturbing when considering the time, place, and manner of the noise. **[Added 9-8-99 by Ordinance 99-4].**

C. This section is not intended to limit and shall not be applicable to normal, necessary or emergency activities including but not limited to:

(1) Agricultural activities on agriculturally zoned land.

(2) Emergency sirens, horns or other emergency devices used in the course of responding to an emergency.

(3) Construction or demolition work which causes noise in the course of actual construction or demolition on normal and/or necessary projects during daytime hours.

(4) Sporting, amusement, and entertainment events or other public gatherings operated in accordance with their permits or with local laws and regulations. [Added 8-9-95]

D. Any person or persons violating any provision of this Ordinance shall be guilty of a municipal infraction which is punishable by a fine of $50.00 for each offense. A police officer having probable cause that a violation of this section has been or is being committed, shall warn the apparent violator of the violation and shall instruct the violator to cease any further such violation. A police officer may issue a citation to any person who continues to violate any provision of this Ordinance after having been instructed to cease such violation. [Added 8-9-95]

§ 45-8. Establishment of Curfew; Violations and Penalties. [Added 9-12-79[1]]

A. It shall be unlawful for any minor to remain, idle, wander, stroll, loiter or play in any public place, either on foot or to cruise about without a set destination in any vehicle, between the hours of 11:00 p.m. and 6:00 a.m., local time, Sunday through Thursday, and between the hours of 12:00 midnight and 6:00 a.m., local time, Friday through Saturday, unless accompanied by a parent, guardian or other adult person having custody and control of such minor or unless the minor is on a bona fide emergency errand or a specific business activity directed and permitted by his parent, guardian or other adult person having custody and control of the minor.

B. Responsibility of owners of public places. It shall be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors in such public place between the hours of 11:00 p.m. and 6:00 a.m., local time, Sunday through Thursday, and between the hours of 12:00 midnight and 6:00 a.m., local time, Friday through Saturday.

C. Responsibility of parents. It shall be unlawful for the parent, guardian or other adult person having custody and control of any minor to suffer or permit or, by inefficient control to allow a minor to be in violation of Subsection A of this section; however, the provisions of this section do not apply if such minor is accompanied by his parent, guardian or other adult person having custody and control of such minor or unless the minor is on a bona fide emergency errand or a specific business activity directed and permitted by his parent, guardian or other adult person having custody and control of the minor.

D. Procedure upon violation. Any police official or other person so authorized by the Burgess and Commissioners, upon finding a minor in violation of this section, shall ascertain the name and address of such minor, shall notify the minor that he is in violation of curfew and shall direct the minor to proceed at once to his home or place of abode. If the minor does not so immediately proceed, the police

[1] Editor's Note: This ordinance also provided that former §45-8, Violations and Penalties, and §45-9, Applicability of provisions be renumbered as §§45-20 and 45-21, respectively.

official or other person so authorized may take the minor to his home or place of abode and to notify the parent, guardian or other adult person having custody and control of the minor that the minor is in violation of curfew. The police official or other person so authorized shall subsequently file a report of the violation with Clerk of the Town of Walkersville.

E. Penalty for violation. Upon the first offense of a minor for a violation of Subsection A of this section, a warning only shall be given to the minor and to the parent, guardian or other adult person having custody and control of the minor. Any subsequent violation shall be punishable as provided for in this chapter.

F. Definitions. As used in this section, the following terms shall have the meanings indicated:

GUARDIAN - Any person other than a parent who has legal guardianship of a minor.

MINOR - Any child who has not attained his eighteenth birthday. The police official or other authorized person may use his discretion in determining age and, in doubtful cases, may require positive proof, and until such proof is furnished, the judgment of the police official or other authorized person shall prevail.

OTHER ADULT PERSON - Any person over the age of twenty-one (21) years who is in loco parentis to a minor.

G. Jurisdiction. This section shall be enforced within the limits of the Town of Walkersville.

H. Suspension. For specific events or periods of time, the time during which this section shall be enforced may be suspended, changed or modified by the Burgess and Commissioners of the Town of Walkersville, provided that public notice thereof is given by placing such notice in a newspaper of general circulation within the limits of the Town of Walkersville and published at least forty-eight (48) hours before the effective time of such suspension, change or modification.

§ 45-9. Establishing a Distance at a Funeral.

A person may not engage in willfully making or assisting in the making of any noise or diversion that is not part of a funeral, burial, memorial service or funeral procession occurring within 1000 (one thousand) feet of a funeral, burial, memorial service or funeral procession, when that noise or diversion disturbs or tends to disturb the peace or good order of said funeral, burial, memorial service or funeral procession. [Ordinance 2011-03 adopted 7-13-2011]

§§ 45-10 through 45-19. (Reserved)

§ 45-20. Violations and Penalties.
[Amended 9-27-78 by Ord. No. 101]

Any person violating or failing to comply with this chapter or any section or provision thereof shall, on conviction before an appropriate court of competent jurisdiction, be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[2]

§ 45-21. Applicability of Provisions.

All of the provisions of the aforegoing chapter shall apply to the corporate limits of the Town of Walkersville, Maryland.

[2] Editor's Note: See Charter, §C15-4.

Chapter 47

PEDDLING AND SOLICITING

§ 47-1. Definitions.

§ 47-2. Registration and Salesman's Certificate Required.

§ 47-3. Application Requirements.

§ 47-4. Fees; Separate Registration and Fee Required for Each Agent.

§ 47-5. Revocation of Certificate.

§ 47-6. General Regulations.

§ 47-7. Violations and Penalties.

§ 47-8. Exemptions From Payment of Fee.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Section 47-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted w here applicable.]

GENERAL REFERENCES

Peace and Good Order - See Ch. 45.

§ 47-1. Definition.

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

PEDDLER - Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering same to customers. The word "peddler" shall also include the words "hawker" and "huckster." Salesmen contacting legitimate businesses in the community are not included in this definition.

SOLICITOR - Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place. The word "solicitor" shall also include the word "canvasser," or any person who goes from door to door as described

above for the purpose of soliciting and/or who collects funds from a stationary location on any street or other public place.

§ 47-2. Registration and Salesman's Certificate Required.

It shall be unlawful for any peddler or solicitor to sell, offer for sale or distribute merchandise, printed materials or services within the corporate limits for Walkersville without first registering with, filing an application for registration, paying a registration fee and obtaining a salesman's certificate from the Town of Walkersville.

§ 47-3. Application Requirements.

Every applicant for a certificate under this chapter shall file with the Town Clerk a written application on a form to be supplied by said Clerk, which shall give or be accompanied by the following information:

A. The name and address of the applicant.

B. The name and address of the company represented.

C. The nature of the business to be solicited.

D. The length of time for which a certificate is requested.

E. Two (2) business references located within Frederick County.

§ 47-4. Fees; Separate Registration and Fee Required for Each Agent.

A. At the time of the issuance of the certificate, a fee of twenty-five dollars ($25.) per person per year or five dollars ($5.) per person per day, or twenty-five dollars ($25.) per organization per day, whichever is the lesser, shall be paid by the applicant to cover the costs of the administration and enforcement of this chapter.

B. Where an organization has several agents peddling, soliciting or distributing merchandise or printed materials, each agent shall be registered separately and each shall pay the appropriate fee.

§ 47-5. Revocation of Certificate.

Certificates issued under the provisions of this chapter may be revoked by the town for any of the following causes:

A. Fraud, misrepresentation or any material incorrect statement contained in the application for a certificate.

B. Fraud, misrepresentation or any material incorrect statement made in the course of carrying on his business as solicitor or peddler.

C. Conducting the business of peddler or solicitor in an unlawful manner or in such manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

§ 47-6. General Regulations.

No person or certificate holder shall:

A. Peddle, solicit or distribute merchandise except between the hours of 8:00 a.m. and 6:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously.

B. Attempt to peddle, solicit or distribute merchandise or printed materials without first having identified himself as a peddler or solicitor duly registered with the Town of Walkersville and having displayed his certificate.

C. Enter or attempt to enter the land of any resident of the town without an express invitation from the occupant of the house.

D. Conduct himself in such manner as to become objectionable to or annoy an occupant of any house.

§ 47-7. Violations and Penalties.[1]

Any person violating the terms of this chapter, whether as principal, agent or employee of another, shall, upon conviction in District Court of Frederick County, be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[2]

§ 47-8. Exemptions From Payment of Fee.

The following persons or organizations are exempt from the payment of a fee upon compliance with all other provisions of this chapter and submission of applicable identification and documents to support the claim to exemption:

A. Any charitable or religious organization that conducts sales of personal property when the proceeds thereof are applied to the charitable or religious objectives of the organization.

B. Any person engaged in the delivery of goods, wares or merchandise, or other articles or things, in the regular course of business, to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of a prior agreement.

C. Any school, political or civic organization, benevolent society, service club or organization not operated for profit, which is located in or has substantial membership from the Town of Walkersville.

D. Such other exemptions as may be granted from time to time by the Burgess and Commissioners of Walkersville in its discretion.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[2] Editor's Note: See Charter, § C15-4.

Chapter 49

PERSONNEL POLICIES

Chapter 49 Personnel Policies is repealed and all references thereto throughout the Town Code are deleted by Ordinance 2006-03 adopted May 31, 2006.

Personnel Manual adopted April 12, 2006.

Chapter 51

PLANNING COMMISSION

§ 51-1. Reestablishment of Commission; Jurisdiction.

§ 51-2. Membership.

§ 51-3. Powers, Functions and Duties.

**[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville
11-27-74. Amendments noted where applicable.]**

GENERAL REFERENCES

Subdivision of Land - See Ch. 71.

Zoning - See Ch. 88.

§ 51-1. Reestablishment of Commission; Jurisdiction.

There is hereby reestablished a Walkersville Planning Commission, hereinafter referred to as the "Commission." Its territorial jurisdiction shall extend over the incorporated area of the Town of Walkersville.

§ 51-2. Membership.

A. The Commission shall consist of seven (7) members, each to serve for five (5) years or until his successor takes office. At the discretion of the Burgess and Commissioners, one member may be a Town Commissioner who will serve in an ex officio capacity concurrent with his official term. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Burgess and Commissioners.

B. All members shall serve with such compensation as the Burgess and Town Commissioners deem appropriate and may be removed by the Burgess and Town Commissioners for inefficiency, neglect of duty or malfeasance in office. All members shall be eligible for reappointment.

C. A quorum for the transaction of business before the Planning Commission shall consist of a majority of the members.

§ 51-3. Powers, Functions and Duties.

The Commission shall have all the powers, functions and duties provided for in Article 66B, §3.01, of the Annotated Code of Maryland, 1973 Edition.

Chapter 53[1]

(RESERVED)

[1] **Editor's Note: Former Ch. 53, Economic Development Commission was deleted 9-28-2016 by Ordinance 2016-08.**

Chapter 55

PLUMBING

§ 55-1. Adoption of County Provisions.

§ 55-2. County to Administer and Enforce.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 3-13-85.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Water and Sewers - See Charter, Art. XII.

Building Construction - See Ch. 15.

Water - See Ch. 85.

§ 55-1. Adoption of County Provisions.

The Burgess and Commissioners of the Town of Walkersville hereby adopt and incorporate all of the provisions of the Plumbing Code (presently Chapter 1-14, Article IV) of the Frederick County Code and all subsequent amendments, supplements and changes thereto or subsequent regulations as may be approved.

§ 55-2. County to Administer and Enforce.

The Board of County Commissioners of Frederick County, Maryland, or its designated agency, is hereby requested and is so authorized to administer said provisions of the Plumbing Code and all subsequent amendments, supplements and changes thereto as may be adopted by the Board of County Commissioners of Frederick County, including the enforcement and penalty provisions thereto.

[1] Editor's Note: This ordinance superseded former Ch. 55, Plumbing, adopted 9-27-72 by resolution.

Chapter 56

PUBLIC HEALTH

ARTICLE I
Synthetic Drugs

§ 56-1. Definitions.

§ 56-2. Nuisance.

§ 56-3. Exceptions.

§ 56-4. Violations and penalties.

§ 56-5. Sunset provision.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-12-2012. By Ordinance 2012-07, effective 1-1-2013]

ARTICLE I
Synthetic Drugs

§ 56-1. Definitions.

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

A. "Authorized provider" means:

1) any person licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State of Maryland in the course of professional practice or research; or

2) a pharmacy, laboratory, hospital, or other institutional licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research.

Authorized providers include individuals authorized by the State of Maryland to practice medicine, dentistry, or veterinary medicine and animal control facilities licensed under the Maryland Annotated Code, Agriculture Article, §2-305.

B. "Controlled dangerous substance" means a drug or substance listed in Schedule I through Schedule V of the Maryland Annotated Code, Criminal Law Article, or an immediate precursor to a drug or substance listed in Schedule I through Schedule V. "Controlled dangerous substance: does not include distilled spirits, wine, malt beverages, or tobacco.

C. "Synthetic cannabinoids" means any chemical compound that is chemically synthesized and:

1) has been demonstrated to have a binding activity at one or more cannabinoids receptors; or

2) is a chemical isomer, salt or salt of an isomer of a compound that has been demonstrated to have a binding activity at one or more cannabinoids receptors.

"Synthetic cannabinoid" does not include any products that have been approved for medical use by the United States Food and Drug Administration.

D. "Synthetic cannabinoids analog" means any chemical that is substantially similar in chemical structure to a chemical compound that has been determined to have a binding activity at one or more cannabinoids receptors. It does not include any products that have been approved for medical use by the United States Food and Drug Administration.

E. "Synthetic cathinones" means any compound structurally derived from 2-aminopropan-l-one by substitution at the l-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

1) substitution in the ring system to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents, whether or not further substituted in the ring system by one or more univalent substituents;

2) substitution at the 3-position with an alkyl substituent;

3) substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

These substances include, but are not limited to, those commonly referred to by the street name "bath salts" or "plant food" or the trade name "Bliss", "Blizzard", "Ivory Wave", or "Star Dust".

§56-2. Nuisance. It is hereby declared to be a nuisance and unlawful to distribute, manufacture, offer for sale, purchase, possess, sell, store, trade, transport, or consume any substance containing a synthetic cannabinoids, synthetic cannabinoids analog, or synthetic cathinones, including but not limited to, those identified on Schedule A attached hereto. Distribution, manufacture, selling, purchasing, possessing, offering for sale, storing, trading, transporting, or consuming any substance sold under a trade name contained in Schedule A is a per se violation of this article.

§56-3. Exceptions.

A. An act otherwise prohibited by this article is lawful if done by or under the direction of an authorized provider while acting in the course of his or her profession, provided such act is otherwise permitted by local, State, or Federal law.

B. This article does not apply to any substances regulated as controlled substances by the United States Food and Drug Administration, including any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.

C. This article is not intended to, and shall not be construed to, supersede any other Federal or State law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws.

§56-4. Violations and penalties.

A. A person who is convicted of any act prohibited under this article is guilty of a misdemeanor and subject to imprisonment for up to 30 days or a fine of $1,000, or both in the discretion of the court.

B. The distribution, manufacture, offer for sale, purchase, possession, sale, storage, trade, transportation, or consumption of each separate package containing a synthetic cannabinoids, synthetic cannabinoids analog, or synthetic cathinones is a separate offense of this article.

C. It is not a defense to violation of this article that the item is labeled that it is not intended for human consumption.

§56-5. Sunset Provision .

This ordinance shall be of no further force and effect after January 2, 2014.

Chapter 62
SINKHOLE ORDINANCE

§ 62-1. Definitions.

§ 62-2. Declaration of Public Nuisance.

§ 62-3. Duty to prevent sinkholes.

§ 62-4. Duty to repair sinkholes.

§ 62-5. Manner of repair.

§ 62-6. Permanent synthetic or geo-synthetic lining.

§ 62-7. Town's remedies.

§ 62-8. Municipal Infraction.

§ 62-9. Expenses to be a lien on land.

§ 62-10. Notice and opportunity to be heard.

§ 62-11. Supplemental to other law.

§ 62-12. Authority.

§ 62-13. Repeal of Ordinance 2000-8; Effect of Repeal

§ 62-14. Effective date.

[HISTORY: Amended by Ordinance 2014-05, 10/22/2014. In order to prevent pollution of the ground water of the Town of Walkersville, the Burgess and Commissioners adopted Ordinance 2001-12 on 02-27-2002 for the following reasons: 1) the Town of Walkersville's public water system is wholly dependent on ground water within the Glade Creek topographic basin for its source of drinking water, and;
2) there are several stormwater management structures, facilities, drainage ways and sediment and erosion control measures located in the town, and; 3) by design, said structures, facilities, drainage ways and sediment/erosion control measures concentrate stormwater runoff and sediments into a small area and enhance water quality by filtering pollutants from stormwater runoff, and; 4) when land is disturbed by grading and construction activities the resulting stormwater runoff from such land carries a higher concentration of pollutants, and: 5) the town is located in an area of karst terrain prone to sinkhole formation, and; 6) sinkholes provide a means for pollutants to rapidly enter the Town’s ground water resources without filtration, and; 7) the presence of sinkholes in stormwater structures, facilities, sediment basins and land disturbed by grading and/or construction activities represent a substantial risk of pollution of the Town's source of raw water for its citizens].

§ 62-1. Definitions.

In this chapter the following terms shall have the meanings indicated:

DRAINAGE AREA - a geographic area in which all surface water will flow to a single point.

GRADING AND SEDIMENT CONTROL PLAN – a plan as described in §4-103(a)(1) of the Environmental Article of the Annotated Code of Maryland.

GRADING AREA – the region with the limits of disturbance as delineated on a grading and sediment control plan.

GROUND WATER - water that naturally lies or flows under the surface of the earth.

OWNER – shall include the following: 1) the person(s) who has record title to the land as set forth in the land records maintained by the Clerk of the Circuit Court of Frederick County, 2) a person who is in possession of the land in question, 3) a person who has legal title to the land in question by virtue of a mortgage or deed of trust, 4) a person who is contract purchaser of the land in question or 5) a person who is the direct or indirect beneficiary of the land in question.

PERSON – any natural person, company, firm, cooperative, partnership, corporation, company, association, consortium unincorporated organization, trust, estate, any entity organized for a common business purpose, or any Federal, State or local government and any agency or instrumentality of those governments.

POLLUTION - any contamination or other alteration of the physical, chemical, or biological properties of any ground water, including a change in temperature, taste, color, turbidity, or odor of the ground water or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous solid, radioactive, or other substances into any ground water, that will render the ground water harmful or detrimental to public health, safety or welfare.

SEDIMENT BASIN - a non-natural land depression created for the detention or retention of stormwater runoff.

SINKHOLE - any depression in the land surface that provides a means through which surface water may encounter ground water.

STORMWATER STRUCTURE AND/OR FACILITY – any facility, structure or measure designed to manage the quantity and/or quality of stormwater runoff.

TOWN - the Burgess and Commissioners of the Town of Walkersville, a Maryland municipal corporation, its agents, employees, officers and servants.

§ 62-2. Declaration of Public Nuisance.

The presence of a sinkhole in a stormwater structure and/or facility, sediment control basin or grading area, public right of way, or on private property is a public nuisance and a threat to the public health, safety, and welfare.

§ 62-3. Duty to prevent sinkholes.

Each owner shall have the absolute duty to prevent sinkholes from occurring in any stormwater structure and/or facility, sediment control basin or grading area, public right of way, or on private property.

§ 62-4. Duty to repair sinkholes.

Each owner shall have the absolute duty to repair any sinkhole which occurs in any stormwater structure and/or facility, sediment control basin or grading area, public right of way, or on private property within forty-five (45) days of written notification by the Town Code Enforcement Officer or designated Town agent.

§ 62-5. Manner of repair.

An owner shall repair a sinkhole in a manner designed to permanently prevent reoccurrence of the sinkhole. The Town shall have the sole and final authority to determine the specific manner of repair based upon the recommendations of the Town's engineering consultant. Following repair of the sinkhole, the owner shall submit a report prepared by a licensed Maryland professional engineer who documents the location of the sinkhole and method of repair as well as its suitability.

§ 62-6. Permanent synthetic or geo-synthetic lining.

a) This section shall only apply to sinkholes in a stormwater facility or sediment basin.
b) The owner shall install a liner, acceptable to the Town, in all stormwater facilities or sediment basins as required by the Town.

§ 62-7. Town's remedies.

If an owner shall breach one or more of the duties set forth in this chapter, the Town shall have the right, but not the duty, to take any steps necessary or convenient to prevent pollution of ground water, including, but not limited to:

a) Enter upon the stormwater structure and /or facility, sediment control basin or grading area, public right of way, or on private property to examine and inspect the sinkhole;
b) Revoke any grading and sediment control plan, grading and sediment control permit, or stormwater management plan which is in place for the grading area or land within the drainage area served by the stormwater pond or sediment basin;

c) Impose a moratorium on further building or grading in the grading or drainage area;
d) Temporarily repair the sinkhole;
e) Permanently repair the sinkhole; or
f) Hold all pending building permit applications.

§ 62-8. Municipal Infraction.

A violation of a duty set forth in this chapter shall be a municipal infraction and subject to a fine not to exceed One Thousand Dollars ($1,000).

§ 62-9. Expenses to be a lien on land.

Any expenses incurred by the Town under this chapter shall be both a personal obligation on all owners and a lien on the land on which the sinkhole is located, to be collected in the same manner as municipal taxes are collected.

§ 62-10. Notice and opportunity to be heard.

The Town shall notify an owner within a reasonable time after actual discovery by the Town of an alleged violation. Notice by first-class mail to the owner's last known address shall be sufficient for the purposes hereof. An owner may request a hearing before the Town's Zoning Administrator within fifteen (15) calendar days after the date of mailing of the notice. An owner's right to notice and an opportunity to be heard shall in no way delay or preclude the Town from exercising its remedies under this chapter. An appeal of the Zoning Administrator's decision may be made to the Burgess and Commissioners by written notice delivered within 10 days of written decision of the Zoning Administrator. An appeal of the Burgess and Commissioners' decision shall be to the Circuit Court for Frederick County, Maryland.

§ 62-11. Supplemental to other law.

This ordinance supplements all other regulations now in place which govern the subject matter herein. This ordinance does not preclude the Town from pursuing any other legal remedies it may have under law. This ordinance is to be read as consistent with and supplemental to the terms and provisions of Chapter 90 of the Town Code.

§ 62-12. Authority.

The Burgess and Commissioners adopt this ordinance pursuant to the authority given municipal corporations by one or more of the following provisions of Maryland law:

a) The Town's common law powers to summarily abate nuisances and statutory powers under Section C4-4 of the Town Charter;

b) Article 23A, §2(a), pertaining to the power to pass ordinances deemed necessary to protect the health of the citizens of the municipality;

c) Article 23A, §2(b)(15), pertaining to the power to pass ordinances to prevent and remove nuisances and to regulate places which cause or may cause conditions detrimental to health;

d) Article 23A, §2(b)(16), pertaining to the power to pass ordinances to compel repairs to drainage systems on private property;

e) Article 23A, §2(b)(17), pertaining to the power to provide that any valid charges against real property shall be liens upon such property;

f) EN §4-101 et seq., pertaining to the Town's obligation to adopt grading and building ordinances for erosion and sediment control;

g) EN §4-201 et seq., pertaining to the Town's obligation to adopt ordinances necessary to implement a stormwater management program;

h) EN §5-801 et seq., pertaining to the Town's obligation to adopt ordinances necessary to implement a flood management plan; and

i) EN §9-716, pertaining to the power to adopt rules and regulations for the maintenance and operation of the Town's water system and to govern the installation and alteration of drainage arrangements on private property.

§ 62-13. Repeal of Ordinance 2000-8; Effect of Repeal.

Ordinance 2000-8 is hereby repealed in its entirety, being of no further force and effect as of December 31, 2001, and is replaced by Ordinance 2001-12. The repeal of Ordinance 2000-8 shall not have the effect to release, extinguish, alter, modify, or change, in whole or in part, any penalty, forfeiture, or liability which shall have been incurred under Ordinance 2000-8. Said repealed Ordinance shall be treated and held as still remaining in full force and effect for the purpose of sustaining any and all proper actions, suits, proceedings for the enforcement of such penalty, forfeiture or liability, as well as for the purpose of sustaining any order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions imposing, inflicting or declaring such penalty, forfeiture or liability.

§ 62-14. Effective date.

This ordinance shall be effective on February 27, 2002 and as revised on October 22, 2014.

Chapter 66

SOCIAL SECURITY

PREAMBLE

§ 66-1. Plan of Agreement Approved and Implementation Authorized.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 3-27-67 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel - See Charter, Art. X.

Personnel Manual adopted April 12, 2006 by Ordinance 2006-03.

PREAMBLE

WHEREAS, on March 27, 1967, the Employees' Retirement System, Division of Social Security, was requested to have the insurance system established by Title II of the Social Security Act, as amended, extended to services performed by individuals as employees of the Corporation of Walkersville, Maryland, except services expressly excluded therefrom; and

WHEREAS, the Employees' Retirement System, Division of Social Security, has submitted a plan of agreement to accomplish said purpose, a copy of which is filed as a part of these minutes,

NOW, THEREFORE, BE IT RESOLVED that:

§ 66-1. Plan of Agreement Approved and Implementation Authorized.

The terms, provisions and conditions of said plan of agreement are hereby approved, and the Burgess and Commissioners of Walkersville, Maryland, are hereby authorized to enter into said plan of agreement, the Burgess being hereby expressly authorized and directed to execute such plan of agreement on behalf of said Burgess and Commissioners of Walkersville, Maryland, and to take and do all steps or actions which may to them seem necessary or desirable to carry this chapter and said plan of agreement into effect.

Chapter 68

STREET ACCEPTANCE PROCEDURES

§ 68-1. Completion of Street as Condition for Occupancy of Dwelling Units in New Subdivisions.

§ 68-2. Procedure for Acceptance of Streets into Town System.

§ 68-3. Separation of Construction Surety and Maintenance Guaranty.

§ 68-4. Installation of Utility Facilities.

§ 68-5. Protection of Public Roadways During Construction Operations.

§ 68-6. Final Inspection of New Roads and Streets.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 7-15-75. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and Sidewalks Generally - See Ch. 69.

Subdivision of Land - See Ch. 71.

§ 68-1. Completion of Street as Condition for Occupancy of Dwelling Units in New Subdivisions.

A. No dwelling unit in a new subdivision containing public streets may be occupied until such time as the streets in that particular subdivision have been constructed in accordance with the accepted standards and specifications and have been formally accepted into the town street system.

B. Dwelling units may be occupied prior to the final completion and acceptance of public streets if the following procedures are strictly adhered to:

(1) Prior to the occupancy of any dwelling unit, an acceptable form of surety must be provided in order to guarantee the satisfactory completion of the streets and the acceptance of the streets into the town system.

(2) The performance guarantee may be posted at any time prior to the occupancy of the first unit. The amount of the surety to be provided shall be equal to or greater than the estimated construction cost required to satisfactorily complete all remaining work on the streets.

(3) The surety must be in a form acceptable to the Burgess and Commissioners. The amount of the surety to be provided shall be determined by the town's authorized

engineering representative and shall be approved by the Burgess and Commissioners.

§ 68-2. Procedure for Acceptance of Streets into Town System.

The procedure for the acceptance of public streets into the town street system will be as follows:

A. Upon completion of all construction operations, the town's authorized engineering representative will make a final field inspection of the work with the developer and his contractor.

B. If all work appears to be satisfactory, the town's authorized engineering representative will recommend to the Burgess and Commissioners that the streets be conditionally accepted into the town system.

C. Upon approval by the Burgess and Commissioners with respect to Subsection B above, the developer shall deliver to the town all remaining public rights-of-way and an acceptable form of surety to guarantee all work performed for a period of one (1) year from the date of conditional acceptance of same by the Burgess and Commissioners.

D. The amount of surety to be provided shall be determined by the town's authorized engineering representative and shall be approved by the Burgess and Commissioners. In no instance shall the amount of surety to be provided by less than an amount equal to two dollars ($2.) per lineal foot of new roadway conditionally accepted by the Burgess and Commissioners.

E. Upon satisfactory completion with respect to Subsections C and D above, the town will then erect the necessary and proper street and traffic signs, to be provided by the developer, and will include the streets into town snowplowing operations.

F. During the period of the one (1) year, all defective work shall be repaired by and at the full expense of the developer.

G. At the end of the one-year guarantee period, another inspection by the town and the developer shall be held.

H. If the affected streets meet the approval of the town, the Burgess and Commissioners will then be asked to finally accept the streets and to release the developer of any further obligations in the matter.

I. The above recommended procedures shall include the satisfactory construction of all pavements, shoulders, pipes, drainage ditches, curbs, gutters and sidewalks and the establishment of an acceptable stand of vegetation on all roadside slopes and ditches within the right-of-way and/or construction easement.

J. During the above twelve-month period, the town shall have complete control over the streets in regard to speed limits, law

enforcement, driveway locations and construction, on street parking and other matters pertaining to the public safety and welfare.

§ 68-3. Separation of Construction Surety and Maintenance Guaranty.

The two (2) procedures of providing surety for the satisfactory completion of streets and the one-year guarantee of same shall be kept separate and may not be combined without the express consent of the Burgess and Commissioners.

§ 68-4. Installation of Utility Facilities.

Attention is directed to the installation of public utilities within public rights-of-way. The developer and/or contractor should provide sufficient notice to the various utility companies to allow for the orderly installation of underground facilities under proposed roadways in subdivisions prior to the construction of the base or surfacing. The town will not be held responsible for any additional costs incurred by the developer or utility company as a result of the failure to follow the above recommendation.

§ 68-5. Protection of Public Roadways During Construction Operations.

A. The Burgess and Commissioners have the authority to adopt those policies and procedures that are deemed necessary to protect the safety of those persons using public roads and to protect those roadways from unwarranted damages caused by the actions of property owners adjacent to the roads. This is intended to ensure protection of all roadways during the construction of developments adjacent to said roadways. Accordingly, the owner of the property under development shall be held responsible for any damages caused to the roadway pavement, shoulders, curbs, sidewalks, drainage facilities or roadway slopes by himself, his representatives, his contractors or subcontractors or their agents. To this end, no access to a town street from or to a public or private development shall be allowed except as approved by the town and at points for which a permit has been obtained.

B. Permits shall be issued after the following procedure has been satisfactorily completed: A performance bond or other acceptable form of surety shall be obtained in order to ensure that any damages to existing pavement, shoulders, roadside ditches, other drainage facilities or roadway side slopes caused by the ingress or egress of any construction vehicle will be satisfactorily repaired.

§ 68-6. Final Inspection of New Roads and Streets.

A. All final inspections will be conducted by the town's authorized engineering representative in company with an authorized representative of the developer and/or the contractor.

B. The contractor shall furnish the town's authorized engineering representative with a record as-built set of construction plans and specifications that accurately show any changes or

deviations that may have been made from the original plans. If inspection was provided during construction, a copy of the inspector's log and records should also be made available.

C. The town's authorized engineering representative will conduct the inspection and take notes that will be used to make up his report to the Burgess and Commissioners. The report will include the following:

(1) The location of each area inspected (street name, stations, names of intersections, etc.)

(2) The appearance of items inspected and checked. Each of the following items should be checked against the plans and checked for defects in either materials or workmanship.

(a) Roadway surface.
(b) Curbs and gutters.
(c) Shoulders.
(d) Drainage system, including pipes, inlets, headwalls, endwalls, ditches and swales.
(e) Vegetative areas, including topsoil and an acceptable stand of vegetative cover.
(f) Utility construction.

(3) A narrative report detailing any corrections that should be made and recommending either acceptance, acceptance with conditions or rejection of the project.

Chapter 69

STREETS AND SIDEWALKS

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ARTICLE II
Use Restrictions and Regulations

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§ 69-14. (Reserved). [Ordinance 2011-05 10/26/2011]

ARTICLE III
Construction and Maintenance of Sidewalks, Curbs and Gutters

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§ 69-26. Violations and Penalties; Performance of Work by Town.

§ 69-27. Collection of Costs for Town Removal.

§ 69-28. Minimum Charge.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Sections 69-19, 69-24 and 69-26 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Pipes and conduits in public ways - See Charter, §§ C12-2 and C12-3.

Brush, grass and weeds in sidewalk area - See Ch. 13.

Garbage, rubbish and refuse in streets - See Ch. 30.

Littering - See Ch. 36.

Street acceptance procedure - See Ch. 68.

Maintenance of trees - See Ch 77.

ARTICLE I
Definitions

§ 69-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except as hereinafter specifically provided.

SIDEWALK - Any portion of a street between the curbline or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

STREET - Includes public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other thoroughfares in the town, and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Burgess and Commissioners.

ARTICLE II
Use Restrictions and Regulations

§ 69-2. Deposit of Items on Streets or Sidewalks.

It shall be unlawful, and subject to §69-28, a $100 fine, for any person to cast, throw, shovel, use a blower or mechanical device, or sweep any snow, trash, refuse, leaves or sweepings into or on any of the streets, public alleys or sidewalks within the corporate limits of the town.[1] [Amended by Ord. 2016-01 03/09/2016]

§ 69-3. Permitting Liquid Substances to Flow Into Streets.

It shall be unlawful for the owner or tenant of any building or lot in the town to permit any wastewater, slop or liquid substance of any kind, except rainwater and water from noncommercial car washing or water from hose, to run or flow from any building or lot into the streets, gutters or sidewalks of the town. It shall be unlawful in business and industrially zoned districts[2] to permit any wastewater, including rainwater, to run or flow from any building across any sidewalk of the town.

1 Editor's Note: See also Ch. 36, Littering.

2 Editor's Note: For designation of zoning districts, see Ch. 88, Zoning, § 88-3, and the Zoning map adopted thereby.

§ 69-4. Obstruction of Streets and Sidewalks.

No person shall place or allow to remain in or upon or over any sidewalk or street within the town any box, crate, barrel, carton, bricks, logs, lumber, lime, cement or other building material, or anything else, which might obstruct the free passage along and upon the sidewalk or street or which may make the street or sidewalk unsightly or dangerous to the public health or safety without first obtaining from the Burgess and Commissioners a permit to place and maintain the obstruction.

§ 69-5. Burning on Streets and Sidewalks.

No person shall burn any paper or other refuse matter or place coal ashes or any waste materials on any sidewalk or street bed of the town.[3]

§ 69-6. Removing or Destroying Street Barricades.

No person shall move, remove, tear down, destroy or carry away any barricade or obstruction that has been placed upon or across any street or sidewalk under or at the direction of the Burgess and Commissioners for the purpose of preventing or regulating traffic on such street or sidewalk.

§ 69-7. Removing or Destroying Signs, Monuments and Markers.

It shall be unlawful for any person to molest, destroy, damage, mutilate or carry away any stake, post, stone or pin, placed in any street or sidewalk for the purpose of indicating the grade thereof, or any lantern, street designation, road marker or any part of any public lamp.

§ 69-8. Display of Banners Across Streets.

It shall be unlawful for any person to permit or cause any sign or board to project over any sidewalk or any flag, banner or any other manner of display to be stretched across any of the streets of the town without first securing a permit therefor from the Burgess and Commissioners.

§ 69-9. Paving Over Certain Areas Prohibited; Advertising on Sidewalks.

It shall be unlawful for any person, without the permission in writing of the Burgess and Commissioners, to pave or cover with any material any parking space or the space between the sidewalk and curb, or any part thereof, or place upon any sidewalk in any manner whatever any letters or advertising device.

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3 Editor's Note: For restriction of open burning generally, see Ch. 5, Air Pollution, § 5-2.

§ 69-10. Obstruction to View at Intersections.[4]

As an aid to freer and safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians and operators of vehicles and for property, for proposed construction hereafter:

A. There shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and plantings in all districts where front yards are required on corner lots;

B. Such barriers to clear, unobstructed vision at corners of intersecting streets shall be limited to a height of not over three (3) feet above the established elevation of the nearest curb for a distance of at least twenty (20) feet along both the front and side curb lines measured from the point of intersection of the said intersecting curb lines.

C. Within the isosceles triangle formed as required in Subsection B hereof by connecting the ends of the respective twenty-foot distances, all the fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height of not over three (3) feet above the elevation of the curb level at the said intersecting streets.

D. Within the said triangle, the ground elevation of such front yards shall not exceed three (3) feet above the established curb elevation at said intersecting streets.

E. Any barriers to clear unobstructed vision within the said triangle validly existing before the effective date of this Article may be removed by use of the condemnation power provided in the Town Charter[5] or by any other lawful means selected by the Burgess and Commissioners.

§ 69-11. Utility Connections and Repairs.

A. All owners of property abutting upon a street, alley or other public way of the town which is about to be constructed, paved or repaved, made, changed or repaired, to which property water, gas and sewer and any and all necessary underground conduits, pipes and connections have not been made, shall lay or place such water, gas, sewer and any and all necessary conduits, pipes and connections within thirty (30) days after having received written notice from the Burgess and Commissioners to do so.

4 Editor's Note: See also Ch. 88, Zoning, § 88-12.

5 Editor's Note: See Charter, § C8-2.

B. All utilities or other installations not owned by the Town of Walkersville which are located in streets, alleys or other public ways are the sole responsibility of the owner to adjust, alter or repair as required by the Burgess and Commissioners for routine street maintenance or improvements to such streets, alleys or other public ways. Such adjustments, alterations or repairs shall be completed within thirty (30) days of receipt of notice unless an extension is granted by the Burgess and Commissioners.

C. Upon failure to comply with the written notice within thirty (30) days from the receipt thereof, the Burgess and Commissioners are hereby authorized and directed to perform such work and charge the cost of the same to the property owners. Such costs shall draw interest after thirty (30) days at the rate of one-half of one percent (1/2 of 1%) per month, or fraction thereof, and shall be collectible in the same manner as are other town taxes.

§ 69-12. Bicycling, Skating and Riding Horses on Sidewalks.

A. It shall be unlawful for any person or persons to ride a bicycle or skate upon any sidewalk in any business or industrial district in the town.

B. The provisions of sub-section A shall not apply to any police or law enforcement officer acting in the scope of his duties as a police or law enforcement officer.

C. It shall be unlawful for any person or persons to ride any horse or pony upon any sidewalk in the town.

§ 69-13. Awnings Over Sidewalks Restricted.

It shall be unlawful for the owner or tenant of any building to erect or allow to remain on the building, over any sidewalk, any awning or covering of any description whether movable or immovable, the bottom or lowest part of which is less than seven (7) feet above the sidewalk.

§ 69-14. (Reserved) [by Ordinance 2011-05 10/26/2011]

ARTICLE III
Construction and Maintenance of Sidewalks, Curbs and Gutters

§ 69-15. Layout and Construction of Public Ways.

The Burgess and Commissioners shall have the power:

A. To establish and change from time to time the grade lines, width and construction materials of any public way or part thereof.

B. To grade, lay out, open, extend and make new public ways.

C. To grade, straighten, widen, alter, improve or close any existing public way or part thereof.

D. To pave, surface, repave or resurface any public way or part thereof.

E. To remove any obstructions or items placed in or on any street, sidewalk, public way or part thereof. [Ordinance 2007-11 adopted 06/27/2007]

§ 69-16. Layout and Construction of Sidewalks, Curbs and Gutters.[6]

The Burgess and Commissioners shall have the power:

A. To establish and change from time to time the grade lines, width and construction materials of any sidewalk, curb or gutter, or part thereof.

B. To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter the sidewalks along any public way or part thereof.

C. To install, repair and maintain curbs and/or gutters along any public way or part thereof.

D. To assess the cost of any projects under this section on the abutting property owners in the manner provided in this chapter.

§ 69-17. Maintenance and Responsibility of Abutting Property Owners to Perform Certain Work.

A. Property owners, occupants, or other persons in control of any lots or lands located in Walkersville shall maintain their respective curb, gutter and sidewalk bordering their parcels of land. **[Added by Ord. 99-11 9/8/99]**

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6 **Editor's Note: See also Charter, Art. XI, Public Ways and Sidewalks, and Ch. 68, Street Acceptance Procedures.**

B. The Burgess and Commissioners shall have the power to require and order the owner of any property abutting on any public way to perform any projects under this chapter, at the owner's expense, according to plans and specifications adopted by resolution of the Burgess and Commissioners and on file in the Town office. If, after due notice and hearing, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expenses thereof shall be a lien on the property and shall draw interest after thirty (30) days at the rate of one percent (1%) per month or fraction thereof.

C. An abutting property owner constructing a new building or substantially improving an old building upon his property shall be required, at his own expense, to provide sidewalks, curbs and gutters meeting the plans and specifications adopted by the Burgess and Commissioners; provided, however, that exceptions may be granted in special cases wherein the Burgess and Commissioners determine that the public interest will not be served by requiring strict adherence to the requirements of this section. In no case shall any occupancy permit required by this Code be issued if there has not been compliance with this section.

§ 69-18. Apportionment of Costs of Work Performed.

A. The cost of the work being charged shall be assessed according to the front foot of apportionment or some other equitable basis determined by the Burgess and Commissioners. The town shall contribute to the cost of the curb and gutter an amount determined be resolution by the Burgess and Commissioners, which shall be reviewed as deemed necessary.

B. Payment and installments. Special assessments may be made payable in annual or more frequent installments over such period of time and in such manner as the Burgess and Commissioners may decide.

C. Billing and collection. All special assessments levied under this section shall be billed and collected by the Town Clerk.

§ 69-19. Compliance with Approved Plans for Grading and Other Work Required; Violations and Penalties.[7]

No public way, sidewalk, curb or gutter shall be graded, or the grade changed, nor shall any other work be done with respect thereto except in accordance with the plans and specifications adopted by the Burgess and Commissioners. Any person violating the purposes of this section shall be guilty of a misdemeanor, punishable as provided in the Charter of the Town of Walkersville,[8] and may be required to restore the public way, sidewalk, curb or gutter to its original condition at his own expense.

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7 **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

8 **Editor's Note: See Charter, § C15-4.**

ARTICLE IV
Excavations and Openings

§ 69-20. Permit Required.

Any person desiring to dig up, tear up, destroy or repair any of the streets, alleys or other public ways of the town shall first obtain a written permit from the Burgess and Commissioners to do so. Such permit shall prescribe the situs, manner and duration of excavation.

§ 69-21. Application for Permit; Fee.

A. All applications to dig up, tear up or disturb any street, alley or other public way in the town for the purpose of laying pipes or any kind or repairing the same, or for any purpose whatsoever, shall be in writing. They shall be made in triplicate and submitted to the Superintendent of Public Works. Each of the three (3) applications shall be signed by the person or department seeking the permit. After the permit has been issued, one (1) copy shall be returned to the applicant and two (2) copies shall be retained by the Burgess and Commissioners. Each of the permit applications shall state:

(1) The street, alley or other public way to be dug up or repaired.

(2) The time for which such permit is desired.

(3) The admission of the responsibility of the applicant to the town for the complete restoration of the street, alley or other public way to be dug up, torn up or repaired.

B. A standard fee shall be charged for each permit issued.

§ 69-22. Restoration of surface; indemnity bond.

A. Whenever any person, excluding all departments of the town, shall receive a permit to dig up, tear up or repair any street, alley or other public way in the town, the person receiving such permit shall obligate himself to pay to the town the sum of money equal to the cost of a complete restoration of the street, alley or other public way of the town so dug up, torn up or repaired. Satisfactory restoration of streets, alleys and rights-of-way shall satisfy the above obligation.

B. The Burgess and Commissioners, at their discretion, may require any applicant to furnish a good and sufficient indemnity bond to indemnify the town against loss or any default or negligence of such applicant in the exercise of the activities authorized by any such permit or for any default in payment of the costs of restoration.

§ 69-23. Safety Measures.

Any person, including all officers and employees of the town, who has obtained permission to dig up or disturb any of the streets, alleys or other public ways of the town is required to take all proper measures to assure 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 (1) or more flashers at night at the portion or portions left open and also at every street crossing on the line of work when the same may be left open.

§ 69-24. Violations and Penalties.[9]

It shall be unlawful for any person or the officer or employee of any corporation of the town to violate the terms and conditions of any permit issued pursuant to this Article. Any person convicted of any such violation shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[10]

ARTICLE V
Snow and Ice Removal

§ 69-25. Owner Responsible for Removal; Time Limit for Compliance.

A. All owners and persons in possession of any land or premises situated on any street within the town where sidewalks are laid shall remove the snow or ice therefrom, the entire length thereof, for a width of at least four (4) feet and may deposit the same along the remaining portion of such sidewalk nearest the curb within twenty-four (24) hours after it has ceased falling.
[Amended 2-12-03 by Ordinance 2003-02]

B. Persons may not shovel, blow or place any snow into the streets of the Town, subject to §69-28, a $100 fine.
[Amended by Ord. 2016-02 adopted 03/09/2016]

§ 69-26. Violations and Penalties; Performance of Work by Town.[11]

In the event that any such owner or person in possession shall refuse, fail or neglect to clean and remove the snow and ice from the sidewalk, as provided in this Article, when notified to do so, such owner or person in possession shall be guilty of a misdemeanor and shall be punished as set forth in the Charter.[12] In addition thereto, the town may cause the same to be removed as above specified and charge the cost thereof against the property.

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9 **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

10 **Editor's Note: See Charter, § C15-4.**

11 **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

12 **Editor's Note: See Charter, § C15-4.**

§ 69-27. Collection of Costs for Town Removal.

The cost of any removal of snow or ice incurred by the town pursuant to this Article shall be a debt of the owner of the abutting property and shall become due and payable when the statement thereof is placed in the hands of the Town Clerk. The Town Clerk shall proceed immediately to render a bill therefor in the same manner as town taxes. Any such charge shall be a lien against the abutting property and shall draw interest after thirty (30) days at the rate of one-half of one percent (½ of 1%) per month or fraction thereof until paid.

§ 69-28. Minimum Charge.

There shall be a minimum cost for cleaning and removing snow and ice by the Town of one hundred dollars ($100).
[Amended 2-12-03 by Ordinance 2003-02]

Chapter 71

SUBDIVISION OF LAND

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[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 4-26-72.[1] Sections 71-10 and 71-29 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission – See Ch. 51.
Acceptance of new streets – See Ch. 68.
Water – See Ch. 85.
Zoning – See Ch. 88.

ARTICLE I
General Provisions

§ 71-1. Purpose.

A. In the best interests of the Town of Walkersville and to assist the subdivider in harmonizing his interests with those of the Town of Walkersville, the following regulations are adopted in order that adherence to same will bring results that are beneficial to both parties. It is deemed necessary to establish minimum standards for the design and development of all new subdivisions in order to eliminate piecemeal planning,

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[1] **Editor's Note: the enacting clause for this ordinance reads as follows: "The following regulations for the control of subdivisions are adopted by the Burgess and Commission of the Town of Walkersville, Frederick County, Maryland, under authority granted by Article 66B of the Annotated Code of Maryland, 1971 Edition. These regulations have been prepared and adopted with the purpose of guiding and coordinating the development of land in accordance with present and future needs and to best promote efficiency and economy in the process of development, including, among other things, adequate provisions for traffic, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements."**

ensure sound community growth, assure and safeguard the provisions of quality facilities and to protect the interests of the homeowner, the subdivider and the local government.

B. It shall be the duty of the Walkersville Planning Commission and the Burgess and Commissioners to require that all regulations set forth in this chapter are complied with before giving their approval to subdivisions as defined herein. It is the purpose of this chapter to make regulations and requirements for the platting of land which the Burgess and Commissioners of the Town of Walkersville deem necessary for the health, safety and general welfare of the citizens.

§ 71-2. Jurisdiction.

In accordance with the authority granted b Article 66B of the annotated code of Maryland, 1971 Edition, as amended, this chapter is adopted by the Town of Walkersville, Maryland, to govern the subdivision of all lands within the corporate limits of the town.

§ 71-3. Administration.

A. The following offices of the government of Walkersville are concerned with the administration of this chapter:

(1) The Burgess and Commissioners.[2] The Burgess and Commissioners are vested with the following responsibilities with regard to subdivision control:

(a) Amendment of the regulations of this chapter when found necessary and desirable.

(b) Initiation of appropriate proceedings to enforce the Provisions of this chapter.

(2) The Town Planing and Zoning Commission.[3] The Planning Commission shall administer this chapter and, in furtherance of said authority, shall:

(a) Maintain permanent and current records of this chapter, including amendments thereto.

(b) Receive and file all preliminary plats and final plats, together with applications.

(c) Forward copies of the preliminary plat to other town, County and State offices and agencies for their recommendations and report wherever appropriate.

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[2] **Editor's Note: As originally adopted, "Burgess and Commissioners" was "Town board." During the process of codification, "Town board" was changed to "Burgess and Commissioners" here and throughout the rest of the chapter in conformance with the title of the governing body established in the Charter of the Town of Walkersville' see Charter, Art. I.**

[3] **Editor's Note: See Ch. 51, Planning Commission.**

(d) Receive, file and check all final plats for compliance with regulations.

(e) Make all other determinations required by the regulations herein.

(f) Give preliminary and final approval of all subdivisions submitted.

B. Technical Advisory committee. In order to assist developers in getting information concerning these regulations, the Planning Commission may organize a Technical Advisory committee. The Committee will meet at intervals necessary to enable developers to conveniently contact all departments involved. The developer shall prepare a preliminary plat before meeting with the Committee. The Committee may be composed of staff members of both the Walkersville and County Roads Commissions, State Roads Commission, County Roads Board, County Health Department, Metropolitan Commission, County Soil Conservation Committee and any other department or agency concerned with development.[4]

§ 71-4. Definitions.

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

ALLEYS – A public right-of-way which affords only a secondary means of access to abutting properties.

BLOCK – A tract of land within a subdivision that is entirely bounded by streets or by a combination of streets and public roads, cemeteries, railroad rights-of-way, waterways or corporate boundary lines of the town.

BUILDING SETBACK LINE – A line within a lot or parcel of land, so designated on the plats, between which line and a street no building or structure may be erected.

COMPREHENSIVE PLAN – Also referred to as the "Walkersville Master Development Plan."

COUNTY MASTER HIGHWAY PLAN – The official plan of major roads, highways, streets and other ways adopted by the Frederick County Planning and Zoning Commission and approved by the board of county Commissigners of Frederick County, and as amended in accordance with Article 66B of the Annotated Code of Maryland.

[4] **Editor's Note: This subsection originally was included in former Article V, Definitions (now § 71-4)**

COUNTY PLANS – The officially adopted Master Plans for the comprehensive development of Frederick County, or any part of such plans or any amendments thereto.

CROSSWALK – A public or private right-of-way which cuts through a block and is used exclusively by pedestrians.

DEVELOP – Construct improvements upon approved building lots. [Added 5-23-1990 by Ord. No. 90-2]

DEVELOPER – The owner(s) under legal authority of the owner(s) who undertakes to cause a parcel of land to be designed, subdivided, developed and recorded as a subdivision.

EASEMENT – A grant by a property owner of the use of land for use, construction or maintenance of facilities, utilities, drainage or access without giving up title to the land.

IMPROVEMENTS – Changes and additions to land necessary to prepare it for building development sites or future use, including street paving and curbing, grading, monuments, drainageways, sewer, fire hydrants, water mans, sidewalks and other public works and appurtenances.

LOT – A parcel or portion of land separated from other parcels or portions, either by descriptions, as on a subdivision plat or a recorded survey map, or by metes and bounds, for the purpose of transfer sale, lease or other changes in ownership or use.

LOT, DOUBLE FRONTAGE – A lot extending through the block from one street to another.

MAJOR ARTERIAL - This is the highest order of street or road. This classification of roadway carries the highest volume of traffic through the municipalities and county and does not provide for direct access from homes or commercial development.
[Added 5-13-98 by Ordinance 98-7]

MINOR ARTERIAL - This classification of roadway generally provides for movement of vehicles larger in number than collectors and local roads, with no direct access from homes allowed. This classification of roadway receives volumes of traffic from collectors and provides inter- and intra- county access throughout the municipality and county.
[Added 5-13-98 by Ordinance 98-7]

OUTLOT – A parcel of land within a subdivision which has been included on a preliminary or final plat but is not designated as a buildable lot due to insufficient size and/or frontage or peculiar where necessary for access to adjoining properties or where necessary to provide an appropriate future street pattern.

PERFORMANCE BOND – a surety bond or cash deposit made out to the town in an amount equal to the full cost of the improvements which are required by this chapter, said surety bond or cash deposit being legally sufficient to secure to the town that said improvements will be constructed in accordance with this chapter.

PLANNING COMMISSION – The Planning Commission of the Town of Walkersville, Maryland.[5]

PUBLIC FACILITIES – Roads, parks, sewer and water treatment plants and distribution lines, government office and meeting space, public works shops and yards, flood control and stormwater management measures and other capital improvements required to provide public services. [Added 5-23-1990 b Ord. No. 90-2]

STREET (OR ROAD)– Includes any public highway, thoroughfare, road, street, cul-de-sac or service road. [Amended 5-13-98 by Ordinance 98-7]

STREET, COLLECTOR – This is the highest order of street that could be classified as residential. This class of street is necessary to carry traffic from one neighborhood to another or from the neighborhood to streets connecting to other areas in the community. Direct access to homes is discouraged onto collector road.
[Amended 5-13-98 by Ordinance 98-7]

STREET, LOCAL – The local road or street comprises all facilities not in use of the higher order systems. It is intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood, with the maximum number of homes fronting the street. The local street provides access to land adjacent to the collector network and serves travel over relatively short distances.
[Amended 5-13-98 by Ordinance 98-7]

STREET, PRIVATE - Any street which is under the jurisdiction of an individual, corporation or trustee or any street which is privately owned, established, constructed or maintained.

STREET, SERVICE ROAD – A local access road to provide a means of egress and ingress to a non-residential development for the purpose of limiting access directly onto a collector or arterial roadway.
[Amended 5-13-98 by Ordinance 98-7]

[5] **Editor's Note: see Ch. 51, Planning Commission.**

SUBDIVISION – Any division of land for the purpose, whether immediate or future, of transfer of ownership or building development, or any change in existing street lines, right-of-ways or public easements.[6]

ARTICLE II
General Requirements

§ 71-5. Subdivider must prepare and record plat of subdivision.

From and after the adoption of these regulations, any owner or proprietor of any tract of land located in the territory to which these regulations may apply who creates a subdivision shall cause a plat of such subdivision to be made in accordance with the regulations set forth her in and of Article 66B of the annotated code of Maryland. After having secured the approval thereof by the Burgess and Commissioners, the subdivider shall cause a copy of the said plat to be recorded in the office of the clerk of the court. Any subdivision or portion thereof which may be in process of development but has not had a plat recorded at the time of adoption of these regulations shall also be subject to the requirements and procedures contained herein.

§ 71-6. Approval of plat required.

A. No plat of any subdivision shall be recorded until it shall have been submitted to and approved by the Planning Commission as provided herein. The Planing Commission shall not approve said plat unless it is satisfied that the requirements have been complied with.

B. No plat of any subdivision shall be approved where a portion of that subdivision lies outside the municipal boundaries. A developer r must secure annexation of that portion of the subdivision lying outside the municipal boundaries.

§ 71-7. Rate of development to be determined by Burgess and Commissioners.

The Burgess and Commissioners reserve the right to determine the rate of development based upon other economic factors and the availability of water and sewer for the development.

§ 71-8. Land outside town limits must be annexed before approval.

Any subdivision having a part of its platted land outside the corporate limits cannot have the part approved by the Walkersville Planning Commissions unless that land is annexed by the town.

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[6] **Editor's Note: See Ch. 88, Zoning**

§ 71-9. Final plat required prior to sale of lot or issuance of zoning certificate.

No lot in a subdivision created after the adoption of these regulations shall be transferred, sold or offered for sale, not shall a zoning certificate be issued for a structure thereon, until a final plat of such subdivision shall have been recorded in accordance with these regulations.

§ 71-10. Violations and penalties.[7]

Any subdivider who violates these regulations shall be subject to the penalties prescribed in Article 66B of the Annotated Code of Maryland, which penalties are as follows: Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells, or agrees to sell or negotiates to sell, any land by reference to or exhibition of or by other use of a plat of a Commission and recorded or filed in the office of the appropriate County clerk shall forfeit and pay a civil penalty of not less that two hundred dollars ($200.) and not more than one thousand dollars ($1,000.), in the discretion of the court, for each lot or parcel so transferring shall not exempt the transaction from the penalties or from the remedies herein provided. The municipal corporation may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the said penalty be civil action in any court of competent jurisdiction.

§ 71-11. Stricter standards shall apply in case of discrepancy.

Whenever there is a discrepancy between the minimum standards or dimensions noted herein and those contained in the Zoning Ordinance[8] or other official regulations of Walkersville, Frederick County, or other governmental agencies, the more severe standards shall apply.

ARTICLE III
Procedure

§ 71-12. Compliance with minimum requirements.

In planning and developing a subdivision, the subdivider or his agent shall comply with the general principles of design and minimum requirements for the lay out of subdivisions set forth in Article IV with the regulations concerning improvements as set forth in Article V of these regulations, with Chapter 90 of this Code and with the Walkersville Design Manual, and in every case he shall observe the following procedure:
[Amended 5-13-98 by Ordinance 98-8 and 2-27-02 by Ordinance 2001-11]

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[7] **Editor's Note: Amended at time of adoption of Code, see Ch. 1, General Provisions, Art. I.**
[8] **Editor's Note: See Ch. 88 Zoning.**

§ 71-12-1. Addition Plat required.

A. Whenever the owner of a lot or parcel wishes to add land to an existing parcel from an adjoining lot or parcel, or consolidate several lots or parcels into one, the owner shall be required to submit an Addition Plat of review and approval by the Walkersville Planning Commission. No addition plat shall be approved unless (1) the newly created lot or parcel is in conformity with all zoning and subdivision regulations, and (2) no violation of any zoning or subdivision regulation is caused or created relative to the remaining or any other lot or parcel.

B. The owner shall prepare an Addition Plat in conformance with the requirements set forth in Article VI of Chapter 71 and submit 10 copies of the plat to the Zoning Administrator to be processed for review by the Planning Commission. The plat will be reviewed for conformity with the Comprehensive Plan, the town Zoning Ordinance and other applicable provisions and the principles, standards and requirements herein set forth.

C. At a regular meeting, the Planning Commission shall either approve, approve subject to specific changes, modifications or conditions, disapprove or continue the addition plat for a specified period of time. If the Planning Commission continues consideration of an addition plat, it may do so for the purposes of obtaining additional information from the subdivider or its staff or to allow for issues to be addressed by the subdivider at the Planning Commission's direction. If approved, the owner shall file an original mylar plus three (3) copies with the Zoning Administrator to be recorded with the clerk of the court of Frederick County. Approval of the addition plat by the Planning Commission shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on said plat. [Amended 7-1-97 by Ord.No. 97-3 **and 3-8-00 by Ord.No. 2000-01**]

§ 71-13. Submission of preliminary plat for approval.

A. The subdivider shall prepare a preliminary plat of the proposed Subdivision conforming with the requirements set forth in Article VI. At least thirty (30) days prior to a regularly scheduled meeting of the Planning Commission, the plat, along with five (5) black line or similar prints of the plat, shall be filed with the Planning commission. However, if a state road is involved, three (3) additional prints shall be provided.

B. In case any of the proposed subdivision is located within the jurisdiction of Frederick County, an additional two (2) copies of the preliminary plat shall be filed. The Planning Commission shall transmit these additional copies to the appropriate authorities for action.

C. The preliminary plat will be checked as to its conformity with the Comprehensive Plan, the Town Zoning Ordinance[9] and other applicable provisions and the principles, standards and requirements hereinafter set forth. Copies will be referred to any other county or state officials who may be concerned with public improvements or health requirements.

D. At its regular meeting, the Planning Commission shall either approve, approve subject to specific changes, modifications or conditions, disapprove or continue the preliminary plat (or an extension of the preliminary plan as provided in paragraph F. below) for a specified period of time. If the Planning Commission continues consideration of a preliminary plat, it may do so for the purposes of obtaining additional information from the subdivider or its staff or to allow for issues to be addressed by the subdivider at the Planning Commission's direction. Reasons for disapproval of a plan will be noted on the plan or by letter from the Planning Commission to the subdivider. However, the Planning Commission's disapproval shall be deemed final on the date of the Planning Commission's meeting. No plat shall be approved that is in conflict with these subdivision regulations or the town Zoning Ordinance or with any part of an officially adopted feature of the Town Comprehensive Development Plan. **[Amended by Ord. 2000-02 6/14/00**] After a preliminary plan has been approved without changes, modifications and/or conditions or approved with changes, modifications and/or conditions verified by the Zoning Administrator and signed by the Planning Commission Chairman in accordance with §71-13 F. below, any subsequent changes or modifications to the approved preliminary plan or the approved improvement plans associated therewith (unless determined by the Zoning Administrator, in his/her discretion, to be minor in nature and approvable by the Zoning Administrator without a public meeting before the Planning Commission), shall require resubmission of the preliminary plan to the Planning Commission as a new submission and the Planning Commission shall review the entire resubmitted preliminary plan as a new submission.
[**Added 4-25-01 by Ord. 2001-04]**

E. The Burgess and Commissioners and the developer shall arrive at a written understanding concerning the provisions of water and sewer services, plus any other public improvements contemplated or required by the approved preliminary plan in the form of a note placed upon the preliminary plan. The final terms, conditions and requirements imposed by the Burgess and Commissioners on the provisions and/or installation and construction of such

[9] **Editor's Note: See Ch. 88, Zoning.**

public improvements shall be memorialized and contained within a Public Works Agreement (and irrevocable Letter of Credit where applicable) between the Burgess and Commissioners (on a form approved and provided by the Burgess and Commissioners) and the owner and the developer of the property subject to the approved preliminary plan at the time of final plat approval in accordance with §71-16 and §71-16.1 of these subdivision regulations. Public improvements shall be designed in accordance with the approved preliminary plan and the standards set forth in the Walkersville Design Manual.
[Amended by Ord. 2000-02 6/14/00]
[**Added 4-25-01 by Ord. 2001-04]**

F. Preliminary plat approval not subject to changes, modifications or conditions under §71-13 D. above, shall be effective for a period of two years after signature of the Planing Commission Chairman, but may be extended one time only for a period not to exceed one (1) year upon request by the developer at the discretion of the Planning Commission. If the Planning Commission conditionally approves a preliminary plan subject to changes, modifications or conditions under §71-13 D., said changes, modifications or conditions must be completed, satisfied and resubmitted to the Planning Commission in sufficient time for the preliminary plan to be reviewed by the Zoning Administrator for verification of the completion and satisfaction of such changes, modifications and/or conditions and to be signed by the Planning Commission Chairman within sixty (60) days of the Planning Commission meeting when it received conditional approval or the conditional approval is no longer valid and the preliminary plan must be resubmitted to the Planning Commission as a new submission. A preliminary plan conditionally approved with changes, modifications and/or conditions and subsequently verified by the zoning Administrator and signed by the Chairman of the Planning Commission in accordance with this §71-13 F., shall be effective for a period of two (2) years after signature of the Planning Commission Chairman, but may be extended one time only for a period not to exceed one year upon request by the developer at the discretion of the Planning Commission.
[Amended 4-23-97 by Ord. No. 97-2]
[**Added 4-25-01 by Ord. 2001-04]**

G. Any subsequent change(s) and/or modification(s) in the unconditionally approved preliminary plan or in the improvement plans associated therewith (other than minor changes as determined in the discretion of the Zoning Administrator as approvable by the Zoning Administrator without requiring a public meeting before the Planning Commission), which require resubmission and approval by the Planning Commission shall be effective and approved for a period of two (2) years from the date of signature by the Chairman of the Planning Commission unless based upon the facts, circumstances and justification for the changes

and/or modifications, a shorter approval period is determined appropriate in the discretion of the Planning Commission. The approval period may be extended one time only for a period not to exceed one (1) year upon request by the developer at the discretion of the Planning Commission. [Added 4-25-01 by Ord. 2001-04]

H. In case any of the proposed subdivision is located within the Wellhead Protection District as shown on the Zoning Map, the subdivider shall comply with the supplemental provisions and requirements of Chapter 90 of the Town Code. [Added 2-27-02 by Ord. 2001-11]

§ 71-14. Submission of plans for installation of improvement.

Upon approval of the preliminary plat, the subdivider shall prepare and submit to the Planning Commission, plans for the installation of improvements in accordance with the requirements of Article IV of these regulations and Chapter 90 of the Town Code. All such improvements shall be designed in compliance with the approved preliminary plan and to the standards, plans and specifications set forth in these regulations and the Walkersville Design Manual and Chapter 90 of the Town Code. Copies of such improvement plans will be referred by the Planning Commission to the appropriate town, county and state officials for checking and approval, subject to such changes or conditions as in their judgment may be required. Improvement plan approval shall be effective for a period of one (1) year after signature by the Planning Commission Chairman. Projects must be under construction before said expiration date to be considered valid. Projects that are not under construction within one year of signature must be resubmitted for Planning Commission approval. **[Amended by Ord. 2001-11 2-27-02**]

§ 71-15. Submission of final plat for approval; recording.

A. The final plat shall conform substantially to the preliminary plat as approved and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.

B. Any large deviations from the preliminary plat that were not approved previously must be resubmitted for their approval.

C. The subdivider shall file with the Planning Commission, at least two (2) weeks prior to its regular meeting, a final plat drawn with ink or transparent linen for signature and ultimately, five (5) black line linen prints of the final plat and five (5) paper prints of the final plat, to be distributed as follows:

(1) Five (5) linen or Mylar prints:
   (a) Three (3) to County Clerk.
   (b) One (1) to Town Office.
   (c) One (1) to Town Planning Commission.

(2) Five (5) paper prints:
   (a) One (1) to Town Office.
   (b) One (1) to Town Planning Commission.
   (c) One (1) to State Roads Commission.
   (d) One (1) to County Health Department.
   (e) One (1) to County Planning Commission.

D. If it is found by the Planning Commission that the final plat is in cgnformance with all applicable regulations, it shall approve the plat and obtain the signature of the Planning Commission chairman on the plat. The signature shall mean that the town is satisfied that the requirements of these regulations have been complied with. Reasons for the disapproval of any plat shall be stated upon the records of the Planning Commission.

E. Recording final plat. If approved, the developer shall then file two (2) black line linen prints with the Clerk of the Court of Frederick County and shall distribute the other prints as listed in Subsection C. Approval of the final plat by the Planning Commission shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on said plat.

§ 71-16. Guaranty of Improvements.

In the event that a subdivider is required to install public improvements in any subdivision, installation of the required public improvements shall ordinarily be a condition precedent to final approval of the plat. In lieu of the completion of the required public improvements prior to final approval of the plat, the Burgess and Commissioners may accept an irrevocable letter of credit from a lending institution guaranteeing payment for the installation of all public improvements associated with the development.

Prior to final plat approval by the Walkersville Planning Commission, the subdivider shall furnish to the Burgess and Commissioners one or a combination of both of the following:

A. Satisfactory completion of public improvements in the area covered by the final plat submission such as are acceptable to the Burgess and Commissioners.

B. Public works agreement and an irrevocable letter of credit in an amount, form, duration and upon such other terms and conditions as may be approved by the Burgess and Commissioners.

[Amended by Ord. 2000-02 6/14/00]

§ 71-16.1 Public Works Agreement

The Public Works Agreement for public improvements shall be as follows:

A. The subdivider shall enter into a Public Works Agreement with the Burgess and Commissioners to provide for the financial security for payment and the timely completion of the public improvements by the subdivider.

B. The subdivider may not enter into a Public Works Agreement unless the preliminary plan and improvement plan approvals have been granted by the Planning Commission.

C. By the Public Works Agreement, the Burgess and Commissioners may accept an irrevocable letter of credit from a lending institution guaranteeing payment for the installation of all public improvements associated with the development as shown on the approved preliminary plan and improvement plans. The Burgess and Commissioners shall review and determine the lending institution, form, amount and duration of the proposed irrevocable letter of credit.
[§71-16.1 added by Ord. 2000-02 6/14/00]

§ 71-17. Approval of final plat required prior to sale of lots.

No lot shall be sold and no zoning certificate shall be issued until a final plat of such subdivision shall have been approved and recorded in accord with these regulations and provisions of the State Code.

§ 71-18. Completion of improvements required prior to new building development.

In any instance where newly provided public improvements are necessary to serve or provide access to new building development, these improvements must be completed or a satisfactory financial and performance guarantee of completion must be submitted by the subdivider prior to the issuance of any zoning certificate for such building development.

The subdivider shall complete the improvements within the time noted in the approved Public Works Agreement, time being of the essence, or the Zoning Administrator shall withhold the issuance of all building permits or Use and Occupancy permits until the completion of at least the water and sewer house connections, major drainage facilities and the base course of the streets serving the affected lots within the new building development.
[Amended by Ord. 2000-02 6/14/00]

§ 71-19. Acceptance of land dedicated to public use.

Upon completion, satisfactory to the Burgess and Commissioners, of the public improvements required in Article V, the elected officials shall accept, by duly executed deed, the land dedicated to public use and the improvements thereon.

ARTICLE IV
Design Standards

§ 71-20. Standards intended as minimum requirements.

The standards of design herein contained are intended only as minimum requirements, and the developer should use standards consistent with the site conditions so as to assure a high-quality, pleasant and durable neighborhood. All subdivisions shall conform to the official Walkersville Plan. All subdivisions located partially or entirely in the Wellhead Protection Area shall comply with and conform to Chapter 90 of the Town Code.
[Amended 2-27-02 by Ord. 2001-11]

§ 71-21. Improvements of adverse physical conditions; performance bond.

The subdivision of land subject to flooding by a one-hundred (100) year storm or less as determined by the standards set by the Maryland Department of Geology and Mines or its successor, will not be approved. A plat of a proposed subdivision located in an area having poor drainage or other adverse physical conditions may be approved, provided that the subdivider agrees to make such improvements as, in the judgment of the Burgess and Commissioners, render the subdivision substantially safe and otherwise acceptable for residential use and furnishes a performance bond or gives other guaranty, satisfactory to the Burgess and Commissioners, sufficient to cover the cost of such improvements as estimated by the officials having jurisdiction.
[Amended 3-17-1992 by Ord. No 92-2]

§ 71-22. Streets - General Requirements.

A. The arrangement, character, extent, width, grade and location of all streets shall conform to a plan for the most safe and advantageous development of adjoining areas and the entire neighborhood consistent with the requirements found in the Walkersville Design Manual.
[Amended 5-13-98 by Ordinance 98-9]

B. All streets shall be considered in their relation to:

(1) Existing and planned streets.

(2) Topographical conditions.

(3) Public conveniences and safety.

(4) Uses of the land.

C. Where such is not shown on the Master Plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets; or

(2) 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 street impracticable.

D. Where a subdivision abuts or contains and existing or proposed highway, primary thoroughfare or other disadvantageous use, the Commission may impose requirements concerning streets, access drives, service drives, reverse frontage lots or any other such requirements as may be necessary to ensure the character of the neighborhood.

E. Half-width Streets. Subdivisions adjoining dedicated, reserved or platted and recorded half-width streets or alleys shall dedicate or reserve an additional right-of-way width sufficient to bring the overall street to the width requirements found in the Walkersville Design Manual. [Repealed and added 5-13-98 by Ordinance 98-9]

F. All streets shall be designed and constructed in accordance with the regulations found in the Walkersville Design Manual. [Repealed and added 5-13-98 by Ordinance 98-9]

G. Private Streets, Residential Subdivisions. Private streets will not be approved in residential-zoned subdivisions. This condition will be noted on the final plat. Common driveways leading to individual lots or driveways leading to common parking areas, such as in a multifamily residential project, shall not be considered streets. [Ordinance 2012-01, 2/22/2012]

H. Street Names. Street names shall be subject to approval by the Planning Commission. Names shall not duplicate or closely approximate existing street names in the town, except for the extension of existing streets.
[Repealed and added 5-13-98 by Ordinance 98-9]

I. Blocks. The lengths, widths and shapes of blocks shall be determined with due regard to: (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated, (2) Need for convenient access, circulation, control and safety of street traffic, and (3) Limitation and opportunities of topography and shall not exceed the lengths stipulated in the Walkersville Design Manual. [Repealed and added 5-13-98 by Ordinance 98-9]

J. Street Lights. Streetlights shall be designed and installed in accordance with the requirements of the Walkersville Design Manual. [Repealed and added 5-13-98 by Ordinance 98-9]

K. Spacing. Streets shall be spaced to allow for blocks meeting the dimensional requirements specified herein. The number of intersections along highways and other major roads shall be held to a minimum, normally spaced as indicated in Subsection L. below.

L. Minimize interference with through traffic. Land abutting the highways and principal collectors, as designated by the town's Major Streets Plan, should be platted with the view of making the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic upon them and by minimizing interference with traffic on such highways, roads and streets, as well as accident hazards from all kinds of subdivision. This may be done:

(1) By backing the lots upon the highway so that they front on and have access from a parallel minor street one-half (½) block away.

(2) By arranging the lots around a series of loop streets or dead-end streets stemming from a collector street. Such loops or dead ends shall be one (1) depth away from the highway.

The choice between the foregoing or other methods for accomplishing the desired purpose in a specific case must necessarily be made in consideration of topography and other physical conditions, the character of existing and contemplated developments and other pertinent factors. In all cases, the minimum distance between street connections on major collectors and access streets shall be five hundred (500) feet.

M. Outlots. Outlots shall be provided where necessary for access to adjoining properties or where necessary to provide an appropriate future street pattern.

N. Private Streets, Commercial and Industrial. Private streets may be approved by the Town Burgess and Commissioners in a Commercial or Industrial zoned development only under the following conditions which must be satisfied in the judgment of the Burgess and Commissioners prior to their approval.

(1) The streets are designed in accordance with Town Design Standards for public roads.

(2) A Property Owners' Association is formed and is adequately capitalized to establish responsibility for and to perform the maintenance of the private streets to Town standards within the development in perpetuity;

(3) The developer provides a written certification from a Certified Public Accountant and/or other duly qualified financial expert selected by the Town at the developer's expense, that the capitalization of the Property Owners' Association is adequate to sustain the performance of such maintenance in perpetuity; and

(4) The subdivision is otherwise approved by the Planning Commission in accordance with this Chapter. The required written certification as to capitalization shall be provided to the Burgess and Commissioners together with a copy of all proposed Property Owners' Association documents for the development prior to the consideration of any improvement plans by the Planning Commission. As part of its consideration of a request from a developer for approval to construct private streets in a Commercial or Industrial zoned development project, the Burgess and Commissioners will review (or have reviewed on its behalf) the Property Owners' Association documents in regard to provisions affecting the proposed private street maintenance and capitalization. [Ordinance 2012-01, 2/22/2012]

O. Street names. Street names shall be subject to approval by the Planning Commission. Name shall not duplicate or closely approximate existing street names in the town, except for the extension of existing streets.

P. Right-of-way width: pavement width. Minimum widths for the right-of-way of streets, alleys and easements shall be as follows (extra widths may be required where necessary):

	Right –of-Way (feet)	Pavements (feet)
Collector streets	60	34
Local access		
Single-family	50	32
Multifamily, commercial and industrial	60	32
Service roads	40	24
Culs-de-sac	50 (radius)	40 (radius)
Alleys	20	----
Crosswalks	10	5
Easements (utility)	6	----
Easements (drainage)	What the Burgess and Commissioners feel are necessary	

Q. Curbs, gutters and sidewalks. These shall be provided in residential subdivisions where the average lot width is one hundred

(100) feet or less and in front of all nonresidential lots. The face of the curb shall be located on the line of the outside edge of the required pavement. The construction of these facilities shall be in conformity with the specifications and standards as may hereafter be adopted by the town.[10]

R. Intersections.

(1) Street intersections shall be as nearly at right angles as is possible and shall not be less than sixty degrees (60º) in any case.

Requirements for intersection with state roads shall not be less than seventy degrees (70º) nor greater than one hundred ten degrees (110º). The block corner of street intersections with county or state highways shall be rounded on the right-of-way line with a curve having a radius of not less than twenty-five (25) feet. At minor residential street intersections, the minimum radius shall be not less than twenty (20) feet.

(2) Curbs at street intersections shall be rounded off centrically with the property line. At street intersections with state highways, the street curb or edges of paving shall be rounded off by an arc, the minimum radius of which shall be thirty (30) feet. A street intersection with the state highway will be subject to the rules and regulations of the Maryland State Roads Commission

(3) Intersections of more than two (2) streets at a point shall be prohibited.

§ 71-23. Reserved for future use.
[Repealed 5-13-98 by Ordinance 98-9]

§ 71-24. Building lines.

Building lines shall be shown on the plat along each street as required in each case by the applicable zoning regulations.[11] The locations of these lines shall be clearly indicated by dimensions.

§ 71-25. Easements.

A. Easements shall be provided for utilities on all lot lines other than those abutting a street right-of-way line and shall be

[10] **Editor's Note: See Ch. 69, Streets and Sidewalks, Art. III, Construction and Maintenance of Sidewalks, Curbs and Gutters.**
[11] **Editor's Note: For the required from yard depth (building line) in the various zoning districts, see Ch. 88, Zoning, §§ 88-32, 88-49 and 88-53.**

centered on rear or side lot lines. Such easements shall be designed to provide continuity from block to block.

B. An easement running along the property line shall be a minimum of six (6) feet in width on each side of the line.

C. Where a subdivision is traversed or borders a stream or watercourse, there shall be provided a stormwater easement or drainage right-of-way, not less than twenty (20) feet wide, dedicated to the Town of Walkersville.

§ 71-26. Lots.

A. Lots shall be of such size, shape and orientation as will be appropriate for the location and for the type of development contemplated. Excessive depths in relation to widths should be avoided.

B. Residential lots shall comply with at least the minimum size area requirements of the zoning district in which located, except as otherwise approved by the Burgess and Commissioners as described in Chapter 53, Planned Unit Development.[12]

C. Corner lots shall have widths sufficient to meet the yard requirements of such lots in the Zoning Ordinance.[13]

D. All lot measurements shall be net measurements, not including nay part of any street, alley or crosswalk. Easements, however, shall be regarded as within the lot.

E. Where unusual sol conditions or other physical factors exist which may impair the health and safety of the residents of the neighborhood in which a subdivision may be located, the Burgess and Commissioners may increase lot area requirements.

F. Excessive depth in relation to width shall be avoided. A proportion of two and one-half (2½) in depth to one (1) in width shall normally be considered as a desirable maximum.

G. Outlots. Outlots shall be provided where necessary for access to adjoining properties or where necessary to provide an appropriate future street pattern.
[Added 5-13-98 by Ordinance 98-9]

H. Minimize interference with through traffic. Land abutting the

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[12] **Editor's Note: The original reference was to Article XI, Planned Unit Development, of this ordinance. That Article was revised and set up in a separate chapter during codification. Chapter 53 has since been repealed.**
[13] **Editor's Note: See Ch. 88, Zoning, §§ 88-32, 88-49 and 88-53.**

highways and principal collectors, as designated by the Town's Comprehensive Plan, should be platted with the view of making the lots, if for residential use desirable for such use by cushioning the impact of heavy traffic upon them and by minimizing interference with traffic on such highways, roads and streets, as well as accident hazards from all kinds of subdivisions. [Added 5-13-98 by Ordinance 98-9]

§ 71-27. Provision for future resubdivision.

Whenever the area is divided into lots larger than ordinarily used in the area for building purposes and there is reason to believe that such lots will eventually be re-subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional local streets can be opened which will permit a logical arrangement of smaller lots. Easements or deeds providing for the present or future opening and extension of such streets may, at the discretion of the Planning Commission, be made a condition of the approval of the plat.
[Amended 5-13-98 by Ordinance 98-9]

§ 71-28. Proposed public sites to be indicated on plat.

Where a proposed park, playground, school or other public use shown on the Comprehensive Plan for Walkersville is located in whole or in part of a subdivision, such sites shall be indicated on the subdivision plat. School, park and other public sites are to be reserved and negotiated within one(1) year of the recording date of the subdivision.

§ 71-29. Required reservation of land for open space [Ordinance 2014-01, adopted 5/28/2014]

A. A minimum percentage of the entire tract of land will be reserved as open space in all new residential subdivisions, in accordance with the zoning district in which the property is located:

Zoning District	Percentage of land reserved as open space
R-1	15%
R-2	20%
R-3	25%
R-4	See §88-32B. 1., §88-32B. 4., See §88-32C.4.

B. Open space may consist of the following: recreation areas; Forest Resource areas; walking paths; buffers; stormwater management areas; floodplains, steep slopes and other unbuildable areas.

C. The design of Open Space shall conform to the standards and specifications found in the Walkersville Design Manual, as adopted at the time of preliminary plan submittal.

ARTICLE V
Improvements

§ 71-30. Compliance with standards and specifications required.

All improvements in a subdivision shall conform to the standards and specifications found in the Walkersville Design Manual and other requirements which may be adopted by the Town or Frederick County, or by such other governmental agencies which may have jurisdiction over each facility, as stipulated below, including but not limited to Chapter 90 of the Town Code for subdivisions located partially or entirely within the Wellhead Protection Area. Nothing, however, shall be construed as prohibiting a subdivider from installing improvements of a higher type than the minimum required herein. [Amended 2-27-02 by Ordinance 2001-11]

§ 71-31. Minimum requirements.

A. General.

(1) All subdivisions will have curbs and gutters in accordance with the Walkersville Design Manual. [Amended 5-13-98 by Ordinance 98-10]

(2) The developer will provide all storm drains necessary to give adequate drainage within the subdivision in accordance with the Walkersville Design Manual.
[Amended 5-13-98 by Ordinance 98-10]

(3) All water and sewer lines in the development will be installed by the developer to the town's specifications. All taps shall be made by the town, and the regular tap fees currently in force shall be imposed.[14]

(4) All engineering services necessary for the installation of streets, curb and gutter of the water and sewer will be provided by the developer with the approval of the town.

(5) All new streets shall be graded and drained, base material applied, curb and gutter constructed, surface treatment applied and utilities installed, all in accordance with the standards of design and construction found in the Walkersville Design Manual. Existing roads and streets within a proposed subdivision, excluding highways, that do not meet these specifications as to width or construction shall be brought up to standards. [Amended 5-13-98 by Ordinance 98-10]

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[14] **Editor's Note: See Ch. 85, Water, Art. II, Service Rates and Rules.**

B. Water facilities. Every subdivision shall be provided with a community water supply and distribution system, including a connection for each lot and appropriately spaced fire hydrants in accordance with the standards of design and construction found in the Walkersville Design Manual.. The source of supply shall be the municipal water system.[15]
[Amended 5-13-98 by Ordinance 98-10]

C. Sewer facilities. Every subdivision shall be provided with a complete sanitary sewer system connected to the municipal system. When connected to the municipal system, it shall be constructed to meet the standards and requirements of such system and shall become a part thereof.

D. Drainage. Every subdivision shall be provided with storm drains, culverts, drainage ways or other works adequate to collect and dispose of all water originating on or flowing across the property without inundating or damaging roads, lots or other properties. The construction of these facilities shall be in conformity with the standards and specifications found in the Walkersville Design Manual. The Town Engineer shall view the plans of those facilities that may be within his jurisdiction and give his recommendations to the Burgess and Commissioners.
[Amended 5-13-98 by Ordinance 98-10]

E. Topsoil. Topsoil shall not be removed from residential lots or used as spoil but shall be redistributed to its former depth, and, in all cases, good soil conservation practices shall be used to prevent soil erosion and siltation during and after subdivision developments.[16]

F. Street signs. A street name sign shall be erected by the Town at each new street or road intersection at the developer's expense.
[Amended 5-13-98 by Ordinance 98-10]

G. Monuments and pipes. Permanent monuments shall be placed as required for markers in the Annotated Code of Maryland. After the grading is completed, the subdivider must see that monuments are at proper locations. Iron pipes shall be set along the property line of all streets and roads at points of intersection, curvature or tangency and at such points along the subdivision boundaries as are not already marked by monuments.

H. Street lighting. Provisions of lighting shall be done in accordance with the standards and specifications found in the Walkersville Design Manual.
[Amended 5-13-98 by Ordinance 98-10]

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[15] **Editor's Note: See Ch. 85, Water**
[16] **Editor's Note: See Ch. 73, Grading, Erosion and Sediment Control.**

I. All subdivisions located partially or entirely within the Wellhead Protection Area shall prepare and submit with the Preliminary Plan a Phase I Application and Phase I Checklist and where applicable, a Phase II Investigation Program, and perform and submit a Site Investigation Study and Site Investigation Report.

§ 71-32. Improvement plans. [Amended 3-13-85]

Plans for the foregoing improvements shall be prepared by a Maryland registered professional engineer for review by the appropriate public authorities prior to construction. An improvement plan review fee of one hundred dollars ($100.) per page is to be paid when the improvement plans are submitted. Such plans shall be sufficient to show the proposed location, size, type, grades and design features of each facility in accordance with the specifications and standards found in the Walkersville Design Manual.
[Amended 5-13-98 by Ordinance 98-10]

§ 71-33. Inspection and acceptance of improvements.

A. All construction work on improvements required herein shall be subject to inspection during and upon completion of construction by an authorized engineering representative of the town. Approval and acceptance shall be made by the Burgess and Commissioners if found to be in accordance with the approved plan.
[Amended 5-13-98 by Ordinance 98-10]

ARTICLE VI
Plat Requirements

§ 71-34. Preliminary plat.

The preliminary plat of the proposed subdivision shall comply with the following requirements and shall contain the following information:

A. General style and form.

(1) Provide information. It shall provide all the pertinent information as to existing site conditions, property ownership and the like that may be necessary for the Planning Commission and Burgess and Commissioners to properly consider the proposed subdivision. This information shall be accurate and reliable.

(2) Show plan of development. It shall show the general plan of ultimate development for the property, covering the entire tract of land or so much of it as may be considered to be necessary for an adequate consideration of the part to be subdivided. This information should be drawn to scale.

(3) Drawing material. It may be drawn in pencil or ink in a reproducible material and shall be at a scale no smaller than one (1) inch equals one hundred (100) feet.

(4) Include key map. It shall include a small-scale key map showing the location of the property and its relation to other known major subdivisions, roads, streams, etc.

(5) Title information. It shall include:

(a) The proposed subdivision name, which name shall not duplicate nor closely approximate the name of any other subdivision in the county.

(b) The names and addresses of the owner, subdivider or developer and the designer, surveyor or engineer.

(c) A description of the subdivision location by streets, tract, political subdivision, etc.

(d) The scale, North point and date.

B. Information as to existing physical conditions.

(1) Boundaries: boundaries, in heavy outline, of the land being subdivided and the acreage therein.

(2) Topography: topographic contours at five-foot intervals. Contours shall extend one hundred (100) feet beyond the subdivision boundary, except across a public road.

(3) Physical features: watercourses, wooded areas, buildings, transmission lines, pipe lines, other utilities, bridges and any other significant physical items, with the sizes and grades of any water or sewer lines.

(4) Streets and roads: locations, widths and names of all existing roads, streets alleys or other public ways within or adjoining the subdivision or intersecting any street that bounds it, including those recorded but unimproved (shown by dotted lines); railroad, utility or other rights-of-way or easements; parks and other public spaces; subdivisions, lots and property lines; corporate lines; and the locations and outlines or permanent buildings.

C. Information as to proposed development.

(1) Street pattern: layout, widths and center lines of proposed roads, streets, alleys, crosswalks and easements.

(2) Lots: layout, numbering and dimensions of proposed lots or parcels.

(3) Open spaces: parcels of land intended to be conveyed or temporarily reserved for public use or for the joint use of property owners, with an explanation of the provisions or conditions of such conveyance or reservation and the proposed arrangements for ownership and maintenance.

(4) Street grades: tentative grades on each street.

(5) Utilities: locations for utilities and drainage facilities, with six-foot easements for same on each side of rear and side property lines.

(6) Building setback: proposed building lines along all streets, with the amount of setback indicated.

(7) Proposed zoning change: proposed uses of property and any proposed zoning changes.

§ 71-35. Final plat.

The final plat of the subdivision shall comply with the following requirements and shall contain the following information:

A. General style and form.

(1) Drawing. It shall be legibly and accurately drawn on tracing linen or Mylar sheets no larger than twenty by twenty-four (20 x 24) inches in size and at a scale of one (1) inch to fifty (50) feet or one (1) inch to one hundred (100) feet, depending upon the size and nature of the subdivision. If more space is needed, additional sheets may be used.

(2) Meet platting requirements. It shall conform in all respects to the requirements of Article 17, § 59, of the Annotated Code of Maryland,[17] which relates to the making, fling and recording of plats. Among other things, the Article above requires that plats for recording must be surveyed and certified by a registered surveyor.

(3) Title information:

(a) The subdivision name.

(b) The location by election district, city or county and state.

(c) The names and addresses of the owners of record, the subdivider and the engineer or surveyor.

(d) The scale, date and North point.

B. Graphic information.

(1) Boundaries: the exact boundaries of the area included within the subdivision, with dimensions to hundredths of a foot and bearing to half minutes. These boundaries shall be determined by an accurate survey in the field, which shall be balanced and closed with an error of closure not to exceed one (1) in five thousand (5,000).

(2) Bearings and distances: bearings and distances to the nearest recorded property corners or other monuments, which shall be located or accurately described on the plat.

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[17] **Editor's Note: this section has been repealed by Acts 1972, Ch. 349, §1, effective January 1, 1973. For provisions similar to those of the repealed section, see Art. 21, §3-108, of the Annotated Code of Maryland.**

(3) Monuments: the accurate locations and descriptions of all permanent monuments.

(a) Where applicable and feasible, the coordinates of all permanent markers or monuments should be based on the Maryland Coordinate System (Lambert Conformal Conic Project, adopted by Act of General Assembly 1939, Chapter 628).

(b) Markers shall be placed at all points of curvature along the street line, at all angle breaks and at all lot corners not already monumented. Markers shall be steel bars or iron pipes at least five-eighths (⅝) inch in diameter and eighteen (18) inches long. [Added 6-11-86]

(c) It shall be the responsibility or the developer to have these monuments and markers placed prior to the acceptance of the streets by the Town of Walkersville, and a notation of compliance shall be placed in both the surveyor's and owner's certification and dedication. [Added 6-11-86]

(d) The developer shall be responsible and pay all costs necessary to replace any grid monuments, markers or control points disturbed by his development activities. Replacement shall be done only by a registered surveyor to accurately place such monuments. Such payment to restore any monuments is to be secured by a public works agreement. [Added 6-11-86]

(4) Adjoining owners: the names and locations of adjoining subdivisions and the locations and ownership of adjoining unsubdivided property.

(5) Adjoining roads: the exact location, width and name of each existing or recorded road or street adjoining or intersecting the boundaries of the tract.

(6) Engineering date: the exact location and width of every road, street, alley, easement or other public or private way within the tract, with the length and bearing of every tangent, length of arcs, radii, internal angles, points of curvature and any other necessary engineering data and with the names of such ways and the purpose of easements or others ways; accurate location of every lot line, with its dimension to hundredths of a foot and bearings to minutes.

(7) Street names. A name must be given to all new streets, drives and cul-de-sacs according to the requirements in § 71-22H.
[Amended 5-13-98 by Ordinance 98-10]

(8) Setback lines: minimum building setback lines on all lots.

(9) Numbering: blocks lettered in alphabetical order and lots numbered in numerical order.

(10) Public lands: accurate outlines of any areas dedicated or reserved for public use or for any other purpose except sale, with the purpose indicated.

(11) Lot area: the accurate area of each lot or parcel other than public ways.

(12) Municipal lines: the accurate location of the municipal or district line traversing or closely related to the tract.

(13) Drainage lines: existing and relocated courses of any watercourses traversing the tract, with the right-of way or easement lines provided therefor.

C. Certificates and other information:

(1) Owner's certificate: An owner's certificate, signed and notarized, acknowledging ownership of the property and agreeing to the subdividing thereof as shown on the plat and also offering for dedication all streets and other ways and places intended fgr public use.

(2) Engineer's certificate: certificate of the surveyor to the effect that the plat represents a survey made by him, that it is accurate tot he best of his knowledge, that all monuments and pipes indicated thereon actually exist and that their locations and description are correctly shown and that all requirements of this chapter and of other applicable laws have been fully complied with.

(3) Agency's approvals. A space shall be provided for a certificate of approval by the Planning Commissions.

(4) Protective covenants, articles of incorporation of a homeowners association and bylaws, as they may apply to each development, shall be approved by the Planning Commission, recording among the land records of Frederick County, Maryland, and noted on the recorded plat. [Amended 1-12-83]

(5) Final plats of each development, when approved by the Burgess and Commissioners, shall be recorded among the plat records in the office of the Clerk of the Circuit Court of Frederick County, Maryland. [Amended 1-12-83]

D, Wellhead Protection Area Requirements

(1) Licensed engineer's, geologist's or hydrogeologist's certifications as to the Phase I Checklist, Phase I Application, Phase II Investigation Program, Site Investigation Study and Site Investigation Report as required by Chapter 90 of the Town Code. [Added 2-27-02 by Ord. 2001-11]

§ 71-35.1. Addition Plat

A. An addition plat required by Section 71-12.1 shall comply with the following requirements and shall contain a survey plat showing the following information:

(1) Vicinity map indicating the location of the property with respect to surrounding property and streets at a scale no smaller than one inch equals two thousand (2,000) feet. Tax map page and parcel number shall also be shown.

(2) The north point.

(3) Boundary survey of additional land, and the entire common line between this and the parcel to which it is being added.

(4) Boundary survey of lot or parcel to which the addition is being made.

(5) Boundary survey of the original lot or parcel.

(6) Acreage of properties involved in the addition plat.

(7) The owner's names, deed reference by liber and folio of all adjoining property. In the event that a recorded subdivision adjoins the land, the subdivision name, lot number, block number and recording reference date shall be indicated.

(8) A road dedicated on the land being added, if applicable. Unless required by the Planning Commission, improvements by the owner will not be required for land being dedicated for an addition.

(9) Show and label all structures, drives, septic, wells and man-made features within one hundred (100) feet of the addition parcel on the original land from which the lot or parcel is to be subtracted.

(10) Location of easements on addition parcel.

(11) Minimum building setback lines.

(12) A note on the plat stating: "Application is hereby made for Planning Commission approval of the indicated creation of a new lot or parcel and subsequent transfer of land solely for adding to adjoining holdings and not for development. Any future subdivision of this land or building development will be

submitted in the regular manner for approval in accordance with the existing subdivision regulations."

(13) A note on the plat stating: "A six foot utility easement is reserved along all lot lines."

(14) A note on the plat indicating the appropriate zoning of all parcels.

(15) Title block including the following information:

(a) Label "Additional Plat"

(b) Proposed name.

(c) Scale of Plat.

(d) Location by street.

(e) Election district, county and state.

(f) Date.

(16) Name, address and phone number of the owner(s) and registered surveyor. The surveyor must be licensed in the state of Maryland.

(17) A surveyor's certificate stating how, when, and from whom the present owner obtained the land including liber and folio deed reference and that the plat as shown is correct.

(18) Certification and dedication by the owner or owners of the property to the effect that the subdivision as shown on the addition plat is made with the owner(s) consent and that it is the owner's desire to record the plat. The owner's certification and dedication shall be notarized.

(19) Approval blocks for Planning Commission Chairman's signature and Health Department signature. [Amended 7-1-97 by Ord. No. 97-3]

ARTICLE VII
Modifications and Exceptions

§ 71-36. Variations for self-contained developments.

The general principles and standards of subdivision development stipulated in Articles IV and V may be varied by the Burgess and Commissioners in case of a subdivision large enough to constitute a more or less self-contained neighborhood to be developed in accordance with the Comprehensive Plan, safeguarded by appropriate restrictions which, in the judgment of the Burgess and Commissioners, make adequate provisions for all essential conditions; provided, however, that no modifications shall be granted which would conflict with the intent of the Town or County Master Highway Plans or of any other part of the Town or County Comprehensive Development Plan or with the intent and purpose of these regulations and the Town or County Zoning Ordinance,[18] and provided that the town or county shall not be obligated to accept any improvements constructed under the permission granted through this Article.

§ 71-36.1. The general principles and standards of subdivision development stipulated in Articles IV and V may be waived by the Burgess and Commissioners in the case of Lots in a multi-user business park, which park contains uses totaling at least 20,000 square feet of floor area in two (2) floors or less located in the B-0 zoning district owned by persons or parties other than the owner/developer of the multi-user business park, provided that the perimeter property lines of the entire multi-user business park are platted and the owner/developer of the multi-user business park provided assurances that all improvements, including parking, are located within the perimeter lot lines and are available for use by the lot being created. [Amended 1-23-91 by Ord. No 90-4]

§ 71-36.2. The general principles of Articles IV and V, as they relate to Chapter 90 of the Town Code, may not be waived by the Burgess and Commissioners, but may be varied in accordance with §71-38 of the Town Code. [Added 2-27-02 by Ord. 2001-11]

§ 71-37. Lot Reduction.

Lot size may only be reduced in accordance with the cluster provisions found in §88-58.2 of the Walkersville Code.
[Ordinance 99-2, adopted 4-28-99]

§ 71-38. Variations for hardships resulting from strict compliance.

Where the Burgess and Commissioners find that unusual hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured.

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[18] **Editor's Note: See Ch. 88, Zoning.**

ARTICLE VIII
Fees

§ 71-39. Fees to be paid by subdivider or developer; assessments.

A. The Burgess and Commissioners shall adopt a schedule of fees for review of site plans, subdivision plans and improvement plans and all other documents associated with the approval of site plans, subdivision plans and improvement plans. [Amended 8-22-07 by Ord. 2007-05]

B. Fees to be paid by developer of subdivider.

(1) The Burgess and Commissioners are empowered to require that any land which is being developed or subdivided within the town be subject to a special assessment or assessments to contribute to the payment of the cost of new and expanded public facilities which are required to meet the demands placed upon the Town by residential, commercial and industrial growth. [Amended 5-23-90 by Ord. No. 90-2]

(2) Special Assessments.

(a) The Burgess and Commissioners may, after holding public hearings, impose by ordinance special assessments for the purposes set forth in Subsection B(1) above. The Burgess and Commissioners shall consider the following factors:

[1] Public facilities which must be constructed or expanded solely to meet the effect of new growth; [Amended 5-23-90 by Ord. No. 90-2]

[2] The cost of such construction or expansion of public facilities; [Amended 5-23-90 by Ord. No 90-2]

[3] The amount of land within the limits of the town which might likely be developed or subdivided;
[Amended 5-23-90 by Ord. No 90-2]

[4] The extent to which new or expanded public facilities will benefit those who are already residents of the town at the time the fees are assessed; [Amended 5-23-90 by Ord. No 90-2]

[5] The extent to which new or expanded public facilities will be financed from general revenues collected from new subdivisions and/or developments through the collection of taxes or other general

revenues; [Amended 5-23-90 by Ord. No. 90-2]

[6] The extent to which new or expanded public facilities will be financed by general revenues collected from all of the residents of the town;
[Amended 5-23-90 by Ord. No. 90-2]

(b) The special assessment may also reflect extraordinary costs to the town associated with the subdivision or development of land, such as, but not limited to, reasonable fees to engineers, inspectors, attorneys or other specialists retained by the Town. [Amended 5-23-90 by Ord. No. 90-2]

(c) A copy of any ordinance enacted in accordance herewith and a schedule of any such special assessments shall be maintained in the Town Office. [Amended 5-23-90 by Ord. No. 90-2]

(3) Upon the adoption of an ordinance pursuant of Subsection B(2) above, the Burgess and Commissioners shall assess all lots which are developed or subdivided in accordance with the rates set forth in such ordinances. Fees assessed by such ordinance shall be paid prior to approval of a final plat of subdivision or, in the event of development of an existing lot of record, prior to the issuance of a building permit. [Amended 5-23-90 by Ord. No. 90-2]

(4) The Burgess and Commissioners shall have the authority, when adopting an ordinance pursuant to Subsection B(2) above, to exempt from the effect thereof a single lot of record upon which a residence is proposed for construction, provided that such lot is intended for the sole occupancy of the applicant and his immediate family. [Amended 5-23-90 by Ord. 90-2]

(5) Funds received pursuant to this section shall be placed in a separate account. The funds shall be used to defray the costs of the construction or expansion of public facilities and other costs enumerated in Subsection B(2) above, as determined by the Burgess and Commissioners in adopting the ordinance imposing the assessment. The fees and costs which are authorized herein shall be separate from, and in addition to, those fees and costs imposed upon subdivisions and developments under other provisions of the Code of the Town of Walkersville and the Maryland Code. [Amended 5-23-90 by Ord. No. 90-2]

(6) The Burgess and Commissioners shall review each ordinance establishing assessments hereunder and the application of such funds to the facilities to which they are intended no less often than annually. [Amended 5-23-90 by Ord. No. 90-2]

(7) Funds received under this section shall be expended within a reasonable time, but in no event longer than ten (10) years after collection. If funds are not spent within ten (10) years from collection, the Burgess and Commissioners shall distribute the remaining funds in a reasonable manner to the succeeding owners of record of the land originally subject to the assessment. [Amended 5-23-90 by Ord. No. 90-2]

ARTICLE IX
Amendments

§ 71-40. Procedure.

A. The procedures, standards and specifications contained in these regulations may, from time to time, be amended, changed, supplanted or modified when deemed necessary. The Burgess and Commissioners shall adopt a schedule of fees for review of subdivision regulation text amendments.
[Ordinance 2007-09 adopted 8/2/2007]

B. The Planning Commissioner shall hold a public hearing prior to recommending the adoption of any amendments to changes. The date and place of such public hearing shall be advertised by the Planning Commission at least ten (10) days prior to the hearing in a least on (1) newspaper of general circulation.

The Burgess and Commissioners, upon receiving the recommendation of the Planning Commission concerning the adoption of any amendments or changes, shall hold a public hearing, giving ten (10) days' notice of said hearing in a newspaper of general circulation.

C. The Burgess and Commissioners, after considering the recommendation of the Planning Commission, other agencies and interested parties, shall approve, disapprove or modify the proposed changes and amendments. Such decision shall be binding upon the Planning Commission and all parties affected by these regulations.

ARTICLE X
Appeals

§ 71-41. Right of appeal.

Any party adversely affected by a decision of the Burgess and Commissioners may appeal to the Circuit Court of Frederick County in accordance with the Maryland Rules.

Chapter 72

STORMWATER MANAGEMENT

§ 72-1. Adoption of County Provisions.

§ 72-2. Purpose and Authority

§ 72-3. Administrative Body.

§ 72-1. Adoption of County Provisions.

The Burgess and Commissioners of the Town of Walkersville hereby adopt and incorporate all of the provisions of the Frederick County Ordinance No. 90-18-616 as amended by Frederick County Ordinance No. 91-11-011 and Frederick County Ordinance No. 01-10-284 and all subsequent amendments, supplements and changes thereto or subsequent regulations which may be approved, except as modified as follows:

Wherever they may appear in Frederick County Ordinances 90-18-616 and 91-11-011 and 01-10-284, the following terms shall have the meanings set forth herein.

A. Wherever the "County" shall appear, the term "Town" shall be substituted in lieu thereof.

B. Wherever the term "Board of County Commissioners of Frederick County" shall appear, the term "Burgess and Commissioners of Walkersville" shall be substituted in lieu thereof.

C. Wherever the term "County Attorney" shall appear, the term "Town Attorney" shall be substituted in lieu thereof. [Amended 9-26-01 by Ordinance No. 2001-8]

D. In performing the review and approval of stormwater management plans, inspection and enforcement activities related thereto and all other duties of the Town, the Frederick County Department of Public Works will observe and apply the terms of Chapter 90 of the Town Code. [Added 2-27-02 by Ord. 2001-11]

§ 72-2. Purpose and Authority

The purpose of this chapter is to provide for the reduction of adverse impacts of increased stormwater runoff created by changes in land use within the Town of Walkersville and to comply with a State of Maryland directive that no land shall be developed without the prior submission of a stormwater management plan to the County or municipality which has jurisdiction and approval of that plan. The Board of County Commissioners of Frederick County, Maryland, has directed its Division of Public Works to provide for the review, approval and enforcement of such stormwater management plans and the Burgess and Commissioners of Walkersville desire that the Frederick County Division of Public Works perform the review and enforcement of stormwater management plans as the agent of the Town of Walkersville.

[Amended 9-26-01 by Ordinance No. 2001-8]

§ 72-3. Administrative Body.

The Frederick County Division of Public Works is hereby designated as the agent of the Town of Walkersville to perform the review and approval of stormwater management plans, inspection and enforcement activities related thereto, and all other duties of the Town of Walkersville as set forth in the Annotated Code of Maryland, Environment Article, Title 4, Subtitle 2. Stormwater Management. [Amended 9-26-01 by Ordinance No. 2001-8]

Chapter 73

GRADING, EROSION AND SEDIMENT CONTROL

§ 73-1. County authorized to administer and enforce standards and regulations.

[HISTORY: Adopted by the Burgess and Commissioners of the Tow n of Walkersville 8-9-95. Replaces Chapter 60, Sediment Control. Amendments noted where applicable.]

§ 73-1. County authorized to administer and enforce standards and regulations.

Ordinance No. 95-3 was adopted to provide for the protection of natural resources by implementing soil erosion and sediment control measures. The State of Maryland has directed that each municipality shall adopt grading and building ordinances necessary to carry out provisions of Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland, pertaining to sediment and soil erosion control.

The Board of County Commissioners of Frederick County, Maryland, has provided by ordinance for the submission and approval of an erosion and sediment control plan by any individual or entity who contemplates clearing or grading land and for the enforcement of such plans. The Burgess and Commissioners adopt the Frederick County Ordinance 85-17-349 as the ordinance of the Town of Walkersville and designate as follows:

A. The Frederick County Department of Public Works, and the Natural Resource Conservation Service of the Frederick Soil Conservation District as the agents of the Town of Walkersville to perform the review and approval of erosion and sediment control plans.

B. The Frederick County Department of Public Works as the agent of the Town of Walkersville to perform inspection and enforcement activities related thereto, and all other duties of the Town of Walkersville as set forth in Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland.

This Chapter shall be, verbatim, Frederick County Ordinance No. 85-17-349, except as modified as follows:

1. Section 1 shall read as follows:

The purpose of this Chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with accelerated soil erosion and resultant sedimentation. Minimizing soil erosion and offsite sedimentation

will minimize damage to public and private property, and assist in the attainment and maintenance of water quality standards.

The provisions of this Chapter pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland, are adopted and shall apply to all grading occurring within the Town of Walkersville.

The application of this Chapter and provisions expressed herein shall be the minimum erosion and sediment requirements as shall not be deemed a limitation or repel of any other powers granted by state statute. The Frederick County Department of Public Works shall be responsible for coordination and enforcement of the provisions of this Chapter.

2. Wherever they may appear in Frederick County Ordinance 85-17-349, the following terms shall have the meaning set forth herein:

   a. Wherever the term “Frederick County” shall appear, the term “Town of Walkersville” shall be substituted in lieu thereof.

   b. Wherever the term “Board of County Commissioners of Frederick County” shall appear, the term “Burgess and Commissioners of Walkersville” shall be substituted in lieu thereof.

   c. Wherever the term “County Attorney” shall appear, the term “Town Attorney” shall be substituted in lieu thereof.

3. In performing the review and approval of sediment and erosion control plans, inspection and enforcement activities related thereto and all other duties of the Town, the Frederick County Department of Public Works and the Natural Resource Conservation Service will observe and abide by the terms of Chapter 90 of the Town Code. [Added 2-27-02 by Ord. 2001-11]

Chapter 74

TAXATION

ARTICLE I
Tax Reduction for Manufacturers

§ 74-1. Partial Assessment Exemption for Raw Materials and Manufactured Products.

ARTICLE II
Amusements Admissions Tax

§ 74-2. Levy of Tax.

§ 74-3. Additional Tax on Certain Admissions.

§ 74-4. Collection of Tax.

[HISTORY: Adopted by the Burgess and Commissioners of the Tow n of Walkersville: Art. I, 11-21-61 by resolution; Art. II, 4-11-79 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Finance - See Charter, Art. IX.

ARTICLE I
Tax Reduction for Manufacturers
[Adopted 11-21-61 by resolution]

§ 74-1. Partial Assessment Exemption for Raw Materials and Manufactured Products.

Pursuant to the authority of Article 81, (24), of the Annotated Code of Maryland, the assessment of raw materials on hand and manufactured products in the hands of the manufacturer shall be exempt to the extent of forty percent (40%) with respect to taxes collected in the Town of Walkersville.

ARTICLE II
Amusements Admissions Tax
[Adopted 4-11-79 by resolution[1]]

§ 74-2. Levy of Tax.

A. The Burgess and Commissioners of the Town of Walkersville, Maryland, in a regular meeting assembled on the 11th day of

1 Editor's Note: This resolution superseded former Article II, Amusement Admissions Tax, adopted 12-13-72 by resolution.

April, 1979, pursuant to the authority granted in Article 81, §402(b), of the Annotated Code of Maryland, hereby levies a tax at the rate of five per centum (5%) of the gross receipts of every person, firm or corporation derived from the amounts charged in the Town of Walkersville for:

(1) Admission to any place, whether such admission be by single ticket, season ticket, or subscription, including a cover charge for seats or tables at any roof garden, cabaret or other similar place where there is furnished a performance when payment of such amounts entitles the patron thereof to be present during any portion of such performance.

(2) Admission within an enclosure in addition to the initial charge for admission to such enclosures.

(3) The use of sporting or recreational facilities or equipment, including the rental of sporting or recreational equipment.

(4) Refreshment, service or merchandise at any roof garden, cabaret or other similar place where there is furnished a performance.

B. The term "roof garden or other similar place" shall include any room in any hotel, restaurant, hall or other place where music or dancing privileges or other entertainment, except mechanical music, radio or television alone, and where no dancing is permitted, are afforded the members, guests or patrons in connection with the serving or selling of food, refreshments or merchandise.

§ 74-3. Additional Tax on Certain Admissions.

The Burgess and Commissioners of the Town of Walkersville, Maryland, in regular meeting assembled on the 11th day of April, 1979, pursuant to the authority granted in Article 81, § 402(c), of the Annotated Code of Maryland, hereby levies an additional tax of five cents ($0.05) for each person provided with an admission without charge or at reduced rates whenever a charge for admission is made to any other person not in excess of fifty cents ($0.50); and a tax of ten cents ($0.10) whenever a charge for admission to such other persons is in excess of fifty cents ($0.50), but not in excess of ($1.); and a tax of fifteen cents ($0.15) whenever a charge for admission to such other person is in excess of one dollar ($1.). The tax levied by this subsection shall be collected by the Comptroller.

§ 74-4. Collection of Tax.

The Comptroller be and is hereby authorized and directed to collect and pay over said tax as provided by § 404,[2] and be it further resolved that the Comptroller of the State of Maryland be advised of this resolution.

2 Editor's Note: See Article 81, § 404, of the Annotated Code of Maryland.

Chapter 77

TREES

§ 77-1. Duty of Owner to Trim and Maintain.

§ 77-2. Removal of Dangerous Trees and Branches.

§ 77-3. Failure to Comply; Abatement by Authority; Costs and Penalties.

§ 77-4. Permission Required to Plant Near Curb.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 12-14-77. Amendments noted where applicable.]

GENERAL REFERENCES

Obstruction of view at intersection - See Ch. 69, § 69-10.

§ 77-1. Duty of Owner to Trim and Maintain.

It is hereby declared to be unlawful for any person owning any real estate within the Town of Walkersville to permit any tree on or near the sidewalk in front of his premises to hang over or to branch in such a manner as to obstruct the sidewalks or the light from the town's streetlights. All such trees shall be kept trimmed by the owners of said premises so that the limbs thereof shall not be less than seven (7) feet in height of clear space above the sidewalks and thirteen (13) feet six (6) inches above any street surface.
[Ordinance 2006-02 4/26/2006]

§ 77-2. Removal of Dangerous Trees and Branches.

Whenever any such tree or the branches thereof shall, in the opinion of the Burgess and Commissioners of Walkersville, become dangerous or damaging to the traveling public or to the property in the neighborhood, the same shall be removed by the owner of the premises as hereinafter directed. In all cases where any such tree or the branches thereof are required to be removed by the owner of the premises, and whenever such tree is required to be trimmed as herein provided, the Burgess of Walkersville shall notify the owner to remove such tree or the branches thereof or to trim such tree or the branches thereof, as the case may be, and such owner shall remove said tree or the branches thereof or trim such tree as directed in the notice within fifteen (15) days from the receipt of said notice; provided, however, that if any such tree is in such dangerous condition that it is likely to fall at any time, the same shall be removed forthwith upon receipt of the notice from the Burgess of Walkersville, who is hereby authorized to give such notice.

§ 77-3. Failure to Comply; Abatement by Authority; Costs and Penalties.

In the event that the owner, occupant or other person in control of the property should fail or refuse to remove such tree or the branches thereof or to trim such tree, as the case may be, after proper notification from the Burgess of Walkersville and within the time limit in said notification, such tree or the branches thereof shall be removed or such tree shall be trimmed by the

employees or agents of the Burgess and Commissioners of Walkersville. The Town Clerk shall submit a bill for all costs of such removal or trimming unto the aforesaid owner for payment, and such bill shall be due and payable within thirty (30) days from its date. In the event such bill is not paid within thirty (30) days from its date, the burgess is hereby empowered to proceed with its collection by instituting suit on behalf of the Burgess and Commissioners of Walkersville. Furthermore, any such owner, upon conviction, shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville.[1] Every such person may be guilty of a separate offense for each and every day such violation shall continue.

§ 77-4. Permission Required to Plant Near Curb.

No trees shall be planted near the curb of any of the streets of Walkersville except with the specific permission of the Burgess and Commissioners.

1 Editor's note: See Charter, § C15-4.

Chapter 80

VEHICLES AND TRAFFIC

ARTICLE I
General Provisions

§ 80-1. Definitions and Word usage.

§ 80-2. Adoption and Amendment of Schedules.

§ 80-3. Enforcement.

ARTICLE II
Traffic Regulations

§ 80-4. Use of Sidewalks by Motor Vehicles, Motorized Scooters, and Motorized Skateboards; Prohibition of Certain Vehicles on Streets.

§ 80-5. Speed Limits Established. School Zones

§ 80-6. Traffic Control Devices.

§ 80-7. Vehicle Weight Limits Established.

§ 80-8. Operation of Vehicles on Closed Highways.

ARTICLE III
Parking Regulations

§ 80-9. Stopping, Standing and Parking.

§ 80-10. Vehicle Repairs.

§ 80-11. Time Limit for Continuous Parking.

§ 80-12. Parking Boats, Trailers and Recreational Vehicles.

§ 80-13. Parking Unregistered and Inoperable Vehicles Prohibited.

§ 80-14. Impoundment.

§ 80-15. Disposition of Impounded Vehicles.

§ 80-16. Disposition of Proceeds.

ARTICLE IV

Snow Emergencies

§ 80-17. Parking Prohibited During Snow Emergency.

ARTICLE V
Miscellaneous Provisions

§ 80-18. Violations and Penalties.

§ 80-19. Severability.

§ 80-20. Repealer.

§ 80-21. Payment of Fines; Standing Trial.

§ 80-22. Applicability of State Laws.

§ 80-23. Adoption of Federal Manual.

[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 2-10-88.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Public ways and sidewalks - See Charter, Art. XI.
Street acceptance procedures - See Ch. 68.
Streets and sidewalks - See Ch. 69.

ARTICLE I
General Provisions

§ 80-1. Definitions and Word usage.

A. Words and phrases, when used in this chapter, shall have the meanings ascribed to them in the Transportation Article of the Annotated Code of Maryland, as now in force or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.

B. The term “legal holidays,” as used in this chapter, shall mean and include New Year’s Day, Good Friday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, or days celebrated as such.

C. In this chapter, the singular shall include the plural, and the plural shall include the singular; the masculine shall include the feminine.

§ 80-2. Adoption and Amendment of Schedules.

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1 **Editor’s Note: This ordinance superseded former Ch. 80, Vehicles and Traffic, adopted 2-4-77, as amended.**

The schedules contained in the various sections of this chapter for the recording of regulations adopted pursuant to the provisions of this chapter may be amended or added to from time to time, as deemed necessary by the Burgess and Commissioners, by ordinance, resolution or motion.

§ 80-3. Enforcement.

This chapter, and the regulations adopted thereby, may be enforced by any peace officer of the State of Maryland, or of any political subdivision thereof, having jurisdiction.

ARTICLE II
Traffic Regulations

§ 80-4. Use of Sidewalks by Motor Vehicles, Motorized Scooters, and Motorized Skateboards; Prohibition of Certain Vehicles on Streets. [Amended 9-25-02 by Ordinance 2002-06]

A. No person shall operate any motorized vehicle, including but not limited to a motor vehicle, moped, motor scooter, motorized scooter, motorized skateboard or tractor upon any sidewalk in the Town of Walkersville.

   This section is not applicable to a motor vehicle gaining access or egress to a driveway or alley at locations where the curb is properly cut down for this purpose, or when a riding tractor is being used to clear snow or debris from the sidewalk.

B. No person shall drive or operate a motorized minibike, motorized skateboard, or any unregistered motor vehicle on any street or highway within the Town. [Amended 5/28/08 by Ordinance 2008-05]

§ 80-5. Speed Limits Established.

A. The speed limit for both directions of traffic along the streets and highways or parts thereof described below is hereby established at the rate of speed indicated:

Name of Street	Speed Limit (mph)	Location
All town-controlled streets	25	Entire length

B. **School Zones**

There shall be established School Zones in the following areas:

1) Glade Road from Devilbiss Bridge Road to the southernmost entrance to Winterbrook Drive (by the railroad tracks.)
2) West Frederick Street from Maple Avenue to MD Route 194.
3) The section of Devilbiss Bridge Road within the Town, in front of Glade Elementary, from the railroad tracks to Glade Road.

[Added 10-9-02 by Ordinance 2002-13]

§ 80-6. Traffic Control Devices.

The town shall provide for the placement and maintenance (upon streets and other public places within the town) of any traffic control devices as it may deem necessary to indicate and carry out the provisions of this chapter and the Maryland Vehicle Law with regard to speed limits, one-way streets, U-turns, turns at intersections, stop intersections, yield intersections, weight restrictions and other matters addressed in this chapter. **[Ord. 99-1, adopted 2-24-99]**

§ 80-7. Vehicle Weight Limits Established.

A. It shall be unlawful for any person to operate any commercial vehicle or other tractor, trailer or tractor-trailer combination having a gross weight in excess of ten (10) tons upon any of the streets or portions thereof of the town, except for emergency vehicles or for the purpose of making local deliveries on that street; provided, however, that the vehicles in excess of such gross weight shall be permitted to use the streets or parts thereof described below:

Name of Street	**Location**
Maple Avenue	Entire Length
Pennsylvania Avenue	Maple Avenue to Farmers Supply
Biggs Ford Road	Entire Length
West Crum Road	Entire Length
Nicodemus Road	Entire Length
Frederick Street	Entire Length
Stauffer Court	Entire Length

[Ordinance 99-1, adopted 2-24-99]

B. It shall be unlawful for any person to operate any truck, combination vehicle, tractor, trailer, tractor-trailer combination or other vehicle having a gross vehicle weight of twenty thousand pounds or more within any portion or area of Heritage Farm Park. This does not apply to emergency vehicles and single-axle farm vehicles. Any person desiring to operate a vehicle with a gross vehicle weight of twenty thousand pounds or more may apply to the Town of Walkersville for a permit to operate said vehicle within the Heritage Farm Park for a specific purpose and length of time. The town may, in its discretion, and for a $20 fee issue such permit for a specific length of time not to exceed one year. Any permit issued by the town shall be displayed prominently upon the vehicle's front window-area while the vehicle is within Heritage Farm Park. **[Amended by Ordinance 2002-01, adopted 2-27-02]**

§ 80-8. Operation of Vehicles on Closed Highways.

It shall be unlawful for any person to operate any vehicle or tractor upon any street in the Town of Walkersville that is under construction, resurfacing or repair in disregard of any official sign, barricade or notice that the same is closed to vehicular traffic. It shall also be unlawful to park or remain parked on a closed street.

ARTICLE III
Parking Regulations

§ 80-9. Stopping, Standing and Parking.

A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device, at any place where an official sign or painted curb prohibits stopping, parking or standing, and it is hereby specifically provided that wherever a curb is painted red or yellow that there shall be no parking, standing or stopping parallel to that painted curb.

B. Commercial vehicles. It shall be unlawful for any owner, operator, lessee or possessor of any truck, trailer, semi-trailer, tractor, bus or other vehicle in excess of a gross weight or gross combination weight of ten thousand (10,000) pounds to park the same on any road, lane, street or avenue in town for a continuous space of time of more than thirty (30) minutes.

C. It shall be unlawful to park a vehicle more than twelve (12) inches from the curb, curbline or side of a street or alley where the curbline should normally be, the parked vehicle facing to the right of all traffic. All parking shall be parallel with the curb. An exception will be made to this subsection in cases of loading or unloading a vehicle or vehicles, the exception to be given for a reasonable time necessary in loading and/or unloading a vehicle or vehicles.

D. No person shall park a vehicle on any street in such a manner that that vehicle shall constitute an obstruction to the free flow of traffic upon the street.

E. Stopping, standing or parking is prohibited:

(1) In front of or in any way blocking a public or private driveway.

(2) On a crosswalk.

(3) Within an intersection.

(4) Within fifteen (15) feet of all fire hydrants.

F. No vehicle may park in an area designated for handicapped parking unless the vehicle is properly displaying handicapped registration plates or a permit.

§ 80-10. Vehicle Repairs.

No vehicle shall be repaired in any street, except in case of emergency, and then only so as not to block or obstruct any street or sidewalk, nor shall the motor of any such vehicle be tested while it is parked or standing on any street except when unavoidable. For purposes of this section, “repair” shall be defined as including but not limited to the replacement of any part thereof, any change or work done to any part of the vehicle, changing tires, draining or changing oil, inserting or draining any form of lubricant, coolant, fluid or other such item into or from the vehicle or any other such item in any manner related to vehicle repairs.

§ 80-11. Time Limit for Continuous Parking.

No vehicle shall be permitted to remain parked continuously upon any street for more than forty-eight (48) hours, except where that vehicle is parked in front of a property owned, leased or occupied by the driver of the vehicle or where that parking is permitted with the permission of the owner, lessee or occupant of the property.

§ 80-12. Parking Boats, Trailers and Recreational Vehicles.

A. It shall be unlawful for any person to park a boat, trailer or recreational vehicle or allow the same to remain parked upon any public lands, streets or public thoroughfares or any parts thereof within the limits of the Town of Walkersville.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

BOAT - Any type gf watercraft.

RECREATIONAL VEHICLE - Any vehicle used or intended to be used as a conveyance upon public streets or highways, including self-propelled and non-self-propelled vehicles, so designed, constructed and reconstructed or added to by means of accessories as to permit the occupancy thereof as a temporary dwelling or sleeping place for one (1) or more persons and having no foundation other than wheels, jacks or skirtings so arranged as to be integral with or portable by a wheeled vehicle.

TRAILER - Any type of wheeled unit built or designed to be attached to a motorized vehicle, including camping trailer, travel trailer or trailer for moving materials of whatever nature.

C. Exceptions. Any such recreational vehicle which cannot be moved to a garage, service station or private premises because of the need for necessary repair shall be granted, without fee and upon proper request, a permit valid for a period of forty-eight (48) hours from the issuance thereof. Any trailer used for the removal of materials from the premises adjacent to where the trailer is parked shall be granted, without fee and upon proper request, a permit valid for a period of forty-eight (48) hours from the issuance thereof.

D. Violations and penalties. Any person who shall violate this provision of this Article, or any of its provisions, shall be subject to the fines and penalties provided for in § 80-18.

§ 80-13. Parking Unregistered Vehicles Prohibited.

A. It shall be unlawful to park, store or leave any vehicle, the certificate of title, registration card or registration plate of which has expired or has been revoked, canceled or suspended, or for the owner of any such vehicle to allow, permit or suffer the same to be parked, stored or left, whether attended or not, upon any public street, highway, alley or parking lot within the corporate limits of the town for a period longer than twenty-four (24) hours.

B. It shall be unlawful to park or for the owner of any vehicle to allow any inoperable vehicle upon any public street, highway, alley or parking lot within the corporate limits of the town for a period longer than twenty-four (24) hours. [Added 4-11-01 by Ord. 2001-3]

§ 80-14. Impoundment.

Each twenty-four-hour time period will be considered a separate violation, and, at the end of a forty-eight-hour period, said vehicle shall be subject to impoundment at the discretion of the Burgess and Commissioners or their designated agent until the owner thereof or other duly authorized person shall have paid the Town Clerk an amount equal to all towage and storage and such administrative fees prescribed by the Burgess and Commissioners or incurred by the town in impounding the vehicle.

§ 80-15. Disposition of Impounded Vehicles.

A. Whenever any vehicle or part thereof is in the custody of the town and whenever the owner or person entitled to the possession thereof fails to claim such vehicle or part thereof for a period of sixty (60) days after such vehicle or part thereof came into the custody of the town, the same may be disposed of by the town at public sale at some place which shall be convenient and accessible to the public at any time between the hours of 10:00 a.m. and 6:00 p.m., provided that an advertisement of the time, place and terms of the sale, together with a full, detailed description of such vehicle or part thereof, shall be inserted in at least one (1) newspaper of general circulation in the town at least once each week for two (2) successive weeks prior to the sale; provided, further, that a notice by certified mail shall be sent at least ten (10) days prior to the sale to the owner and lienholder, if any, shown on the records of the Commissioner of Motor Vehicles or the person entitled to the possession of such vehicle or part thereof, if his address be known or if it can be ascertained by the exercise of reasonable diligence. If such address cannot be ascertained, then such notice shall not be required.

B. If the impounded vehicle shall be deemed by the Town Clerk or his designee to be of no value or of insufficient value to warrant sale, and if the person entitled to the possession thereof shall not appear to redeem such valueless property within thirty (30) days after such vehicle came into town custody, such vehicle shall be conclusively deemed of no value and to be abandoned and may be destroyed or otherwise disposed of, and there shall be no claim against the town by reason of any such destruction or disposition, provided that a notice by certified mail shall be sent at least ten (10) days prior to such disposition to the owner and lienholder, if any, shown on the records of the Commissioner of Motor Vehicles or the person entitled to the possession of such vehicle or part thereof, if his address be known or if it can be ascertained by the exercise of reasonable diligence. If such address cannot be ascertained, then such notice shall not be required.

§ 80-16. Disposition of Proceeds.

After payment of the expenses of any sale held pursuant to § 80-15 of this chapter and the amount equal to all towage and storage and such administrative charges or fees prescribed by the Burgess and Commissioners or incurred by the town in impounding said vehicle or part thereof sold at such sale and after payment of all liens filed against the vehicle or part thereof, the balance, if any, received by the town at any such sale shall be held by the Clerk for a period of ninety (90) days from the date of such sale. The Clerk shall pay such balance to any person who shall file his/her verified claim prior to the expiration of such ninety (90) days, establishing that he/she is the owner or person entitled to the possession of such vehicle. If no such claim is filed within such period, the balance shall be transferred to the general funds of the town.

ARTICLE IV
Snow Emergencies

§ 80-17. Parking Prohibited During Snow Emergency.

A. Definitions. As used in this Article, the following terms shall have the meanings indicated:

SNOW EMERGENCY - The accumulation of snow and/or ice on the streets and roads of the town in a depth of two (2) or more inches.

B. Parking prohibited. The parking of vehicles on town streets is prohibited when such accumulation of snow and/or ice occurs, and parking of vehicles on such streets of the town shall continue to be prohibited until the accumulation has been cleared.

C. Removal of vehicles. The police are authorized and empowered to take possession of and to remove any parked vehicles or abandoned vehicles that obstruct traffic or interfere with the clearance of snow and/or ice on any designated street or road within the corporate limits of the town.

D. Cost of removal. To defray the costs of removing or towing any vehicle, the town is hereby authorized to charge and collect a sum equal to an amount charged the town by a garage for towing, removal and storage of the vehicle.

E. Emergency hours. If the accumulation of snow and/or ice takes place after 10:00 p.m., no vehicle will be towed away until after 8:00 a.m. of the following day.

ARTICLE V
Miscellaneous Provisions

§ 80-18. Violations and Penalties.

A violation of any of the provisions of this chapter is declared to be a municipal infraction. The penalty for violation of the following enumerated sections shall be as follows:

Section	Fine
§ 80-4	$100.00
§ 80-7	100.00
§ 80-8	100.00
§ 80-9	100.00
§ 80-10	100.00
§ 80-11	100.00
§ 80-12	100.00
§ 80-13	100.00
§ 80-17	100.00

[Ordinance 2007-19, adopted 1-23-2008]

§ 80-19. Severability.

The provisions of this chapter shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, such decision shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared as a legislative intent that this chapter would have been adopted had such unconstitutional, illegal or otherwise invalid provision not been included herein.

§ 80-20. Repealer.

A. All previous ordinances, resolutions and rules of the Town of Walkersville pertaining to the regulation of traffic and parking are hereby repealed.

B. The repeal of ordinances provided for in Subsection A above shall not affect or prevent the prosecution or punishment of any person for any act done or liability incurred.

§ 80-21. Payment of Fines; Standing Trial.

A. Payment of fine. Fines imposed for any violation of the provisions of this chapter may be paid to the Clerk of the town within thirty (30) days of the date of the violation.

B. Election to stand trial. Any person receiving a citation for a violation of any of the provisions of this chapter may elect to stand trial for the offense by notifying the town, in writing, of his intention to stand trial at least five (5) days before the date of the payment as set forth in the citation.

C. Failure to pay fine or stand trial. In the event that any person receiving a citation fails to pay the fine set forth thereon and fails to elect to stand trial, the violation will be forwarded to the Motor Vehicle Administration pursuant to the provisions of the Annotated Code of Maryland, Transportation Article, § 26-305.

D. Additional penalty for failure to pay fine. In the event that any person receiving a citation of having been found guilty of a violation of any of the provisions of this chapter fails to pay the fine thereon stated or imposed by the court within thirty (30) days, in addition to any other penalties unpaid by virtue of any section of this chapter, all fines will double.

§ 80-22. Applicability of State Laws.

All motor vehicle laws as described in the Transportation Article of the Annotated Code of Maryland shall apply in addition to the regulations set down in this chapter.

§ 80-23. Adoption of Federal Manual.

On July 9, 1986, The Burgess and Commissioners adopted the provisions of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, as published and revised by the Federal Highway Administration of the United States Department of Transportation. A copy of the MUTCD is on file in the office of the Town Clerk, where it is available for examination during regular office hours.

Chapter 85

WATER

ARTICLE I
Special Assessment

§ 85-1. Assessment Made Against All Customers of Town Water System. Repealed by Ordinance 97-5 adopted 9/10/97.

ARTICLE II
Service Rates and Rules

§ 85-2. Schedule of Rates.

§ 85-3. Rules To Be Part of Contract.

§ 85-4. Definitions.

§ 85-5. Applications for Service.

§ 85-6. Service Connections.

§ 85-7. Metered Service.

§ 85-8. Payment of Bills.

§ 85-9. Discontinuance of Service.

§ 85-10. Main Extensions.

§ 85-11. Water for Fire Protection; Fire Hydrants and Plugs.

§ 85-12. General Regulations and Restrictions.

§ 85-13. Violations and Penalties.

§ 85-14. Effect of Provisions on Existing Contracts.

ARTICLE III
Water Meters

§ 85-15. Adoption of County Standards.

[HISTORY: Adopted by the Burgess and Commissioners of the Tow n of Walkersville: Art. I, 3-22-65; Art. II, 11-4-59 as Ord. No. 100, amended in its entirety 2-13-74; Art. III, 4-22-87 by motion. Sections 85-2A, B and C, 85-10 and 85-13 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Water and sewers - See Charter, Art. XII.

Plumbing - See Ch. 55.

Utility connection and excavations in streets - See Ch. 69.

ARTICLE I
Special Assessment
[Adopted 3-22-65[1]]
Repealed effective 5-1-98 by Ordinance 97-5.

§ 85-1. Assessment Made Against All Customers of Town Water System.

A special assessment of thirty dollars ($30.) per annum shall be made against each water customer per service connection of the Town of Walkersville water system and shall be included on each semiannual water bill, and all the terms and conditions contained in Ordinance No. 100, enacted by the Burgess and Commissioners of Walkersville on November 4, 1959, shall continue in full force and effect.[2]
Repealed by Ordinance 97-5 adopted 9/10/97.

ARTICLE II
Service Rates and Rules
[Adopted 11-4-59 as Ord. No. 100, amended in its entirety 2-13-74]

§ 85-2. Schedule of Rates. [Amended 3-24-76]

The Burgess and Commissioners shall adopt a schedule of rates for service fees and connection fees, such schedule to be reviewed annually.

A. Prior to accepting all new projects into the system, all tapping fees must be paid. The fee for the installation of water meters, as specified in the schedule of rates, shall be paid by the responsible builders before the meter will be installed. **[Added 4-13-77; amended 9-27-78 by Ord. No. 101]**

B. A fee will be charged for service calls to inspect water meters and corporation equipment and for repairs to corporation equipment in the event that the reported problem is not the fault of the town. **[Added 2-23-77; amended 9-27-78 by Ord. No. 101; 10-14-81]**

C. An interim meter-reading fee shall be charged. **[Added 2-9-77; amended 9-27-78 by ord. No. 101]**

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[1] Editors Note: The purpose of this ordinance is set forth in the preamble as follows: "WHEREAS, the Burgess and Commissioners of Walkersville have completed an extensive expansion of the water service furnished by the Town of Walkersville during 1965, and "WHEREAS, the Burgess and Commissioners have borrowed in excess of one hundred fifty thousand dollars ($150,000) to pay the costs of these major improvements, including the construction of a water pressure-augmenting elevated tank, the development of additional wells, the improvement of the town's reservoir and the construction of filtration plants, and "WHEREAS, it is necessary to establish a special assessment against all water users of the town's water system to repay the total amount of the construction loan.

[2] Editor's Note: See Art. II of this chapter.

§ 85-3. Rules To Be Part of Contract.

The rules relating to water service furnished by the Burgess and Commissioners of Walkersville, Maryland, shall be as follows and shall be a part of the contract with every customer.

§ 85-4. Definitions.

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

COMMERCIAL - Everything other than residential.

CORPORATION - The Burgess and Commissioners of Walkersville or their duly authorized officers or agents.

CUSTOMER - The applicant for service, receiving water at one (1) household or place of business.

DEVELOPER - Any owner(s) or their agent(s) and/or assign(s) under legal authority of the owner(s) who undertake to cause a parcel of land to be designed, subdivided, developed and recorded as a subdivision.

MAIN - The corporation-owned piping and fixtures in or along public highways and streets, or along privately-owned rights-of-way, used for the transmission or distribution of water to customers.

§ 85-5. Applications for Service.

A. All applications for water service must be made in writing.

B. No application for service will be accepted by the corporation until the applicant has paid or made satisfactory arrangements to pay all arrears and charges due by the applicant for water service used at any premises now or heretofore owned by him in the area served by the corporation.

C. The accepted application shall constitute a contract between the corporation and the applicant obligating the applicant to pay to the corporation its rates as established from time to time and to comply with the rules of the corporation.

D. Applications for service installations will be accepted subject to there being an existing main in a right-of-way abutting on the premises to be served.

E. When a prospective customer has made application for a new service or has applied for the reinstatement of an existing service, it is assumed that the piping and fixtures on the applicant's premises are in good condition, and the corporation will not be liable in any case for any accident, break or leakage arising in any way in connection with the supply of water, or the failure to supply same, or the freezing of the customers water pipes or fixtures, nor for any damage to the property which may result from the usage or non-usage of water supplied to the premises.

§ 85-6. Service Connections.

A. Except as hereinafter stated, the corporation will furnish and install the following equipment: corporation stop, service pipe to the property line and curb stop and box at a prepaid fee of $50 per call. **[Amended 8-23-00 by Ord. 2000-6]**

B. Title to all services from the main to the property line are vested in and the same shall at all times remain the sole property of the corporation and shall not be trespassed upon or interfered with in any respect. This property shall be maintained by the corporation.

(1) If a water service installation is made and there is no existing main in a right-of-way abutting on the premises to be served, or if the service pipe from the main to the property line exceeds sixty (60) feet in length, the corporation will be responsible for and maintain the service pipe from the main to the meter or curb stop installed at the edge of the public right-of-way. The service pipe between the curb stop installed at the edge of the public right-of-way and the building shall be maintained by the owner. **[Added 2-24-82]**

C. The service pipe from the property line to the building shall be installed at the expense of the owner of the premises. For this installation, the owner or applicant shall employ a competent plumber to do the work. The minimum size and cover shall be the same as that used from the main to the property line. Materials and method of construction shall be approved by the corporation, and if the service pipe has not been installed in accordance with the corporation's requirements or if the corporation's equipment has been damaged during construction activities, water will not be turned on until such defects have been remedied. The service pipe between the property line and the building and all piping and fixtures on or in the building of the owner or applicant shall be maintained by him and the work shall be performed by a competent plumber in a manner satisfactory to the corporation.
[Amended 10-14-81]

D. All service pipes to the building shall have a minimum cover of three (3) feet. Service pipe shall be K-type copper tubing. All service pipes shall be at least three-fourths-inch inside diameter.

E. No service pipes shall be laid in the same trench with gas pipe, sewer pipe or any other facility of a public service company nor within three (3) feet of any open excavation or fault.

F. Every service pipe must be provided with a stop-and waste cock on the inside of the cellar or foundation wall adjacent to the location where the pipe passes through it, easily accessible and fully protected from freezing, and all pipes in the building must be laid in such a way that they can be fully drained by that waste cock.

G. If more than one (1) new tap is involved, all developers and subdividers will furnish and install all the following equipment: corporation stop, service pipe to the property line and curb stop and box, and said developers and subdividers shall bear the expense of digging and properly backfilling the trench for the service pipe and inspection fees as applicable.

H. If the property to be served is located outside the corporate limits or if it has a commercial or industrial use, or if the service pipe is of a larger inside diameter than three-fourths (¾) inch, the customer will furnish and install all the following equipment: corporation stop, service pipe to the property line and curb stop and box, and said customer shall bear the expense of digging and properly backfilling the trench for the service pipe.

I. All work shall be done in compliance with the plumbing code[3] and by persons approved by the corporation. Any person violating this requirement shall be guilty of a misdemeanor.[4]

§ 85-7. Metered Service.

A. All meters shall remain the property of the corporation, which reserves the right to stipulate the size, type and make of the meter to be used, as well as the location of the setting and the right to inspect it as the corporation feels is needed.

B. When possible, the meter will be set at the property line or some other location designated by the corporation on the delivery side of the curb cock. In the event the customer desires any change in the location or position of the meter box or vault, such change in location, if approved by the corporation, shall be made by the corporation at the expense of the customer.

C. If at any time the meter shall be found to have been tampered with or shall fail to register or shall be found to be defective in registering since the last previous reading, the water consumption for such period may be estimated by an average of previous readings through the same or from future readings or from similar connections.

D. On all metered water supply service, each semiyearly period shall be a complete period in itself, and no excess consumption of water during one (1) semiyearly period shall be charged against the minimum charge or rate to be added to the consumption of any other semiyearly period.

E. The corporation will procure and install all water meters. **[Added 2-9-77; amended 10-14-81]**

[3] Editor's Note: See Ch. 55, Plumbing.

[4] Editor's Note: For provisions pertaining to penalties for misdemeanors, see Charter, §C15-4.

§ 85-8. Payment of Bills.

A. If payment in full is not made within thirty (30) days after the date of a bill, the corporation reserves the privilege, after five (5) days' written notice, to discontinue rendering service.

B. Whenever the customer desires to have his service contract terminated or his water service discontinued, he shall so notify the corporation in writing. Until such notice is received by the corporation, the customer shall be responsible for the payment for all service rendered by the corporation, including charges for meter repairs caused by damage by hot water or by freezing. A reasonable time after the receipt of such notice shall be allowed the corporation to take a final reading of the meter and to discontinue service.

C. All unmetered rents for the use of water shall be due semiannually and shall be payable within thirty (30) days after the date of a bill. **[Amended 10-14-81]**

D. The owner of premises will be charged with the water and will be held liable in all cases for the use of water by the tenants or occupiers thereof. **[Amended 10-14-81]**

§ 85-9. Discontinuance of Service. [Amended 4-28-76]

A. Service may be discontinued for any one (1) of the following reasons:

(1) Misrepresentation in applications.
(2) Willful waste of water.
(3) Failure to comply with restrictions imposed under § 85-12E.
(4) Molesting corporation property or seals on meter or piping.
(5) For vacancy.
(6) Nonpayment of bills when due.
(7) For cross-connecting the corporation's service pipe with any other supply source.
(8) Refusal of reasonable access to property.

B. When water has been turned off from any premises for any of the above reasons or for any other violation of the corporation's rules, a charge will be made for restoring service in the amount of the actual cost of turning on the water, except, however, that the minimum charge shall be fifteen dollars ($15.). **[Amended 10-14-81]**

§ 85-10. Main Extensions.

A. Any developer must come to the existing main for water line connections, and the costs of such off-site main installation must be the developer's obligation. All engineering fees on extensions by each developer in and to each subdivision shall be the sole responsibility of the developer.

B. Whenever service to an applicant involves the extension of a main, the said extension shall be at the sole expense of the customer and/or developer. All extensions of the main, as well as any easements relative to said extensions, shall belong to the corporation as soon as installation is completed.

§ 85-11. Water for Fire Protection; Fire Hydrants and Plugs.

A. The corporation in no manner guarantees to furnish a proper quantity of water for fire protection nor does it undertake to guarantee anything relative to any service, but it will make every effort to maintain the efficiency of its service under all conditions. The corporation will not be responsible in any manner for failure of its water supply during a fire or at any other time.

B. All fire hydrants or plugs, whether installed by the corporation or otherwise, are to be used for fire protection purposes exclusively. All use of fire hydrants or plugs for sprinkling, sewer flushing, filling, sprinkling or watering or other carts or receptacles, or for fire drills or fire company testing, other than for strictly fire protection, is prohibited, unless any such other use is permitted by the corporation as evidenced by a written permit signed by its President, which permit shall be exhibited to any and all employees of the corporation at their request.

C. Permits for use of water from fire hydrants or plugs for any purposes other than fire protection will not be granted by the corporation except in cases where such use is deemed by the corporation to be urgent and other means of obtaining water are not available, but all permits so granted shall be revocable at the pleasure of the corporation in every instance and without regard or reference to any terms or provisions in such permits to the contrary.

§ 85-12. General Regulations and Restrictions.

A. Curb stops shall not be used by the customer or his agent for turning or shutting off the water supply. The control of the water supply by the customer shall be by means of a separate stop located just inside the building wall. Curb stops are for the exclusive use of the corporation.

B. No water will be furnished to any premises where any possibility exists of the mingling of the water furnished by the corporation with water from any other source, nor will the corporation permit its mains or service pipes to be connected to any piping or apparatus containing any substance which may flow back into the corporation's service pipes or mains.

C. The customer shall not permit anyone except an agent of the corporation or someone otherwise lawfully authorized to do so to remove, inspect or tamper with the meter or other property of the corporation on his premises. Such damage to corporation property shall be repaired at the expense of the customer. The

customer shall notify the corporation, as soon as it comes to his knowledge, of any injury to the corporation's property. **[Amended 10-14-81]**

D. The authorized agents of the corporation shall have the right of access to the premises supplied with water at all reasonable hours for the purpose of reading meters, examining fixtures and pipes, observing the manner of using water and for any other purpose which is proper and necessary in the conduct of the corporation's business.

E. **The w atering of law ns w ith w ater from the Town's public water system is hereby prohibited betw een the hours of 9:00 AM and 6:00 PM. (Ordinance 97-7 adopted 9/24/97)** The corporation reserves the right to impose additional restrictions on the use of water during periods of short supply, excessive demand or other difficulty which results in the impairment of normal service to any group of customers.

F. The corporation reserves the right to place restrictions on customers who consume large quantities of water (customers with swimming pools, air conditioners and refrigeration units, etc.) and thereby create conditions which prevent the corporation from supplying satisfactory service to other customers.

G. In case of accidents, breakdowns, shortages of water supply or any causes beyond its control, or because of any act or omission on the part of the public authorities or their agents, or any of them, or in case of the making of repairs, renewals or replacements, the corporation reserves the right to shut off the water supply from any one (1) or any number of premises without notice and shall in no manner be held responsible for any consequences of such shutoff.

H. The corporation will give notice, in the manner deemed in its discretion to be most effective, of any shutoff of the water supply wherever and whenever the giving of such notice is practicable, but nothing in these rules contained shall be construed to require the giving of such notice under any circumstances.

I. Nothing in these rules contained shall be construed as a guaranty or covenant or agreement of the corporation to give such continuous and uninterrupted service.

J. The corporation shall in no event be responsible for the maintenance of, or for damages done by water escaping from, the service pipe and fixtures on the outlet side of the curb cock, and the customer regulations in reference thereto and the customer and/or property owner shall assume all financial costs caused by any changes thereon required on account of a change in grade, relocation of main or otherwise.

§ 85-13. Violations and Penalties. [Amended 9-27-78 by Ord. No. 101]

Any person who shall, without written permission, open any main or service pipe owned by the corporation or damage or open any fire hydrant except for its intended purpose shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville[5]. In addition to any penalty which may be imposed for violation of this Article, the violator shall be liable for any cost and expense of repair, restoration or replacement required as a result of such violation.

§ 85-14. Effect of Provisions on Existing Contracts.

This Article shall not supersede existing contracts with developers.

ARTICLE III
Water Meters
[Adopted 4-22-87 by motion]

§ 85-15. Adoption of County Standards.

Developers shall install three-fourths-inch and one-inch meters in vaults as required by the Frederick County BOCA Code (see Detail No. 110[6]).

[5] Editor's Note: See Charter, §C15-4.

[6] Editor's Note: Detail No. 110 is on file in the office of the Town Clerk.

Chapter 86

WIRELESS TELECOMMUNICATIONS FACILITIES OR COMPLEXES

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Wireless Telecommunications Facilities or Complexes

§ 86-1. Purpose and Legislative Intent

1. The Telecommunications Act of 1996 affirmed the Town of Walkersville's authority concerning the placement, construction and Modification of Wireless Telecommunications Facilities or Complexes. This ordinance provides for the safe and efficient integration of Wireless Facilities or Complexes Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.

2. The Town of Walkersville (Town) finds that Wireless Telecommunications Facilities (Facilities) and Complexes may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. To assure that the placement, construction or Modification of a Facility or Complex is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, Wireless Telecommunications Facility or Complex application and permitting process. The intent of this Ordinance is to minimize the physical impact of Wireless Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town.

§ 86-2. Severability

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any Special Use Permit issued pursuant to this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town.

§ 86-3. Definitions

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. "**Accessory Facility** or **Structure**" means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities or Complexes, including but not limited to utility or transmission equipment storage sheds or cabinets.

2. **"Amend",** "**Amendment"** and **"Amended"** mean and shall relate to any change, addition, correction, deletion, replacement or substitution, other than typographical changes of no effect.

3. **"Applicant"** means any Wireless service provider submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.

4. **"Application"** means all Necessary and required documentation that an Applicant submits in order to receive a Special Use Permit or a Building Permit for Wireless Telecommunications Facilities.

5. **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

6. **"Certificate of Completion"** or "**COC"** means a required document issued by the Town that confirms that all work represented in the application i) was properly permitted; ii) was done in compliance with and fulfilled all conditions of all permits, including any final completion deadline; iii) was fully constructed as approved and permitted; and iv) a final inspection was requested, conducted and the Facility or Complex passed the final inspection.

7. **"Co-location"** means the use of an existing approved structure to support Antenna for the provision of wireless services.

8. **"Commercial Impracticability"** or **"Commercially Impracticable"** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone and for a single site, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

9. **"Completed Application"** means an Application that contains all necessary and required information and/or data as set forth in this Ordinance and that is necessary to enable an informed decision to be made with respect to an Application and action on the Application.

10. **"Complex"** means the entire site or Facility, including all structures and equipment located at the site.

11. **"DAS"** or **"Distributive Access System"** means a technology using antenna combining technology allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.

12. **"Eligible Facility"** means an existing wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a Substantial modification. An Eligible Facility Application shall be acted upon administratively and shall not require a Special Use Permit, but shall require Staff Administrative Approval.

13. **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.

14. **"Facility"** means a set of wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.

15. **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.

16. **"Height"** means, the distance measured from the pre-existing grade level to the highest point on the Tower or support structure, even if said highest point is an Antenna or lightening protection device. As regards increasing the height of an existing structure, Height means the height above the top of the structure prior to any work related to a wireless Facility.

17. **"In-Kind Replacement"** means replacing a component(s) that is malfunctioning with a properly functioning component of the same weight and dimensions and increase the compensation paid to the owner or manager of the support structure.

18. **"Maintenance"** means plumbing, electrical, carpentry or mechanical work that may or may not require a building permit, but that does not constitute a Modification of the WTF.

19. **"Modification"** or **"Modify"** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless Facility or Complex, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to an existing support structure or Tower as a co-location is a Modification, unless the height, profile or size of the compound is increased, in which case it is not a Modification.

20. **"Necessary"** or **"Necessity"** or **"Need"** all mean what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in the effect of prohibiting the provision of service as intended and described in the narrative of the Application. Necessary, Necessity or Need does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an Applicant's specific chosen design standards.

21. **"NIER"** means Non-Ionizing Electromagnetic Radiation.

22. **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

23. **"Personal Wireless Facility**" See definition for 'Wireless Telecommunications Facilities'.

24. **"Personal Wireless Services"** or **"PWS"** or **"Personal Telecommunications Service"** or **"PTS"** shall have the same meaning as defined and used in the 1996 Telecommunications Act.

25. **"Repairs and Maintenance"** means the replacement or repair of any components of a wireless Facility or Complex where the replacement is effectively identical to the component being replaced, or for any matters that involve the normal repair and maintenance of a wireless Facility or Complex without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless Facility or Complex that will impose new visible burdens of the Facility or Complex as originally permitted. Any work that changes the services provided to or from the Facility, or the equipment, is not Repairs or Maintenance.

26. **"SMALL CELL"** is a technology and is not descriptive of the size of the equipment, and means a wireless facility that uses substantially less power than a macro facility, serves a substantially smaller service area and contains the antennas and the electronic equipment needed to transmit and receive without the use of a central base station associated with and serving multiple wireless facilities such as a DAS node. It has the same capabilities as any other stand-alone Facility, regardless of the size. Small Cell is different from, and is not to be confused with, DAS technology. The type of permitting process under this ordinance is based on size or impact, not on the type of technology involved.

27. **"SMALL FACILITY"** refers to the size and visual and/or physical impact of the facility and/or equipment, and means a wireless facility at which all equipment associated with the Facility, including antennas and electronics, would fit within an enclosure no larger than three (3) cubic feet, and cumulatively in the aggregate six (6) cubic feet for multiple arrays and associated equipment on a single structure or Facility. The size of all equipment enclosures associated with any single structure or Facility, including all associated equipment, but not including separate antennas, shall be limited cumulatively to seventeen (17) cubic feet in volume. Further, co-locations under this definition will be limited to those that cause no new ground disturbance. The cumulative limit of seventeen (17) cubic feet for wireless equipment applies to all equipment on the ground associated with any antenna on the structure, as well as associated equipment physically on the structure.

28. **"Special Use Permit"** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use a Facility or Complex as granted or issued by the Town.

29. **"Stealth"** or **"Stealth Siting Technique"** means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean building the least visually and physically intrusive facility and Complex that is not technologically or commercially impracticable under the facts and circumstances. Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the Tower is disguised to make it less visually obtrusive and not recognizable to the average person as a Wireless Facility or Complex.

30. **"State"** means the State of Maryland.

31. **"Structural Capability"** or **"Structural Capacity"** or **"Structural Integrity"** means, notwithstanding anything to the contrary in any other standard, code, regulation or law, up to and not exceeding a literal 100% of the designed loading and stress capability of the support structure, inclusive of normal and acceptable engineering factors of safety.

32. **"Substantial Modification"** means a change or Modification that
    a. increases the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet; or

    b. except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance; or

    c. increases the square footage of the existing equipment compound by more than 2,500 square feet.

33. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

34. **"Telecommunications Site"** See definition for Wireless Telecommunications Facilities.

35. **"Telecommunications Structure"** means a structure used primarily to support equipment used to provide wireless communications or was originally constructed primarily for such purpose.

36. **"Temporary"** means not permanent in relation to all aspects and components of this Ordinance and that will exist for fewer than ninety (90) calendar days.

37. **"Tower"** means any structure designed primarily to support an antenna and/or other equipment for receiving and/or transmitting a wireless signal and is the lesser of i) more than ten feet (10') taller than the adjacent buildings or trees; or ii) taller than forty feet (40').

38. **"Town"** means the Burgess and Commissioners of Walkersville, Maryland, and/or those personnel employed to perform those duties as required for the efficient operation of the Town of Walkersville, Maryland.

39. "**Wireless Telecommunications Facility** or **Facilities (WTF or WTFs)", "Facility", "Site", "Complex", "Telecommunications Site"** and **"Personal Wireless Facility Site"** all mean a specific location at which a structure that is designed or intended to be used to house, support or

accommodate Antennas or other transmitting or receiving equipment is located. This includes without limit, Towers and support structures of all types and kinds, including but not limited to buildings, church steeples, silos, water Towers, signs or any other structure that is used or is proposed to be used as a support structure for Antennas or the functional equivalent of such. It expressly includes all related facilities and equipment such as cabling, radios and other electronic equipment, equipment shelters and enclosures, cabinets and other structures associated with the Complex used to provide, though not limited to, radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services, Internet access service and any commercial wireless telecommunication service whether or not licensed by the FCC.

§ 86-4. General Policies and Procedures for Applications under this Ordinance

In order to ensure that the location, placement, construction and Modification of a Facility or the components of a Complex do not endanger or jeopardize the Town's health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Town hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or Administrative Approval granted authority for Wireless Facilities for the express purpose of achieving the following outcomes:

1. The Town shall not be required to issue a permit for a carrier to achieve its goal from a single location and facility only, and instead may require that multiple smaller and less intrusive facilities be used to achieve the Applicant's goal.

2. Requiring a Special Use Permit for any new Complex, Facility or any Substantial Modification of a Facility or Complex or for a Co-located Facility;

3. Requiring Administrative Approval and a properly issued Building Permit for any co-location or Modification of a Facility or Complex that is not a Substantial Modification or Substantial Co-location.

4. Implementing an Application process and requirements;

5. Establishing procedures for examining an Application and issuing a Special Use Permit or Administrative Approval that are fair and consistent;

6. Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers;

7. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a Facility or Complex in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.

8. Requiring that the Facility and Complex shall be the least visually intrusive among those options that are not technologically impracticable given the facts and circumstances.

9. The Town is the officially designated agency or body of the municipality to whom applications for a Special Use Permit for a Facility or Complex must be made, and that is authorized to make decisions with respect to granting or not granting or revoking Special Use Permits applied for under this Ordinance. However, the Town shall possess the sole right to grant all Special Use Permits.

10. The Town may designate the authority for requests for all Administrative Approvals, to staff or consultants as it sees fit, i.e. for anything other than a Substantial Modification or a new tower or support structure.

11. Prior to the submission of an application there shall be a pre-application meeting for all intended applications. The pre-application meeting may be held either on site or telephonically as deemed appropriate by the Town. The purpose of the pre-application meeting will be to address i) issues that will help to expedite the review and permitting process; and ii) specific issues or concerns the Town or the Applicant may have. Costs of the Town's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a fee set forth in the Town's Schedule of Fees, which shall have been paid to the Town prior to any site visit or pre-application meeting or any work related to an intended application preceding the site visit or per-application meeting in excess of one (1) hour related to the application.

12. If there has not been a prior site visit for the requested Facility or Complex within the previous six (6) months a site visit shall be conducted.

13. An Applicant shall submit to the Town the number of completed Applications determined to be needed at the pre-application meeting. If Town action is required, applications will not be transmitted to the Town for consideration until the application is deemed Complete by staff or the Town's expert consultant.

14. If the proposed site is within one (1) mile of another jurisdiction, written notification of the Application shall be provided to the legislative body of all such adjacent jurisdictions as applicable and/or requested.

15. The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official Applicant of Record, unless the owner is the Town, in which case, to prevent a conflict of interest, the Town shall not be a party to the Application.

16. All Applicants shall closely follow the instructions for preparing an Application. Not following the instructions without permission to deviate from such shall result in the application being deemed incomplete and a tolling of the time allowed for action on an Application until a Complete Application is received.

17. Within thirty (30) days of the date of submission of an Application the Applicant shall be notified in writing of any deficiencies related to the completeness of the Application. Remediation of deficiencies in an Application shall be deemed an amendment of the Application that was received.

18. The Town may deny applications not meeting the requirements stated herein or which are otherwise not complete after proper notice and a reasonable opportunity to make the Application Complete has been afforded. Applications will be deemed abandoned if left incomplete for more than ninety (90) days after the date of notice of incompleteness.

19. No work of any kind on or at a Facility or Complex shall be started until the Application is reviewed and approved and the Special Use Permit or Administrative Approval, as applicable, has been issued, and a Building Permit, if required, has been issued in accordance with the Town's Zoning Certificate and Frederick County building code.

20. Any and all representations made by the Applicant or that are made in support of the Application shall be deemed to be on the record, whether written or verbal, and shall be deemed to have been relied upon in good faith by the Town. Any verbal representation shall be treated as if it were made in writing.

21. Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a Facility or Complex shall be issued where the Facility or Complex is not in full compliance with all applicable local, State and federal laws, rules, regulations and orders. A Facility or Complex not in full compliance with this Ordinance shall be required to be brought into full compliance before any Permit of any kind will be issued.

22. An Application shall be signed on behalf of the Applicant(s) by a person vested with the authority to bind and commit the Applicant attesting to the truthfulness, completeness and accuracy of the information presented

23. The Applicant must provide documentation to substantiate that it has the right to proceed as proposed on the site or at the Complex in the form of an executed copy of the lease with the landowner or landlord or a signed letter of agency granting authorization. If the applicant owns the Site or Complex, a copy of the ownership record is required.

24. Applications shall include written commitment statements to the effect that:

a. the applicant's Facility or Complex shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable Town, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Town in writing; and

b. the construction of the Facility or Complex is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.

25. Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.

26. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the Town.

27. All utilities at a Complex or site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the Town, including specifically, but not limited to applicable electrical codes.

28. At a Facility or Complex needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.

29. All work at a Facility or Complex shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

30. A holder of a Special Use Permit or Administrative Approval granted authority granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.

31. Unless such is proven to be technologically impracticable, the Town requires the co-location of new antenna arrays on existing structures, as opposed to the construction of a new Complex or support structure or increasing the height, footprint or profile of a Facility or Complex beyond the conditions of the approved Special Use Permit for an existing Facility or Complex. In instances not qualifying as an Eligible Facility, the Applicant shall submit a comprehensive report inventorying all existing structures more than fifty feet (50') in height within one-half (1/2) mile of the location of any proposed new Facility or Complex.

32. An Applicant intending to co-locate on or at an existing Facility or Complex shall be required to document the intent of the existing owner to permit its use by the Applicant.

33. Co-located equipment shall consist only of the minimum Antenna array technologically Needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown in the form of clear and convincing evidence.

34. A DAS system that is owned or operated by a commercial carrier and is part of a commercial wireless system, or are used for commercial purposes, is expressly included in the context of this Ordinance, regardless of the location or whether the Facility or any of its components is located inside or outside a structure or building.

35. The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this Ordinance, as well as other applicable land use and zoning regulations. An Applicant may not by-pass sites of higher siting priority than the priority chosen solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority, or attaching to an existing structure is proposed, the applicant must demonstrate and explain to the reasonable satisfaction of the Town why co-location is technically or commercially impracticable. Contractual or Build-to-Suit agreements between carriers and a proposed Tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with the siting priorities.

36. Any technical information must be provided in such a manner, detail and form that the content and any conclusions are able to be verified by a third party using the information used and provided by the applicant.

37. All costs associated with the preparation and submission of an Application and/or necessitated by the requirements for obtaining and maintaining any and all Town permits shall be borne by the Applicant or Permittee.

38. Any new Wireless Facility shall be designed and constructed so as to be the least visually intrusive, create the least visual impact reasonably possible and have the least negative impact on nearby property values, provided that pursuant to 47 U.S.C. 332(c)(7)(B)(II) compliance with this requirement does prohibit or effectively serve to prohibit the provision of the intended service from one or more Facilities.

39. No new Facility or antenna array shall be identifiable, recognizable or discernable as a Wireless Facility or antenna by a typical lay-person from a distance of two-hundred fifty feet (250') or more.

40. The fact that a proposed use satisfies all specific requirements for a Special Use Permit in a given type of zoning or land use district does not create a presumption that the use is compatible or in harmony with nearby properties within one thousand feet (1,000') and, in itself, is not sufficient to require the grant of a Special Use Permit.

41. Inventory of existing sites. Each applicant for approval of an antenna and/or a tower shall provide to the Town an inventory of its existing antennas and towers that are within the jurisdiction of the Town of Walkersville, including specific information about the location, height and design characteristics of each tower or antenna. Applicants are encouraged to submit an inventory of potential future tower sites within the jurisdiction of the Town of Walkersville. The Town may share such information with other applicants applying for administrative approval under this section or other organizations seeking to locate towers or antennas within the jurisdiction of the

governing authority; provided, however, that the Town is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

42. Buffering of the site shall be installed to screen and/or mitigate the impacts of the wireless facility on surrounding areas, properties, or rights-of-way. In order to provide spatial separation and create a visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower, any ground buildings or equipment, and security fencing. Depending upon the specific situation for the location involved and the impact of such, ground-mounted equipment cabinets and buildings may be located outside the buffered area if they are constructed so the exterior appearance of the equipment cabinet or building has the appearance of surrounding structures. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this appearance criteria. For situations involving new support structures and/or above ground equipment in the Public Rights-of-Way, if above-ground location is allowed, the screening requirements shall be determined at the time of the Pre-Application Site visit and determined based on the situation at any given location.

43. Given that wireless service is deemed primarily an essential service, all new towers or other vertical support structures containing wireless antennas shall be designed to an EIA-TIA 222 G Class III standard or any subsequently adopted more stringent standard.

§ 86-5. Responsible Party(s)

With the exception of the Town itself, the owner(s) of a Facility or Complex, any support structure used to accommodate wireless Facilities, and of the land upon which a Facility support structure or Complex is located, shall at all times be jointly and individually responsible for: (1) the clean, neat, non-littered and safe condition of the Facility or Complex, support structure and all components on the site related to the Facility or Complex; (2) assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the Facility or Complex, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the Facility or Complex; and (3) assuring the proper permitting as required by this Article and other Town regulations by all lessees and users of the Facility or Complex, including but not limited to any upgrades and/or Modifications of equipment. Said owner(s) shall regularly and diligently monitor activities at the site to assure that the Facility or Complex is operated in compliance with this Ordinance, other Town regulations and any Special Use Permit.

§86- 6. Fees

All fees and charges, including but not limited to Application fees, Expert Assistance fees, Inspection fees and Permit fees, shall be as set forth in the Town's Schedule of Fees and Charges. For new towers or other support structures or for substantial modifications, the Expert Assistance fee shall be as set forth in the Town's Fee Schedule. The Town may choose to waive their application fee if the applicant locates on Town Owned property, not including in the Town's public rights-of-ways.

§ 86-7. Existing Facilities and Complexes

A. Any legally permitted Facility, Tower or other support structure or Complex that exists on the effective date of this Ordinance of the Town's codes shall be allowed to continue as it presently exists, provided that i) all work was properly permitted; ii) the Facility or Complex is in compliance with all applicable local, State and federal laws, rules regulations, orders and permit conditions; iii) the Site is in compliance with the latest version of TIA ANSI 222 as regards the physical condition of the Site; and iv) a Certificate of Completion (COC) was issued for the most recent work performed;

B. Any work not properly previously permitted prior to the adoption of this Ordinance must be properly permitted within ninety (90) days of the effective date of this Ordinance or prior to any Modification of, on or at the site or Facility.

C. Any new Co-location and/or Modification of a Facility, Tower or other support structure or Complex or a Carrier's equipment located on the Tower or Facility, must be permitted under this Ordinance and the entire Facility or Complex and any new Co-location or Modification shall comply with all applicable laws, rules and regulations, including obtaining a valid COC.

§ 86-8. Certificate of Completion

A. No work shall be allowed to be done at or on any Facility or Complex, excepting normal repair and maintenance work as defined in this Ordinance, for which the owner cannot produce the COC for the most recent work, until a final inspection has been conducted and a COC has been issued. The owner of the Facility, Tower or other support structure or Complex shall pay for the actual cost of the required final inspection prior to the inspection being conducted. If the Facility or Complex does not pass the initial final inspection, the owner shall be required to pay for any subsequent re-inspection prior to the re-inspection being conducted. A passing final inspection is required prior to the issuance of a COC.

B. If no COC can be produced for previously done work, at the discretion of the Town, per day per violation fines and other penalties as allowed by law maybe imposed until the Facility or Complex is compliant and the required COC has been issued. The time used for the determination of the start date for such fines and penalties shall be thirty (30) days from the date the previously done work was permitted, unless the Applicant can dispositively prove to the contrary.

§ 86-9. Exclusions

The following shall be exempt from this Ordinance:

A. Any facilities expressly exempt from the Town's zoning, land use, siting, building and permitting authority.

B. Any reception or transmission devises expressly exempted under the Telecommunications Act of 1996.

C. A Facility used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications that is less than 50' above ground level.

D. Facilities used exclusively for providing wireless service(s) or technologies where i) there is no charge for the use of the wireless service; ii) the Facility or Complex does not require a new Tower or increase the height or profile of the structure being attached to; and iii) the service is not intended to be useable more than seventy-five feet (75') from the Antenna.

§ 86-10. Application Requirements for a New Tower, Support Structure, or a Substantial Modification or Co-location

A. All Applicants for a Special Use Permit for a new Wireless Facility or Complex, including for a new Tower or other new support structure or that constitutes a Substantial Modification, shall comply with the requirements set forth in this Section. In addition to the required information set forth in this Section, all applications for the construction or installation of new Wireless Facility or Complex or Substantial Modification shall contain the information hereinafter set forth prior to the issuance of a Building Permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

<u>Ownership and Management</u>

1. The Name, address, phone number and e-mail address of the person preparing the Application;
2. The Name, address, phone number and e-mail address of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name, e-mail address and all Necessary contact information shall be provided;
3. The Postal address and tax map parcel number of the property;
4. A copy of the FCC license(s) applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands to be used;
5. The Applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower or support structure that it constructs or has constructed for it;

Zoning and Planning

6. The Zoning District or designation in which the property is situated;
7. The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and an official land survey showing the location of all property lot lines;
8. The location, size of the footprint and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the Application;
9. A detailed engineering site plan to scale, not a hand drawn sketch, showing the footprint of the Support Structure and the type, location and dimensions of access drives, proposed landscaping and buffers in compliance with the Town's Zoning Ordinance and approved by the Planning Commission, with, distances to all setbacks and easements, including but not limited to fencing and any other requirements of site plans;
10. Detailed elevation drawings showing the profile or the vertical rendition of the Tower or support structure at the Facility or Complex and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
11. The type of Tower or support structure, the number of antenna arrays proposed to be able to be accommodated and the basis for the calculations of the Tower's or support structure's capability to accommodate the required number of antenna arrays for which the structure must be designed;
12. Disclosure in writing of any agreement in existence prior to the submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.
13. A certified statement of i) the total cost of construction for the work associated with the Application; and ii) the total cost of all equipment of the Applicant at the Facility. To verify the accuracy of the information, the Town reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.

Safety

14. the age of the Tower or support structure and Complex stated in years, including the date of the grant of the original permit;
15. a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or other type of support structure;
16. for a tower, the make, model, type and manufacturer of the Tower and the structural design analysis and report, including the calculations, certified by a Professional Engineer licensed in the State, proving the Tower or support Structure's capability to safely accommodate the Facilities of the Applicant without change or Modification.
17. if a Substantial Co-location, change or Modification of a Facility or Complex is needed, a detailed narrative explaining what changes are needed and why they are needed;
18. a Complete, unredacted copy of the foundation design and report for the Tower or other structure, including a geotechnical sub-surface soils investigation report and foundation design for the Facility;
19. if Substantially Modifying or Co-locating on an existing Tower or other support structure, a Complete, unredacted and certified TIA ANSI 222 Report regarding the physical

condition of the Complex and all of its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the Application. No Building Permit shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this subsection and other adopted standards of the Town regarding the physical condition and/or safety of the Facility, unless and until all remediation work that is deemed needed has been completed, or a schedule for the remediation work has been approved by the Town;

20. In an instance involving a Tower with only a single array of antennas, or for the first antenna array to be attached to a Tower where the array will be thirty-three feet (33') or more above ground level, and not within 100 feet of areas to which the public has or could reasonably have or gain access to, in lieu of a full RF emissions study, if deemed appropriate by the Town, signed documentation in the form of the FCC's "Checklist to Determine whether a Facility may be Categorically Excluded" may in certain cases be allowed to be used and shall be provided to verify that the Facility and Complex with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations;

21. In certain instances, the Town may deem it appropriate to have a post-construction on-site RF survey of the Facility or Complex done after the construction or Modification and activation of the Facility or Complex, such to be done under the direction of the Town or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;

22. In the event the Town deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding §A,(21)of this Section, the Town expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the Town, itself, may be prohibited from determining.

23. If not submitted in a previous application, a signed statement that the Applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

B. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless Telecommunications Facility or Complex is in compliance with Federal Aviation Administration Regulation Part 77, and if it requires lighting, including any Facility or Complex where the application proposes to increase the height of the existing Tower or support structure.

C. New Towers shall be prohibited on private property in Residential Districts, and areas officially deemed to be visual or sensitive scenic areas within the Town's Corporate Limits.

D. All Applications for a proposed Facility or Complex applicable to this Section shall contain clear and convincing evidence that the Facility or Complex is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved. To achieve this goal the Town expressly reserves the right to require the use of Stealth or Camouflage siting techniques such as, but not limited to, DAS (Distributive Antenna System), a Small Cell Facility or a functional equivalent as regards size, and such shall be subject to approval by the Town.

E. If proposing a new Tower or support structure, or a Substantial Co-location or Modification of an existing structure, the Applicant shall be required to submit clear and convincing evidence that there is no alternative solution within the search ring of the proposed site that would be less visually intrusive and that not to permit the proposed new Tower or support structure, or a Substantial Co-location or Modification would result in the prohibition of service or the perpetuation of a significant gap in service.

F. An Applicant proposing a new Tower or support structure shall use the largest search ring technically possible, and may be required to prove with certified technical/engineering documentation that the search ring used is the largest that could be used.

G. In order to better inform the public, in the case of a new Tower or support structure or Substantial Modification, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored balloon with horizontal stabilizers, at the maximum height of the proposed new Tower or support structure or Substantial Modification. Unless conditions at the time preclude it for reasons of instability vis-à-vis wind speed, the use of spherical balloons shall not be permitted.

H. At the option of the Town, a community meeting may be held concurrent with the balloon test, the notification of which shall be as set forth in the following §I(4).

I. At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4') by eight feet (8') in size and shall be readable from the road by a person with 20/20 vision.

1. Such sign shall be placed off, but as near to, the public right-of-way as is possible.

2. Such sign shall contain the times and date(s) of the balloon test and contact information.

3. The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Town and as agreed to by the Town. The Applicant shall inform the Town in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.

4. The Applicant shall notify all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the Tower and Facility or Complex and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail. The Town shall be provided an attested copy of the list of addresses to which notification is provided. The Wireless Telecommunications Facility or Complex shall be structurally designed to accommodate at least four (4) Antenna Arrays, with each array to be flush mounted or as close to flush-mounted as is reasonable possible.

J. The Applicant shall provide certified documentation in the form of a structural analysis and report certified by a licensed Professional Engineer, including all calculations, showing that the Facility or Complex will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent standards shall apply.

K. The Applicant shall furnish a Visual Impact Assessment, which may be required to include:

1. a computer generated "Zone of Visibility Map" at a minimum of a one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage; and

2. To-scale photo simulations of "before and after" views from key viewpoints inside of the Town as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s)of each location from the proposed structure;

L. The Applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view at least the bottom fifteen feet (15') of the Facility or Complex and all related equipment and structures associated with the Facility or Complex not located in the Public Rights-of-Way. For situations involving new support structures and/or above ground equipment in the Public Rights-of-Way, if above-ground location is allowed, the screening requirements shall be determined at the time of the Pre-Application Site visit and determined based on the situation at any given location.

M. A Building Permit shall not be issued for the construction of a new Tower or other support structure until i) there is an Application filed for or by a specific carrier that documents with verifiable technical evidence that the Facility or Complex is Necessary for that carrier to serve the community and that co-location on an existing Structure is not feasible, or ii) that no owner of an existing structure within the Applicant's search ring will allow attachment to the owner's building or other type of structure.

N. Co-location on an existing structure is not reasonably feasible if such is technically or Commercially Impracticable or the owner of the Structure is unwilling to enter into a contract for such use at a fair and reasonable price. If an Applicant feels the price is unreasonable, sufficient documentation in the form of clear and convincing evidence to support such a claim shall be submitted to determine whether co-location on a given existing structure is Commercially Impracticable or otherwise unreasonable.

§ 86-11. Requirements for Eligible Facility Co-locations or Modifications

A. For the co-location, modification or upgrade of a wireless facility that qualifies as an Eligible Facilities request under applicable law, the following information shall be required to be contained in an application**.** Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

Safety

1) the age of the Tower or other support structure in years, including the date of the grant of the original permit;
2) a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or a description of another other type of support structure~~;~~
3) certified documentation in the form of a structural analysis and report done by a Professional Engineer licensed in the State of Maryland. Said analysis and report shall include all supporting calculations, showing that the Facility, as it exists, will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, the Maryland Building Code and all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict, the more stringent shall apply.
4) a copy of i) the installed foundation design, including a geotechnical sub-surface soils investigation report; and if necessary ii) a foundation remediation design and recommendation for the Tower or other structure;
5) a certified, unredacted report and supporting documentation, including photographs, regarding the physical situation and physical condition of all equipment and facilities at the site in the form of a report based on an on-site inspection done pursuant to and in compliance with the latest version of TIA/ANSI 222. The inspection shall be done by a qualified individual

experienced in performing such inspections and the report shall be signed by an individual with authority to order any needed remediation or resolution of issues.

6) a copy of the FCC licenses for each frequency band applicable for the intended use of the Wireless Telecommunications transmission and/or receive equipment;
7) a list of all frequencies, to be used at the Facility;
8) the number, type and model of the Antenna(s) proposed, along with a copy of the manufacturer's specification sheet(s), i.e. cut sheet(s), for the antennas;
9) certification from the owner of the Facility certifying that the Facility and all attachments thereto are currently in compliance with the conditions of the approved Special Use Permit or Administrative Approval or identifying any non-compliant situation.

Ownership and Management

10) the Name, address and phone number of the person preparing the Application;
11) the Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
12) the Postal address and tax map parcel number of the property;
13) a copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.

Construction

14) The total cost of construction showing the cost of labor all new and/or replacement components and equipment.

B. In certain instances, the Town may deem it appropriate to have an on-site RF survey of the facility performed after the construction or Modification and activation of the Facility, such to be done under the direction of the Town or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;

C. In the event the Town deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the previous §B of this Section, the Town expressly reserves the right to seek the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the Town, itself, may be prohibited from determining.

D. Attachments to Existing Structures Other Than Towers

1) Attachments to Buildings: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facie, the antennas shall be mounted on the facie without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.

2) Utility poles and light standards: If attaching to a utility pole or light standard, no equipment may extend more than ten percent (10%) of the existing height beyond the top of the structure as originally permitted, and no equipment other than cabling shall be lower than fifteen feet (15') above the ground. Only one (1) increase of the height of a utility pole or light standard shall be allowed.

3) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the Applicant can prove that to locate elsewhere less visually on the tank will prohibit or have the effect of prohibiting the provision of service or that to do so would be technologically impracticable.

4) Profile: So as to be the least visually intrusive and create the smallest profile reasonably possible under the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached shall be flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

§ 86-12. Location of Wireless Telecommunications Facilities

A. No tower or other new support structure taller than 35' shall be permitted in any existing or planned (i.e. platted) residential neighborhood, nor within one-half mile of any existing or planned (i.e. platted) residential neighborhood. Said height limit shall not be as-of-right, but shall be the maximum permissible height subject to the verifiable proof-of-technical need information submitted.

B. If a new telecommunications support structure is proposed to be located within one-half mile of an existing or planned residential neighborhood and is proven by verifiable clear and convincing technical information to be a Technical Necessity for the Applicant's service to be provided in the intended service area of the proposed facility, irrespective of the type of zoning, the support structure shall not be taller than ten feet (10') above the tallest obstruction between the proposed support structure and a residential neighborhood.

C. Applicants shall locate, site and erect all Facilities and associated equipment in accordance with the following priorities, in the following order:

1. On existing structures without increasing the dimensions or size of the structure;
2. On existing structures, more than one thousand feet from the nearest boundary of the public right-of-way without increasing the height or size of the profile of the Tower or structure by more than is allowed for an Eligible Facility.
3. On existing structures without increasing the height of the structure by more than is Needed, as such Need can be proven by clear and convincing verifiable technical evidence.
4. On properties in areas zoned for Commercial use.
5. In areas zoned for Residential use, in the public right-of-way, but without increasing the height of the size or dimensions of the support structure, and only if Camouflaged or Stealthed to the satisfaction of the Town.

D. If the applicant proposes and commits to locate on Town-owned property or structures, the Town reserves the right to waive the Town's Application Fee that would otherwise be paid to the Town.

E. If the proposed site is not proposed for the highest priority listed above, then a detailed narrative and technical explanation shall be provided as regards why a site from all higher priority designations was not selected. The person seeking such an exception must demonstrate to the satisfaction of the Town the reason or reasons why a Special Use Permit or Administrative Approval should be granted for the proposed Facility.

F. Notwithstanding anything else to the contrary, the Town may approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. The Town may also direct that the proposed location be changed to another location that is more in keeping with the goals of this Ordinance and the public interest as determined by the Town and that serves the intent of the Applicant.

G. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Town may disapprove an Application for any of the following reasons:

1. Conflict with safety and safety-related codes and requirements, including but not limited to setback and Fall Zone requirements;
2. Non-Compliance with zoning or land use regulations;

3. The placement and location of a Facility or Complex would create an unacceptable risk, or the reasonable possibility of such, to any person or entity for physical or financial damage, or of trespass on private property;
4. The placement and location of a Facility or Complex would result in a conflict with, compromise in or change in the nature or character of the adjacent and surrounding area, and expressly including but not limited to loss in value as measured over the twelve (12) months preceding the Application having been filed;
5. Conflicts with the provisions of zoning or land use regulations;
6. Failure to submit a Complete Application within sixty (60) days after proper notice and opportunity to make the Application Complete.

H. Notwithstanding anything to the contrary in this Ordinance, for good cause shown such as the ability to utilize one or more shorter, smaller or less intrusive Facilities elsewhere and still accomplish the primary service objective, the Town may require the relocation of a proposed site if relocation could result in a less intrusive Facility or Complex singly or in combination with other locations, including allowing for the fact that relocating the site chosen by the Applicant may require the use of more than one (1) Facility to provide substantially the same service.

I. Telecommunication towers shall be permitted in the Commercial, Institutional, Light Industrial Park, Agricultural, and Open Space zoning districts only, and comply with the maximum permitted height.

§ 86-13. Type and Height of Towers

A. No new Towers of a lattice or guyed type shall be permitted.

B. Except in the public rights-of-way and in Residentially zoned areas, the maximum permitted total height of a new tower or other proposed support structure, shall be fifty feet (50') above pre-construction ground level, unless it can be shown by clear and convincing verifiable technical evidence from a carrier who has committed to use the tower that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the Town. The maximum permitted height is permissive and is expressly not as-of-right.

C. The policy decision has been made that more Facilities of a shorter and less intrusive height is in the public interest, as opposed to fewer but taller support structures. Therefore, spacing or the distance between Facilities shall be such that the service may be provided without exceeding the maximum permitted height.

D. If proposed to be taller than the maximum permitted height, the Applicant for a new Tower or support structure shall submit clear and convincing verifiable technical evidence by a carrier or wireless service provider that has committed to use the Tower or other support structure justifying the total height requested. Technical evidence must be verifiable using the information provided by the Applicant. If the Applicant chooses to provide evidence in the form of propagation studies, to enable verification of the Need for the requested height or location, such must include all modeling information and support data used to produce the studies at the requested height and at lower elevations of ten feet (10') down inclusive of the maximum permitted height. The Town or its designee will provide the form that shall be used for providing the modeling information.

E. The Town reserves the right to require a drive test to be conducted under the supervision of the Town or its designee to verify the technical Need for what is requested.

F. At no time shall a Tower or other support structure be of a height that requires lighting by the FAA.

G. Towers shall be structurally designed to support a minimum of four (4) carriers using functionally equivalent equipment to that used by the first carrier attaching to a Tower or other support structure, so that the height can be increased if Needed.

H. New structures within Rights-of-Ways – Required Design Characteristics. Pursuant to the Town's Right-of-Way regulations, the following shall govern new poles and other support structures in the Rights-of-Way.

a. Wireless installations shall be consistent throughout the Town limits and the extraterritorial jurisdiction (ETJ);
b. Wireless installations shall be on non-conductive poles or structures;
c. All antennas shall be undiscernible by an average person from 250 feet away;
d. Wireless installations shall utilize a "concealed" design, including all cabling being inside a hollow pole;
e. All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, or in a pole-mounted cabinet or under a pole-mounted shroud;
f. Cabinets should be consistent in size and no larger than standard DOT streetlight signal cabinets;
g. Unless proven unfeasible by *clear and convincing evidence*, in lieu of installing new poles, any wireless installation in the PROW shall replace a pre-existing distribution pole, secondary pole or streetlight;
h. Wireless installations shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of ANSI 222 Version G;
i. Any new poles installed shall be environmentally "green" and not leach any volatile organic compounds or toxic materials into the ground; and
j. To avoid unsightly rust and corrosion, any new or replacement pole installed shall not be metal or reinforced concrete.

§ 86-14. Visibility and Aesthetics

A. No Tower, nor any support structure that is not a building and is constructed after the effective date of this Section, shall be tall enough to require lighting by the FAA.

B. Stealth: All new Facilities, including but not limited to Towers, shall utilize Stealth or Camouflage siting techniques that are acceptable to the Town, unless such can be shown to be either Commercially or technologically Impracticable.

C. Finish/Color: Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.

D. Lighting: Notwithstanding the prohibition of lighting, in the event lighting is subsequently required by the FAA, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. For any Facility or Complex for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 20 degrees vertical for a distance of at least 1 mile in a level terrain situation. Such device shall be compliant with or not expressly in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.

E. Retrofitting: In the event a Tower or other support structure that is lighted as of the effective date of this Ordinance is modified, at the time of the first Modification of the Facility the Town reserves the right to require that the Tower be retrofitted so as to comply with the lighting requirements of the preceding §(D) of this Section or be reduced to a height that does not require lighting.

F. Flush Mounting: Except for omni-directional antennas, all new or replacement antennas, shall be flush-mounted or as close to flush-mounted on the support structure as is functionally possible, unless it can be demonstrated by clear and convincing technical evidence that such has the effect of prohibiting the provision of service to the intended service area, alone or in

combination with another site(s), or unless the Applicant can prove that it is technologically impracticable.

G. Placement on Building: If attached to a building, all antennas shall be mounted on the fascia of the building and camouflaged so as to match the color and, if possible, the texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is reasonably possible given the facts and circumstances involved.

§ 86-15. Security

All Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

A. All Facilities, including Antennas, Towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be easily climbed or collided with and shall expressly include removing the climbing steps for the first ten feet (10') from the ground on a monopole; and

B. Transmitters and Telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

§ 86-16. Signage

Facilities shall contain a sign no larger than four (4) square feet and no smaller than two (2) square feet in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of the same size is also to be installed bearing the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and must be visible from the access point of the Facility or Complex and must identify the equipment owner of the shelter or cabinet. On Tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted. For Wireless Facilities in the Public Rights-of-Way the RF Radiation Warning sign may be the standard warning symbol for RF Radiation, be of a size no smaller than 6" x 6" and placed within 3' of the lowest point of the antenna.

§ 86-17. Setback and Fall Zone

A. All proposed Towers and any other proposed Wireless support structures not located in the Public Rights-of-Way shall be set back from abutting parcels, recorded rights-of-way and roads and streets by the greater of the following distances: i) a distance equal to the height of the proposed Tower or support structure plus ten percent (110%) of the height of the Tower or other structure, otherwise known as the Fall Zone; or ii) the existing setback requirement of the underlying zoning district, whichever is greater.

B. For new support structures in the Public Right-of-Way, the setback shall be determined at the time of the Pre-Application Site visit and determined based on the situation at any given location.

C. For any Facility located within a fenced compound, any Accessory structure shall be located within the fenced compound as approved in the Special Use Permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The Fall Zone or setback shall be measured from the nearest portion of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines.

D. The nearest portion of any private access road leading to a Facility shall be no less than ten (10) feet from the nearest property line.

E. There shall be no development of habitable buildings within the Setback area or Fall Zone.

§ 86-18. Retention of Expert Assistance Cost to be Borne by Applicant

A. Since retail subscriber rates reflect all capital costs, including costs of permitting such as but not limited to payment of the cost of the Town's expert assistance, and to prevent taxpayers from having to bear the cost related to the issue of permitting and regulating a commercially used Wireless Telecommunications Facilities or negotiating agreements to lease or amend or modify a lease for any Town-owned property or structure, an Applicant shall pay to the Town fees as set forth in the Town's Fee Schedule. The fees are intended to cover all reasonable costs of the expert assistance needed by the Town in connection with the review of any Application, including both the technical and non- technical review, and the permitting, inspection, construction or Modification requested, any Application pre-approval evaluation requested by the Applicant and any lease negotiations. The payment of the Expert Assistance fees to the Town shall precede any work being done that is related to the intended Application or lease, including a pre-application meeting or site visit.

B. The Town may hire any consultant of its choice to assist the Town in reviewing and evaluating Applications and negotiating leases, provided the consultant has at least five (5) years of experience working exclusively for the public sector regulating Towers and Wireless Facilities and negotiating leases, and has not had a recommendation successfully legally challenged.

C. The total amount of the funds needed for expert assistance as set forth in the Town's Fee schedule may vary with the scope and complexity of the Application, the completeness of the Application and other information as may be needed to complete the necessary technical and non-technical reviews, analysis and inspection of any construction or Modification or the amount of time spent responding to an Applicant's arguments as regards its Application as relates to the requirements of this Ordinance.

D. For a new Tower or support structure or a Substantial Modification, to prevent taxpayer subsidization, the expert assistance fee shall be no less than $7,500.

E. The Town will maintain an accounting record for the expenditure of all such funds.

F. If an Application is Amended, or a waiver or relief is requested from any regulations at any time prior to the grant of the Certificate of Completion required under this Ordinance, the Town reserves the right to require additional payment for the review and analysis equal to, but not exceeding, the cost created for the Town by the Applicant or its Application. Such amount shall be paid to the Town prior to the issuance of the Special Use Permit or Administrative Approval or the Certificate of Completion, whichever is procedurally needed next.

§ 86-19. Procedural Requirements for a Granting a Special Use Permit

A. When a Special Use Permit is requested, the following procedures shall apply.

B. When deemed necessary or otherwise in the public interest, as part of the process for any new Towers or Telecommunications Support Structure, the Town may require a Neighborhood Meeting with area residents, the Applicant, a representative(s) from the Town staff and the Town's consultant to discuss the proposed Facility and the effects of such.

C. The Town shall schedule any required public hearing(s) once it finds the Application is Complete and there are no issues of non-compliance or conflict with applicable law, rule or regulation. The Town shall not be required to set a date for a hearing if the Application is not Complete or if there are unresolved issues of non-compliance by the Applicant or a party to the Application. The Town may, at any stage prior to issuing a Special Use Permit or

Administrative Approval, require such additional information as it deems Necessary and that is not expressly prohibited from being required by applicable law as relates to the issue of the siting, construction or Modification of or at a Wireless Telecommunications Facility or Complex.

D. Upon Town approval, a Special Use Permit shall be issued for a new Tower or Substantially Modified Wireless Support Structure or Substantial Co-location. Notwithstanding the preceding, the Building Permit for a new Tower or other proposed support structure shall not be issued until an Applicant has provided clear and convincing substantiating documentation governing the placement of the first antenna array of a carrier who has committed to use the structure prior to its construction and that carrier has been properly permitted under this Ordinance.

§ 86-20. Action on an Application

A. The Town will undertake, or have undertaken, a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.

B. The Town may refer any Application or part thereof to any advisory committee or consultant for a non-binding recommendation.

C. Either after the public hearing if a hearing is required, or after Administrative review for an Eligible Facility Application, and after formally considering the Application, the Town may i) approve; ii) approve with conditions; or iii) deny for cause a Permit or Administrative Approval Application. The decision shall be in writing and shall be supported by substantial evidence contained in a written record, which record may be the minutes of any or all official meetings. Throughout the Application and permitting process, the burden of proof for compliance with this Ordinance or the need for a waiver or relief shall always be upon the Applicant.

D. An Applicant shall not be permitted to refuse to provide information needed to establish the substantial written record required under federal law and applicable case law. Refusal for more than sixty days without agreement by the Burgess & Commissioners shall result in denial of the Application or the Application shall be deemed abandoned.

E. Approval Notification: If the Town approves the Special Use Permit or Administrative Approval, then the Applicant shall be notified of the approval of its Application, including any conditions, within 30 calendar days of the Town's action. The Special Use Permit or Administrative Authorization shall be issued within thirty (30) days after such approval.

F. Denial Notification: If denied, the Applicant shall be notified of the denial of its Application at the Town Meeting, and in writing within 30 calendar days of the Town's action, which notice shall contain the reason or reasons for the denial.

§ 86-21. Transfer or Assignment

The extent and parameters of a Special Use Permit or Administrative Authorization for a Facility or Complex shall be as follows:

A. Such Special Use Permit or Administrative Authorization shall not be assigned, transferred or conveyed without the express prior written notification to the Town, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.

B. A transfer, assignment or other conveyance of the Special Use Permit or Administrative Authorization shall require the written commitment of the proposed new holder of the Special Use Permit or Administrative Authorization to abide by all applicable laws, rules and regulations, including but not limited to this Ordinance.

§ 86-22. Violations

A. Following written notice of violation and an opportunity to cure, any Permit or Administrative Approval granted under this Ordinance may be revoked, canceled, or terminated for a violation of the uncured conditions and provisions of the Special Use Permit or other applicable law, rule, regulation or order, and if warranted the payment of a fine(s) as is permissible.

B. If not cured within the time frame set forth in the Notice of Violation, a hearing shall be held upon thirty (30) days prior notice to the Applicant citing the violation and the date, time and place of the hearing, which shall be provided by registered mail to the last known address of the holder of the Special Use Permit.

C. Following the original notice and an opportunity to cure, subsequent or repeated violations of a substantially similar nature shall not require an opportunity to cure prior to the imposition of fines or penalties.

§ 86-23. Removal and Performance Security

A. Removal and Performance: The Applicant and the owner of record of any proposed new Tower or other support structure or Complex shall, at its sole cost and expense, be required to execute and file with the Town a bond or other form of security that is acceptable to the Town as to the type of security and the form and manner of execution, in an amount of at least $75,000.00 for a Tower or other support structure and with such sureties as are deemed adequate by the Town to assure the faithful performance of the terms and conditions of this Ordinance and the conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or, if abandoned, until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit. The amount of the Bond is, in part, determined by the current cost of demolition, removal and site restoration multiplied by the compounding or cumulative effect of a three percent (3%) annual cost escalator over a thirty (30) year projected useful life of the structure.

B. Performance: The owner of any equipment attached to a support structure or located in a Complex shall be required to execute and file with the Town a performance bond or other form of performance security that is acceptable to the Town as to the type of security and the form and manner of execution, in the amount of $25,000.

§ 86-24. Reservation of Authority to Inspect Wireless Telecommunications Facilities

A. In order to verify that the holder of a Special Use Permit for a Facility or Complex and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, places, constructs and maintains such facility in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this Ordinance, the Town or its designee shall have the right to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, Modification and maintenance of such facilities, including, but not limited to, Towers, Antennas, buildings and equipment and connections contained therein, or other structures constructed or located on the permitted site.

B. Refusal to allow or grant access to the Town's representative upon reasonable notice shall be deemed a violation of this ordinance.

§ 86-25. Liability Insurance

A. A holder of a Special Use Permit for a Wireless Telecommunications Support Structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below:

1. Commercial General Liability covering personal injuries, death and property damage: $2,000,000 per occurrence/$5,000,000 aggregate; and
2. Automobile Coverage: $1,000,000.00 per occurrence/ $3,000,000 aggregate; and
3. A $5,000,000 Umbrella coverage; and
4. Workers Compensation and Disability: Statutory amounts.

B. For a Facility or Complex located on Town property, the Commercial General Liability insurance policy shall specifically name the Town and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with an AM Best's rating of at least A.

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days prior to the expiration of the insurance that such policies are intended to renew or replace.

F. Before construction of a permitted Wireless Telecommunications Facility or Complex is initiated, but in no case later than fifteen (15) days prior to the grant of the Building Permit, the holder of the Special Use Permit shall deliver to the Town a copy of each of the policies or certificates representing the required insurance in the required amounts.

G. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the Town shall not be deemed to comply with this Section.

§ 86-26. Indemnification

A. Any application for Wireless Telecommunication Facilities that is proposed to be located on Town property shall contain a signed statement fully and completely indemnifying the Town. Such provision shall require the applicant, to the extent permitted by applicable law, to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, Modification , location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility or Complex. Notwithstanding the preceding, there shall be no claim of indemnification with respect to any act attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

B. Notwithstanding the requirements noted in subsection A of this section, an indemnification provision will not be required in those instances where the Town itself, or an agency or department of the Town, applies for and secures a Special Use Permit for a Wireless Telecommunications Facility or Complex.

§ 86-27. Fines

A. In the event of a violation of this Ordinance, or any Special Use Permit or Administrative Approval issued pursuant to this Ordinance, the Town may impose and collect, and the holder of the Special Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex shall pay to the Town, fines or penalties as set allowed by State law or as otherwise established by the Town.

B. Notwithstanding anything in this Ordinance, the holder of the Special Use Permit or Administrative Approval for a Facility or Complex may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Section or any section of this Ordinance. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit in addition to the payment of fines. The Town may also seek injunctive relief to prevent the continued violation of this Ordinance without limiting other remedies available to the Town.

§ 86-28. Default and/or Revocation

If a support structure, Facility or Complex is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Special Use Permit or Administrative Approval, then the Town shall notify the holder of the Special Use Permit or Administrative Approval in writing of such violation. A Permit or Administrative Approval holder found to be in violation may be considered in default and subject to fines as permitted under applicable State law, and if a violation is not corrected to the satisfaction of the Town in a reasonable period of time the Special Use Permit or Administrative Approval shall be subject to revocation.

§ 86-29. Moving or Removal of Co-located Facilities and Equipment

A. If attached to an existing tower or other support structure, unless the Town deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's equipment to be relocated from one structure to another without clear and convincing evidence that not to do so would, for technical reasons, prohibit or serve to prohibit the provision of service in the service area served by the existing wireless facility.

B. If the lease for the existing attachment and use expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed upon i) the provision of clear and convincing evidence satisfactory to the Town of the need to move or relocate the facility; and ii) clear and convincing evidence satisfactory to the Town of the lack of impact on the neighborhood or area of the intended new location. Cancellation or abandonment of a lease by a lessee or refusal to agree to terms of a lease that are not Commercially Impracticable shall not be deemed a permissible reason for relocating.

C. The owner of any Facility or Complex shall be required to provide a minimum of thirty (30) days written notice to the Town Clerk prior to abandoning any Facility or Complex.

D. Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of Facilities.

1. a Facility or Complex that has been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a cumulative total of one hundred-eighty (180) non-consecutive days in any three hundred-sixty-five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;

2. A Support Structure, Facility or Complex falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;

3. A Support Structure or Facility or Complex has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or Administrative Approval, and the Special Permit or Administrative Approval may be revoked.

E. If the Town makes a determination as noted in §D(2) or D (3) of this section, then the Town shall notify the holder of the Permit or Administrative Approval for the Facility or Complex that said Facility or Complex is to be removed.

F. The holder of the Special Use Permit or Administrative Approval, or its successors or assigns, shall dismantle and remove the Facility or Complex and all associated structures and equipment from the site and restore the site to as close to its original condition as is reasonably possible, such restoration being limited only by physical or Commercial Impracticability. Restoration shall be completed within ninety (90) days of the receipt of a written notice from the Town. However, if the owner of the property upon which the Facility or Complex is located wishes to retain any access roadway to the Facility or Complex, the owner may do so with the approval of the Town.

G. If a Facility or Complex has not been removed, or substantial progress has not been made to remove the Facility or Complex, within ninety (90) days after the permit holder has received notice, then the Town may order officials or representatives of the Town to remove or have removed the Facility or Complex at the sole expense of the owner or Special Use Permit holder.

H. If the Town removes, or causes a Facility to be removed, and the owner of the Facility or Complex does not claim and remove it from the site to a lawful location within ten (10) days, the Town may take steps to declare the Facility or Complex abandoned, and sell all remaining equipment and materials.

I. Notwithstanding anything in this Section to the contrary, the Town may approve a temporary use permit/agreement for the Facility or Complex, but for no more than ninety (90) days duration, during which time a suitable plan for removal, conversion, or re-location of the affected Facility or Complex shall be developed by the holder of the Special Use Permit, subject to the approval of the Town, and an agreement to such plan shall be executed by the holder of the Special Use Permit or Administrative Approval and the Town. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Town may take possession and dispose of the affected Facility or Complex in the manner provided in this Section and may utilize the bond in § 23 of this Ordinance.

§ 86-30. RF Emissions

A. As may be deemed appropriate from time to time, to assure the protection of the public health and safety, the Town expressly reserves the right under its Police Powers to require that a user of a Facility or Complex or the owner of the Facility or Complex, verify compliance with the FCC's regulations regarding cumulative RF emissions at the Site under the observation of a qualified staff member or the Town's consultant, and that all users of the Facility or Complex cooperate with the party responsible for such testing or verification. Failure to cooperate shall be deemed a violation of this section and subject the non-cooperating party to all applicable and permissible fines and penalties.

B. In the event the Town deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding §(A) of this section, the Town expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the Town, itself, may be prohibited from determining.

C. With respect to Support Structures other than Towers, if any section or portion of the structure attached to or to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape, as appropriate, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger. As deemed warranted by the Town at any time, the right of the Town is expressly reserved to do itself, or order done, an on-site RF emissions survey.

§ 86-31. Relief

A. Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance shall address and identify such at the Pre-Application meeting. The relief or exemption must be contained in the submitted Application for either a Special Use Permit or Administrative Approval, or in the case of an existing or previously granted Special Use Permit or Administrative Approval, a request for Modification of the Facility or Complex and/or equipment. Such relief may be temporary or permanent, partial or complete.

B. The burden of proving the need for the requested relief, waiver or exemption shall be solely on the Applicant to prove.

C. The Applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption.

D. No relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the Town, its residents and other service providers.

§ 86-32. Adherence to State and/or Federal Rules and Regulations

A. To the extent that the holder of a Special Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit or Administrative Approval for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit or Administrative Approval shall conform the permitted Facility or Complex to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

§ 86-33. Conflict with Other Laws

Where this Ordinance differs or conflicts with other Local Laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, State or federal government, the more stringent shall apply.

§ 86-34. Authority

This Ordinance is enacted pursuant to applicable authority granted by the State and federal government.

Passed and adopted 3/14/2018.

Effective 4/3/2018.

Chapter 87

REGULATION OFAUTHORIZATION FOR ABOVE GROUND WORK WITHIN PUBLIC RIGHTS-OF-WAY

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Adopted by Ordinance 2018-01, 03/14/2018

ARTICLE I
GENERAL

§ 87-1. Purpose and Intent.

The Town of Walkersville (Town) finds that 1)extremely limited space exists in the public Rights-of Way (PROW) that requires diligent responsible management, including but not limited to responsible and prudent siting policies; 2) protecting the public safety in and near the PROW is of paramount concern; 3) the Facilities that use and occupy the PROW often pose significant concerns regarding health, safety, public welfare, protecting the nature and character of the Town and its neighborhoods and for the environmental effects of work and Facilities in the PROW. The Town recognizes that facilitating the development of the responsible policies regarding the use of the PROW can be an economic development asset to the Town and of significant benefit to the Town and its residents. To assure that the placement, construction and Modification of Facilities in the PROW are consistent and to the extent practicable for functionally similar Users are not discriminatory, and that the regulations governing the use of the PROW are reasonable and balanced, the Town adopts a single, comprehensive set of regulations governing the use and occupancy of the PROW. The intent of this ordinance is to 1) maximize the efficient use of the limited space of the PROW, minimize the physical impact of Facilities on the PROW and adjacent properties; 2) minimize the impact of Facilities on the community, including but not limited to the visual impact; 3) protect the nature and character of the community to the extent reasonably possible; 4) establish a fair and efficient process for the review of and action on Applications; 5) facilitate the processing of Applications to the extent practicable; 6) assure taxpayers' money in the form of Town funds is not used to subsidize Application-related costs normally and traditionally borne by an Applicant; 7) assure a prompt and efficient review of Applications; 8) determine any negative environmental impacts associated with the location, construction and Modification of Facilities located in the PROW; and protect the health, safety and welfare of the Town, its residents and visitors.

§ 87-2. Definitions.

The following words and terms in this section shall have the meaning given below unless the context indicates otherwise. These meanings shall apply whether a word is capitalized or not, or is singular or plural.

1. ***Application*** means a formal request for the authority, right or permission to place or Modify a structure in, and to use and occupy, the public rights-of-way prior to receiving the necessary permit(s), including but not limited to a building permit.

2. ***Attached Equipment*** means any equipment attached to a utility pole or other support structure in the PROW.

3. ***Authorization*** means written permission from the Town to apply for any required permits needed to construct, place, Modify or temporarily disrupt or do work in the PROW, including but not limited to required permits such as building, electrical, street or curb cutting and excavation permits, or to maintain Facilities in the PROW, and includes but is not limited to a Franchise or other occupancy and use agreement or a Town-granted License. An Authorization is not a permit, but must be issued or granted before applying for any Town permit.

4. ***Best Case*** means using that which is the most favorable to serve the intended purpose that is reasonably possible with respect to the Purpose and Intent clause of this ordinance.

5. ***Certificate of Completion or COC*** means a document required and issued by the Town that confirms that all work represented in an Application 1) was properly

   permitted, including but not limited to having obtained all required permits such as building, electrical, street or curb cutting and excavation permits; 2) was done in compliance with and fulfilled all conditions of all permits, including any final completion deadline; 3) was fully constructed as approved and permitted; and 4) a final inspection was requested, conducted and the work and the Facility passed the final inspection.

6. ***Commercial Impracticability or Commercially Impracticable*** means the inability to perform an act on conditions or terms that cumulatively are 1) reasonable in commerce; 2) the cause or occurrence of which could not have been reasonably anticipated or foreseen; and that 3) jeopardizes the financial efficacy of the operation. Standing alone for a single Facility or Application, the inability to achieve a desired financial return on investment or profit shall not deem a situation to be “Commercially Impracticable” and shall not by itself render a requirement “Commercially Impracticable”.

7. ***Complete Application*** means a document or series of documents containing all required information and that the information contained therein has been verified as being true, accurate and correct, and that all applicable fees and charges related to an Application have been paid.

8. ***Emergency*** means a condition that poses a clear and imminent threat of danger to life, health, property damage or a significant loss of property to the general public, or requires immediate repair to restore an Essential Service to a group of Users of such service.

9. ***Essential Service*** means a service that is key to normal daily life, is available to and generally relied upon as the primary or sole source for that service by a significant percentage of the general public and/or is relied upon by one or more groups of Emergency First Responders, the interruption of which would endanger the life, health or personal safety of a person(s).

10. ***Excavate or Excavation*** means, without limitation, any cutting, digging, grading, tunneling, boring, or other alteration or disturbance of the surface or subsurface material or earth.

11. ***Facility*** means any pole, pipe, culvert, conduit, duct, cable, wire, fiver, amplifier, pedestal, antenna, transmission or receiving equipment, other electronic equipment, electrical conductor, manhole, appliance, sign, pavement structures, irrigation system, monument sign, monument mailbox and any other similar equipment, for public or private use.

12. ***First Responder*** means a person such as a police officer, firefighter or an EMT who is among those responsible for going immediately to the scene of an accident or Emergency to provide assistance.

13. ***Franchise, License or PROW Use and Occupancy Agreement*** means a written agreement setting forth both the required terms and conditions for the use and occupancy of the PROW and any negotiated terms and conditions for such.

14. ***Ground-mounted Equipment*** means any equipment associated with the equipment attached to a support structure in the PROW that is located above, at or below ground.

15. ***Holder*** means the Person or entity issued an Authorization, Franchise, License or Permit or the Transferee or assignee of such.

16. ***Maintenance*** means excavation, plumbing, electrical, carpentry or mechanical work that may or may not require a building permit, and that does not constitute a Modification to the Facility.

17. ***Modify or Modification*** means the addition, removal or change of any of the physical and visually discernible components or aspects of a Facility, including but not limited to the change to, or addition of, anything that changes the structural loading of the support structure, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, the color or materials of any visually discernible components, Emergency and vehicular access, parking and/or an upgrade or change in equipment. Adding a User to an existing utility pole or support structure is a Modification of the utility pole or structure, unless the height, profile, diameter or size of the Facility is increased, in which case it is not a Modification, but shall be treated as a new structure.

18. ***Monument*** means any permanent, non-commercial structure placed in the public rights-of-way, such as, but not limited to, a mailbox or sign.

19. ***Necessary or Necessity or Need*** means what is technologically required for the equipment or service to function as designed by the manufacturer and that anything less will result in the effect of preventing or prohibiting the provision of service as intended and described in the Application. Necessary, Necessity or Need does not mean what may be desired, preferred or the most cost-efficient approach, and is not related to an Applicant's specific chosen design standards.

20. ***Public Right of Way or PROW*** means the area that is used as, or offered, dedicated or reserved for use as a public street, highway, thoroughfare, alley, trail, sidewalk, curb, gutter, bike lane, bridge, round-about, tunnel, causeway, or shoulder that is located in the Town or in an area proposed for annexation to the Town. The area also includes, without limitation, drainage areas and dedicated areas with or without surface improvements, and that are adjacent to improved areas dedicated for one or more of the above listed uses. The PROW encompasses the surface of the ground, and the area above and below the ground.

21. ***Rubber Stamp or Rubber Stamping*** means to review without meaningful, thorough review of information as represented by the requirements of this ordinance. Rubber stamping of an Application shall not be permitted.

22. ***Telecommunication(s)*** means the provision or exchange of information by electronic, electrical and radio frequency means involving a transmission source and/or a receiving source and includes a single co-arrangement of transmitters and receivers, know as a transceiver.

23. ***Telecommunications devices*** mean and includes any User owned or controlled communications equipment, including a telephone, computer, television or any functionally equivalent similar device.

24. ***Telecommunications equipment*** means and includes wireless radio frequency transmission or receive equipment, microwave equipment, fiber optic cable, coaxial cable, satellite transmission or receiver equipment larger than eighteen inches (18") in diameter and any Internet access modem.

25. ***Town*** means the Burgess and Commissioners of Walkersville, MD and/or those personnel employed to perform those duties as required for the efficient operation of the Town of Walkersville, MD.

26. ***User or Person or Occupant*** means an individual or entity that uses and occupies the PROW to conduct business, excluding the vehicular or pedestrian use of the PROW, and does or proposes to place Facilities in the PROW, places such Facilities, or owns or maintains such Facilities. The term includes, but is not limited to Licensees and Franchisees.

27. ***Warehouse or Warehousing*** means obtaining the required Authorization to work, construct, Modify or replace a structure or equipment in the PROW and not expeditiously performing the authorized work in a reasonable time frame as set forth in §87.10 of this Chapter.

§ 87-3. General conditions for use of the Public Right of Way

The provisions of this Chapter apply to work performed in the PROW and to Facilities that have been or are proposed to be placed in the PROW, except for Maintenance and/or repair work. Non-compliance with a requirement in this Chapter is a violation of the law and is subject to all remedies available under the law. The right to perform work in the PROW and the ability to maintain Facilities in the PROW are allowed subject to the conditions that follow, and as supplemented by those set forth in other sections of this Chapter, standards adopted by the Town, and requirements contained in Authorizations.

A. An Authorization does not grant an exclusive right to provide a service or to construct, operate, Modify or maintain a Facility in the PROW.

B. The Town retains all rights it may have to use all portions of the PROW at any time for any purpose not prohibited by law.

C. A permit or Authorization does not convey any title to any portion of the PROW.

D. The Town and its officials, officers and employees shall not be liable for any direct, indirect, or consequential damages that result when Facilities in the PROW are damaged during the construction, installation, modification, inspection, maintenance, or repair of public improvements that have received funding from a governmental entity or that are installed pursuant to a contract with the Town.

E. Users and Persons who cause work to be done in the PROW shall pay for all damage that results, directly or indirectly, from work performed for their benefit in the PROW, and for the installation, repair, Maintenance, and operation of their Facilities in the PROW.

F. Non-enforcement or lack of prompt enforcement of one or more provisions of an Authorization does not waive the Town's right to enforce the provisions of an Authorization.

G. An Authorization creates no third-party rights against the Town and is intended only for the benefit of the Person(s) receiving the Authorization.

H. An Authorization does not limit the Town's exercise of its regulatory, police, governmental, legislative, or contracting authority. If an Authorization conflicts with the terms of a permit or with the Town Code, the stricter shall control.

I. The owner or holder of title to a pole or other structure shall at all times be responsible for the Facility being in compliance with all permitting and safety regulations, including any attachments to a pole(s) or other structure(s). At no time shall an owner allow unpermitted work on or at a Facility.

J. The Town shall review Applications in part to determine whether a use would have a detrimental effect on public safety as it relates to the PROW or would place an undue physical burden on the PROW.

K. In considering an Application, the Town may use such outside experts as it deems necessary, prudent or in the Town's best interest. In the event the Town deems it necessary to employ an outside expert with respect to a particular Application, the reasonable and verifiable cost of such expert shall be borne by the applicant.

L. No Authorization shall be granted, nor shall any work of any kind other than regular Maintenance as defined in §87.2 of this Chapter be allowed in the PROW if the Applicant has an outstanding arrears of sixty (60) days or more owed to the Town for any Authorization or for any work done in the PROW until the amount in arrears has been paid in full.

M. By the acceptance of an Authorization for the use of the PROW, the applicant agrees to assume all liability for any or all harm to persons or damages to property accruing to the public or to the Town which may or might result from work in the PROW.

N. The issuance of a PROW Authorization for any purpose, including but not limited to construction or replacement of support poles, shall constitute an agreement on the part of the Applicant that it will at any time thereafter, upon notice from the Town, at its own expense, make such change in location or construction of such Facility as may be necessary to protect the Town, the public safety and property values.

O. Regardless of the entity owning or controlling any PROW, prior to applying for a PROW Authorization or permit, the Applicant shall obtain a Town-issued Authorization for the construction or Modification of a Wireless Facility issued under the Town's Wireless Ordinance (Chapter 86 of the Town Code).

ARTICLE II
MANAGEMENT AND REQUIREMENTS

§ 87-4. Right-of-Way Management

A. The Town shall have the right to limit activity and permit the placement of new or additional equipment, materials, or facilities in the PROW if there is insufficient space to reasonably accommodate all requests to occupy and use the PROW, including know or anticipated requests.

B. The Town shall consider requests for occupying and using a PROW in the order of receipt of Complete Applications for PROW permits.

C. The Town shall strive, to the extent reasonably possible, to accommodate all requests, but shall be guided by the physical space available in, and the condition of, the PROW at the requested location, and whether such use would have a detrimental effect on public health, safety or welfare as it relates to the PROW.

D. The Town shall have the right, without limitation, to monitor and inspect any equipment or activity located in a PROW for compliance with all applicable laws, rules, codes, ordinances and regulations.

E. A permit holder shall cooperate with the Town with regard to Town inspections of any part of the permit Holder's equipment, material, or facilities located in a PROW at any time upon three (3) days' notice or, in the case of an Emergency, in accordance and compliance with and direction or demand by the Town.

F. The Town shall have the right to prohibit a permit Holder from attaching any telecommunications antenna or other such equipment to any Town historic-style streetlighting.

§ 87- 5. General requirements for work in the Public Right-of-Way.

A. *Authorization; required information.* Persons doing work in the PROW and Users of the PROW, including but not limited to Users with a Franchise or License with the Town, shall obtain an Authorization and all required permits and shall pay applicable Application, review, permit, expert assistance and inspection fees. The Town shall not issue an Authorization or Permit(s) if the Person, Holder or User owes money to the Town for prior fees, restoration costs, or other costs sustained by the Town in connection with an Application for Authorization, work done or Facilities in the PROW, and is more than sixty (60) days in arrears.

B. *Information required.* Applicants for Authorization shall furnish accurate drawings, maps, and any other relevant information that may be required by the Town for the particular type of work involved, in the form requested, and shall seek approval of construction and Modification plans, if required.

C. *Compliance with requirements; revocation of Authorizations.* Persons and Users shall comply with this Chapter, with any additional standards adopted by the Town, and with the requirements of Authorizations and permits granted pursuant to Authorization. As may be permitted by applicable State law, the Town may revoke an Authorization for noncompliance with any term, condition or implemented standards and requirements, or when, after notice to the Holder of the Authorization, an activity continues to hamper or obstruct the use of the PROW or endangers the public health or safety.

D. *Bonds; performance guarantees.* For any new pole or structure located in the PROW, a Person or a User conducting activities subject to this Chapter in the PROW may be required to provide a performance bond or other performance guarantee for the work. The amount, form, and content of the guarantee shall be determined in the discretion of the Town based on the facts and circumstances involved.

(1) Users with multiple Facilities in the PROW shall be allowed to provide a single bond or performance guarantee that covers all of its Facilities in the PROW in the Town.

(2) The Town may increase or decrease the amount of the bond or performance guarantee required.

(3) The Town shall determine, in its discretion, the time period for which a performance guarantee shall be kept in force.

(4) The Town may consider, among other things, the time period for a project and assessment of the performance of the project, the length of a License or Franchise, and/or the projected time during which Facilities will exist in the PROW.

(5) The performance guarantee shall, among other things, ensure compensation for i) damages resulting from the proposed work or a User's Maintenance of Facilities in the PROW; ii) direct and indirect costs

to the Town of remedying damage to the PROW or Facilities within the PROW; iii) direct and indirect costs to the Town for remedying matters or noncompliance with Town ordinances or Authorizations; and iv) fines or penalties or fees owed to the Town.

(6) The rights reserved by the Town under a bond or performance guarantee do not limit the claims or rights the Town may bring against a Person, except where a bond or guarantee has fully satisfied a Town claim.

(7) Every bond or performance guarantee shall require the surety to provide notice of cancellation or nonrenewal by registered or certified mail, which notice must be received by the Town at least 30 days prior to any cancellation or nonrenewal.

E. *Insurance.* The Town may require Users and Persons that do work in the PROW to provide insurance in the amount set forth in the Town's code or as otherwise deemed adequate by the Town. The insurance shall be issued by a company authorized to do business in the State, and shall include but may not be limited to: i) workers' compensation coverage as required by State law; ii) employers' liability insurance; iii) commercial general liability; and iv) business auto policy. The Town's officials, employees and consultants shall expressly be named as additional insureds on such insurance policies. The amount of insurance shall be as determined by the Town, in part based on the scope of the work and the tenure or term of occupancy.

F. *No interference with Town utilities.* Persons doing work in the PROW shall not interfere with existing utilities, including such infrastructure as water, sewer, gas and electric, the natural and constructed storm water system, traffic signals and associated lines, or with the repair or replacement of such systems. Persons doing work in the PROW shall give the Town at least ten working days advance notice to located and mark any existing Town utility lines prior to initiating work. Damage to utilities or other infrastructure shall be paid for by the Person or User contracting for the work that resulted in such damage.

G. *Compliance with regulations, safety standards, and applicable codes and standards.* Compliance with all applicable federal, state and local regulations, and all applicable federal, state, local and industry codes and standards is required. These include, but are not limited to, compliance with the Occupational Safety and Health Act and applicable rules and regulations subsequently enacted, compliance with the latest versions of the national Electrical Code, National Electrical Safety Code, TIA-ANSI 222, compliance with fiber optic installation standards and telecommunications industry standards, compliance with plumbing and pipe installation codes and standards, and compliance with

standards and codes for traffic safety and lane closures. Persons and Users shall provide all equipment and personnel necessary to timely and consistently meet applicable regulations, codes, and standards and shall furnish additional equipment or personnel as may be needed from time to time to timely comply with Town directives. Information requested by the Town regarding compliance with these standards shall be provided within the time frame established by the Town.

H. *Licensed professionals.* Where required under state law, work in the PROW shall be performed and supervised only by qualified persons and licensed professionals as deemed appropriate by the Town.

I. *Notice of beginning and end of project.* Persons doing work in the PROW shall promptly notify the Town upon beginning and ending the work authorized in a

given Application, and shall promptly request a final inspection of the work and the condition of the PROW at the location(s) where the work was performed. A copy of a passing final inspection report for the latest work performed at a given location(s) shall be required as part of any future Application or Authorization by that Person for work at that location(s).

J. *Inspections; fees.* The Town shall conduct, or have conducted, inspections of work performed in the PROW. Users and Persons performing such work shall comply with Town directives to facilitate such inspections. The Town may charge fees as set by the Town for such inspections, which may be varied to account for the nature and scope of the project, the number of inspections required, or other relevant factors. The Town may direct a Person or User to do additional work if warranted by the result of an inspection and such Person or User shall promptly comply with such directive.

K. *Removal for Violation.* Unless prohibited by State law, if Facilities are installed in violation of this Chapter, the Town may require their removal, at the owner's sole expense.

L. *Identification.* All utility poles and any other support structure or Ground-Mounted Equipment erected within the boundaries of any public highway, street or other right-of-way shall be color-coded and lettered or stenciled in a permanent manner with the initials of the owners or with some other designation of ownership, together with a number for the same. A report or map showing any changes in the location and number of each pole or other support structure shall be filed by the owner or owners of said poles with the Town annually on or before July 1st of each year.

M. The filing of an Application and the issuance of a permit for the erection of a utility or similar pole shall constitute an agreement on the part of the applicant that it will at any time thereafter, upon notice from the Town, at its own expense, make such change in location, external support and restore the pole to plumb as may be required.

§ 87- 6. Indemnification, Hold Harmless and Insurance

A. *Indemnification and Hold Harmless.* A permit Holder shall, at its sole cost and expense, after the effective date of his Chapter indemnify and hold harmless the Town and its elected and appointed officials, employees and agents at all times against any and all claims for personal injury, including death, and property damage arising out of the permit Holder's use or occupancy of a right-of-way.

B. A permit Holder shall defend any actions or proceedings against the Town in which it is claimed that personal injury, including death, or property damage was caused by the permit Holder's us or occupancy of a right-of-way.

C. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

D. A permit Holder shall not be required to indemnify and hold the Town harmless for claims caused by the Town's or any person's negligence, gross negligence or willful misconduct.

E. A permit Holder shall, at all times during the life of a PROW Authorization carry, and require its subcontractors to carry, liability, property damage, workers' disability, and vehicle insurance in such form and amount as shall be determined

by the Town and as set forth in the Authorization. A permit Holder shall name the Town as an additional insured on its liability insurance policies.

F. All required insurance coverage shall provide for 30 days' notice to the Town in the event of material alteration or cancellation of such coverage prior to the effective date of such material alteration or cancellation.

§ 87- 7. Work in PROW requiring an Application; Authorizations; standards; fees.

A. *Grandfathered Facilities:* All existing Facilities in the PROW as of the date of adoption of this Chapter shall be grandfathered and not subject to this Chapter, until such time as an Authorization as required un this Chapter is needed.

B. *Work requiring an Application to the Town.* Persons and Users of the PROW shall make Application to the Town for the following activities in the PROW, and obtain the necessary Authorizations and permits before initiating the work:

(1) The construction of one (1) or more new poles or other structures, or the replacement of such;

(2) The Installation of Facilities for electrical, gas, video, internet, telephone, cable, hard-line or wireless Telecommunications, television, or other information or data transfer service to customers within the Town;

(3) The Excavation or disturbance of the surface within the PROW, including but not limited to construction of new portions of the PROW;

(4) The cutting, moving, alteration or modification of any pipe, conduit, pole or other support structure, meter, hydrant, Telecommunications Facility, or other equipment or structure, or attachment to such structures or Facilities;

(5) The Modification of Facilities with the PROW, including but not limited to equipment enclosures associated with equipment on a utility pole or other support structure, and placing new Facilities or equipment on structures already located in the PROW; and

(6) The Installation or Modification of Facilities used for the conveyance of utility or utility-like services, including but not limited to water, sewer, storm water, electricity, hard-line or wireless Telecommunications irrespective of the medium or technology used that involves any safety, aesthetic or visual intrusion or impact issues;

C. *Authorizations – Franchises, Licenses, permits, construction drawings, and other approvals.* Depending upon the work involved, including but not limited to the degree or extent of the physical or visual impact involved, the Town may in its discretion require Authorizations, as well as one or more types of permits such as a building, electrical, excavation and street and/or curb cutting permit for the work described in §B. above, and may require submission of all information it deems relevant and necessary for the receipt of an Authorization(s). The Town shall determine, in its discretion, whether Authorization shall be required for work described in §B. and for Users with Facilities in the PROW.

D. *Unlawful to do work without Authorizations; Emergency.* Except in the event of an Emergency, it shall be unlawful to do work in the PROW or maintain Facilities in the PROW without the required Authorizations. In the event of an Emergency, a Person may do such work as is necessary to address, and if

necessary and remedy the Emergency situation, but only the Emergency situation, and shall immediately notify the Town of such. Application shall immediately be made for necessary Authorizations from the Town, notwithstanding that due to the Emergency nature of the work, work may have started or been completed, and all required fees shall be paid even if after the fact.

E. *Standards.* All Holders of PROW Authorizations shall comply with all standards set forth in the Town Code regarding the issuance of the standards and requirements for PROW Franchise Agreements, Encroachment Agreements, Licenses, permits, and other approvals, to which the Town may attach conditions.

F. Even if a Franchise Agreement, encroach Agreement or License may not be required, the Town may also develop specific standards and requirements for doing work in the PROW.

G. *List of contractors.* The Town may require that Applicants and Persons who contract to have work performed in the PROW maintain an updated list of the contractors working on their projects, and acknowledge and assume responsibility for the actions of the contractors.

H. *Fees; accounts.* The Town shall charge such fees as are authorized by the Town for Applications for Authorizations, review of information and plans in the pursuit of an Authorization, inspections and re-inspections, Maintenance of Facilities in the PROW, verification of accuracy and correctness of information, oversight or administration of proposed ongoing or completed activities, and for any other work involved in the review of an Application or request for Authorization. The Town may allow Persons to establish and fund escrow accounts or other accounts with the Town to which fees may be charged and from which payment may be withdrawn, as long as the amount of any withdrawal is replaced within thirty (30) calendar days of the date of withdrawal.

I. *Re-inspection fees.* The Town shall charge fees as are authorized by the Town for additional reviews and inspections required for work not completed to Town standards and/or work that damages existing infrastructure, as well as restoration of disturbed or damaged portions of the PROW.

J. *Civil penalties.* Any Person who violates this Chapter may be subject to all civil and equitable remedies as allowed by law. Notwithstanding the foregoing, the violation of a stop work order issued pursuant to this subsection shall constitute a misdemeanor and may be punishable as such. The Town shall charge civil penalties as are authorized by the Town for:

(1) Violation of subsections (a) and/or (b).
(2) Additional violations of subsection (a) and/or (b) by the same User within one-year of the first violation.

K. *Assessment of Civil Penalties.* Civil penalties authorized by this Chapter may be assessed against the User on whose behalf work is being performed and against the contractor or subcontractor who is performing such work. Penalties not paid within 30 days of written demand will be assessed a late fee of one percent of the unpaid balance per month.

L. *Stop work order.* When there is a violation of this Chapter the Town may issue a stop work order to any Person or entity performing work in the PROW. A stop work order shall be in writing, state the date, the location, the work to be stopped and the reasons therefore, and state the conditions under which the work may be resumed.

M. *Barricading work:* All activity in a public PROW must be properly marked and barricaded and, if deemed necessary by the Town, by flashing amber lights so placed as to indicate from the roadway or pedestrian way in both directions the exact location and limits of said occupation or activity and at all times must be properly guarded. Permit Holders are responsible for maintaining safe conditions in and around the area of occupation in a PROW and in areas of related activity at all times during the activity or work. The permit Holder shall comply with all applicable safety ordinances, rules, regulations, codes and policies at all times and under all circumstances.

§ 87- 8. Restoration of surrounding areas.

A. *Obligation to restore disturbed areas.* A Person or User that conducts excavation or other activities that disturb the PROW or Facilities with the PROW, shall restore the PROW to a condition equivalent to that prior to the disturbance. The restoration shall include, but is not limited to, installation of pavement, resurfacing nearby or adjacent areas, grading any disturbed unpaved surface areas, restoring below ground Facilities, planting and landscaping, replacing curb and curb ramps to applicable standards, and repairing improvements and Facilities. Restoration shall meet the standards set by the Town. Such restoration includes any work necessary to maintain the nature and character of the area that existed prior to the work.

B. *Temporary restoration.* Where permanent restoration is impractical because of weather or other circumstances, the Town may require temporary restoration to be followed by permanent restoration.

C. *Timetable for Restoration.* The Town shall determine the time period during which restoration must be accomplished on an individual case-by-case basis and such time period shall take into account the extent of the restoration work required, availability of needed materials and other limiting factors.

D. *Repair of inadequate restoration work.* The Town's inspection and/or approval of original restoration work does not waive the Town's right to require additional restoration where and when warranted. Therefore, where restoration work proves to be inadequate over time, as determined in the Town's discretion, if the issue is not one of normal wear and tear or is not caused by a third party, but is truly due to the inadequacy of the restoration, the Town may require additional reasonable restoration. Such additional restoration may be required for a period of three years from the date of completion of the initial restoration work. The Person responsible for the work necessitating the original restoration shall be responsible for the costs of the additional restoration and inspection.

E. *Reimbursement to Town of costs of restoration.* If a Person responsible for damage to the PROW does not complete required restoration during the period required by the Town, the Town may complete the restoration. The costs for such shall be promptly reimbursed by the User or the Person responsible for the original work that required restoration of the PROW.

§ 87- 9. Requirements for location, construction relocation, modification, maintenance and removal of Facilities in the PROW.

Users that locate, relocate, modify, repair, maintain, or remove Facilities in the PROW shall comply with the following requirements:

A. *Locations.* The Town shall have the discretion to determine compliance with this section and to approve, deny, alter and condition all proposed locations of Facilities in the PROW, and to determine whether placement, if allowed shall be above ground or below ground, all as determined by the verifiable technical Need of the Applicant for a specific location, or alternatively the technological impracticability of a given location.

B. *Maximum Permitted Height:* Absent a showing by clear and convincing technical or safety-related evidence of the Need for a greater specific height for reasons of technical Necessity, technical impracticability or compliance with applicable safety codes, the maximum permitted height for new or replacement poles or other support structures in the PROW, including any increases in height of existing structures and poles, shall be fifty feet (50') above pre-construction ground level, except in Residentially zoned areas or within five hundred feet (500') of such, the maximum permitted height shall be forty feet (40'). These maximum permitted heights are not as-of-right, but are the maximum permitted heights, and shorter, minimally impactful and intrusive poles and support structures shall be preferred.

C. *Minimum Distance Between Poles or other support structures: A*bsent a showing by verifiable clear and convincing technical evidence of the technical Need for a greater distance between poles or other support structures in the PROW or for safety-related reason, the minimum distance between poles or other support structures on the same side of a street as measured in any direction shall be one hundred feet (100'). This minimum distance shall not be applicable for poles or support structures that are used to support lines or cables crossing a street or other man-made or natural barrier.

D. *Least Visual Impact.* Any equipment attached to a utility pole or other support structure in the PROW shall be of a size and be located and constructed so as to create the least visual impact on the immediate surrounding area reasonable possible, and the least physical intrusion and impact on the limited space in the PROW, including occupying both the least amount of vertical and horizontal

space reasonably possible. Absent the demonstration by verifiable clear and convincing technical evidence of the inability to use less intrusive equipment, no equipment shall be allowed in the PROW to be attached to or associated with a utility pole or other support structure of a size large enough to require an Environmental Assessment Analysis and Report under federal or State law or rule.

(1) *Equipment Inside Pole.* Excluding electric utility lines and equipment, after the effective date of this Chapter new riser cables attached to a pole or other support structure to enable the provision of service(s) shall be placed inside the pole or support structure unless technologically impracticable, or unless doing so would prevent compliance with applicable safety codes or such equipment is able to be attached mid-span to the distribution cable.

(2) *Pole Replacement.* If placement inside a pole is physically or technologically impracticable, then, as determined most appropriate under the facts and circumstances by the Town, the pole shall, i) be replaced in compliance with §87.13 of this Chapter; or ii) if deemed appropriate under the facts and circumstances the equipment shall be stealthed or camouflaged to the reasonable satisfaction of the Town. If a pole is to be attached to, replacement of poles in compliance with §87.13 of this Chapter shall be preferred, absent a verifiable proven inability to do so for technical or safety reasons.

(3) If new or replacement equipment to be attached to an existing pole or other support structure necessitates increasing the height of the pole, the pole shall be replaced with an *approved* type of pole as set forth in §87.13 of this Chapter.

(4) *Maximum Size of Pole-Mounted Equipment.* Excluding cable, the maximum size of any piece of hard-line or wireless communications equipment attached to a pole or other support structure, such as but not limited to amplifiers and antennas or other transceivers, shall not exceed three (3) cubic feet in total volume and would fit within an imaginary enclosure or container three (3) cubic feet in volume.

(5) *New & Replacement Poles or Support Structures:* An Application for a new or replacement pole or support structure must include detailed design characteristics, including overall dimensions, material composition, aesthetic appearance, a detailed site plan and a structural analysis with calculations which must be certified by a Professional Engineer licensed in the State and be able to be independently verified using the information submitted by the Applicant. Depending upon the situation and circumstances involved, to-scale photo simulations may be required showing the Facility as it will appear upon completion, showing the Facility from four (4) directions, each with ninety degrees (90°) azimuth separations.

(6) *Lateral Extensions:* No lateral equipment extensions parallel to the PROW from a pole or other support structure in the PROW, such as but not limited to equipment standoffs, shall exceed that permitted by State law.

(7) *Riser Cable:* With the exception of new riser cables per §87.9D.(1), any exterior riser or other vertically run cable attached to the exterior of a

pole or other support structure shall be protected with non-conductive, inert or non-degradable material and shall be of a color that matches the color of the pole or other support structure as closely as is reasonably possible.

(8) *Ground-mounted Equipment and Equipment Enclosures:* Absent a verifiable showing by clear and convincing technical evidence of the technical Need for a greater size, or for reasons of safety, nothing larger in size than a seventeen (17) cubic foot enclosure may be placed above-ground in the PROW.

(9) *Compliance with NESC and NEC:* All attachments to poles or other structures in the PROW, and all underground work and Facilities place underground, shall at all times be in compliance with the edition of the National Electrical Safety Code (NESC), the National Electrical Code (NEC), the State Building Code and the Office of Safety Administration (OSHA) regulations in effect at the later of i) the time the Facility was constructed; ii) the time of the last Modification of equipment on the pole or other support structure; or iii) the edition in effect at the time of the current Application.

(10) Compliance with TIA-ANSI 222 re: Stand-alone communications poles and structures: All poles or support structures used only by providers of communications service(s) shall comply with the latest version of TIA-ANSI 222 at the time of construction, as well as at the time of any Modification. Verification of submitted evidence of compliance

with the applicable version of TIA-ANSI 222 shall be a prerequisite for the issuance of a building permit.

E. *Underground locations for wire and fiber.* Except in areas zoned for above-ground Facilities, wires, fiber, and conduits shall generally be located underground. A User that wishes to place such Facilities above ground in an underground area shall demonstrate to the Town's satisfaction why above ground placement is a Necessity or why underground placement is a technical or engineering impracticability.

F. *Existing ducts.* If underground ducts or conduits are available and not technologically impracticable to use, new and replacement underground wires and cables shall be located in such existing or permitted but not yet built ducts or conduits. Before installing new ducts or conduits, a User shall make all reasonable effort to procure the right to use existing ducts or conduits upon reasonable terms and charges.

G. *Documentation of sufficient space.* A User shall provide verifiable evidence to demonstrate to the Town's satisfaction that sufficient space exists in the PROW and on any pole or other support structure for any proposed new or modified Facilities to be placed without interfering with existing or future public projects or creating a safety issue, and that the placement of the pole, other structure and/or equipment will not unduly or unnecessarily disrupt the normal use of the PROW, negatively impact the permanent condition of the PROW or negatively impact adjacent property values.

H. *Public notice.* Depending upon the facts and circumstances involved, for projects involving the disruption of vehicular or pedestrian traffic in the PROW, breaking the integrity of the surface of pavement or sidewalk, or when involving a

new structure(s) or the increase in height of an existing structure by more than ten percent (10%) of its existing height, the Town shall i) require the Applicant to post notice of the proposed work and its scope on the Town's website or post a reasonable sized notice no smaller than twenty-four inches (24") by eighteen inches (18") on or within three feet (3') of all utility poles along the impacted portion of the PROW or ii) distribute written notices to all individual properties for a distance of two-hundred feet (200') from the location of any such work in or adjacent to the area of PROW, for a minimum of one (1) calendar week prior to the start of the work proposed.

I. *Documentation to Town upon completion.* Upon completion of the Authorized work, the Person responsible for the work shall, in the form required by the Town, give the Town all reasonable information requested regarding the work performed. Such information may include, but is not limited to as-built or other appropriate drawings and maps and, if appropriate a contractor sign-off form or statement listing all work performed.

J. *Maps and information on file with Users.* During the time a Person or User has Facilities in the PROW, the User shall maintain up-to-date as-built maps showing both the general and specific placement of its Facilities in the PROW. A User shall also maintain information regarding the function and capacity of its Facilities and furnish said maps and information to the Town immediately as available, at no cost to the Town and in such form and detail as the Town requires.

K. *Underground location.* Users with underground Facilities shall maintain a membership in the State's underground locating system and respond to and locate underground Facilities and equipment as required by applicable State regulations and requirements.

L. *Relocation of Facilities.* A User shall, at its own cost, relocate its Facilities within a reasonable time frame as determined by the Town, if the Town determines that the Facility(s):

(1) Interferes with a use of the PROW, or the provision of services to the general public; or

(2) Interferes with the repair or Maintenance of any Town-maintained utility; or

(3) Will impede the construction of a project funded in part with public funds, or a project to be dedicated to the public use upon completion; or

(4) That the PROW can be berrer or more efficiently utilized by the relocation of the Facility(s).

M. *Maintenance of Facilities.* Users shall monitor, maintain, and repair their Facilities in the PROW to assure that they function in a safe manner and do not create a risk to persons or property. To allow adequate public notification, Users shall notify the Town at least forty-eight (48) hours in advance of Maintenance and repair work that may disrupt or impede the use of the PROW, including the nature and scope of the work and the estimated duration of the disruption or impedance.

N. *Removal of Facilities in the PROW.* Facilities placed in the PROW without Authorization and all required valid permits, and Facilities for which a Franchise Agreement, encroach Agreement, permit or License has expired, shall be removed upon order of the Town. In addition, all abandoned Facilities, or Facilities that do not function as intended for ninety (90) consecutive calendar days, shall be removed by their owner. If any Facility required to be removed is not removed within fourteen (14) calendar days of notice by the Town, the Town may remove it or have it removed, with the cost of removal to be borne by the Holder of the Authorization or owner of the Facility(s).

O. *Third party use.* Authorized and properly permitted Users shall allow other authorized Users of the PROW to utilize available space in or on the User's Facilities upon reasonable terms and charges, or as otherwise proscribed by the State of federal government. For private investor-owned Facilities only, charges calculated in accordance with section 224 of the Communications Act of 1934, as amended, 47 USC 224 shall constitute reasonable charges for pole attachments.

P. *Certificate of Completion (COC).* An Application for the Modification of a Facility, for attachments to a pole or other support structure, or to place a Ground-Mounted Equipment enclosure(s), shall contain a copy of the COC issued for the last work at that location or on that Facility that required a final inspection and the issuance of a COC. Such an Application will not be deemed Complete without such previously issued COC.

Q. *Failure to apply for and be granted an Authorization and/or to obtain a Certificate of Completion.* Failure to apply for and be granted an Authorization and/or a COC, each as required under this Chapter, shall result in the appropriate party being required to i) apply for and be issued an Authorization and/or ii) obtain a COC prior to any further work being performed at the location or Facility.

R. *Rubber Stamping Prohibited.* As no two (2) locations or Facilities are identical and many are not even substantially the same, it shall be impermissible for an Application for an Authorization issued under this Chapter to be rubber stamped

by the Town, and each Facility and location, whether applied for individually, or a part of a consolidated Application pursuant to §87.12 I(2) of this Chapter, shall be individually reviewed and analyzed in a meaningful manner so as to identify any issues or matters of concern at any given location, and for compliance with all applicable laws, rules, regulations, ordinances, codes and accepted practices.

§ 87-10. Exemptions from requirements.

The Town may exempt the Town and its contractors and the State Of Maryland Department of Transportation from particular requirements in §87.3 through §87.6 of this Chapter when substantial compliance has been assured through the Town's contracting system or where the need for state infrastructure on Town roads, or a joint undertaking by the Town and the Department of Transportation, or the use of state controlled areas of the PROW, makes the application of such requirements unreasonable.

§ 87- 11. Franchises and Licenses.

A. *Users or Occupants in the PROW subject to a Franchise.* In order to use, place or maintain Facilities in the PROW, all Persons that operate utilities, quasi-utilities, Telecommunications Facilities or provide services using the PROW that

the Town may legally Franchise or License, shall apply for a Franchise Agreement, Encroachment Agreement or License, as is applicable, from the Town. Services for which a Franchise Agreement, Encroachment Agreement or License shall be required to include, but are not necessarily limited to are telephone, Telecommunications irrespective of the medium or technology used, electrical power, water distribution, wastewater collection, sewage collection, gas distribution or transportation, trash and solid waste collection and/or disposal, off-street parking Facilities, and storm water management and drainage Facilities.

B. *Performance guarantee.* All new Users after the effective date of this Chapter shall provide the Town with a performance bond or other performance guarantee satisfactory to the Town.

C. All Users, Licensees and Franchises shall obtain all required permits prior to performing work in the PROW.

D. *Franchises or Licenses.* After the effective date of this Chapter, if allowed or required by Town or State law or regulation, a proposed new User shall apply for and be issued a Franchise Agreement, Encroachment Agreement or License, as appropriate, prior to the placement of any equipment or structure in the PROW. The Town shall determine the necessity of a Franchise Agreement, Encroachment Agreement or License and the type of agreement or license, taking into consideration the expected tenure of the Facilities in the PROW, the potential impact on the PROW, and the Town's prior practice. Facilities for which a Franchise Agreement, Encroachment Agreement or License shall be required include but is not limited to monument signs, monument mailboxes, coaxial and fiber optic cable, non-Franchised Telecommunications equipment irrespective of the medium or technology used, irrigation systems, specialty street signs, canopies, specialty pavement structures, and other semi-permanent or permanent structures or features in the PROW.

(1) *Monument signs and mailboxes.* A Permit shall be required for any monument sign or private mailbox.

(2) *Telecommunications Facilities and service providers.* After the effective date of this Chapter, new Telecommunications providers using

the PROW must obtain a Franchise Agreement, Encroachment Agreement, or License before constructing or adding equipment that is subject to the Telecommunications Act of 1996 (47 U.S.C. as amended), as well as providers of retail or wholesale Telecommunications services using third party-owned Facilities located in the PROW. The Town shall be responsible for granting a Franchise Agreement, Encroachment Agreement, or License for such entities or Persons proposing to construct and maintain Telecommunications Facilities in the PROW.

(3) *License or Franchise for other Facilities.* The Town may grant a License, Franchise Agreement, or encroachment Agreement to construct and maintain other Facilities not included in the above subsection D(1) and (2).

E. *Contents of Franchises and Licenses.* Licenses and Franchises shall, at a minimum, contain the following provisions:

(1) The identity and legal status of the User in the State;

(2) The name and contact information of the officer, agent, or employee of the User responsible for communications with the Town, which shall be updated as the information changes;

(3) A general description of existing and proposed Facilities and the specific locations and portions of the PROW to be utilized for such Facilities, with additional specifics as may be required by the Town;

(4) A description of the Facility(s) proposed to be located in the PROW, including manufacturer's cut sheets for any active electronic device(s) and a to-scale photo of the location prior to construction and a photo simulation of the location showing the Facility after construction from four (4) directions, each with ninety degrees (90°) azimuth separations;

(5) A description of the services to be offered within the Town, if any, and identification on a street map of the Town of the specific parts of the Town or properties within the Town where such services will be available, which description and map shall be updated when the service area(s) change;

(6) A description of the services or Facilities to be offered to the Town itself, or to other public or governmental institutions within the Town, if any such services are to be offered;

(7) Acknowledgment that the License or Franchise does not limit the Town's police power and that the Town may enact additional Ordinances, standards, and requirements applicable to Users;

(8) Acknowledgment that the User may be required, at User's sole cost and expense, to obtain certain permits and approvals from the Town in addition to the License or Franchise;

(9) Acknowledgment that the User is responsible for all damage caused by its employees, agents and contractors;

(10) A commitment to pay for all damages that arise in connection with the User's acts or omissions in the PROW;

(11) A commitment to defend and indemnify the Town for all claims and liabilities that arise in connection with the User's acts or inappropriate or impermissible lack of action in the PROW;

(12) A description, including the amount, of bonds or performance guarantees and insurance that is required;

(13) The proposed length of term of the Franchise or License;

(14) An acknowledgment that transfer or assignment of an Authorization, License, or Franchise requires approval of the Town, such approval not to be unreasonably withheld;

(15) The amount of compensation paid to the Town for the use of the PROW and a schedule of payment of such;

(16) The total fully-allocated capital cost of the project.

F. *Assignment.* Unless an Authorization, Franchise Agreement or Encroachment Agreement or License prohibits assignment to a different party, notice of the assignment shall be given to the Town not fewer than 30 days prior to the effective date of the assignment, with ownership and contact information updated to reflect the assignee's ownership and contact information.

G. *Information available to the Town.* Within ten (10) calendar days of a request, all Users, Licensees and Franchisees shall provide the Town i) all books, data, records, maps, plans, GIS data files, billings, payments, and submissions to the State relating to the User's Facilities and their function, location, income, history, Maintenance, and repair, and ii) filings with the State Public Service Commission and the Federal Communications Commission. The documents shall be provided within a reasonable period of time after the filing date, such date not to exceed 30 days. The Town may examine all such information at no cost. If information is copied for the Town, the costs of copying, if any, shall be limited to the actual charges of a commercial copying Facility selected by the Town.

H. *Declaration of forfeiture.* The Town may declare the forfeiture of an Authorization, permit, License or Franchise, and all of the rights arising hereunder, in the event the Holder continues not to comply with any material provision(s) of its Authorization, permit, License or Franchise, or is in substantial violation of this Chapter or other standards adopted by the Town after due and proper notice and reasonable opportunity to cure or remedy. The Town shall give the Holder at least thirty (30) calendar days' written notice of its intent to declare a forfeiture, which notice shall include a description of the non-compliant matter and the specific citation(s) at issue. The User shall then have thirty (30) days from receipt of the Town's notice to cure the non-compliance or to make verifiable substantial progress toward such cure, as determined in the reasonable discretion of the Town.

ARTICLE III
GENERAL REGULATIONS

§ 87- 12. Applications for Support Structures/Poles, Equipment and Equipment Housings and Modifications of Facilities located in the PROW:

A. *Application Required*: An Application must be filed with the Town for any work other than normal Maintenance on any pole or other support structure, including Modification, change or replacement of equipment that would be different in size, weight or appearance than the existing equipment.

B. An Application to Modify or replace a Facility shall contain a copy of the last Certificate of Completion issued for that Facility.

C. *False or Misleading Statements.* During the Application process, or in an Application, an Applicant may not make a statement, verbally or in writing, that is

intended to be relied upon by the Town and is fraudulent, misleading or that causes or is intended to cause a reasonable probability of confusion or misunderstanding as to the legal rights, obligations, or options of the Town, nor fail to inform the Town of a relevant fact material to the Application that is known, or should be known, by the Applicant, the omission of which is deceptive or misleading.

D. *Urgency*. An Applicant shall not misrepresent the urgency of the work represented in an Application, including any asserted deadline by which action by the Town on the Application is needed.

E. *Processing Urgent Requests*. The Town shall attempt to process urgent requests sooner than the required maximum time allowed by State or federal law. Notwithstanding the preceding, due to the effects of having to re-allocate human resources to accommodate such urgent requests, an Applicant shall not misrepresent the urgency of the situation to have a Facility(s) permitted or authorized. It shall be a condition of all Authorizations for an Application requesting urgent treatment that, except for the effects of force majeure situations and situations not reasonably within the control of the Applicant the work shall be completed within ninety (90) calendar days of the issuance of the Authorization or pay a penalty of $100 per day per Facility until the final inspection is requested.

F. *Warehousing of Authorizations and permit(s) not allowed*. Warehousing of an Authorization shall never be permitted. To prevent Warehousing of Authorizations and/or permit(s) for new structures in the severely limited and scarce space of the PROW and on existing poles, thereby preventing another Person or entity from using a given location(s) and space because the proposed structure at the location was not built expeditiously, an Application shall contain a proposed date for the completion of the construction or Modification of any structure, including the placement of equipment attached to or associated with the structure. For a new Facility the completion date shall not be more than one-hundred-eighty (180) days after the issuance of a building permit to occupy a given location and space; nor more than sixty (60) days for any Modification.

G. *Site Visit*: Prior to the submittal of an Application, and following payment of any required fee(s) or deposits , a site visit to each Facility proposed to be Modified or to the proposed location of a new Facility, shall be conducted to determine i) the

physical condition of the Facility or proposed location; and ii) to identify issues of concern, non-compliance with applicable laws, rules and regulations, including but not limited to any safety-related issues or concerns and other matters contained in this Chapter.

H. *Number of Facilities Applied for by a given Person or entity*: Due to limited staff resources, to prevent forced de facto pro-forma or rubber-stamping approval of an Application without meaningful review for compliance with applicable federal, State and local law and regulations, and to prevent inadvertent non-compliance by the Town with any federal or state-imposed time requirements for reviewing an Application, no Person or entity may make Application for more than ten (10) Facilities or locations under this Chapter within any thirty (30) consecutive calendar day period.

I. Facilitating Applications and Mitigating Applicant Costs:

(1) To facilitate the preparation and submittal of an Application in compliance with this Ordinance, and thereby expedite the review and permitting of an

Application, a pre-Application meeting shall be held, the Town's actual costs for such being paid for by the Applicant prior to the meeting.

(2) Consolidate Applications: Depending upon the scope of the proposed work and its impact both visual and physical as determined by the Town, Applications not involving new support structures, and with the same type and size of equipment proposed for each location, may be submitted in groups of up to three (3) Facilities in a single consolidated Application and be subject to only one (1) application fee and one expert assistance deposit. Notwithstanding the preceding, no Application for a new or replacement pole or other support structure shall be for more than a single location or Facility.

J. *No Unidentified Facilities*: No Authorization shall be granted for a new Facility, new support structure, a support structure that is increased in height or profile, or new or replacement equipment that is not expressly and individually identified at the time the Application is filed, including the specific location and design characteristics of each Facility.

K. *No Taxpayer Subsidization*: Historic, current and anticipated Subscriber rates for services provided using the PROW are assumed to reflect permitting costs, unless verifiable clear and convincing evidence to the contrary is provided. Therefore, Town funds shall not directly or indirectly be used to subsidize an Applicant's reasonable application-related review and permitting costs.

L. *Application Fee*: To prevent taxpayer subsidization of application-related costs, an Application Fee shall be required of all Applications involving i) a new or replacement pole(s) or support structure(s); ii) any Modification of a Facility; or iii) any change of existing equipment attached to an existing pole(s) or support structure(s) that is visually discernible; or iv) that changes the appearance of the Facility, changes the structural loading on the pole or support structure, or involves verification of compliance with an aspect of the National Electrical Safety Code (NESC), the National Electrical Code (NEC) or TIA ANSI 222 not previously applicable to that Facility. The amount of the appropriate Application Fee shall be as set forth in the Town's Schedule of Fees.

M. *Payment for Expert Assistance*: To prevent taxpayer subsidization of application-related costs as required by this Ordinance and determined to be appropriate and

necessary by the Town, Applicants shall be required to place on deposit with the Town an amount estimated to be sufficient to pay for expert assistance costs of the Town attributable to the Application. The minimum amount(s) required shall be as set forth in the Town's Schedule of Fees and shall be dependent upon the nature, scope and effect of the work applied for.

N. *Deposit Required Prior to Work on Application*. An Applicant must deposit the estimated cost of the Town's expert assistance with the Town prior to any work being done related to an Application or an anticipated or intended Application. Notwithstanding the preceding, inquiries totaling up to one (1) hour of time may be made prior to the required deposit being in place at no cost to the Applicant.

O. Return of Unexpended Amount of Deposit. Any unexpended amount submitted in compliance with the preceding §(M) of this Section remaining after the issuance of a Certificate of Completion shall be promptly returned to the Applicant upon written request.

P. Street opening, street cutting, curb and sidewalk cutting Fee: Any Person or entity proposing to cut or break the integrity of the surface of a paved street, sidewalk,

pedestrian or bicycle way, or who proposes to cut any curb shall obtain a permit for the specific location and scope of work intended, and such permit shall be for a specific start date and time and completion date. Exceeding the completion date and time shall require an additional fee on a per day basis. Each Applicant proposing to cut or break the integrity of the surface as intended under the subsection shall:

1) pay to the Town a fee(s) as set forth in the Town's schedule of fees prior to the issuance of any permit(s); and

2) obtain a permit for the proposed type and scope of work.

3) Perform all work to the applicable standards as set forth in the Walkersville Design Manual.

§ 87-13. New and Replacement Poles within Rights-of-Ways – Required Design Characteristics.

A. New and replacement installations of a given type shall be consistent throughout the Town limits, and any extraterritorial jurisdiction (ETJ) where this ordinance is of effect;

B. All new or replacement poles shall be of non-wooden, non-conductive, inert and non-corrodible materials;

C. Antennas attached to new poles or structures in the PROW shall be of a type that disguises the fact that they are antennas, unless for reasons proven by verifiable clear and convincing evidence that to do so is technologically impracticable, in which case a Best Case type of camouflaging shall be used;

D. Where not technologically or Commercially Impracticable, equipment attached to poles in the PROW shall utilize a "concealed" design, including all cabling and any antennas being placed inside the pole or support structure;

E. So as to avoid an Applicant having to bear the cost of doing an Environmental Assessment and report as otherwise required by FCC Rule 14-153, any Ground-Mounted Equipment enclosures shall be i) no larger than is technologically Necessary, but in no case larger than twenty-eight (28) cubic feet in volume for all

F. users of the equipment shelter cumulatively; ii) of a color determined by the Town to be harmonious with the particular area; iii) located as near the pole as applicable safety codes allow; iv) screened with evergreen shrubbery of sufficient size to hide the equipment shelter and, v) if the PROW is landscaped with decorative vegetation, the same species, color, size and shape as is used to landscape the PROW in the neighborhood of the pole or enclosure shall be used;

G. Pole-mounted cabinets or equipment housings shall be as small as possible, and no larger than is technologically Necessary, and shall be shielded from view in both directions parallel to the PROW by decorative, non-commercial banners or under a pole-mounted shroud;

H. Unless proven to be physically unfeasible or Commercially Impracticable by verifiable clear and convincing evidence, any person proposing a new attachment to an existing wooden primary electrical distribution pole, wooden secondary electrical distribution pole or wooden streetlight in the PROW shall, instead, replace the existing pole with a pole as described in this subsection;

I. All new poles shall meet or exceed current NESC standards and wind and ice loading requirements of the latest version of ANSI 222 Version G;

J. Any new poles installed shall be environmentally innocuous, made of an inert material and not leach any organic compounds or toxic materials into the ground; and to avoid unsightly rust and corrosion, any new pole installed shall not be made of a corrodible material, concrete or cement.

§ 87-14. Mailbox Obstructions

The Town shall not be responsible for the repair or replacement of any mailbox placed within any PROW. However, to alleviate the possibility of damage due to snow removal and vehicular traffic, the following guidelines shall be complied with:

A. Mailboxes shall be erected so that the front of a curbside box is set back at least 12 inches from the face of the concrete curb and the structure supporting the box must not encroach on this setback distance.

B. The bottom of a mailbox shall be between 42 inches and 48 inches above the finished road surface.

C. Mailboxes, and the standards or posts upon which they are erected, must be designed and installed to withstand the impact of snow from a passing snowplow.

D. Mailboxes shall not overhang a public sidewalk or pedestrian way.

§ 87-15. Relief

A. Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance shall address and identify such at the pre-Application meeting and the relief or exemption shall be contained in the submitted Application. Requested relief may be temporary or permanent, partial or complete in nature.

B. The burden of justifying the Need or appropriateness of the requested relief, waiver or exemption shall be solely on the Applicant.

C. The Applicant shall bear all costs of the Town in considering the request for the relief, waiver or exemption.

D. Relief, waiver or exemption shall be based on the Applicant's demonstrated Need or appropriateness as evidenced by verifiable clear and convincing evidence satisfactory to the Town that to be granted relief of waiver the Town must find the following:

(1) The proposed use conforms to the nature and character of the neighborhood, considering the location, type and height of existing buildings or structures and the type and extent of vegetation on the site.

(1) The proposed use will not cause undue traffic congestion or create a traffic, pedestrian or bicycle hazard.

(3) Adequate utilities are available.

(4) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

(5) The proposed Facility and use shall not impede the orderly development and improvement of surrounding property for uses permitted within the applicable zoning district.

(6) The new structure or Modification will not reasonably be expected to diminish the value of adjoining or abutting property.

(7) The proposed use is consistent with the officially adopted plans and policies of the Town.

§ 87-16. Termination.

In addition to all other rights and powers reserved by the Town, the Town reserves the right to terminate a permit and all rights and privileges of a permit Holder for any of the following reasons:

A. A permit Holder fails or refuses, after 30 days' prior written notice, to comply with any of the material provisions of the permit or this Ordinance.

B. A permit Holder becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt.

C. All or part of a permit Holder's facilities are sold under an instrument to secure a debt and are not redeemed by the permit Holder within 90 days from such sale.

D. A permit Holder attempts to or does practice any fraud or deceit in its conduct or relations with the Town under the permit.

E. The Town condemns all of the property of a permit Holder within the Town by the lawful exercise of eminent domain.

F. The permit Holder abandons its facilities and does not use them for the intended purpose for which Authorization was granted for ninety (90) consecutive calendar days.

§ 87-17. Severability

A. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance, is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof,

   shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

B. If any word, phrase, sentence, part, section, subsection, or other portion of any Franchise or License issued pursuant to this Ordinance, or any application thereof to any person or circumstance, is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of the Franchise or License, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

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[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 4-26-72. Sections 88-2, 88-16B, 88-19A and 88-44 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

General References

Building Construction; Electrical Standards - See Ch. 15.
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Planning Commission - See Ch. 51.
Stormwater Management - See Ch. 72
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ARTICLE I
General Provisions

§ 88-1. Purpose; interpretation.

A. The purposes of this chapter are as follows:

(1) To classify, regulate and limit the height, area, bulk and use of buildings.

(2) To regulate and determine the area of front, side and rear yards and other open space around buildings.

(3) To regulate and determine the use and intensity of use of land and lot areas.

(4) To classify, regulate and restrict the location of trades, callings, industries, commercial enterprises and the location of buildings designed for specified uses.

(5) To divide the entire town into districts of such number, shape, area and of such different classes as are deemed best suited to carry out these purposes.

(6) To fix standards to which buildings or structures therein shall conform.

(7) To prohibit uses, buildings or structures incompatible with the character of such districts.

(8) To prevent additions to and the alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations herein lawfully imposed.

(9) To provide for a Board of Appeals and prescribe its powers and duties.

B. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

C. The provisions of this chapter shall be interpreted, administered, and applied in a manner that is consistent with Chapter 90 of the Town Code which is supplementary to the provisions of this Chapter 88. [Added 2-27-02 by Ord. 2001-11]

§ 88-2. Word usage and definitions.

For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

A. Word usage. Words used in the present tense include the future. All words in the singular include the plural, and all words in the plural include the singular. The word "shall" is mandatory and not directory. The word "used" shadl be deemed to include "designed, intended or arranged to be used."

B. Definitions.

AGRIBUSINESS - Business embracing the processing and distribution of farm products and the manufacture of farm equipment and supplies. Activities which support agricultural operations which are or require some agricultural industry type support. Some examples of these activities include processing operations such as dairy processing operations, vegetable canning operations, feed and grain mills, and animal auction sales. Such activities are considered to be business and industrial in nature and are not to be considered as agriculture or agricultural activities.

AGRICULTURE - The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, vitaculture, fish culture and animal and poultry husbandry, provided that the above uses shall not include the business of garbage feeding of hogs, fur farms, or the raising of animals for use in medical or other tests or experiments.

ALLEY - A public right-of-way which affords only a secondary means of access to abutting properties. [Amended 5-13-98 by Ordinance 98-11]

AMEND or AMENDMENT - Any repeal, modification or addition of a regulation; any new regulation, any change in the number, shape, boundary or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

ANIMAL BOARDING PLACE - Any building or buildings used, designed or arranged for the boarding, breeding or care of dogs, cats, pets, fowl or other domestic animals raised for agricultural purposes.

ANTIQUE SHOP - Any structure used primarily for the sale of antiques or collectibles. [Added 2/9/83]

APARTMENT - One (1) of a series of two (2) or more attached dwelling units separated from one another by continuous horizontal floors and/or vertical party walls, but not exceeding three (3) stories. [Added 1/12/83]

AUTOMOBILE GARAGE, PRIVATE - An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one (1) of which may be a commercial vehicle.

AUTOMOBILE PARKING LOT, COMMERCIAL - A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six (6) or more motor vehicles for a consideration and where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof or junk.

AUTOMOBILE PARKING SPACE - A permanently surfaced area, either within a structure or in the open, of not less that one hundred eighty (180) square feet, exclusive of driveways or access drives, for the parking of a motor vehicle.

AUTOMOBILE REPAIR STATION - A building or lot, or both, in or upon which the business of general motor vehicle repair and service is conducted, but excluding junk and/or auto wrecking business.

AUTOMOBILE SALES LOT - A lot arranged, designed or used for the storage and display for sale of any motor vehicle or any type of trailer, provided that the trailer is unoccupied, and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

AUTOMOBILE SERVICE STATION - Any area of land, including buildings and other structures thereon that are used to dispense motor vehicle fuels, oils and accessories at retail, where repair service is incidental and no storage or parking space is offered for rent.

BASEMENT - That portion of a building below the first floor joists, at least half of whose clear ceiling height is above the mean level of the adjacent ground.

BED AND BREAKFAST – A dwelling occupied by a family and used incidentally to provide accommodation and meals for compensation to no more than eight (8) transient travelers and includes a tourist home but does not include a boarding house, rooming house, group home, hotel or motel. [Added 2-28-01 by Ordinance 2000-9]

BILLBOARD (See "SIGN") - A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located.

BLOCK - That property abutting one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and a railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing divided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of development.

BOARD - The Walkersville Board of Appeals.

BOARDINGHOUSE - A dwelling in which lodging or meals, or both, are furnished for compensation to not more than five (5) guests. A "boardinghouse" shall not be deemed a home occupation.

BUILDING - A type of structure having one (1) or more stories and a roof, designed primarily for the permanent shelter, support or enclosure of persons, animals or property of any kind.

BUILDING, ACCESSORY - A type of structure subordinate to and located on the same lot, parcel or tract of land as the principal building, which building and the use of which building is customarily incidental and subordinate to the principal building and/or the principal use of the principal building or to the principal use of the lot, tract or parcel of land on which it is located and which is not attached to the principal building by any part of a common wall, common roof or enclosed walkway.

BUILDING, HEIGHT OF - The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof, to the deckline of a mansard roof and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING, MOVEABLE ACCESSORY - A building subordinate to and located on the same lot with the main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building. In addition, the following conditions must be met:

a) the building has no permanent foundation and is constructed on skids so as to be moveable;

b) the building has a maximum height at the highest point of ten (10) feet;

c) the building shall have no side which exceeds fifteen (15) feet in length;

d) the total square footage of the building must be one hundred fifty (150) square feet or less. [Added 8-12-92]

BUILDING, PRINCIPAL – A type of structure (or structures) that occupies the majority and central portion of the buildable area of a lot, parcel or tract of land, that is the main, primary and dominant building(s) on such lot, parcel or tract of land, or constitutes by reason of its use, the main, primary and dominant purpose for which the lot, parcel or tract of land is used.

BUILDING SETBACK LINE - A line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project, as determined by the yard requirements.

CARPORT - A roofed, unenclosed appendage to a building designed to cover a parked car(s). [Added 12-9-87]

CELLAR - That portion of a building below the first floor joists with over half of its clear ceiling height below the mean level of the adjacent ground. Such portion of a building shall not be used for habitation.

CEMETERY - A place used for the permanent interment of dead human bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments or a combination of one (1) or more thereof.

CHILD-CARE HOME OR DAY-CARE CENTER - A day nursery, child boarding home, day camp, summer camp, foster home or other place for the reception, board or care of a child or children under sixteen (16) years of age for compensation.

COLLECTOR ROADS - As described in the current Walkersville Comprehensive Plan. Examples include: Glade Road, Glade Boulevard, Daysville Road and Stauffer Road. [Added 1-12-83]

COMBUSTIBLE LIQUIDS (CLASS II AND III) – Defined as liquids having closed cup flash points at or above 100°F (37°C). Diesel fuel and kerosene are combustible liquids.

COMMISSION - The Walkersville Planning and Zoning Commission.[1]

1 **Editor's Note: See Ch. 51, Planning Commission.**

COMMISSIONERS - The Town Commissioners of Walkersville.

DECK - A floor-like surface or open platform usually elevated above the ground to align with the living area. Stairs and walkways may be part of a deck system. "Decks" are constructed of pressure-treated lumber and are intended for use as recreational areas in season and are not intended to be expanded into living areas in the future. A "deck" may be unenclosed or enclosed with screen and a roof. [Added 12-9-87]

DEVELOPMENT - Any activity, other than normal agricultural activity, which materially affects the existing condition or use of any land or structure.

DWELLING - A building or portion thereof arranged or designed to provide living facilities for one (1) or more families, but not including a tent, cabin, mobile home, bus or a room in a motel or hotel.

DWELLING, ATTACHED - A building, to a height of three (3) stories, arranged or designed to provide living facilities for more than one (1) family. Individual units will be separated by a common wall.

DWELLING, DETACHED - A building designed to provide living facilities for one (1) family, entirely separated from any other building or structure by space on all sides.

DWELLING, DUPLEX - Two (2) dwelling units arranged or designed to be located on abutting and separate lots of record, separated from each other by a continuous vertical common wall along the dividing lot line (without openings between the units) from the lowest floor level to the highest point of the roof. Such dwelling is separated from any other structure on all sides by yards or other green areas. [Added 8-12-92]

DWELLING, MULTIPLE-FAMILY - A building containing three (3) or more dwelling units (townhouses, apartments or garden apartments).

DWELLING, MULTIPLE-GROUP - A group of two (2) or more multiple-family dwellings, or any combination of same, occupying a parcel of land in one (1) ownership and having any yard, compound or service area in common.

DWELLING, ONE (SINGLE)-FAMILY - A building containing not more than one (1) dwelling unit.

DWELLING, PATIO - A form of residential development in which the dwelling and the remaining area of the lot are planned and constructed as a unit. All or most of the lot is enclosed with a wall sufficiently high enough to ensure privacy, converting yard areas into outdoor rooms. An off-street parking area, open or enclosed, is located in what is normally the front yard. The dwelling may be a one-family detached, semidetached or attached dwelling.

DWELLING, TWO-FAMILY - A building containing not more than two (2) dwelling units, arranged one above the other or side by side.

DWELLING UNIT - A building or portion thereof arranged or designed for occupancy by not more than one (1) family for living purposes and having cooking facilities.

EDUCATIONAL INSTITUTION, PRIVATE - Any private school or educational or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction, or any combination thereof, or any other program of trade, technical or artistic instruction, but such term does not include any educational institution of the Carroll or Frederick County Board of Education. No "private educational institution" shall be deemed a home occupation.

ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION - A private nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization or individual, and which either provides volunteer aid to the sick and wounded of armies in time of war and national relief in case of great national calamities or provides all or any of the following: religious, social, physical, recreational and benevolent services.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance, by public utilities or by municipal or other parties, of underground or overhead electrical, gas, communication, steam, water or sewer transmission, distribution, collection, supply or disposal lines, including poles, crossarms, guy wires, towers, repeaters, booster, switches, transformers, regulators, pumps, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipment used in connection with and constituting integral parts of such lines and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of public health, safety or general welfare, but not including buildings, yards or stations used for storage, repair or processing of equipment or material and not for transforming, boosting, switching or pumping purposes when such facilities are constructed on the ground.

FAMILY - An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

FARM - A parcel of land not less than five (5) acres in size used for agriculture as defined hereinabove.

FLAMMABLE LIQUIDS (CLASS I) – Liquids having closed cup flash point below 100°F (37°C) and vapor pressures not exceeding 40 psi (276 kPA)(2.76 bar) at 100°F (37°C). Gasoline is a Class I flammable liquid.

FLOODPLAIN, ANNUAL - Those soil types defined as annual floodplain in the Natural Physical Characteristics Report, published by the Frederick County Planning Commission or the soil types designated by the United State Soil Conservation Service as areas of general wetland which provide natural water retention. [Added 6/25/80]

FLOODPLAIN, HUD/FIA - The floodplain as delineated in the Floodplain Insurance Study (FIS) prepared by the Department of Housing and Urban Development/Federal Insurance Administration (HUD/FIA) showing areas subject to inundation by waters of the one-hundred-year flood. [Added 6/25/80]

FLOOR AREA OF BUILDING, TOTAL - The total number of square feet of floor area in a building, excluding cellars, uncovered steps and uncovered porches, but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls.

FRONTAGE - The length of the front property line of the lot, lots or tract of land abutting a public street, road or highway or rural right-of-way.

HOG FARM - Any land or building used for the purpose of keeping, feeding or raising twenty (20) or more swine.

HOG PEN - Any building, shed, barn, enclosure or portion thereof where one (1) or more swine are kept or fed.

HOME ASSOCIATION - An incorporated nonprofit organization operating under recorded land agreements through which each lot and/or homeowner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the charge, if unpaid, becomes a lien against the property. When required or used, the owner(s) or developer(s) must establish a Home Association in accordance with the requirements and procedures as outlined by the Federal Housing Administration in Sections 7 and 8.2 of the Land Planning Bulletin, No. 6, entitled "Planned Unit Development with a Home Association," dated Dec. 1963.

HOME OCCUPATION - An occupation conducted entirely within a dwelling by a member or members of the immediate family residing therein, provided that:

A. In connection with such "home occupation" there is no display, except one (1) sign affixed to the building, said sign not exceeding a total area of two (2) square feet nor projecting more than one (1) foot beyond the building, and not illuminated, that will indicate from the exterior that the building is being utilized in whole or in part for purposes other than that of a dwelling.

B. In connection with such "home occupation, there is kept no stock-in-trade or commodity sold upon the premises.

C. In connection with such "home occupation" no person is engaged or employed other than a member of the immediate family residing on the premises.

D. Living quarters occupy at least seventy-five percent (75%) of the entire dwelling. (Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed "home occupations." Commercial repair or storage of automobiles, watercraft or other motor vehicles shall not be deemed permitted "home occupations.") [Amended 6-25-80]

E. Equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor or other obnoxious elements.

F. There will be no outdoor storage of equipment, material, or stock. [Added 6-25-80]

HOSPITAL, SANITARIUM OR SANITORIUM - Any institution receiving inpatients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term "hospital" shall include "sanitariums" and "sanatoriums," including those wherein feebleminded and mental patients, epileptics, alcoholics, senile psychotics or drug addicts are treated or cared for.

HOTEL - Any building containing ten (10) or more guest rooms where lodging or meals, or both, are provided, for compensation, for ten (10) or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or apartment hotel as defined herein.

INDEPENDENT SENIOR LIVING COMMUNITIES – One and two bedroom apartments in which at least one resident is 62 years or older and all residents are over the age of 55 reside in each unit. Tenant services and amenities will be provided to encourage physical and emotional health and wellness. [Added 5-25-05 by Ord. 2005-03]

INDUSTRIAL CAMPUS - An industrial building or complex or group of buildings occupied by a single business on a lot greater than 15 acres. [Added 5-13-98 by Ordinance 98-3]

INDUSTRIAL PARK - A tract of land, eminently suited for industrial use, subdivided and developed according to a comprehensive plan for occupancy by a group of industries and equipped with streets and necessary utilities. [Amended 5-13-98 by Ordinance 98-3]

INSTITUTIONAL USE – A nonprofit or quasi-public use, such as a religious institution, library, public or private school, hospital, or government-owned or government-operated structure or land used for public purpose. [Amended 08-22-07 by Ordinance 2007-12]

JUNKYARD - Any land or building used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metal, other scrap or discarded materials or for the abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in running condition or machinery or parts thereof.

KINDERGARTEN - A school or division of a school operated privately for compensation for the preprimary year or years preceding the first grade [usually ages four (4) and five (5)].

LOT - A parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as may be required, and having frontage on a public right-of-way unless where excepted in this chapter; provided, however, a lot in a multi-user business park, which park contains uses totaling at least 20,000 square feet of floor area in two (2) floors or less in the B-0 zoning district shall be controlled by the provisions of §89-49 of the Zoning Ordinance. [Amended 1-23-91 by Ordinance 90-4]

LOT AREA, NET - The total horizontal area included within the rear, side and front lot or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

LOT, CORNER - A lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five degrees (135°).

LOT, DEPTH OF - The average distance between the front lot line and the rear lot line.

LOT FRONTAGE, MINIMUM (at building line) - The least permissible width of a lot measured horizontally along the required setback line. [Amended 9-27-78 by Ord. No. 101]

LOT FRONTAGE, MINIMUM (at front lot line) - The least permissible width of a lot measured horizontally along the front line.

LOT, FRONT OF [Repealed 6-25-80]

LOT LINE, FRONT - The street line running along the front of the lot, separating it from the street. In a through lot, both lines abutting the street shall be deemed to be "front lot lines." A corner lot shall be deemed to front on two (2) streets. [Amended 6-25-80]

LOT LINE, REAR - The lot line or lines generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten (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 ten (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 front lot line.

LOT LINE, SIDE - Any lot line other than a front lot line or a rear lot line.

LOT, OUTLOT - A parcel of land which is shown on a record plat but which is not to be occupied by a building or otherwise considered as a buildable lot within the meaning of this chapter. No zoning certificate shall be issued on any land so designated.

LOT, THROUGH - An interior lot, fronting on two (2) parallel or approximately parallel streets.

MAJOR ARTERIAL HIGHWAY - This is the highest order of street or road. This classification of roadway carries the highest volume of traffic through the municipalities and county and does not provide for direct access from homes or commercial development.
[Amended 5-13-98 by Ordinance 98-11]

MASTER PLAN - The Comprehensive Master Plan of Walkersville which consists of maps, data and other descriptive matter as a guide for the physical development of the town, or any portion thereof, including any amendments, extensions or additions thereto adopted by the Burgess and Commissioners, or of other public open spaces, public building sites, routes for public utilities, zoning districts or other similar information.

MEDICAL OR DENTAL CLINIC - Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

MINOR ARTERIAL HIGHWAY - This classification of roadway generally provides for movement of vehicles larger in number than collectors and local roads, with no direct access from homes allowed. This classification of roadway receives volumes of traffic from collectors and provides inter- and intra- county accesses throughout the municipality and county. [Amended 5-13-98 by Ordinance 98-11]

MOBILE HOME - A portable dwelling unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed without a permanent foundation for year-round living. A unit may contain parts that may be combined, folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. This is not to include a sectional or modular home.

MOTEL - Any group of dwelling units, combined or separate, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facilities.

MOTOR VEHICLE, INOPERATIVE – Any motorized vehicle incapable of immediately being driven or not properly licensed or inspected for safety in accordance with State law.

MULTIPLE OCCUPANCY OFFICE – A use of a principal building wherein a combination of two or more complementary business, institutional, or professional entities occupy on an integrated basis separate floor space areas for office use.

NONCONFORMING STRUCTURE - A structure lawfully existing on July 16, 1963 or on the effective date of an amendment of this chapter, and that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot.
(Added 1-28-2015 by Ordinance 2014-09)

NONCONFORMING USE - A use of a building or land lawfully existing on July 16, 1963 or at the time of amendment of this chapter and which does not conform to the use regulations of the district in which it is located.
(Amended 1-28-2015 by Ordinance 2014-09)

NURSING HOME - Includes rest homes, convalescent homes and homes for the aged and shall mean a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons not in need of extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require care in excess of room and board and

who need medical, nursing, convalescent or chronic care. [Amended 9-27-78 as Ord. No. 101]

OPEN SPACE - May include parks, playgrounds, landscaped areas, walkways, trails, putting greens and/or similar recreational uses. Areas for the exclusive use and enjoyment of each dwelling unit, areas within the lines of any public or private street or sidewalk (not including walkway), areas designed for off-street parking and other areas under roof or paved are not included within the meaning of "open space" and shall not be included in calculating the area of "open space" required by this chapter. [Added 1-12-83]

OFFICE – A use of a building or part of a building designed, intended or used for the practice of a recognized profession, the carrying on of non-commercial retail business for profit, governmental functions, and/or the administration of a business or industry not conducted on the site thereof but excluding any retail commercial use, any industrial use, clinic, financial institution, place of amusement or place of assembly.

OFFICE, BUSINESS – An office use of a building or part of a building in which one or more persons are employed in the management, administration, direction or conducting of a business for profit.

OFFICE, INSTITUTIONAL – An office use of a building or part of a building in which one or more persons are employed in the management, administration, direction or conducting of a governmental agency, non-profit or charitable organization.

OFFICE, PROFESSIONAL – An office use of a building or part of a building in which one or more professionally qualified and recognized persons and their staff serve clients or patients who seek advice, consultation or treatment.

PATIO - An area, usually paved, adjoining a house and serving as an area for outdoor living. [Added 12-9-87]

PERSONAL SERVICES – Establishments primarily engaged in providing services involving the care of a person or his or her personal goods and apparel. Examples of personal services include laundry and dry cleaning drop-off; linen supply; diaper service; beauty shops and barber shops; tanning salons; nail salons; shoe repair; clothing rental; spas, gyms, and fitness centers; but does not include industrial laundry or dry cleaning.
[Added 2-28-01 by Ordinance 2000-9]

PLACE OF WORSHIP – A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship and which may include associated accessory uses.
[Added 2-28-01 by Ordinance 2000-9]

PLAN - The policies, statements, goals and interrelated plans for private and public land use, transportation and community facilities documented in texts and maps which constitute the guide for the area's future development. For the purpose of this definition, the word "plan" shall include "General Plan," "Master Plan," "Comprehensive Plan," "Community Plan," and the like, as adopted in accordance with Article 66B of the Annotated Code of Maryland.

PORCH - An exterior appendage to a building, forming a covered approach or vestibule to a doorway. [Added 12-9-87]

PRIVATE CLUB - An incorporated or unincorporated association for civic, social, cultural, religious, literary, fraternal, political, recreational or like activities, operated for the benefit of its members and not open to the general public.

RECEPTION FACILITY – A fixed site facility or establishment used solely for banquets, wedding receptions, recitals, corporate functions, organizational functions, celebrations, anniversaries and the like, as approved by the Zoning Administrator; held indoors or outdoors or both; by reservation and invitation only, with food and beverage brought on-site or prepared in an on-site kitchen approved by the Board of Appeals, the Maryland Health Department and any other applicable governmental agencies. Entertainment scheduled in conjunction with reserved invitation only events is permitted subject to all applicable noise regulations of the Town of Walkersville or Frederick County. A reception facility does not include a restaurant, bed and breakfast, or hotel open to the public. A reception facility does not include a place of worship as defined in this section §88-2.
[Added by Ordinance 2011-04 8/10/2011]

RECYCLABLE SOLID WASTE MATERIALS – Reusable non-liquid material, including paper, cardboard, glass, plastic, non-ferrous metals and other non-liquid materials which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. [Added 11-12-03 by Ord. 2003-09]

RECYCLING COLLECTION FACILITY – A use conducted for private (non-government) and/or commercial (for profit) purposes by an owner or operator duly and currently licensed by all applicable governmental authorities that serves and operates as a drop-off point for temporary storage (not processing) of non-liquid “recyclable solid waste materials” (as herein defined). “Hazardous” or “toxic” materials as defined by Frederick County, State of Maryland and/or Federal laws, shall not be permitted to be dropped off and/or collected. All equipment and operations associated with a recycling collection facility (with the exception of motor vehicle access or parking) including but not limited to loading and unloading, shall be located and conducted inside a “building” (as defined herein) containing

four walls and a roof, shielded from public view and "supervised" (as defined herein). The term "supervised" shall be defined for the purposes of the recycling collection facility as having an employee of the duly licensed recycling collection facility owner and/or operator on site and personally observing and monitoring all drop-off and/or collection activity. [Added 11-12-03 by Ord. 2003-09]

RESIDENTIAL PROPANE TANK – Pressure vessel filled with propane with a water capacity of up to 250 gallons designed to be permanently connected to a fireplace and/or to a heating and/or cooking device or equipment.
[Added 5-25-05 by Ord. 2005-02]

RETAIL SALES AND SERVICES, EXCEPT RETAIL LIQUOR SALES – Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
[Added 2-28-01 by Ordinance 2000-9]

ROAD - Includes any public highway, thoroughfare, road, street, cul-de-sac or service road.
[Amended 5-13-98 by Ordinance 98-11]

ROAD, COLLECTOR - This is the highest order of street that could be classified as residential. This class of street is necessary to carry traffic from one neighborhood to another or from the neighborhood to streets connecting to other areas in the community. Direct access to homes is discouraged onto collector roads.
[Amended 5-13-98 by Ordinance 98-11]

ROAD, LOCAL - The local road or street comprises all facilities not in use of the higher order systems. It is intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood, with the maximum number of homes fronting the street. The local street provides access to land adjacent to the collector network and serves travel over relatively short distances.
[Added 5-13-98 by Ordinance 98-11]

ROAD, SERVICE - A local access road to provide a means of egress and ingress to a non-residential development for the purpose of limiting access directly onto a collector or arterial roadway. [Added 5-13-98 by Ordinance 98-11]

ROOMING HOUSE - A dwelling in which lodging is furnished, for compensation, to three (3) or more, but not exceeding nine (9) guests. A "rooming house" shall not be deemed a home occupation.

SEARCH LIGHT - A light that swivels and projects a far-reaching beam.

SELF-STORAGE WAREHOUSE FACILITY – A building or group of buildings divided into separate compartments, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials, and equipment. [Added 2-26-03 by Ordinance 2003-01]

SHOPPING CENTER - A group of four (4) or more retail stores, service establishments and other similar uses which are designed and developed as an integrated unit, including but not limited to required parking and any lighting, signage, landscaping and other appropriate amenities as determined by the Planning Commission. [Added 9-26-84]

SIGN - Any structure or device (including but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right of way or other properties. The term “sign” does not included any flag, badge, or insignia of any governmental unit, or any item of merchandise displayed within a show window of a business. This definition does not include delivery vehicles used in the operation of the business.

SIGN, BILLBOARD - See "billboard."

SIGN, BUSINESS - A sign which directs attention to a business, commodity, service or other activity conducted upon the premises upon which the sign is located.

SIGN, FREESTANDING - Any sign standing on its own foundation or supporting structure or mounted on any fence or wall which is not an integral part of a building.

SIGN, INFORMATIONAL - A sign (other than real estate) of a "non-profit" organization noting an event of general interest or special event such as a carnival, fund-raiser, etc.

SIGN, LOCATIONAL - A sign describing the location of a community or an institution of public or quasi-public nature, but not including signs pertaining to real estate.

SIGN, PERSONAL SERVICE - Name plates or signs designating home occupations, accessory uses, such as a doctor's office or similar use, or advertising exclusively the sale of farm products produced on the premises.

SIGN, POLITICAL - Any sign advocating for or against an issueon the ballot or the candidacy of any person for federal, state, county, or municipal elected position, whether primary or general election.

SIGN, PORTABLE - A sign (other than real estate) which is not permanently mounted to a foundation or fixed building. This type sign may include, but is not limited to, portable sign boards, portable sign trailers, flags, banners, signs attached to merchandise, signs attached to vehicle or vehicle trailers (except company names and logos which

are permanently painted on the vehicle or trailer), and signs displayed for a limited period of time and advertising goods or services.

SIGN, REAL ESTATE - A sign advertising the sale, lease, rental or development of any particular premises or property or directing attention to the opening and location of a new subdivision, neighborhood, community, or business venture or site.

SPECIAL EXCEPTION - A grant of a specific use that would not be appropriate generally or without restriction and would be based upon a finding that certain conditions governing special exceptions, as detailed in this chapter, exist an that the use conforms to the plan and is compatible with the existing neighborhood.

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 is no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story if it is used for business or dwelling purposes. A mezzanine floor shall be counted as a story if it covers more than one-third (1/3) of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty (20) feet or more.

STREET - A public or dedicated way or a public proposed right-of-way, widening or extension of an existing street or public way shown on any plan approved by the Commission.

STRUCTURAL ALTERATION - Any change in the structural members of a building, such as walls, columns, posts, beams or girders.

STRUCTURE – Anything that is erected, built or constructed of parts joined together with a fixed location on or under the ground, or attached to something having a fixed location in, on or under the ground including but not limited to buildings; walls; decks; signs; fences; sheds; garages; gazebos; towers; swimming pools; water tanks; fuel tanks; play equipment; newspaper boxes; vending machines; mailboxes; utility poles; pipes; stormwater management structures; sculptures; lawn ornaments; bleachers; backstops; scoreboards; stadiums; reception, entertainment or assembly tents; stagings; platforms; reviewing stands; trestles, railroad tracks; pavements; curbs; walks; driveways; and patios.

SWIMMING POOL - Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depth and two hundred fifty (250) square feet or more of water surface area and intended for recreational purposes, including a wading pool but not including an ornamental reflecting pool or fish pond or other type of pool located and designed so as not to create a hazard or to be used for swimming or wading.

SWIMMING POOL, COMMERCIAL - A swimming pool and/or wading pool, including buildings necessary or incidental thereto, open to the general public and operated for profit.

THEATER, DRIVE-IN OR OUTDOOR - Includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures or stage presentations to the general public.

TOURIST CABIN CAMP - Any lot, parcel or tract of land, together with such open spaces as are required under the provisions of this chapter, upon which there are located one (1) or more cottages or cabins used, designed, maintained or held out for the accommodation of transient guests, whether or not a charge is made therefore.

TOURIST HOME - A dwelling in which lodging only is provided or offered for compensation, to not more than twelve (12) transient guests. A "tourist home" shall not be deemed a home occupation.

TOWNHOUSE - One (1) of a series of three (3) or more attached dwelling units separated from one another by continuous vertical party walls, with each dwelling unit located on a separate lot. [Amended 1-12-83]

USE – Any purpose for which a lot, parcel or tract of land, building, or other structure may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a lot, parcel or tract of land.

USE, ACCESSORY - A use of a lot, parcel or tract of land that is customarily incidental and subordinate to the principal use or structure of that lot, parcel or tract of land and is located on the same lot, tract or parcel of land with such principal use.

USE, PRINCIPAL – The main, primary or dominant purpose for which a lot, parcel or tract of land or the principal structure thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

USE, SPECIAL EXCEPTION - A use which may be permitted in a district through the granting by the Board of Appeals of a special exception, as defined in this section, upon a finding by the Board that it meets specified conditions. [Amended 9-27-78 by Ord. No. 101]

VARIANCE - A modification only of density, bulk or area requirements in this chapter where such modifications 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 this chapter would result in unnecessary hardships.
VENDING MACHINE - A machine, rack, or stand that dispenses merchandise or free items.

WAYSIDE STAND - A temporary structure designed, arranged or used for the display or sale of agricultural or other products grown or produced on the premises upon which such stand is located.

WELLHEAD PROTECTION AREA – means that area as defined and described in Chapter 90 of the Town Code and as shown on the Zoning Map within the Wellhead Protection Overlay District.

YARD - Open space on the same lot with a building or group of buildings, said open space lying between the building or outer building of a group and the nearest lot or street line and unoccupied and unobstructed from the ground upward, except as provided in this chapter.

YARD, FRONT - Open space extending across the full width of a lot between the front lot line or the proposed front street line and the nearest line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof. Second story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from the measurement if they do not project more than six (6) feet.

YARD OR GARAGE SALE – A sale by an owner or tenant of residential property, limited to household items owned by residents of said residential property. [Added 08-25-04 by Ordinance 2004-08]

YARD, REAR - Open space extending across the full width of the lot between the rear line of the lot and the nearest line of the building or porch, or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. Second-story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from the measurement if they do not project more than six (6) feet.

YARD, SIDE - Open space between the side lot line, the side street line or the proposed side street line, if such line falls within the lot, and the nearest line of the foundation of the building or porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of the "side yard" is the shortest horizontal distance between the side lot line and the nearest point of the foundation of the building, porch or projection. Second-story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from

the measurement if they do not project more than six (6) feet. [Amended 9-27-78 by Ord. No 101]

ZONE - An area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open space are required; and lot areas, building height limits and other requirements are established, all of the foregoing being identical for the "zone" in which they apply.

ZONING ADMINISTRATOR - A person or agency, designated by the Burgess and Commissioners, who administers the zoning regulations and acts as Secretary to the Board of Appeals.

ZONING CERTIFICATE - A written statement issued by the Zoning Administrator, authorizing buildings, structures or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

ZONING MAP - The Zoning Map of the Town of Walkersville, together with all amendments thereto subsequently adopted.[2]

2 Editor's Note: The official Zoning Map is on file in the town offices.

ARTICLE II
General Regulations

§ 88-3. Establishment of districts.

For the purpose of this chapter, all land within the Town of Walkersville is hereby designated on the Zoning Map1 as being in one (1) of the following districts:

OS	Open Space
A	Agricultural [**Added 1-10-79}**
INST	Institutional Use [Added 8-22-07 by Ordinance 2007-12]
R-1	Low-Density Residential
R-2	Low-Density Residential **[Amended 4-8-87]**
R-3	Medium-Density Residential **[Amended 4-8-87]**
R-4	High-Density Residential **[Added 4-8-87]**
B-1	Neighborhood Business
B-2	Shopping Center
LI	Light Industrial **[Added]**
LIP	Light Industrial Park **[Added]**
GI	General Industrial **[Added]**
B-O	Business Office **[Added]**
OTM	Old Town Mixed Use **[Added 2-28-01]**

§ 88-4. Boundary lines of districts.

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts follow lot lines, center lines of streets or alleys, or such center lines extended, center lines of creeks or the corporate limit line as existing at the time of adoption of this chapter, or measured lines.

§ 88-5. Conformance with regulations required.

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations for the district in which it is located, including but not limited to the requirements of Chapter 90 of the Town Code. [amended 2-27-02 by Ord. 2001-11]

§ 88-5.1. Number of principal buildings and/or uses permitted on a lot.

A. Except as provided in Subsection B. of this Section 88-5.1, there shall be only one (1) principal structure **or** one (1) principal use permitted on a single lot, tract or parcel of land in any zoning district.

B. The Planning Commission may allow more than one (1) principal building on any single lot, and/or more than one (1) principal use on any single lot zoned within one of the business, shopping center industrial, institutional use, or

1 **Editor's Note: The official Zoning Map is on file in the town offices.**

agricultural zoning districts, based on a finding that the proposed subdivision and/or development for the lot meet excellence of design standards, including, but not limited to, any of the following:

1. Encouragement of concentration of complementary uses;

2. Provision for well-planned integrated development with maximum convenience and efficiency for users;

3. Where due to size and location of the development and its relationship to surrounding properties, flexibility of planning may be desirable without disturbance to the harmony of the neighborhood; and

4. Facilitation of a development plan with a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum convenience of customers.

§ 88-5.2 Certain lots to abut street. [Added 6-25-80]

Every building or structure used in whole or in part for dwelling purposes and hereinafter erected or moved, will be located on a lot abutting for at least fifty (50) feet on a town, county or state street or road. In a townhouse, garden apartment or multifamily development, the lots may face on a common open space or a private street, provided that the plan of such development is approved by the Planning Commission.

§ 88-5.3. Uses not listed as permitted. [Added 6-15-80]

A. Any use not specifically enumerated as being allowed in at least one (1) district in this chapter shall be allowed by special exception in the district where and to the extent similar uses are permitted by right or allowed by that special exception. All such uses must meet the general requirement and where applicable, the specific requirements for a special exception.

B. This section shall not apply to any use or similar use that is expressly listed in this chapter as being prohibited.

§ 88-6. Zoning of annexed areas.

All territory which may hereafter be annexed to the town shall, from the time of annexation, be considered as being in the R-1 District until changed by ordinance, unless the resolution of annexation by the Burgess and Commissioners provides for some other district classification or classifications. If the land to be annexed is to be classified other than R-1 or a district classification of some property abutting, contiguous or

adjacent thereto, the Burgess and Commissioners shall refer the matter to the Planning Commission for recommendation and report, and if the Commission makes no report within fifteen (15) days from the date the Burgess and Commissioners, by motion, refer it to the Commission, it shall be considered to have made a report approving the proposed annexation district classification and the Burgess and Commissioners shall hold a public hearing in relation thereto, giving at least fifteen (15) days notice of the time and place of such hearing in a newspaper published in or having a general circulation in the Town of Walkersville. Zoning of annexed areas must comply with Article 23A of the Annotated Code, which prohibits a municipality from placing annexed land, for a period of five (5) years from date of annexation, in a zoning classification which permits a land use substantially different from that of the Master Plan of the county having jurisdiction over the land prior to annexation; however, the County Commissioners may waive the requirements.

§ 88-7. Location of zoning line in vacated street.
Whenever the Burgess and Commissioners vacate a street or alley, adjacent districts shall extend to the center line of the vacation.

§ 88-8. Required open area not to be infringed upon.
Yards, parking spaces or lot area required for one (1) building cannot be used for another main building, nor can the size of a lot be reduced below the requirements of this chapter.

§ 88-9. Continuance of nonconforming uses and structures. (Amended 1-28-2015 by Ordinance 2014-09)

Purpose: The purpose of this section is permit certain legitimate nonconforming uses and/or structures to continue as established as of the effective date of adoption of this Ordinance or any amendment thereto, but not allow any action which would increase the non-conformity.

The lawful use of land or a structure existing at the time of adoption of this chapter, or subsequent amendment of this chapter, may be continued with the following limitations:

A. Expansion of nonconforming uses.
Nonconforming uses may be upgraded or repair or alterations may be made to their facilities. However, expansion of any nonconforming use shall be limited to the lot that exists at the time of adoption of this chapter, and additional acreage or structures shall not be added to enlarge any nonconforming use.

B. Expansion of nonconforming structures.
The conforming portion of a nonconforming structure may be expanded or modified provided that the expansion or

modification does not increase the portion of the structure determined by the Zoning Administrator to be nonconforming.

The nonconforming portion of a nonconforming structure may be modified in accordance with the requirements of this chapter provided that the modification does not increase the nonconformity, as determined by the Zoning Administrator.

C. Rebuilding nonconforming structures.
The Board of Appeals may grant a special exception to restore and/or rebuild a nonconforming structure damaged to the extent of sixty percent (60%) or more of the structure's current fair value, as estimated immediately prior to damage, provided:

(1) The structure is rebuilt within the same footprint and up to the dimensions of the building or structure as existing immediately prior to damage.

(2) Rebuilding the structure will not increase the original nonconformity.

(3) The Board of Appeals finds that the rebuilt structure is appropriate to the neighborhood and district in terms of its size, location, scale, and appearance.

D. Discontinued nonconforming use shall not be established after one year. No nonconforming use shall be established or reestablished after having been discontinued for one (1) year. Vacating of the premises or building or non-operative status shall be evidence of a discontinued use.

E. Substitution of nonconforming uses.
The Board of Appeals may grant a special exception to change a nonconforming use to another nonconforming use if:

(1) The Board of Appeals, by a specific finding in the case, finds that the proposed use is more appropriate to the district.

(2) A nonconforming use will not be changed to a use considered less appropriate to the district.

(3) The Board of Appeals may impose conditions within the scope of this chapter on the granting of such a special exception.

§ 88-10. Off-street parking.

A. [Amended 7-13-83] Bituminous concrete or concrete-surfaced off-street automobile parking shall be provided on any lot on which any of the following uses are hereafter established. Such space shall be provided with vehicular access to a street or alley. For purposes of computation, each space shall not be less than nine (9) feet wide nor less than eighteen (18) feet long, nor shall front yard parking be provided in the B District unless the business on such lot is set back at least fifty (50) feet from the street. Parking access aisles shall not be less than twenty-two (22) feet wide for ninety-degree parking, twelve (12) feet wide for parallel parking, eighteen (18) feet wide for sixty-degree parking and eleven (11) feet wide for forty-five degree parking. The following are minimum requirements for specific uses (see also Subsection B below):

Use	**Minimum Requirements (number of spaces)**
One-family dwellings **[Amended 4-8-87]**	2 on lot
Lodging houses lodging	1 on lot for each unit or boarder
Multifamily dwellings [Amended 6-25-03 Ordinance 2003-05]	3 on lot for each dwelling unit
Townhouses [Amended 6-25-03 Ordinance 2003-05]	3 per dwelling unit
Churches	
Erected on new sites	1 on lot for each 4 seats in main auditorium
Existing churches and additions to or enlargements of churche time of passage of this chapter	Exempt from requirement
Places of public assembly, including auditoriums and theaters	1 for each 4 seats provided
Reception Facility	1 for each 200 square feet of floor area
Schools	
All except high schools	2 for each teaching station

High schools	10 for each teaching Station
Hospitals	1 for each hospital bed
Institutions, clubs, lodges, and other public and semipublic buildings	10 for each 1,000 Sq.ft. of floor area
Institutions, clubs, lodges, and other public and semipublic buildings [Added 5/28/08 by Ordinance 2008-02]	1 for each 100 square feet of floor area
Libraries [Added 5/28/08 by Ordinance 2008-02]	1 for each 400 square feet of floor area
Shopping centers [Amended 4-8-87]	1 for each 200 square feet of floor area
Office uses	1 for each 250 square feet of floor area
All uses, except those above specified, when located in B District LI, LIP, GI Districts	1 for each 100 square feet of floor area
Commercial Uses	1 for each 200 square feet of floor area
Industrial uses (Except Self-storage warehouse facility)	1 for each 2 employees of maximum number employed at any one time or 1 for each 600 square feet, whichever is greater.
Self-storage warehouse facility	1 space shall be provided for each 25 units, equally distributed throughout the storage area; 2 spaces shall be provided for a resident manager on site; 1 space for every 50 storage compartments shall be provided at the leasing office, plus 1 for each employee of maximum number employed at any one time, plus 1 for each motor vehicle used in the business.

[Added 2-26-03 by Ordinance 2003-01]

Multiple user business office developments of 20,000 square feet or greater	6 for each 1,000 square feet of floor area

B. The foregoing requirements are subject to the following general rules and exceptions:

(1) In the B, LI, LIP and GI Districts, parking space may be provided on a separate lot if within three hundred (300) feet of a building, and two (2) or more owners may join together in the provision of this parking space.

(2) Parking space for any use specifically permitted in an R District may be provided on a lot adjoining that use, provided that there is evidence of perpetual compliance with all requirements.

(3) Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered, but any enlargement, except as otherwise exempted above, must provide the required parking spaces for said enlargement.

(4) Uses within the OTM District shall be required to comply with the off-street parking requirements found in § 8-36. [Added 2-28-01 by Ordinance 2000-9]

C. Unregistered or Inoperative Vehicles
[Added by Ord. 2016-06, 08/24/2016]

(1) No unregistered or inoperative vehicles will be parked or stored on any lot, with the following exceptions:

a. Such vehicles are stored within a completely enclosed building.
b. Such vehicles are stored within a permitted commercial or industrial zoning district.
c. No more than one vehicle is stored with the permission of the property owner, and is covered by a fitted car cover. No tarp, plastic or other makeshift cover may be used to cover the vehicle.

(2) A person may not store any vehicle that is deemed by the Code Enforcement Officer to be a public nuisance because it is:

a. Rusted, wrecked, dismantled or in a deteriorated condition so as not to be lawfully permitted on public roads; or
b. In a condition that constitutes a breeding ground for rats or mosquitoes, or other vermin or insects.

§ 88-11. Off-street loading.

A. Every building or structure used for other than residential uses and constructed after the adoption of this chapter shall provide space on the property to be used exclusively for the loading and unloading of vehicles. Such space shall be in accordance with the following schedule:

Building Floor Area (square feet)	Required Spaces
0 to 8,000	1
8,001 to 25,000	2
25,001 to 40,000	3
40,001 to 100,000	4
100,001 to 250,000	5
250,001 to 400,000	6
Over 400,000	6, plus 1 additional for each additional 10,000 square feet

B. For the purpose of determining the adequacy of the loading area, each space shall not be less than ten (10) feet in width, forty-five (45) feet in length and fourteen (14) feet in height.

§ 88.12. Fences

[Added by Ord. 2014-07, adopted 2/25/2015]

A. Agricultural District

(1) Location:
a. Fences are permitted up to the property line.
b. Fences are not permitted in the public right-of-way.

(2) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections.

(3) Zoning Certificate: Not required.

B. Open Space District

(1) Appearance:
a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:
a. Maximum permitted height of a fence is 6 feet.
b. Fences located around a sports field, sports court or sport facility that necessitates such enclosure are permitted to exceed the maximum height listed above with the approval of the Planning Commission.

(3) Location:

a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.

b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections.

(5) Zoning Certificate: Required.

(6) Site Plan Approval:

a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

b. The Planning Commission shall consider the following in their review:

i. The proposed fence in relation to the scale and design of the surrounding neighborhood;

ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.

iii. The safety and security needs of the property occupant.

C. Institutional District

(1) Appearance:

a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.

c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:

a. Maximum permitted height of a fence is 6 feet.

b. Fences located around certain properties or facilities that necessitate such enclosure are permitted to exceed the maximum height listed above with the approval of the Planning Commission.

(3) Location:

a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.

b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections.

(5) Zoning Certificate: Required.

(6) Site Plan Approval:

a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

b. The Planning Commission shall consider the following in their review:

i. The proposed fence in relation to the scale and design of the surrounding neighborhood;

ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.

iii. The safety and security needs of the property occupant.

D. R-1, R-2, R-3, and R-4 Residential and Old Town Mixed Use Districts

(1) Appearance:

a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.

(2) Height:

a. Except as noted below for corner lots, fences shall not be greater than six (6) feet in height in the side yard and rear yard or greater than 4 feet in height in the front yard.

(3) Corner Lots:

a. Corner lots shall be considered to have two front yards, a side yard and a rear yard, which shall be noted on the plot plan.

b. No fence more than 4 feet tall shall be located closer to the front of the lot than the front of the dwelling in at least one front yard.

c. A fence up to 6 feet tall shall be permitted within the designated second front yard, provided it is set back a minimum of 20 feet from the curb or edge of pavement of the street.

(4) Location:

a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.

b. Fences are not permitted in the public right-of-way.

(5) Intersections:

a. Must be in compliance with § 69-10 Obstructions of View at Intersections.

(6) Prohibitions:

a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(7) Zoning Certificate:

a. Fences in multi-family developments (except for individual townhouse lots) are subject to site plan approval by the Walkersville Planning Commission.

b. A zoning certificate is required (includes pre-and post-construction inspection by Town Code Enforcement Officer) to construct a fence in the residential and mixed use districts.

E. B-1, B-2, and B-0 Commercial Districts

(1) Appearance:

a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.

c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:

a. Fences up to 8 feet in height shall be permitted along the property lines, subject to site plan approval by the Planning Commission.

b. The height of fences located elsewhere on the property shall be subject to site plan approval by the Walkersville Planning Commission.

(3) Location:

a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.

b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections, and subject to site plan approval by the Planning Commission.

(5) Prohibitions:

a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(6) Site Plan Approval:

a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

b. The Planning Commission shall consider the following in their review:

i. The proposed fence in relation to the scale and design of the surrounding neighborhood;

ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.

iii. The safety and security needs of the property occupant.

(7) Zoning Certificate: Required.

F. LI, LIP, and GI Industrial Districts

(1) Appearance:
a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:
a. Fences up to 8 feet in height shall be permitted along the property lines.
b. The height of fences located elsewhere on the property shall be subject to site plan approval by the Walkersville Planning Commission.

(3) Location:
a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections, and subject to site plan approval by the Planning Commission.

(5) Prohibitions:
a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(6) Site Plan Approval:
a. The fence details and location shall be shown on the site plan and subject to the approval by the Walkersville Planning Commission.
b. The Planning Commission shall consider the following in their review:
i. The proposed fence in relation to the scale and design of the surrounding neighborhood;
ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.
iii. The safety and security needs of the property occupant.

(7) Zoning Certificate: Required.

G. Fences Abutting Zoning District Boundaries

A property owner whose property line directly abuts a zoning district boundary in which taller fences are permitted than the zoning district in which the subject property is located, may be granted approval by the Planning Commission to build a fence at the taller height. The taller fence will only be permitted along the section of the property boundary that directly abuts the other zoning district.

§ 88-13. Cellars prohibited for residential uses.

No dwelling, complete or part of a living unit, may be located entirely in a cellar in any district outlined by this chapter.

§ 88-14. Signs. [Ordinance 2012-06, adopted 10-24-2012]

A. General Regulations

(1) Zoning certificate required: No exterior SIGN shall be placed or altered unless in compliance with this and any other relevant ordinance. Before any exterior SIGN shall be placed or altered in size, height, or location, a zoning certificate must be issued. No zoning certificate is necessary for re-facing an existing SIGN within an existing and legally permitted frame, unless an electrical permit is necessary.

(2) Safety: All SIGNS shall in no way by reason of position, size, shape or color, interfere with, obstruct the view of, or become confused with any traffic sign, signal or device, or make use of any word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic. SIGNS shall be located and placed as to allow ample visual sight lines for driveway leading into a street and at intersecting streets and alleys and shall not interfere with vehicle or pedestrian traffic.

(3) Illumination: Illumination of all SIGNS shall be diffused, from within or indirect and shall be arranged so as not to reflect direct rays of light into adjacent properties or into the public way.

(4) SIGNS on public property or within public rights-of-way: No SIGNS shall be erected by any person on a public property or right-of-way except for SIGNS as may be directed by the Town Zoning Administrator or other Town Official.

B. Prohibited signs in all zoning districts:

(1) BILLBOARDS and all off-premises BUSINESS SIGNS

(2) Aerial balloons for advertising or marking a location

(3) Search light advertising

(4) Rotating SIGNS

(5) SIGNS that are strung, hung, nailed or otherwise attached to electrical, telephone, utility poles and equipment, trees, road SIGNS, municipal SIGNS, or other publicly owned SIGNS.

(6) Flashing, blinking, or varying light intensity SIGNS, and animated signs involving motion or sound, except as permitted for institutional uses.

C. Business, Commercial and Industrial sign standards:

(1) Site plan approval required: All SIGNS shall be shown on a site plan subject to site plan approval by the Planning Commission.

(2) Setback: Freestanding SIGNS in the business (OTM, B-1, B-2 and B-0) and industrial (LI, LIP, and GI) are not permitted in a public right-of-way.

(3) Permitted square footage for SIGNS in Commercial (OTM, B-1, B-2 and B-0) and Industrial (LI, LIP and GI) districts: 50 square feet per business with up to 9,999 square feet in floor area; 100 square feet per business with 10,000 or more in floor area. SHOPPING CENTERS, and business and INDUSTRIAL PARKS are permitted to have an additional 100 square feet of signage for an identification sign for the whole development.

(4) Height: Freestanding SIGNS shall not exceed 25 feet in height above the grade where located or the street grade, whichever is lower. SIGNS attached to buildings shall not project more than 3 feet above the main roof line. Overhanging SIGNS shall not project out from a BUILDING more than 3 feet or hang any lower than 8 feet above a public way or sidewalk.

(5) PORTABLE SIGNS located on the property of the business being advertised are permitted in any commercial district without a permit, if the total allowable square footage for all signs on the property is not exceeded and the signs are not located within a public right-of-way. PORTABLE SIGNS shall be kept neat, clean and in good repair. Signs which are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.

D. INSTITUTIONAL USE SIGN standards, regardless of zoning classification:

(1) Permitted square footage for INSTITUTIONAL USE signs: 50 square feet.

(2) Setback from property lines: Freestanding SIGNS for INSTITUTIONAL USES, regardless of zoning district, are not permitted in the public right-of-way.

(3) Height: Freestanding SIGNS shall not exceed 25 feet in height above the grade where located or the street grade, whichever is lower. SIGNS attached to BUILDINGS shall not project more than 3 feet above a roof line. Overhanging SIGNS shall not project out from a building more than 3 feet or hang any lower than 8 feet above a public way or sidewalk.

(4) PORTABLE SIGNS: PORTABLE SIGNS up to 32 square feet in size (in addition to the 50 square feet of permitted signage) advertising an event or program held on the site on which the sign is located shall be permitted.

(5) Electronic SIGNS: A flashing, blinking, or varying light intensity SIGN, or an animated SIGN involving motion or sound for INSTITUTIONAL USES is permitted with approval of the Burgess and Commissioners.

E. Residential SIGN standards:

(1) HOME OCCUPATIONS – A PERSONAL SERVICE SIGN unlighted or indirectly lighted, not to exceed four (4) square feet in size. The sign may be affixed to the residence or another structure or placed within the yard, provided it is not located within a public right-of-way.

(2) Subdivision identification SIGNS – One (1) subdivision identification SIGN is permitted for subdivisions of ten (10) or more lots or multifamily developments, for each entrance street. Such SIGNS may not exceed twenty-four (24) square feet in size or five (5) feet in height and must have a landscaped area around them of at least two (2) square feet for each square foot of SIGN area.

F. Exempt SIGNS – SIGNS for which no permit is required:

(1) Any official or public notice or warning required by a valid and applicable federal, state, or local law, regulation or chapter, by a public utility company or by order of a court of competent jurisdiction.

(2) Any SIGN inside a building.

(3) Any SIGN inside an athletic field or other enclosed outdoor space.

(4) Works of art with no commercial message.

(5) Balloons that are less than 18 inches in diameter.

(6) POLITICAL SIGNS.

(7) On-premise REAL ESTATE SIGNS or lease/rent signs that added together are less than 15 square feet for residentially zoned properties or 100 square feet for non-residentially zoned properties.

(8) House numbers.

(9) The flag, emblem, insignia, poster, or other display of a nation, state or political subdivision.

(10) Religious symbols such as crosses, stars, painted or sculptured statues, stained glass windows or the like.

(11) Gas station price SIGNS and SIGNS that are attached to the sides of, or located on the top of gas station fuel pumps.

(12) Government sponsored banners affixed to utility poles.

(13) Informational SIGNS.

(14) A-frame, sandwich board SIGNS, if taken inside when the business is closed.

(15) Contractor/artisan/remodeling/improvement job-site SIGNS up to 6 square feet in size and removed when the construction/job/project is finished.

(16) Farm SIGNS displaying the name of the owner and the nature of the farm and advertising only those products produced on the premises, not to exceed 16 square feet in size.

(17) SIGNS for RECEPTION FACILITIES as permitted by special exception in the Agricultural District, not exceeding 20 square feet in size.

(18) SIGNS directional, informational or warning in character, involving no advertising and each not exceeding six (6) square feet in size. In non-residential districts, signs displaying time, temperature and/or date shall be considered informational.

(19) Company names and logos which are permanently painted on a vehicle are not considered part of the square footage for SIGN calculations.

G. SIGNS – how measured

(1) Area of a SIGN is equal to the greatest horizontal dimension multiplied by its greatest vertical dimension.

(2) SIGNS are to be measured over its entire face, including background and borders, but excluding supports.

(3) Where a SIGN consists only of lettered, figured or pictorial matter or a device or representation applied directly to the surface of a building without special background or border, then its area shall be determined by measuring the overall length and height of the lettering or other matter.

(4) A V-shaped or two-sided sign shall be considered as one sign so long as its interior angle does not exceed 30 degrees.

(5) Portable signs are to be considered part of the total allowable square footage for sign calculations.

(6) Advertisements which are attached to product, supplies, vehicles or vehicle trailers are considered to be part of the square footage for sign calculations.

H. Replacement SIGNS

(1) The replacement of a specific sign with a SIGN of the same size or smaller size, or the removal and reinstallation of the same sign within a period of one hundred eighty (180) days will be considered as a continual use of a SIGN.

(2) The replacement of a SIGN with a larger SIGN or the removal and reinstallation of a SIGN after a one hundred eighty (180) day period shall be considered a new SIGN and subject to the provisions of this section.

§88-14.1 Temporary and Seasonal Uses

[Added 08-25-04 by Ordinance 2004-08]

A. Temporary uses permitted without a zoning certificate

The following temporary uses are permitted without a zoning certificate:

(1) Customary accessory uses on institutional use properties, including the following activities: breakfasts, lunches, dinners, bazaars, auctions, sales, game nights, and carnivals. A carnival may be permitted for a maximum of fifteen (15) days in any one year provided that adequate off street

parking and a stabilized driveway to the parking are provided**.**

(2) Tent, sidewalk or other outdoor sales events which are accessory to an existing commercial use in any commercial district, provided the sales events do not last more than three days and only occur up to four times per year, and provided that no sidewalk is blocked to pedestrian traffic.

(3) Christmas tree sales for a maximum of 35 days as an accessory use to an existing commercial use in any commercial district.

(4) Yard or garage sales on residential properties that last no more than three days and only occur up to two times per year.

B. Temporary uses requiring site plan approval

The following temporary uses are permitted upon approval of a site plan by the Planning Commission and issuance of a zoning certificate by the Zoning Administrator:

(1) Contractors' and lot owners' temporary structures associated with a construction project. Such structures shall be located within the subdivision or on the same lot where the project is located and shall comply with the setback requirements of the zoning district in which it is located. Said structures shall be removed at the completion of construction or expiration of the zoning certificate.

(2) Sales trailers, offices and model homes associated with a residential development. The office shall be incidental to and located within the subdivision that it serves. Such office shall continue only until the sale or lease of all dwelling units in the development or expiration of the zoning certificate, at which time said sales trailer or office shall be removed.

(3) Portable classrooms or trailers to be located on a school, church or other institutional use property.

(4) Wayside stand in the Agricultural District**,** provided adequate parking is provided for two (2) customer vehicles, no permanent structures are used, and the wayside stand is operated for no more than six (6) months in any year.

(5) Seasonal shaved ice, ice cream, produce or other food stand located as a principal or accessory use to on a lot in a commercial district, provided the following:

(a) Adequate off-street parking, on-site traffic circulation and access from a public street

is provided, as determined by the Planning Commission.

(b) A minimum of six off-street parking spaces are provided.

(c) Parking areas are stabilized with pavement, gravel or crushed stone, as determined by the Planning Commission.

(d) Parking spaces and drive aisles on site are striped or otherwise marked, as determined by the Planning Commission.

(e) Proof of Health Department approval for food sales is submitted.

(f) Adequate trash receptacles and sanitary facilities are provided on site, as determined by the Planning Commission.

(g) The stand is operated for no more than six consecutive months in any twelve month period.

(h) Sales shall be limited to seasonal or perishable produce or food items, including flowers and plants.

(i) The use shall be set back from any residential zoning district a minimum of fifty feet. The use shall be subject to property line setbacks for the zoning district in which it is located.

(j) One sign up to 32 square feet in size is permitted.

C. Termination of Temporary and Seasonal Uses

Upon the conclusion of the event, season, or use or the expiration of the zoning certificate (whichever comes first), the site shall be cleaned and restored to its original condition or better when the use is concluded. All structures, signs, and vehicles shall be removed from the site within seven days after the conclusion of the season or use.

§88-15 Prohibited uses in all districts.

A. Billboards.

B. Outdoor private or public rifle, trap, skeet, and pistol shooting ranges. Indoor rifle and indoor pistol, and indoor or outdoor archery ranges are permitted as Special Exception Uses in applicable districts.

C. Junkyards, including those for storage of wrecked, dismantled or abandoned motor vehicles and parts thereof and for the storage and sale of other similar scrap materials.

D. Salvage yards for any waste materials.

E. Private (non-government) and/or commercial (for profit) recycling operations, recycling processing, and recycling distribution centers. A recycling collection facility is permitted by special exception in the LI District. [Amended 11-12-03 by Ord. 2003-09]

F. Mobile homes are prohibited in all districts, except the Agricultural District.

G. No structure or land development, including parking lots, fill or excavation operations will be permitted within the annual and HUD/FIA floodplains. This does not prohibit road crossings, water impoundments or the placement of public utility lines.

H. Rendering plants, the business of garbage feeding of hogs (a maximum of twelve hogs are allowed as an ancillary support to a dairy operation), fur farms, breeding farms for animals to be used for medical testing or experiments, and slaughter houses (not private butchering).

I. Solid waste transfer stations.

J. Mineral extraction and/or mineral processing operations, which are not fully contained within a building.

K. Concrete, asphalt products, and asphalt plants.

L. Aerial balloons for advertising or marking a location.

M. Commercial radio, television, and microwave towers. This subsection does not prohibit the use of business related communication towers in those districts where authorized or Wireless Telecommunications Facilities as defined in Chapter 86 of the Town Code. [Added 2-27-02 by Ordinance 2002-4]

N. Fuel storage facilities and petroleum product storage, in excess of 60,000 gallons (total capacity) for liquids or 150,000 SCF for gases (SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches of mercury).

O. Truck stop facilities.

P. Race tracks (all types) and motor vehicle/cycle hill climbs.

Q. The storage (in a vehicle, building, container, etc.), utilization or manufacture of any type of material or products which decompose by detonation. The occasional use of explosive, by qualified and licensed personnel, for agricultural and construction purposes is exempted.

R. Rubble fills, landfills, and borrow pits.

S. Search Light Advertising.

T. Courtesy benches, trash cans, and similar devices on which advertising is displayed.

U. Flashing, blinking or varying light intensity signs except time, temperature and date signs except as permitted under §88-14A.(12) and (13). [Amended 12-14-05 by Ord. 2005-06]

V. Animated signs involving motion or sound except as permitted under §88-14A.(12) and (13).
[Amended 12-14-05 by Ord. 2005-06]

W. Rotating signs.

X. Concentrated agricultural and farming operations (CAFO) resulting in the production of a high concentration of animal waste.

[§88-15 amended 2-27-02 by Ordinance 2001-11]

§88-16. Storage of flammable and combustible fuels.
[Replaced 9/24/2008 by Ordinance 2008-08]

A. General Requirements

The storage of all flammable materials shall comply with the applicable EPA and IBC Fire Prevention Code standards.

The storage, utilization or manufacture of solid materials, which are active to intense burning, shall be conducted within spaces having fire resistive construction of no less than two (2) hours and protected with an automatic fire extinguishing system.

With the exception of tanks associated with agricultural uses, the location of tanks in excess of two thousand (2,000) gallons must be provided on a site plan and approved by the Planning Commission.

B. Aboveground Storage of Liquids (Class I, II, and III)

1) Storage of liquids aboveground shall comply with COMAR 26.10.01.12.A. Acceptable storage of such liquids shall be provided as follows:

a) Located in a diked area that will contain 110% of the largest tanks capacity in accordance with NFPA 30 (Cement sealed, steel, Geomembrane liners or other professional engineered equipment). Tank system shall have an attached nameplate containing the following information: tank serial number, primary tank capacity in gallons, and statement that the system is manufactured and intended for installation in accordance with NFPA 30, and NFPA 37 (and subsequent revisions thereto).

Where a provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable and/or combustible liquids from entering natural water courses, [public waterways], public sewers, public drains, or [adjoining property].

b) The secondary containment aboveground tank system shall consist of a primary steel tank and secondary containment that is encased in concrete and meets UL-2085 Insulated/Secondary Containment of Aboveground Storage Tanks/Protected Type (and subsequent revisions thereto). Tank system shall have an attached nameplate containing the following information: tank serial number, primary tank capacity in gallons, and statement that the system is manufactured and intended for installation in accordance with UL-2085, NFPA 30, and NFPA 37 (and subsequent revisions thereto).

2) Storage of compressed gases and heating fuels and other Class II and Class III liquid fuels used for agriculture and commercial establishments in the Open Space, Institutional Use, Agricultural, and Commercial (B-1, B-2 and B0) districts may be above ground if the total capacity of all containers is two thousand (2,000) gallons or less.

3) In the Agricultural district, up to 3,000 gallons of Class I, II, and III liquids may be stored aboveground.

4) Storage of compressed gases and heating fuels and other Class II and Class III liquid fuels used for industrial operations in the LI, LIP and GI Districts may be above ground if the total capacity of all containers is twenty-four thousand (24,000) gallons or less.

5) Aboveground containers in excess of two thousand (2,000) gallons shall be screened by evergreen plantings or a screen device, as required by the Planning Commission, of a height not less than the height of the containers so as to effectively obscure the containers from view.

6) Vehicle impact deterrence around aboveground containers in excess of two thousand (2,000) gallons shall be provided, as required by the Planning Commission.

7) Annual inspection reports of aboveground tanks in excess of 2,000 gallons shall be submitted to the Town. The annual inspection will be performed and the report prepared by an inspector certified in accordance with accepted industry standards such as API or STI.

8) Each individual container shall be located with respect to the nearest adjoining property line in accordance with subsection D.

C. Below ground Storage of Liquids (Class I, II, and III)

1) Storage of liquids underground shall comply with applicable sections of COMAR Title 26 Subtitle 10. Any new installations of underground storage shall be located a minimum of 100 feet from any well.

2) Gasoline and similar Class I Liquid fuels, in excess of 10 gallons, shall be stored underground, except in the Agricultural zoning district, where up to 3,000 gallons may be stored aboveground.

3) Kerosene, fuel oil, and other Class II and III liquid fuels may be stored underground or within the structures to be heated. Not more than 550 gallons of Class II or Class III fuels are permitted in any building.

4) Each individual container shall be located with respect to the nearest adjoining property line in accordance with subsection D.

5) Auto service stations and retail gasoline sales locations may not exceed sixty thousand (60,000) gallons total capacity. Each individual container shall be located with respect to the nearest property line in accordance with Subsection D. The pumps shall not be located closer than twenty-five feet to the street right-of-way and no closer than two hundred fifty (250) feet to a dwelling existing at the time of issuance of the zoning certificate.

D. Setback Requirements – Storage of Liquids (Class I, II and III)

Each individual container shall be located with respect to the nearest adjoining property line as follows:

Water Capacity per Container (Gallons)	Setback (feet) for underground containers	Setback (feet) for aboveground containers	Setback (feet) between aboveground containers
0 to 2,000	25	25	5
2,001 to 30,000	50	50	10
30,001 to 60,000	75	100	½ the sum of the diameters of adjacent containers
Additional setback requirements: Fuel pumps shall not be located closer than 25 feet to the street right-of-way and no closer than 250 feet to a dwelling existing at the time of issuance of the zoning certificate. Residential propane tanks shall be set back a minimum of 6 feet from the side and/or rear property lines.			

E. Fuel Storage – Residential zoning districts

1) No more than 10 gallons of gasoline or similar Class I liquid may be stored in any R district.

2) Residential propane tanks shall be no more than 250 gallons (water capacity) in size and shall be not be permitted in the front yard. They shall set back a minimum of six (6) feet from the side and/or rear property lines. Multiple tanks shall be permitted provided that the total capacity of all tanks does not exceed 250 gallons (water capacity).

3) Maximum storage of heating and other Class II and Class III Combustible fuels allowed in an R district is 550 gallons, unless otherwise approved by the Board of Appeals. If approved by the Board of Appeals, the maximum storage allowed in an R district is 2,000 gallons which must be contained in multiple tanks which do not exceed 550 gallons per tank. Each individual container over 275 gallons in size shall be located with respect to the nearest adjoining property line in accordance with Subsection D.

4) Containers shall be screened by evergreen plantings or a screen device of a height not less than the height of the containers so as to effectively obscure the containers from view.

5) For storage of flammable or combustible fuels on existing lots of record which are fifty (50) feet wide or less, the container shall be placed as close to the center of the lot as possible. The Zoning Administrator shall determine feasibility and compliance.

F. Storage of Fuel within Buildings

Kerosene, fuel oil, and other Class II and III liquid fuels may be stored underground or within the structures to be heated. Not more than 550 gallons of Class II or Class III fuel are permitted in any building.

ARTICLE III
Administration and Enforcement

§ 88-17. Administration.

A. This chapter shall be administered by the Zoning Administrator. The Zoning Administrator shall be appointed by the Town. The Town may designate an individual or public agency to act in the capacity of Zoning Administrator.

B. Appeals from the decision of the Zoning Administrator may be taken to the Board of Appeals (see Article IX).

§ 88-18. Zoning certificates.

A. Zoning certificate required. It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving, alteration or change of use of any land or buildings, including accessory buildings, until the Zoning Administrator has issued a zoning certificate for such work.

B. Issuance of a zoning certificate.

(1) In applying to the Zoning Administrator for a zoning certificate, the applicant shall submit a plat in duplicate, drawn to scale, showing the name of the person making the application, the actual dimensions of the lot to be built upon, as shown by a survey, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this chapter. This subsection is also applicable to the construction of signs.

(2) If the proposed excavation or construction, as set forth in the application, is in conformity with the provisions of this chapter and other ordinances of the Town of Walkersville, the Zoning Administrator shall issue a zoning certificate for such excavation or construction. If a zoning certificate is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and she shall grant or deny the certificate within ten (10) days of the date

of application, provided that he has received comment from any agency involved or having jurisdiction with regard to said certificate. A record of plats and action shall be maintained in the office of the Zoning Administrator.

(3) Whenever townhouses, apartments, or multifamily developments are to be constructed or an institutional, commercial or industrial establishment is to be constructed, a site plan of the intended development ("site plan") shall be submitted to the Planning Commission requesting approval by it. No zoning certificate and building permit will be issued, and no structure or use will be established except in conformity with a Site Plan unconditionally approved by the Planning Commission. The Planning Commission shall either approve, approve subject to specific changes, modifications or conditions, disapprove or continue the site plan for a specified period of time. After a Site Plan has been approved and construction of the development has been completed, in accordance with the Site Plan, a change in use for the property subject to the Site Plan and/or a change in the approved improvement plans or in the Site Plan (other than minor remodeling or changing of permitted signs as determined by the Zoning Administrator) will require another site plan review and approval by the Planning Commission. Approval of a site plan submitted under the provisions of this Article shall expire one (1) year after the date of such approval unless visible, substantial and progressive construction activities toward completion of the structure for the use approved by the Site Plan (beyond excavation, grading and/or utilities installation) have begun as determined by the Planning Commission. If the Planning Commission conditionally approves a Site Plan subject to changes, modifications or conditions, said changes, modifications or conditions must be completed, satisfied and resubmitted to the Planning Commission in sufficient time for the Site Plan to be reviewed by the Zoning Administrator for verification of the completion and satisfaction of such changes, modification and/or conditions and to be signed by the Planning Commission Chairman within sixty (60) days of the Planning Commission meeting when it received conditional approval or the conditional approval is no longer valid and the Site Plan must be resubmitted to the Planning Commission as a new submission.

[Added 4-25-01 by Ordinance 2001-4]

(a) Procedures for processing.

[1] Each application involving site plan review shall be submitted with the Zoning Certificate and Building Permit application to the Office of Permits and Inspections, who will route copies of the application to the Planning Commission and other reviewing agencies.

[2] The site plan shall be submitted thirty (30) days prior to a regularly scheduled Planning Commission meeting.

(b) The following information is required:

[1] Map of applicant's entire holding at a convenient scale.

[2] A vicinity map at a scale of one inch equals twelve hundred (1,200) feet or more to the inch, indicating

the location of the property with respect to surrounding property and streets. The map will show all streets and highways within two thousand (2,000) feet of the applicant's property.

[3] Topographic map of the property at a minimum of five-foot intervals, showing existing and proposed regrading surface of the land and the location of natural features such as streams, rock outcrops and wooded areas.

[4] A site plan showing all existing and proposed improvements, including location, proposed use and height of all buildings, location of all parking and truck loading areas with access and egress drives thereto; location of any outdoor storage, location and type of any recreation facilities; proposed grading, landscaping, screening plans, description of proposed method to provide buffer areas and landscaping where required; location and design of outdoor lighting facilities, location, size and type of all signs and the location, size and type of all proposed stormwater management facilities.

[5] Computation of the total areas of the lot, the building floor area for each type of proposed use, the building coverage and roads and parking.

[6] Commercial, industrial, and manufacturing uses will designate:

a. The specific uses proposed and the number of employees for which the buildings are designed.

b. The type of power to be used for any manufacturing process.

c. Types of wastes or by-products to be produced by any process and proposed method of disposal of such wastes or by-products.

d. Such other information as may be required by the Planning Commission to determine the impact of a particular use on adjoining properties.

[7] Site plans may be prepared and submitted by an applicant. It may be required that such information, if found deficient or in error be resubmitted over the certification of an engineer, architect, landscape architect, land surveyor or other certified professional. Review fee for Site Plans shall be two hundred dollars ($200) per sheet plus seventy-five dollars ($75) per acre. [Added 4-25-01 by Ordinance 2001-4]

[8] Site plans will be prepared to a scale of not smaller than one inch equal one hundred (100) feet, unless approved by the Zoning Administrator; the sheet or sheets shall be no less than eighteen (18) inches by twenty-four (24) inches nor more than twenty-four (24) inches by thirty-six (36) inches, including a one and one half (1.5) inch margin for binding along the left edge. A site plan may be prepared on one or more sheets, in which case match lines and an index sheet shall be provided.

[9] In addition, the site plan shall conform to all specifications and requirements of the respective zoning district and of Article IV, Design Standards, and Article V, Improvements, of the Walkersville Subdivision Regulations.[2]

[10] Site plans for land partially or entirely within a Wellhead Protection Area shall be subject to and shall comply and conform with Chapter 90, as the other requirements of this chapter and the Town Code.

C. Zoning Administrator not to waive chapter requirements. The issuance of a zoning certificate for construction or excavation not conforming to the requirements of this chapter shall not be construed as waiving any provisions of this chapter.

D. Zoning certificate may be outdated. A zoning certificate shall become void one (1) year [three hundred sixty-five and one-fourth (365 1/4) days] from the date of its issuance unless the project is more than twenty-five percent (25%) completed, as determined by the Zoning Administrator.

E. Zoning certificate fee schedule. The Burgess and Commissioners shall adopt a schedule of fees for review and administration of Zoning Certificates.
[Amended 8-22-07 by Ordinance 2007-06]

§ 88-19. Violations and penalties.

A. The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville[3]. Each and every day that such violation continues may constitute a separate offense. **[Amended 9-27-78 by Ord. No. 101]**

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[2] Editor's Note: See Ch. 71, Subdivision of Land, Arts. IV and V.

[3] Editor's Note: See Charter, §C15-4.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the appropriate authorities of the Town of Walkersville may institute injunction, mandamus or other appropriate action or proceeding, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, conversion maintenance or use or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

C. Municipal zoning infractions. **[Added 6-22-83]**

(1) In addition to the penalties and remedies provided in Subsections A and B above, any violation of any provisions of this Zoning Chapter may, by the nature and circumstances of such violation, be determined to be a municipal zoning infraction. If, after investigation, the zoning violation is determined to be, by its nature and the circumstances of said violation, a civil violation and not a misdemeanor, the Zoning Administrator or her authorized agent shall deliver a citation or warning to the property owner and other person or persons responsible for said violation. If such person or persons are unable to be located after a reasonable effort has been made, the Zoning Administrator or her authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of the same, postage prepaid, to such person or persons, which shall be sufficient for delivery under this subsection. The citation as provided for in this subsection shall be in writing and contain the following:

(a) The name and address of the person or persons charged.

(b) The nature of the infraction.

(c) The location and time that the infraction occurred.

(d) The amount of the infraction fine assessed.

(e) The manner, location and time in which the fine may be paid.

(f) The person's right to elect to stand trial for the infraction.

(g) A certification by the Zoning Administrator or his authorized agent attesting to the truth of the matters set forth.

(2) Whenever an alleged or possible municipal zoning infraction is brought to the attention of the Zoning Administrator, the Zoning Administrator shall:

(a) Investigate said infraction to determine, by the nature and circumstances of said infraction, whether it is a misdemeanor or a civil violation. In making this determination, the Zoning Administrator may consider the magnitude of the violation, the hazard to persons or property caused by such violation, the period during which such violation has existed, the manner in which such violation occurred and such other circumstances deemed relevant to such determination.

(b) If the infraction is determined to be a civil violation, he may issue a letter warning to the person or persons responsible to violation, setting forth a certain time when the violation is to be corrected or abated, and with a warning that if not so complied with, a citation may be issued.

(c) If after a warning, the violation continues, or if a warning is deemed to be inappropriate, the Zoning Administrator shall issue a citation to the person or persons responsible for said violation in the manner as set forth in this subsection.

(3) A fine of one hundred dollars ($100.) is hereby imposed upon each person responsible for a municipal zoning infraction. Each day such violation is permitted to exist shall be considered a separate infraction, except that where a warning has been issued, the penalty shall commence from the date when the

violation was to be corrected or abated, the day following such date being the first day of which a fine is imposed. All fines shall be payable to the Town of Walkersville.

(4) Any person receiving a citation may elect to stand trial for the violation by filing with the Zoning Administrator a notice of intention to stand trial, said notice must be given at least five (5) days prior to the date when payment must be made as set forth in the citation. Upon receipt of said notice of intention to stand trial, the Zoning Administrator shall forward to the Clerk of the District Court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. Upon receipt of said citation, the Clerk shall schedule said case for trial, notifying the defendant and the Zoning Administrator of the trial date. All fines, penalties or forfeitures collected by the District Court in such cases shall be remitted to the Town of Walkersville.

(5) If any person cited for a violation fails to pay the fine by the date of payment set forth in the citation and fails to file a notice of his intention to stand trial for the offense, a formal notice of the violation will be mailed, postage prepaid, to the person's last known address. If the citation has not been paid within fifteen (15) days from the date of the notice, the person shall be liable for an additional fine of one hundred dollars ($100.) for each infraction, for a total fine of two hundred dollars ($200.) per infraction. If the citation has not been satisfied within thirty-five (35) days from the date thereof, the Zoning Administrator may request adjudication of the case through the District Court. The District Court shall thereupon schedule the case for trial and summon the defendant to appear. A failure to respond to such summons shall be contempt of court.

(6) Adjudication of a violation under this subsection is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(7) 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 contained in Article 23A, Section 3(b)(8) through (15) of the Annotated Code of Maryland, as amended; however, the attorney for the Town of Walkersville is hereby authorized to prosecute violations under this subsection.

(8) Any person found to have committed a violation by the District Court shall be liable for all costs of such proceedings.

(9) The Zoning Administrator, after consultation with the attorney for the Town of Walkersville and the designated Commissioner of the Town of Walkersville, shall have discretionary authority to reduce or suspend all or any portion of any fine payable for any violation.

(10) The Burgess and Commissioners of Walkersville hereby empower the Walkersville Zoning Administrator to administer and enforce the provisions of this subsection. [Amended 2-27-02 Ord. 2002-02]

(11) Nothing contained in this subsection shall prohibit or prevent the Zoning Administrator, the Commissioners of Walkersville or any person from seeking other lawful remedies, such as injunctive relief, criminal prosecution or damages, in a civil action pursuant to Article 66B, §7.01, Annotated Code of Maryland, as amended.

ARTICLE IV
Open Space District

§88-20. Intent and purpose.

The Open Space District is intended to provide permanent open space for its natural beauty and recreational value. It is also intended to preserve natural resources, to prevent erosion, pollution and siltation and to safeguard the health, safety and welfare of persons and property by limiting development on excessive slopes, on floodplains, or poorly drained lands or on other areas where protection against natural dangers to life and property, or the lack of such protection, would prove costly to members of the community.

§ 88-21. Permitted uses.

The following uses are permitted in the OS District:

A. Farms and tree and plant nurseries.

B. Parks, playgrounds, golf courses, public and private recreational uses and cemeteries.

C. Game, wildlife and nature study preserves and reservations.

D. Flood control, water protection works, sewage treatment plants and other municipal public works.

E. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.

§ 88-22. Special exception uses.

The following uses are permitted by special exception in the OS District:

A. Those uses considered by the Board of Appeals to be of the same character as those listed in §88-21 above.

§ 88-23. Required lot and yard dimensions.

The required lot area and yard dimensions in the OS District are as follows:

A. Minimum area: not specified.

B. Yards.
   (1) Front: fifty (50) feet.
   (2) Rear: fifty (50) feet.
   (3) Side: thirty (30) feet.

C. For structures higher than twenty-five (25) feet, the yard requirements shall be as follows for all yards: Between the foundation and the nearest

lot line, a distance of two and five-tenths (2.5) times the height of the structure shall be maintained.

§88-24. Accessory uses: Open Space District

The following accessory uses are permitted in the OS District:

A. General signs: see Article II and **§** 88-14.

B. Outside vending machines are not permitted in the Open Space District or on "nonconforming use" property in an OS District.

ARTICLE IVA
Agricultural District
[Added 1-10-79]

§ 88-24.1. Intent and purpose.

The purpose of the Agricultural District is to preserve productive agricultural land and the character and quality of the rural environment, and to prevent urbanization where roads and other public facilities are scaled to meet only rural needs.

§ 88-24.2. Permitted uses.

A. The following uses are permitted in the Agricultural District:

(1) Agricultural activities.

(2) Roadside stands, retail and wholesale.

(3) Forestry.

(4) Cemeteries and memorial gardens.

(5) Parks.

(6) Single-family residences. Minimum lot size for single-family dwellings shall be one (1) acre, with a maximum subdivision of three (3) lots off of any parcel of record at the time of annexation.

(7) Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.

B. In the Agricultural District, the preferred use is agriculture. The operation at any time of any machinery used in farming procedures and all other agricultural operations shall be permitted and shall have preference over all other uses. **[Added 6-25-80]**

§ 88-24.3 Special exception uses.

The following uses are permitted in the Agricultural District with a special exception:

A. Public and private educational facilities.

B. Places of worship.

C. Community services, public utilities and other public facilities.

D. Private clubs.

E. Recreational facilities.

F. Auction sales of animals.

G. Commercial greenhouses and nurseries.

H. Farm equipment sales and service.

I. Animal hospitals or veterinary clinics.

J. Antique shops. **[Added 2-09-83]**

K. Reception facility provided the following standards and requirements are met: [Added by Ordinance 2011-04 8/10/2011]

(1) A minimum of 10 acres lot size is required.

(2) The property shall have frontage on and access to a paved road having a minimum classification of collector roads as indicated on the Town of Walkersville Comprehensive Plan.

(3) Use and conversion of existing structures is encouraged and preferred.

(4) If otherwise allowed in and under the requirements of the Agricultural Zoning District, one caretaker residence is permitted as an accessory use with the approval of the Board of Appeals as to compatibility with the neighborhood as determined by its proposed size, height, location, access, parking, utilities, and health and safety considerations.

(5) Accommodations for overnight lodging (except as to the caretaker or owner resident). Camping or recreational vehicle camping are not permitted.

(6) Hours of operations for events will be no earlier than 7:00 A.M. and no later than 12 Midnight unless further limited by the Board of Appeals.

(7) Attendance at any reception facility event permitted hereunder will be limited to a maximum of 500 guests/patrons.

(8) Adequate parking for guests/patrons and employees shall be provided on site in areas adequately screened as determined by the Planning Commission.

§ 88-24.4. Lot and yard dimensions. [Added 6-25-80]

Lot and yard dimensions shall be as follows:

Use Type	Minimum Lot Area	Minimum Lot Width (feet)	Required Yards Front (feet)	Side (feet)	Rear (feet)
Agricultural activities	-	-	40	50	50
Residential					
Single-family	40,000 sq. ft.	100	40	10	30
Mobile home	40,000 sq. ft.	100	40	10	30
Animal care and services	5 acres	300	40	50	50
Parks, recreational facilities, forestry, cemeteries	-	-	40	50	50
All other uses having structures	40,000 sq. ft.	200	40	50	50

§ 88-24.5. Building and height restrictions. [Added 6-25-80]

No building or structure will exceed three (3) stories or thirty-five (35) feet in height except as modified in § 88-58.

§ 88-24.6. Accessory uses: Agricultural District [Added]

A. General signs: see Article II and § 88-14.

B. Outside vending machines are not permitted in the Agricultural District or on "nonconforming use" property in an Agricultural District.

ARTICLE IV B
Institutional Use District
[Added 8-22-07 by Ordinance 2007-12]

§ 88-24.7 Intent and purpose.

The purpose of the Institutional Use District is to provide adequate areas within the community for the development of nonprofit or quasi-public uses, including religious institutions, libraries, public or private schools, hospitals, and government-owned and government-operated structures or land used for public purpose. It is intended to appropriately provide for neighborhood, community, and regional institutional uses, to maximize their benefit to the community and to minimize their impact on neighboring properties.

§ 88-24.8 Permitted uses.

The following uses are permitted in the Institutional Use District:

A. Places of worship.

B. Government-owned or government operated structures or uses.

C. Public libraries, museums and cultural facilities.

D. Civic and community centers.

E. Civic service clubs.

F. Hospitals and nursing homes.

G. Private and public schools.

H. Fire and rescue services.

I. Essential services.

§ 88-24.9 Special exception uses.

The following uses are permitted by special exception in the INST District:

A. Those uses considered by the Board of Appeals to be of the same character as those listed in §88-24.8 above.

§ 88-24.10 Accessory uses.

The following accessory uses are permitted in the INST District:

A. General signs: see Article II and §88-14.

B. Accessory uses commonly associated with the above permitted uses.

§ 88-24.11 Required lot, yard dimensions, and other restrictions.

The required lot area and yard dimensions in the INST District are as follows:

A. Minimum area: 40,000 sq. ft.

B. Yards.
   (1) Front: forty (40) feet.
   (2) Side: fifty (50) feet.
   (3) Rear: fifty (50) feet.

C. Height.

No building or structure will exceed three (3) stories or thirty-five (35) feet in height except as modified in §88-58.

D. Off-street parking and loading: see Article II. §88-10.

ARTICLE V
Residential and Mixed Use Districts

§88-25. Intent and purpose: R-1 and R-2 Districts [Amended 4-8-87]

The R-1 and R-2 Low-Density Districts are intended to encourage and promote the development of single-family residential neighborhoods free from land usage which might adversely affect such development. Such districts may incorporate large lot sizes in which the green space desired is entirely within the lot, or they may encourage the formation of cluster-type developments in which the lot sizes and made smaller and the area which results from the reduction of the area of each lot to the minimum standard for the district is provided and maintained as recreation areas to serve the needs of the residents of the development.

§ 88-26. Intent and purpose: R-3 District [Amended 4-8-87]

The R-3 Medium-Density District is intended to provide an attractive, pleasant living environment at a sufficient density to maintain a high standard of physical maintenance and community service. The district encourages the compact development and optimum utilization of land appropriate for residential use by encouraging cluster-type development while simultaneously leaving sloping areas, floodplains and other unbuildable areas open and available for recreational and athletic purposes.

§ 88-27. Intent and purpose: R-4 District [Amended 4-8-87]

The R-4 High-Density District is intended to make the development of land having natural and locational advantages economically feasible by the variety of housing types while continuing to encourage the provision of the basic amenities of an attractive and safe residential environment. This district encourages cluster-type development, and the increased density that results makes their location at the edge of residential neighborhoods and good access to major highways, central shopping areas, schools and other public facilities most essential.

§88-28. Permitted uses: R-1 and R-2 Districts. [Amended 6-25-80; 4-8-87]

The following uses are permitted in the R-1 and R-2 Districts:

A. Single-family dwellings and home occupations in a single-family dwelling.
B. Churches, schools, libraries, museums, parks, playgrounds and community centers.
C. Accessory buildings and uses.
D. Those uses permitted in the OS Open Space District.

§ 88-29. Permitted uses: R-3 District. [Amended 4-8-87]

The following uses are permitted in the R-3 District:

A. Any use permitted in the R-1 District.
B. Two-family dwellings and the leasing of rooms by not more than five (5) persons who are not members of the family residing in the dwelling unit.

§ 88-30. Permitted uses: R-4 District. [Amended 4-87; 9-9-87]

The following uses are permitted in the R-4 District:

A. Any use permitted in the R-3 District.

B. Multifamily dwellings, such as duplexes, townhouses and apartments.

§88-31. Special exception uses.

The following uses are permitted by special exception in the residential districts, subject to approval of the Board of Appeals:

A. Nursery school, kindergarten or child-care center, provided that it contains an adequately-sized play area, fully fenced and enclosed, and the main structure is no closer than twenty (20) feet to any adjacent zoning district line or lot line.

B. Boarding and lodging homes, not primarily for transients, provided that off-street parking of one and five-tenths (1.5) spaces per boarder or lodger is provided, and provided that yard requirements shall conform to those of a multifamily structure (R-4 District only). **[Amended 4-8-87]**

C. Medical centers and rest and nursing homes, provided that off-street parking space is provided for each attendant or worker and for each three (3) patients to be cared for therein, and provided that yard requirements shall conform to those of a multifamily structure.

D. Laundry facilities located within a multifamily dwelling for the use of residents of the apartment or apartment complex and not for use as a commercial enterprise (R-4 District only). **[Amended 9-9-87]**

E. The office of a resident physician, dentist, architect, engineer, attorney or similar professional person located in that person's home, or the operation of a beauty parlor or barbershop having one (1) chair, provided that:

(1) There is no exterior evidence other than a permitted sign to indicate that the building is being used for any purpose other than that of a dwelling.

(2) The construction does not produce a show window or display window effect.

(3) Only one (1) person other than the owner may be engaged or employed.

(4) Sufficient off-street parking is provided, with three (3) spaces being considered minimal. Such parking shall be in the side or rear yard.

(5) The total area devoted to the office does not exceed thirty percent (30%) of the square footage of the dwelling unit.

F. Clubs, lodges, hospitals and sanatoriums (R-4 District only). **[Amended 4-8-87]**

G. Essential services.

H. **[Added 4-13-83; amended 4-8-87]** Three-family apartment building, in the R-3 Residential District and subject to the requirements of the district, except as herein provided:

(1) Permitted only in structures or that portion of the structures that existed prior to the date of enactment of this subsection (April 13, 1983).

(2) The structure to be converted must contain a minimum of two thousand seven hundred (2,700) square feet of gross floor living area [excluding cellars (see definition)]. No addition(s) constructed after the date of enactment of this subsection (April 13, 1983) may be included in the calculation of gross floor living area.

(3) No external structural additions can be made to the existing structure (except minor appurtenance changes, such as fire escapes, dormer windows, etc.) in order to accommodate the third apartment unit.

(4) On-premises off-street parking is provided in accordance with the zoning requirements for multifamily dwellings.

(5) There will be one (1) family per dwelling unit, and no additional leasing of rooms to persons who are not members of the families residing in the dwelling units will be allowed.

(6) The conversion must not negatively impact the physical conditions of the area or be detrimental to the character of the neighborhood.

(7) The structure to be converted must be maintained in a reasonable state of repair.

(8) The minimum lot area shall be ten thousand (10,000) square feet, with the minimum lot width and yard depth to be that required for two-family dwellings. **[Amended 9-9-87]**

I. **[Added 12-14-1988]** Country inn-family restaurant. A "country inn" is an establishment for eating purposes only, in a structure which existed on January 24, 1977, provided that:

(1) The owners of the establishment reside on the premises.
(2) The minimum lot area shall be two (2) acres.
(3) Off-street parking shall be provided at a minimum of one (1) space per one hundred (100) square feet of establishment.

§ 88-32. Required lot and yard dimensions. [Amended 6-25-80; 1-12-83]

A. Table of Dimensions. **[Amended 10-26-83; 4-8-87]**

Use Type	Minimum Lot Area per Unit (square feet)	Minimum Lot Width (feet)	Minimum Yard Depth: Front Yard (feet)	Minimum Yard Depth: Each Side Yard (feet)	Minimum Yard Depth: Rear Yard (feet)
Low density					
R-1 District	22,000	100	40	15	40
R-2 District	15,000	75	35	10	40

Medium density					
R-3 District	10,000	60	35	8	40
Two-family dwelling	5,000	60	35	8	40
High density					
R-4 District					
Multifamily dwelling	3,000	See Subsection B			
Townhouse (See Subsection B)		25		30	

B. Townhouses.

(1) For townhouses in the R-4 District, the structures shall not occupy more than forty percent (40%) of the gross lot area. The average dwelling-unit density shall not exceed six (6) units per net development acre of land within each development, with not more than six (6) units per structure. "Net developable land" is that land remaining after annual floodplain areas and rights-of-way for major arterial or minor arterial highways have been deducted from the gross site area. The maximum length of each structure shall not exceed one hundred forty-four (144) feet.
[Amended 4-8-87]

(2) For townhouses in the R-4 District, buildings shall be set back a minimum of one hundred (100) feet from the property line when adjoining major arterial right-of-way. When adjoining a minor arterial right-of-way, the rear building setback shall be not less than fifty (50) feet and the front and side yard setbacks shall be not less than thirty (30) feet each, except when the setback adjoins another right-of-way, in which instance the front and/or side yard setback shall be a minimum of twenty (20) feet. Whenever the property being developed adjoins an A or R-1 zoned property, the building setback shall be not less than one hundred (100) feet. Whenever the property being developed adjoins any district other than A or R-1, the building setback shall be a minimum of fifty (50) feet unless the adjacent property is a part of the same development. **[Amended 4-8-87]**

(3) In all districts, the minimum distances between townhouse buildings, or any part, shall be:

(a) Rear to rear: seventy (70) feet.
(b) Rear to face: seventy (70) feet.
(c) Face to face: seventy (70) feet.
(d) End to face or to rear: forty-five (45) feet.
(e) End to end: thirty (30) feet.

(4) In all townhouse developments, the minimum gross land area devoted to open space shall be at least forty percent (40%) thereof. **[Amended 4-8-87]**

(5) The minimum lot area per family or rental unit for townhouses in an R-4 District shall be two thousand four hundred (2,400) square feet, and in an R-3 District, it shall be one thousand six hundred (1,600) square feet. **[Amended 4-8-87]**

(6) **Amended 4-8-87]** Landscaped areas. Unless changed by the Planning Commission, the minimum landscaping required for all townhouse development in an R-4 District shall be:

(a) A twenty-foot-wide landscaped edge along all external development lines shall be provided.

(b) In addition, for parking areas near buildings, there shall exist a landscaped area with a minimum width of fifteen (15) feet between the front or end of a building and parking area, and where a parking area is continuous for more than ten (10) spaces, there shall exist a landscaped island of at least ten (10) feet in width between the parking area and the remaining property. All landscaping plans are to be approved by the Planning Commission.

(7) Fencing. If fences are to be permitted in a townhouse development, the subdivider shall prepare and submit to the Planning Commission a fencing plan. The fencing plan shall show the anticipated arrangement of fences and shall limit the fence design and materials to one (1) per building style, said plan to be approved by the Planning Commission prior to final site plan approval. All restrictions or conditions as to fencing, including no fencing being permitted if this is desired, shall be a part of the declaration of covenants existing for the development as well as becoming a part of all contracts for the sale of each townhouse unit. In addition, each purchase of a townhouse unit must be furnished with a written reference to the fencing plan, a copy of which shall be made available to each purchaser by the developer, prior to the full execution of all contracts of sale for a townhouse.

C. Apartment buildings.

(1) For apartment buildings in the R-4 District, the structure shall occupy not more than twenty-five percent (25%) of the gross lot area. The average dwelling unit density shall not exceed six (6) dwelling units per net developable acre of land within each apartment development, with not more than six (6) units per structure. "Net developable land" is land remaining after annual floodplain areas and rights-of-way for major arterial or minor arterial highways have been deleted from the gross site area. **[Amended 4-8-87]**

(2) For apartments in the R-4 District, buildings shall be set back a minimum of a distance of one hundred (100) feet from the property line when adjoining a major arterial right-of-way. When adjoining a minor arterial right-of-way, the rear building setback shall not be less than fifty (50) feet and the front and side yard setback shall not be less than thirty (30) feet each, except when the setback adjoins another right-of-way, in which instance the front and/or side yard setback shall be a minimum of twenty (20) feet. Whenever the property being developed adjoins any district other than A or R-1, the building setback shall be a minimum of fifth (50) feet, unless the adjacent property is a part of the same development. **[Amended 4-8-87]**

(3) In all apartment building developments, the minimum distances between buildings, or any part, shall be:

(a) Rear to rear: seventy (70) feet.
(b) Rear to face: seventy (70) feet.
(c) Face to face: seventy (70) feet.
(d) End to face or to rear: forty-five (45) feet.
(e) End to end: thirty (30) feet.

(4) In all apartment building developments, the minimum gross land area devoted to open space shall be forty percent (40%) thereof.

(5) Landscaped areas. Landscaping of apartment building development shall be the same as for townhouse development, including parking areas.

§88-33. Building height regulations.

No building will exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet. In no case shall the building height exceed fifty (50) feet.

§88-34. Off-street parking and loading.

There shall be provided in the residential districts adequate off-street parking and loading in accordance with the schedule in Article II[4].

§ 88-35. Accessory uses: Residential and Mixed Use Districts
[Amended 2-28-01 by Ordinance 2000-9]

A. **[Amended 12-9-87]** The following accessory uses are permitted in the residential and mixed use districts:

(1) Private swimming pools, see 88-57.
(2) One-story private garages and one-story garden or tool sheds, see 88-57.
(3) Other accessory structure, including decks and patios, see 88-57.

B. Unattached accessory uses shall remain distant from side and rear lot lines a distance per 88-57.

C. No freestanding signs shall be permitted in residential districts except those permitted by Article II, § 88-14A. **[Added 3-28-84]**

D. General signs: see Article II and § 88-14. **[Added 8-12-92]**

E. Outside vending machines are not permitted in R Districts, on "nonconforming use" property within R Districts, or in the OTM District.

§88-36. Old Town Mixed Use District (OTM)
[Amended 1/28/2015 by Ordinance 2014-08]

A. **Intent and purpose: OTM District.**
The purposes of the Old Town Mixed Use District are to promote the use and reuse of existing structures in the Old Town area as designated on the Comprehensive Plan and Zoning Map, and to preserve the historic mix of small scale retail, office and residential uses within the Old Town area as designated on the Comprehensive Plan and Zoning Map. The Old Town area is located within that part of the Town's corporate limits bounded by the following streets: Maple Avenue, Maryland Avenue, Fulton Avenue,

[4] Editor's Note: See § 88-10 and §88-11.

Main Street (from Frederick Street to George Street), Pennsylvania Avenue (from the railroad to Clinton Street), Green Street, George Street (from Pennsylvania Avenue to Clinton Street) and Frederick Street (from Main Street to Nicodemus Road). The residential character of properties in the OTM District will be maintained through appropriate size, location and scale buildings, materials used, landscaping and lighting and other performance standards. This district is not intended to accommodate commercial uses that are more appropriate for the B-1, B-2 and B-0 Districts and that entail high-volume traffic turnover, large parking areas and/or outdoor storage and display areas.

B. **Permitted Uses: OTM District.**

1. Government facilities, professional/business offices, except medical and veterinary offices

2. Retail sales and services, except retail liquor sales

3. Personal services

4. Bed and Breakfasts

5. Single family dwellings

6. Two family dwellings

7. Residential apartments over commercial uses

8. Places of worship

9. Three family dwellings

C. **Site Plan Required: OTM District.**

All new uses, change of uses of, expansions of, alterations to or additions to existing lawful uses, except single and two family dwellings which will be used for that purpose, shall be subject to site plan approval by the Planning Commission.

D. **Performance Standards: OTM District.**

1. No more than three separate uses shall be permitted per lot. Each dwelling unit and commercial establishment shall be counted as one use.

2. No residential uses shall be permitted within accessory structures.

3. No retail liquor sales permitted in connection with any permitted use.

4. No drive-through facilities permitted.

5. Maximum building height of 35 feet.

6. Outdoor storage or display of goods, materials or equipment shall be permitted to cover no more than 250 square feet or 20% of the front yard, whichever is less. No

outdoor storage or display shall exceed 5 feet in height. All outdoor storage must be adequately landscaped and screened as determined by the Planning Commission.

7. When reviewing plans for new construction or substantial alterations, the Planning Commission will consider the following in order to make its determination that the development complements or enhances the residential character of the area:

- The materials of the exterior;
- The type and pitch of roofs;
- The size and spacing of windows, doors and other openings;
- The size, type and location of signs;
- Towers, chimneys, roof structures, flagpoles, radio and television antennas;
- The relation to existing buildings and structures in the general vicinity and area.

8. All new or expanded uses shall be appropriately screened, buffered and landscaped as determined by the Planning Commission.

9. Hours of Operation: No non-residential use may be open for business earlier than 7:00 a.m. or later than 10:00 p.m.

10. No non-residential use may accept deliveries from a truck over 25,000 pounds gross vehicle weight nor may a truck or other mobile equipment be operated on the premises of any non-residential use, earlier than 8:00 a.m. nor later than 6:00 p.m. Monday through Saturday or at all on Sundays.

11. Noise: All air handling equipment or other noise generating equipment shall be located a minimum of 10 feet from any property line, and shall be screened as determined by the Planning Commission to prevent noise intrusion onto or visibility from adjacent residential properties. Noise-generating uses shall be prevented from intruding on adjacent properties by their operation, location in the building and/or construction (e.g. sealed windows). Noise levels of noise generating equipment shall not exceed 80 DB as measured at any of the property lines.

12. Lighting: All lighting shall be designed to eliminate light overflow onto adjacent properties. Any signage, building or parking lighting not necessary for security purposes shall be placed on automatic timing devices which allow illumination to commence each day ½ hour before the business is open to the public and to terminate ½ hour after the close of business.

13. Off-Street Parking Requirements for Permitted Uses

    a. Changes of use, expansion of/alteration to existing uses, and new uses in structures which exist prior to January 1, 2001:
    No additional off-street parking spaces required. The Planning Commission may require that existing parking spaces (or an equivalent number of spaces) be preserved on site.

    b. New construction or redevelopment (when existing principal structures are entirely or partially removed):
    Residential uses: 2 parking spaces per dwelling unit;
    All other uses: 2 or more parking spaces per use as determined by the

Planning Commission.

14. Signs: Signs shall be permitted in accordance with the requirements of § 88-14 of the Town Code.

15. The Planning Commission shall determine the width of commercial entrances as part of site plan review.

E. **Special Exception Uses: OTM District**

The following uses are permitted as special exceptions in the OTM District when the requirements for a special exception under Article IX of this chapter are satisfied and when authorized by the Board of Appeals:

1. Day care, nursery school, senior day care, provided the following standards are met:
- Customer drop-off area is provided.
- No more than one commercial vehicle is stored on the property.
- Safe and orderly flow of traffic can be assured.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District.

2. Medical offices, provided the following standards are met:
- Safe and orderly flow of traffic can be assured.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District are met.

3. Bakeries and caterers, provided the following standards are met:
- No more than one delivery truck or other commercial vehicle is stored on the property.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District are met.

4. Funeral homes, provided the following standards are met:
- No cremations are performed on site.
- Safe and orderly flow of traffic can be assured.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District are met.

5. Restaurants, provided the following standards are met:
- Maximum number of customer seats permitted is 50.
- Safe and orderly flow of traffic can be assured.
- Liquor sales only permitted in conjunction with food sales.
- No live entertainment shall be permitted.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District are met.

6. Art or craft studio; martial arts instruction; music or dance studio; exercise or fitness studio; or other type of private instruction; provided the following standards are met:
- Customer drop-off area is provided.
- The number of clients or students shall not exceed 12 students at any time in on one or more classes.
- Classes of 4 or more students must be scheduled at least 15 minutes apart to reduce traffic congestion.
- Safe and orderly flow of traffic can be assured.
- Off-street parking requirements for special exception uses are met.
- All performance standards and lot and yard dimensional requirements of the OTM District are met.

F. Off-Street Parking Requirements for Special Exception Uses.

1. New uses and changes of use in structures which exist prior to July 1, 2001:
   No additional off-street parking spaces required. The Planning Commission may require that existing parking spaces (or an equivalent number of spaces) be preserved on site.

2. New construction or redevelopment (when existing principal structures are entirely or partially removed):
   2 or more parking spaces per use as determined by the Planning Commission.

G. **Dimensional Standards: OTM District**

			Minimum Yard Depth		
Old Town Mixed Use District	**Minimum Lot Area**	**Minimum Lot Width**	**Front Yard (one)**	**Side Yard (each)**	**Rear Yard (one)**
Single family dwellings	Not specified	Not specified	20	8	25
Two family dwellings	Not specified	Not specified	20	8	25
Bed and breakfasts	Not specified	Not specified	20	8	25
Mixed use lots	Not specified	Not specified	20	8	25
Other uses	Not specified	Not specified	20	8	25

H. Other Requirements: OTM District.

Maximum first floor area of buildings on a lot (excluding parking and accessory structures) shall be 5,000 square feet or 40% coverage of the total lot area, whichever is less. This standard applies to additions and alterations to existing structures as well as new construction.

§ 88-37. Home association.

A home association will be required if other satisfactory arrangements have not been made for improving, operating and maintaining common facilities, including drives, service and parking areas and recreation areas in townhouse or apartment developments. When required, the owner(s) must establish a home association in accordance with the requirements and procedures outlined by the Federal Housing Authority in Sections 7 and 8.2 of the Land Planning Bulletin No. 6, entitled "Planned Unit Development with a Home Association," dated December 1963. The concept of the Home Association and its bylaws must be approved by the Planning Commission.[5]

ARTICLE VI
Commercial Districts

§ 88-38. Intent and purpose: B-1 District.

The B-1 District is intended to permit residential areas the convenience of having a limited number of frequently used retail and service needs in close proximity to their daily requirements. Trips to satisfy such needs are made principally on foot by women and children, and therefore this district is intended to encourage the provision of small, safe, attractive and well-located shopping areas for primarily pedestrian use in a manner that will make them compatible assets to the residential environment.

§88-39. Intent and purpose: B-2 District.

The B-2 District is intended to be the single central shopping, service and entertainment center for the community and the surrounding region. It is intended that stores and other facilities will be grouped together in an
attractive and convenient manner with particular attention being paid to the safety of pedestrian travel and the protection of adjoining residential areas. It is essential that this district have excellent vehicular accessibility from
both the central community and the region and that safe and adequate off-street parking and loading is provided. No drive-in eating places or lodging places are recommended for location herein.

§ 88-40. Intent and purpose: B-O District. [Added 8-10-1988]

A. The Business-Office District is intended to provide areas along certain major streets where nonretail commercial uses, such as business and professional offices, may be located in a low-intensity manner, such that they can be compatible with adjacent residential uses. These areas must be designated "commercial" or "highway service" on the Comprehensive Plan. The requirements of this zone are designed to protect the adjacent or surrounding residential areas and to create an appearance of open, uncluttered and orderly development.

B. No outdoor storage shall be permitted.

C. [Repealed 5-13-98 by Ordinance 98-4]

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[5] Editor's Note: Original Section 11.0, Planned Unit Development, which immediately followed this section, was subsequently replaced by new provisions now appearing as
Ch. 53, Planned Unit Development. Repealed 8/13/80.

D. Parking. **[Amended 10-11-1989 by Ord. No. 89-6]**

(1) Parking required shall be one (1) space for each one hundred (100) square feet of floor area. Parking areas must be paved and shall not be permitted in the front yard. Rear yard parking may project to within one-half (1/2) of the required setback. Parking may be provided on a separate lot if within three hundred (300) feet of the building it serves, and two (2) or more owners may join together in the provision of this parking space. Existing buildings not complying with these requirements will not be exempt if the use changes.

(2) Required parking shall be one (1) space for each one hundred sixty-seven (167) square feet [six (6) spaces per one thousand (1,000) square feet] of floor area for multiple user-business-office developments totaling twenty thousand (20,000) square feet of floor area or greater. Parking areas in such developments shall be permitted between the proposed building and the minimum twenty-foot front yard setback, subject to site plan approval.

E. No lights may glare on adjoining residential structures

F. A site plan required for a change in use.

G. General signs: see Article II and § 88-14 and § 88-40C and E. **[Added]**

H. Outside vending machines: **[Added]**

(1) Machines must occupy not more than 21 square feet of total surface of the property of record on which it is located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure on the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-41. Permitted uses: B-1 District.

The following uses are permitted in the B-1 District:

A. Any use permitted in a residential district.

B. Lodging and institutional: lodging houses, hospitals, institutions, fraternities and sororities and volunteer fire departments.

C. Major retail outlets: furniture, department, clothing, dry goods, shoe and variety stores; and hardware, electrical appliance, paint and wallpaper stores.

D. Food, drug and beverage: grocery, fruit or vegetable stores; supermarkets; meat markets; delicatessens; drugstores; bakeries in conjunction with retail sales; restaurants; and tearooms.

E. Specialty shops: gift shops; jewelry stores; magazine, book and stationary outlets; florist shops; camera and photography shops and studios; sporting goods; and antique shops.

F. Service: laundromats; dry-cleaning and laundry pick-up stations; barber- and beauty shops; dressmaking and millinery shops; shoe repair and tailor shops; mortuaries; indoor storage and transfer establishments; repair shops for appliances and small articles; newspaper printing and publishing facilities; and print, furnace, heating, typewriter and plumbing shops. **[Amended 3-24-82]**

G. Business and professional offices: medical and dental offices and clinics; law offices; insurance and real estate offices; banks; finance and utility company offices; and animal hospitals and clinics with no open kennels.

H. Accessory uses or buildings.

I. Business and advertising signs, and real estate and public building signs or bulletin boards when attached to a building pertaining to the use of the property on which the sign is located, provided that they meet the requirements of Article II, § 88-14B. Freestanding signs may be permitted in the B-1 District with approval by the Burgess and Commissioners.**[Amended 3-28-84]**

J. General signs: see Article II and § 88-14 and § 88-41I. **[Added]**

K. Outside vending machines: **[Added]**

(1) Machines must occupy not more than 21 square feet of total surface of the property of record on which located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure of the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property right-of-ways.

L. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code. [Added 4-24-02 by Ordinance 2002-04]

§ 88-42. Permitted uses: B-2 District.

The following uses are permitted in the B-2 District:

A. Any use permitted in the B-1 Neighborhood Business District, except permitted residential uses and those uses stated in §88-41B, and signs shall be permitted only in accordance with the specifications of this section.

(1) Department and clothing stores.

(2) Furniture and appliance stores.

(3) Paint and hardware stores.

(4) Banks; savings and loan offices.

(5) Jewelry, stationery, flower, pet and other specialty shops.

(6) Business and professional offices.

(7) Radio, television and shoe repair and other repair services.

(8) Lodging facilities: hotels and motels.

(9) Service Stations and minor repair shops.

(10) Restaurants and cafes, including entertainment activities.

(11) Laundry and dry-cleaning establishments.

(12) Public buildings of a cultural, administrative or public-service nature.

(13) Clubs and lodges.

(14) Multiple occupancy office.

B. Accessory uses or buildings.

C. Business and advertising signs, and real estate and public building signs or bulletin boards, provided that they meet the requirements of Article II, § 88-14B.

D. General signs: see Article II and § 88-14 and § 88-42C.

E. Outside vending machines:

(1) Machines must occupy not more than 21 square feet of total surface of the property of record on which located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure on the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-43. Permitted uses: HS District.

Deleted. Reassigned to other districts.

§88-43.1. Permitted uses: B-O District. [Added 8-10-1988]

The following uses are permitted in the B-O District.

A. UNUSED. [Ordinance 98-18, adopted 12-9-98]

B. Business and professional offices: medical, dental offices and clinics; offices of architect, engineer, surveyor, attorney and accountant; insurance and real estate offices; banks, finance and utility company offices; and secretarial and management services.

C. Nursery school of child-care center, provided that it includes an adequately sized play area, fully fenced and enclosed, and the main structure is no closer than twenty (20) feet to any adjacent lot line.

D. Funeral home.

E. Broadcasting studio, artist studio.

F. Tourist home, bed and breakfast (not motel).

G. Barber- or beauty shop, sewing or tailoring (not dry cleaners).

H. One-story accessory structures customarily incidental and subordinate to the above principal uses and structures, provided that the total square footage does not cover more than thirty percent (30%) of the square footage of the rear yard.

I. General signs: see Article II and § 88-14. **[Added]**

J. Outside vending machines: **[Added]**

(1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure on the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

K. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code. [Added 4-24-02 by Ordinance 2002-04]

§ 88-44. Special exception uses.

The following uses are permitted as special exceptions in the specified commercial district when authorized by the Board of Appeals:

Use	Business District And Limitations
Greenhouses, nurseries and lumberyards	B-1 provided that no structure is closer than 25 feet to a residentially zoned lot
Hospitals and educational, religious and philanthropic institutions	B-1 and B-2, provided that not more than 40% of the lot is occupied and each yard is increased 1 foot for each 1 foot in excess of usual height limitations
Independent Senior Living Communities [Added 5-25-05 by Ord. 2005-03]	B-1 and B-2, provided that: 1) Minimum parking ratio of 1.25 parking spaces provided per living unit. 2) Development to consist of a minimum of 5 acres including commercial portion. 3) A minimum of twenty-five percent (25%) of total land area must be a planned commercial set aside. 4) Density of no greater than 1,500 sq. ft. for 1 bedroom and 2,000 sq. ft. for 2 bedroom units. 5) Development is proximate to residential uses.
Children's nurseries and kindergarten, kindergarten and other private schools	B-1 and B-2, provided that pre-100 square feet of open space is maintained for each child enrolled.

Theaters and hotels	B-1, provided that adequate parking is provided as outlined in Article II, §88-10
Bowling alleys and other commercial recreation facilities **[Added 3-24-82]**	B-2, provided that the proposed activity is in compliance with all safety, health and environmental standards and is not detrimental to the surrounding area; safe and orderly flow of traffic can be assured; and adequate parking is provided as outlined in Article II, §88-10
Nursing homes and assisted care facilities [Added 12-9-98 by Ordinance 98-18]	B-0, provided that the nursing home and assisted care facility meet all the specific yard requirements set forth in §88-32 for multifamily dwellings and provided that street parking spaces are provided for each attendant or worker and for each three (3) patients to be cared for therein.

§88-45. Building height regulations.

In the B-1. B-2 and B-O Districts, no building shall exceed three (3) stories or thirty-five (35) feet in height.

§ 88-46. Essential services.

Essential services[7] shall be permitted in all business districts.

§ 88-47. Off-street parking and loading.

There shall be provided in the business districts adequate off-street parking and loading areas in accordance with the schedule in Article II.[8]

§ 88-48. (Reserved).[9]

[7] Editor's Note: See the definition of "essential services" set forth in § 88-2 of this chapter.
[8] Editor's Note: See § 88-10 and §88-11.
[9] Editor's Note: Former § 88-48, Required site plans, was repealed 6-25-80.

§ 88-49. Required lot and yard dimensions.

	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Yard Depth (feet) Front Yard[4] (one)	Side Yard (each)[2]	Rear Yard (one)
B-1 Neighborhood Business District[1]	Not specified	Not specified	20	10 (when adjacent to an R District)	25
B-2 Shopping Center District[2,3]	Not specified	Not specified	30	20[3]	30
B-O Business-Office[6] **[Added 8-10-88]**	Not specified	Not specified	20[5]	10	25
Motel	2 acres	300	25	10	25

(1) Note: Residential uses in the B-1 Neighborhood Business District shall meet the lot area, width and yard requirements of the R-4 District. [Amended 8-12-92]
(2) Note: No side yard required when adjacent to other commercial or industrial lots. When adjacent to a residential district (not a residential lot), yards are measured from the structure or parking area, whichever is closest to the lot line.
(3) Note: Parking areas in the B-2 District may project to within one-half (1/2) of the required setback. [Amended 7-13-83]
(4) Note: See ¶88-16H(1) relating to the placement of gasoline pumps in service stations.
(5) Note: Parking shall not be permitted in the front yard. Rear yard parking may project to within one-half (1/2) of the required setback. Parking areas in multiple user business-office developments of twenty thousand (20,000) square feet of floor area or greater shall be permitted between the proposed building and the minimum twenty (20) foot front yard setback, subject to site plan approval. **[Amended 10-11-89 by Ord. No. 89-6]**
(6) Note: Existing structures as of August 10, 1988, will not be required to conform to setbacks, but any addition will be subject to the setbacks.

(7) Note: The required lot and yard dimensions in §88-49 do not apply to individual subdivision Lots located in a multi-user business park, which park contains uses totaling at least 20,000 square feet of floor area in two (2) floors or less in the B-0 zoning district, and such Lots are not required to front on a public right-of-way, provided that:

a. the multi-user business park as single parcel and the uses and/or structures on the perimeter of the park comply with the required lot and yard dimensions of this section; and
b. the Planning Commission determines to its satisfaction that all public improvements required for such Lot are adequately guaranteed before construction on the Lot begins and that appropriate recorded easements, covenants, maintenance agreements and/or owners association are established to provide perpetual access to public streets and utilities and improvement and maintenance of common areas and facilities in the multi-user business park; and
c. the other applicable requirements of this Ordinance have been satisfied and that the Lot conforms with the overall design and development concept for the multi-user business park approved by the Planning Commission. **[Note 7 added by Ordinance 90-4, 1-23-91]**

ARTICLE VII
Limited Industrial District

§ 88-50. Intent and purpose.

The Limited Industrial District (LI) is intended to provide adequate area for development of industrial uses whose operations have a relatively minor nuisance value; and provides a healthful industrial operating environment secure from the encroachment of residential uses and protected from adverse effects of incompatible industries. These uses are of such size and character as are deemed inappropriate for other commercial districts. **[Amended]**

§ 88-50.1. Permitted uses: LI District. [Added]

A. Uses permitted in the B-0 District

B. Agriculture, commercial greenhouses and nurseries, forestry, dwelling on the same property in conjunction with a permitted use, i.e., owner, caretaker; auction house (not auto or animal); furniture repair; lumber yard (not sawmill); stone monument sales and processing; carpentry, electrical, plumbing, welding, printing, upholstering shops; bottling plant; carpet and rug cleaners; industrial laundry and dry cleaning; wholesaling and/or warehouse; municipally approved, operated, owned and/or supervised recycling drop off facility; golf driving range; miniature golf; indoor theater; limited manufacturing and assembly uses; civic parks and recreation areas; fire and rescue service (not a practice burn facility); public buildings and properties; public utility; public transit station; motel or hotel; research laboratory; essential services; and Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.
[Amended 11-12-03 by Ordinance 2003-09]

§ 88-50.2. Special exception uses: LI District. [Added]

A. Archery ranges (outdoor or indoor) and hunting, fishing, and gun clubs. Rifle and pistol ranges in an approved indoor facility only.

B. Helipads; but, not aircraft landing and storage areas.

C. Day care center; nursery school.

D. Stadium or outdoor stage.

E. Recycling collection facility, provided the following standards are met as determined by the Board of Appeals in addition to the other special exception standards required under Article IX hereof:

(1) The building containing the recycling collection facility shall not exceed a maximum of 20,000 square feet of total floor area (as herein defined); and
(2) The building containing the recycling collection facility shall be located a minimum of sixty feet (60') from a residential zoning district; and
(3) The lot and/or the building containing the recycling collection facility shall be clearly marked to identify the name and 24 hour a day telephone number of the recycling collection facility owner and operator, the hours of operation and a notice stating that no materials shall be dropped off, collected or otherwise left outside the building when the recycling collection facility is closed; and
(4) The maximum hours of operation of the recycling collection facility shall be limited to 8 a.m. to 6 p.m. Monday through Saturday; and
(5) The lot shall be completely enclosed by a fence of suitable material and height with a locking gate; and
(6) All industrial performance standards listed in §88-54 shall be met.

[§88-50.2E. added 11-12-03 by Ordinance 2003-09]

§ 88-50.3. Accessory uses: LI District. [Added]

A. General signs: see Article II & § 88-14.
B. Outside vending machines:
(1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.
(2) Vending machines may not be stacked one upon the other.
(3) Location of machines must be indicated on site plan.
(4) Machines must be located on a paved surface abutting the main structure on the property.
(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-51. Intent and purpose: Limited Industrial Park District (LIP) [Amended]

The Limited Industrial Park District (LIP) is intended to provide for those industrial uses which require outdoor storage of equipment or supplies. Special screening is required.

§ 88-51.1 Permitted uses: LIP District. [Added]

A. Uses permitted in the LI District.

B. Additional uses permitted: Yard storage; mobile home sales; boat sales and service; farm equipment sales and service; bus repair, maintenance, and storage facility; contractor equipment and material storage yard; car wash; auto and truck repair and service shop; auto and truck sales and service centers; mini-warehouse storage operations.

§ 88-51.2. Special exception uses: LIP District. [Added]

A. Uses permitted as special exception use in LI District.

B. Two way radio dispatch tower (not to exceed seventy (70) feet

in height), provided that the setback of the tower from the lot line equals the height of the tower.

C. Bulk storage of oil, petroleum, gasoline and similar flammable liquids and compressed gases. (See § 88-16, Storage of Flammable Fuels)

§ 88-51.3. Accessory uses: LIP District.

A. General signs: see Article II and § 88-14.

B. Outside vending machines:

(1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure on the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-52. Intent and purpose: General Industrial District (GI)

The General Industrial (GI) district is intended to provide areas for industries involving manufacturing. It provides an operating environment secure from the encroachment of incompatible residential, institutional and commercial land uses. **[Amended]**

§ 88 52.1. Permitted uses. GI District [Added]

A. Uses permitted in LIP district.

B. Additional uses permitted: agribusiness; auto auction sales; and general manufacturing.

§ 88-52.2. Special exception uses: GI District. [Added]

A. Uses permitted as special exception use in LIP district.

B. Motor freight transfer terminals, for the handling and transshipment of freight and cargo.

§88-52.3. Accessory uses: GI District.

A. General signs: see Article II and §88-14.

B. Outside vending machines:

(1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.

(2) Vending machines may not be stacked one upon the other.

(3) Location of machines must be indicated on site plan.

(4) Machines must be located on a paved surface abutting the main structure on the property.

(5) All machines on the site must be located side by side to each other and not at multiple locations on the site.

(6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§88-53. Lot/yard dimensions and building height requirements: Industrial Districts [Amended 8-9-00 by Ord. 2000-4]

	Min. Lot Width	Front Yard (1) Buffer	Side Yard(1) Buffer	Rear Yard Buffer	Height (Feet)	Minimum Lot Area (Sq Ft)
LI	125	50	25	60 (2)	45	30,000
LIP	125	75 (2)	25	60 (2)	45	30,000
GI	200	100 (2)	25 (3) 50 (3)	60 (2)	45	80,000

(1) No parking is authorized in the front yard buffer of the LI District or side yard buffer of the LI, LIP or GI Districts; however, parking is allowed beyond the buffer line.

(2) Two-thirds (2/3) of the rear yard buffer requirement (nearest to the building) and two-thirds (2/3) of the front yard buffer may be used for parking. The remaining one-third (1/3) must be grass or landscape. The Planning Commission shall require screening in the remaining one-third (1/3) of the front yard to screen parking areas from the street or adjoining properties in accordance with the standards set forth below. Such screening may be designed to allow some visibility of the site from the street.
Screening shall consist of 1) a landscaped berm, or 2) evergreen shrubs supplemented with deciduous trees, planted within a 5 ft. or wider planting strip, or 3) a combination thereof. The minimum screening standards for plantings shall meet those found in § 88-54.C. Openings may be permitted where needed for access and visibility of structures, signs or entrance features. Any existing screening which complies with standards set forth above may be used to satisfy requirements of this ordinance. Screening planted in accordance with the Forest Resource Ordinance may be used to satisfy the requirements of this ordinance.

(3) The twenty-five (25) foot side yard is required if the adjoining property is zoned LI or LIP. The fifty (50) foot side yard is required if the adjoining property is zoned other than LI or LIP.

OPEN SPACE: The minimum landscaped open space on any individual lot shall not be less than 20% of the land area of the lot. The landscaped open space shall not be impervious or open for vehicular use and the landscaping shall be maintained in a reasonable manner.

§ 88-54. Site plan - specific performance standards: Industrial Districts [Amended]

The following specific standards will be met in site plans, in addition to other requirements:

A. Lighting: Lighting emitting objectionable glare observable from surrounding properties or streets will be shielded. Any operation or activity producing glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of five- tenths (0.5) footcandles when

measured in a residential or open space district.

B. Public utilities: The Health Department shall certify that the proposed water and sewage facilities are adequate to service the proposed development.

C. Screening: The Planning Commission may require screening along the property line and around and within the parking areas. Minimum standards are: Planting strips will be no less than five (5) feet wide, planted with shrubs or trees, which are of a type and spaced at intervals which may be expected to form a year round dense screen at least six (6) feet high within three (3) years, and opaque fencing may be used in conjunction with trees and shrubs, subject to the approval of the Planning Commission.

D. Storage of flammable materials: see § 88-16, Storage of Flammable Fuels.

E. Storage and Operation: In the LI District, all operations and storage of equipment, materials or products will be conducted within completely enclosed buildings. In the LIP and GI districts, storage may be permitted outdoors only when completely screened by a wall, opaque fence or planting so that materials or equipment is not visible from a public way or adjoining property. The Planning Commission shall determine the most appropriate screening for the use.

F. Noise: The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect that noise will not be detectable at the lot line.

The following sources of noise are exempt:

(1) Transportation vehicles not under the control of the industrial use.

(2) Occasionally used safety signals, warning devices, and emergency pressure relief valves.

(3) Temporary construction activity between 7:00 a.m. and 7:00 p.m.

G. Vibration: No vibration will be produced which is transmitted through the ground and is discernible at or any point beyond the lot line. The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect that vibration will not be detectable at the lot line.

H. Dust and particulates: Emissions of dust and particulates shall be in accordance with the State of Maryland rules and regulations governing air contamination and air pollution. Particulate matter emissions from materials or products subject to becoming windborne will be kept to a minimum by

paving, sodding, wetting, covering, or other means such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sludge, sulfur$ etc.

I. Sulfur oxides: Emission of oxides of sulfur (as sulfur dioxide) from combustion and other processes will be limited in accordance with ambient air quality standards of the state or those of the county whichever are more restrictive.

J. Smoke: The emission of smoke darker than Ringelman No. 1 from any chimney, stack vent, opening, or combustion process is prohibited.

K. Odor: Odorous material released from any operation or activity shall not be detectable at the lot line. The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect indicating that fumes and odors produced by the industry will not be detectable at the lot line.

L. Toxic matter: The ambient air quality standards for the State of Maryland or those of the county, whichever are more restrictive, shall be the guide to the release of airborne toxic materials across lot lines Where toxic materials are not listed in the ambient air quality standards of the state or county, the release of such materials shall be in accordance with the fractional quantities permitted below, of those materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

The release of airborne toxic matter will not exceed one-thirtieth of the threshold limit value across the lot lines.

The applicant must provide proof of compliance with all county, state, and federal regulations regarding biological testing or research. In addition, the applicant must provide guarantees, from the appropriate agencies as deemed necessary by the Planning Commission, to ensure that no hazardous effluent will be released into the air, water or onto the ground and that all wastes and by-products will be disposed of in a safe and healthful manner.

M. All industrial practices shall be in compliance with all county, state and federal requirements.

N. The site shall be maintained free of litter and any other unsanitary materials and shall be cleaned of debris on a daily basis.

O. The facility shall be maintained free from rodents at all times.

§ 88-55. Off-street parking and loading: Industrial Districts. [Amended]

There shall be provided in the LI, LIP, and GI Districts adequate off-street parking and loading in accordance with the schedule in Article II.

ARTICLE VIII
Exceptions and Modifications; Cluster Development

§ 88.56. Variances for lots of record.

When a lot which is an official lot of record at the time of adoption of this chapter does not comply with the area, yard or other requirements of this chapter, an application may be submitted to the Board of Appeals for a variance from the terms of this chapter in accordance with the procedure outlined in Article IX. Such a lot may be used as a building site; provided, however, that the yard and other requirements of the zoning district are complied with as closely as possible in the opinion of the Board of Appeals.

§ 88.57. Exceptions to yard requirements. - Residential

A. [Amended 3-28-07 by Ord. 2007-01] Architectural features of buildings, such as windowsills, cornices, roof overhangs and unenclosed porches, may project into the required yard not more than six (6) feet. Open fire escapes, fireproof outside stairways, chimneys and flues, air conditioners and heat pumps may project into the required yard not more than six (6) feet. Residential propane tanks may extend into the side or rear yard no closer than six (6) feet to any lot line. Ground floor terraces, patios or carports may extend into the rear yard no closer than six (6) feet to either side lot line.

Allowable projection of decks into yards: Decks may extend into the required rear yard not more than twelve (12) feet, provided that the following conditions are met:

(1) No more than thirty percent (30%) of the total rear yard square footage is covered by a total of all accessory structures, including the deck and swimming pools. (See §88-35.)

(2) Where side yards are required, no deck structure may be built closer than six (6) feet to the side lot lines, and in no case shall a deck structure be built closer than six (6) feet to the rear lot line.

(3) Decks may be roofed and/or enclosed with screening. Other enclosing materials, including solid doors,

glass, siding, brick, etc. are not permitted. An enclosed deck must also meet the following requirements:

(a) Runoff from the roof must be returned to the applicant's unpaved ground so as not to add to the lot's runoff.

(b) The height of the roof may not exceed the height of the main house roof, nor shall two-story decks (one directly above the other) be permitted. Terrace decks (two elevations but not one above the other) are permitted.

B. Allowable projections of a living area addition to a single family dwelling unit into the required rear yard in the Old Town Mixed Use (OTM) R-2 Residential and R-3 Residential zoning districts.

An enclosed addition to a principal structure single family dwelling unit (excluding garages) in the OTM, R-2 and R-3 zoning districts may extend and project into the required rear yard by up to and not more than twelve (12) feet, provided the following conditions are met to the satisfaction of the Planning Commission pursuant to a public meeting:

(1) The proposed addition is to a single family (not two family) dwelling unit that is the only principal structure on the lot and is for the purpose of expanding the residential living area of the dwelling unit.

(2) The lot area is less than 10,000 square feet in size.

(3) The lot depth is 110 feet or less.

(4) The proposed addition is no more than one and one-half stories tall and is not attached to the second floor of the dwelling unit with or without an unenclosed ground floor area.

(5) No more than thirty percent (30%) of the square footage of the area between the rear yard setback line and the rear property line is covered by a total of the addition, decks, accessory buildings, structures and swimming pool.

(6) The height of the roof may not exceed the height of the roof on the principal structure single family dwelling unit to which the addition is proposed.

(7) Architectural features of any such proposed addition as described in §88-57 of this Ordinance, must be contained within such allowed projection and shall not extend beyond such allowed projection area.

(8) The applicant has provided evidence satisfactory to the Planning Commission at a duly advertised public meeting that the proposed addition will not have a substantial detrimental

impact on the use and enjoyment of adjoining properties or the health, safety and welfare of the residents of those adjoining properties due to the design, size, location, or other physical characteristics of the proposed addition. The Planning Commission shall have the authority to approve, modify or deny the proposed addition and/or require the applicant to provide additional landscaping, screening, buffering or other design features to mitigate the impact of the proposed addition on adjoining properties. In reviewing the application for the proposed addition, the Planning Commission shall consider the nature and character of the immediate neighborhood, the recommendation of the Comprehensive Plan and the location of the lot, the existing structures thereon, the location of structures on adjoining properties and the proposed design, size, location and other physical characteristics of the proposed addition.

C. Side yards shall not be required for residential dwellings erected above commercial structures.

D. One-story accessory buildings may project into yards provided that:

(1) The total of all accessory uses and decks does not occupy more than thirty (30) percent of the rear yard.

(2) For lots other than town-house developments, when more than ten (10) feet from the building and sixty (60) feet from the front yard, provided that it is not closer to the front lot line than the rear of the dwelling unit and that the accessory building is outside of all utility easements or right-of-ways.

(a) For moveable accessory buildings, no part of the structure may project into the side or rear yards, closer than three (3) feet to the side or rear lot lines.

(b) For accessory buildings, no part of the structure may project into the side or rear yards, closer than six (6) feet or the height of the accessory building (whichever is less) to the side or rear lot lines.

(3) In town-house developments, one (1) accessory building per lot, not exceeding forty (40) square feet of floor area and ten (10) feet in height, may be located directly on any rear lot line and setback three (3) feet from side lot line(s), provided that it is not closer to the front lot line than the rear of the dwelling unit and that the accessory building is outside of all utility easements or right-of-ways.

(4) Garage accessory buildings entered from an alley or street in the case of double frontage lots are not closer than ten (10) feet to the street or alley line.

(5) Runoff from the roof must be returned to the applicant's unpaved ground so as not to add to the lot's runoff.

E. No part of a private swimming pool shall be closer to any lot line than the depth of the pool measured at the point of maximum depth.

F. (Deleted by Ordinance 2014-07, adopted 2/25/2015)

G. Allowable projections of freestanding signs into yards. Freestanding signs (not attached to a building), as permitted in the particular district, may project into the front yard; freestanding signs shall be permitted in the B-1 District only upon approval of the Burgess and Commissioners. No freestanding signs shall be permitted in residential districts, except those permitted by Article II, § 88-14A.
[Amended 3-28-84]

§ 88-57.1. Modification of lot requirements. [Amended 3-27-2013 by Ordinance 2013-01]

A. The required yard for corner lots shall be determined as follows:
(1) For lots of record and those created by subdivision before January 1, 2013, there shall be no required rear yards. A corner lot shall be deemed to have two (2) side yards and two (2) front yards.

(2) For lots created by subdivision after January 1, 2013, corner lots shall be deemed to have two (2) front yards, one (1) side yard and one (1) rear yard.

B. In the case of lots located along the circumference of a cul-de-sac, the minimum lot width shall be measured (arc def.) at the required minimum front building setback line and there shall be as provided a minimum front lot line width of not less than fifty percent (50%) of the minimum lot width.

§ 88-57.2. Modification of yard requirements.
[Added 1-28-2015 by Ordinance 2014-08]

A. Front Yard Modifications for Existing Buildings Alignment. When appropriate, the Planning Commission may increase or decrease the depth of the required front yard in any district so that such front yard will approximate the average depth of the existing front yards of the existing buildings on adjoining lots on each side, or if there are no such adjoining buildings, shall approximate the average depth of the front yards of the

nearest buildings on the same side of the street within two hundred (200) feet.

§ 88-58. Exceptions to height limitations.

A. Public and semipublic buildings may exceed height limitations. Public buildings, churches, temples, hospitals and institutions may exceed the height limits to a total height of seventy (70) feet, provided that all yards required in the particular district are increased one (1) foot for each two (2) feet in excess of the height limitation.

B. Architectural or mechanical appurtenances may exceed height limitations. Chimneys, church steeples, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, spires, radio and television towers, grain elevators, barns, silos or other such architectural and mechanical appurtenances are exempt from height regulations. [Amended 6-25-80]

§ 88-58.1. Special provisions governing annexed lands.
[Added 1-10-79]

A. Any property which is annexed under a residential zoning and is operating at that time on a private septic system shall be allowed to continue using same. At such time that it is declared a failing septic system by the appropriate town, county or state agency, then, instead of replacing the septic system, the property shall connect to the community sewer system, provided that the sewer main has been extended to the property.

B. Notwithstanding any provisions to the contrary contained in this chapter, the owner of an existing building lot of record, unimproved on the date of annexation, shall be entitled to construct thereon one (1) primary residence.

C. Private wells and septic systems shall be permitted in the Agricultural District.

D. Notwithstanding the requirements of Chapter 71 entitled “Subdivision of Land”, §71-22 entitled “Streets-General Requirements” and of the Walkersville Design Manual, for property annexed after the effective date of this ordinance to be subdivided and developed in Limited Industrial, Limited Industrial Park and General Industrial zoning districts, the Planning Commission may permit open section roads only where the minimum lot size in the subdivision of the annexed property is two (2) acres, and only based on a finding that one or more of the following criteria are met:
(1) A need or desire for grass lined drainage ways to provide for removal of nutrients in surface runoff, thereby improving water quality in streams and rivers; and/or
(2) Need or desire for reduction of maintenance costs.

E. Notwithstanding the requirements of Chapter 71 entitled “Subdivision of Land”, §71-31 entitled “Minimum Requirements” and of the Walkersville Design Manual, property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park, and/or General Industrial district may be

permitted to be subdivided and/or developed on private well systems on an interim basis until public water is available, so long as public water is planned to serve the property within 5-7 years on the Frederick County Master Water and Sewerage Plan and "dry" water lines meeting the standards and requirements for active and functioning public water lines within the corporate boundaries of the Town are financially guaranteed to the Town at the time of final subdivision plat approval and installed at the time of site development (i.e. grading permit) as required by the Town and any other applicable approving authority. The dry lines shall be maintained at all times by the developer/owner/subdivider of the property to be served in a condition ready for service as active and functioning water service lines with related equipment.

(1) Subdivision and/or development pursuant to this subsection shall adhere to Frederick County Water and Sewerage Plan (2008), Section II.C.3.(H)(3) ("Policies on Individual Wells and Septic Systems"), pertaining to "An Interim Individual Water and/or Sewerage System".

(2) Public water shall be deemed to be available at such time as the property has obtained a "W-3 Development/Dev." classification on the Frederick County Master Water & Sewerage Plan.

(3) Property to be subdivided and/or developed pursuant to this subsection shall have a minimum lot size of two (2) acres and shall have a Limited Industrial, Limited Industrial Park, or General Industrial zoning classification on the Town Zoning Map.

(4) The permitting of subdivision and/or development pursuant to this subsection shall be subject to approval by the Burgess and Commissioners where they find compatibility with those economic development objectives expressed in Chapter II, Section 1 of the Town of Walkersville Comprehensive Plan (2003) ("Goals and Objectives for the Future of Walkersville") and for good cause shown.

(5) Subdivision and/or development under this §88-58.1.E is prohibited if any portion of the proposed subdivision and/or development is within a designated wellhead protection area under the provisions of the Town Code.

(6) Fire reserve water storage for subdivision and development under this §88-58.1.E shall be in accordance with Section 2.12 of the Town of Walkersville Design Manual (2007).

(7) In any event, the owner/developer/subdivider of any lot or parcel to be served on an interim basis by a private well as herein provided shall pay the applicable water connection fees prior to issuance of a building permit.

F. Notwithstanding the requirements of Chapter 71 entitled "Subdivision of Land", §71-31 entitled "Minimum Requirements" and of the Walkersville Design Manual, property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park, and/or General Industrial district may be permitted to be subdivided and/or developed on private septic systems on an interim basis until public sewer is available, so long as public sewer is planned to serve the property within 5-7 years on the Frederick County Master Water and Sewerage

Plan and “dry” sewer lines meeting the standards and requirements for active and functioning public sewer lines in Frederick County are financially guaranteed to Frederick County at the time of final subdivision plat approval and installed at the time of site development (i.e. grading permit) as required by the Town and Frederick County and any other applicable approving authority. The dry lines shall be maintained at all times by the developer/owner/subdivider of the property to be served in a condition ready for service as active and functioning sewer service lines with related equipment.

(1) Development and subdivision pursuant to this subsection shall adhere to Frederick County Water and Sewerage Plan (2008) Section II.C.3.(H)(3) (“Policies on Individual Wells and Septic Systems”), pertaining to “An Interim Individual Water and/or Sewerage System”.

(2) Public sewer shall be deemed to be available at such time as the property has obtained a “S-3 Development/Dev.” classification on the Frederick County Master Water & Sewerage Plan.

(3) Property to be subdivided and/or developed pursuant to this subsection shall have a minimum lot size of two (2) acres and shall have a Limited Industrial, Limited Industrial Park or General Industrial zoning classification on the Town Zoning Map.

(4) The permitting of subdivision and/or development pursuant to this subsection shall be subject to approval by the Burgess and Commissioners where they find compatibility with those economic development objectives expressed in Chapter II, Section 1 of the Town of Walkersville Comprehensive Plan (2003) (“Goals and Objectives for the Future of Walkersville”) and for good cause shown.

(5) Subdivision and/or development under this §88-58.1.E is prohibited if any portion of the proposed subdivision and/or development is within a designated wellhead protection area under the provisions of the Town Code.

(6) In any event, the owner/developer/subdivider of any lot or parcel to be served on an interim basis by a private septic system as herein provided shall pay the applicable sewer connection fees to the County prior to issuance of a building permit.

G. Notwithstanding the requirements of Chapter 88, §88-5.1 entitled “Number of Structures Permitted on Lot” for property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park and/or General Industrial district to be subdivided and/or developed, the Planning Commission may allow more than one (1) principal structure on any single lot, and the Planning Commission may allow more than one (1) principal use on any single lot. The Planning Commission may permit subdivision and/or development under this §88-58.1.G, based on the applicable provisions of the Town Code for subdivision and/or development and on a finding by the Planning Commission that the subdivision and/or development meet excellence of design factors, including, but not limited to, any of the following:

(1) Encouragement of concentration of complementary uses;

(2) Provision for well-planned development with maximum convenience and efficiency for users;
(3) Where due to size and location of the development and its relationship to surrounding properties, flexibility of planning may be desirable without disturbance to harmony of the neighborhood; and
(4) Facilitation of a development plan with a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum convenience of customers.

§ 88-58.2. [Section repealed and reserved for future use by Ord. 99-15 11/17/99]

ARTICLE IX
Board of Appeals

§ 88-59. Authorization; appointment of members.
[Amended 04-28-04 by Ordinance 2004-03]

The Board of Appeals is hereby authorized. Such Board shall consist of three (3) members, all of whom shall be taxpayers and residents of the Town of Walkersville. The members of the Board of Appeals shall be appointed by the Burgess with the consent of the Commissioners. One (1) member of said Board shall be appointed to serve for a period of one (1) year; one (1) for a period of two (2) years; and one (1) for a period of three (3) years. Thereafter, members shall be appointed for a period of three (3) years. Vacancies shall be filled by appointment for the unexpired term only. Compensation, if any, for members of the Board of Appeals shall be determined by the Town Commissioners. The Burgess and Commissioners of the Town of Walkersville shall designate one (1) or more alternate members for the Board of Appeals who may be empowered to sit on the Board in the absence of any member of the Board.

§ 88-60. Meetings; appointment of officials; record of proceedings.

The members of the Board of Appeals shall meet at least once each year at such time and place as they may fix by resolution. They shall select one (1) of their members as Chairman and one (1) as Vice Chairman, who shall serve one (1) year or until their successors have been selected. Special meetings may be called at any time by the Chairman or, in his absence, the Vice Chairman. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall cause a proper record to be kept of its proceedings.

§ 88-61. Appeal procedure.

A. An appeal to the Board of Appeals may be taken by any person aggrieved by any officer, department or bureau of the Town of Walkersville affected or by any order, requirement, decision or determination by any governmental officer, department, board or bureau based, in whole or in part, upon the provisions of this chapter.

B. Such appeal shall be filed with the Zoning Administrator and the Board of Appeals within thirty (30) days from the decision being appealed from. Upon appeal, the Zoning Administrator shall transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. The Board shall fix a reasonable time for the hearing of the appeal, giving not less than fifteen (15) days' public notice thereof by the posting of not less than one

(1) sign of at least three (3) square feet in area containing notice of the hearing in a conspicuous place on or near the property upon which application for appeal is made and by advertising in a weekly or daily paper of general circulation in the town, as well as by giving due notice to the parties in interest, and the Board shall decide the same within thirty (30) days. At the hearing, any party may appear in person, by agent or by attorney.

C. The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant upon any matter which it is required to pass under this chapter, or to effect any variation in this chapter. At the hearing, any party may appear in person, by agent or by attorney.

D. The Burgess and Commissioners shall adopt a schedule of fees for review and processing of applications for variances, special exceptions and claims of administrative error.
[Ordinance 2007-07 adopted 8/22/2007]

§ 88-62. Powers.

The Board of Appeals shall have the power to:

A. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official under the provisions of this chapter.

B. Hear and decide special exceptions in the terms of this chapter.

C. Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public safety, health and general welfare and will most nearly accomplish the purpose and intent of this chapter.

§ 88-63. Variances.

A. Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this chapter, or by reasons of exceptional topographic conditions or other extraordinary situations or conditions of such piece of property, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause hardship unnecessary to carry

out the spirit and purpose of this chapter, the Board shall have the power, upon appeal in specific cases, filed as provided in this section, to authorize a variance from the terms of this chapter so as to relieve such hardship and so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest. In authorizing a variance with attached conditions, the Board may require such guaranty as it may deem necessary in order that the conditions attached are being and will be complied with.

B. No such variance in the provisions or requirements of this chapter shall be authorized by the Board unless the Board finds, beyond reasonable doubt that all the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.

(3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.

C. No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

§ 88-64. Guides and standards regulating approval powers.

Where certain powers are conferred upon the Board of Appeals in this chapter, such Board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, consider all testimony and data submitted and hear any person for or against the issuance of the zoning certificate. However, the application shall not be approved where the health, safety, security, morals or general welfare would be impaired or where dangerous traffic conditions might result that would jeopardize the lives or property of people living in the neighborhood, nor will any action be taken which will be contrary to an adopted town plan. When a question arises as to whether the contemplated action is contrary to an adopted town plan, the Board shall request the recommendation of the Planning Commission. In deciding such matters, the Board shall give consideration, among other things, to the following:

A. Decisions of the Circuit Court of the county and the Court of Appeals of the state.

B. The orderly growth of the neighborhood and community.

C. The most appropriate use of land and structure.

D. Facilities for sewers, water, trash collection and disposal and the ability of the town to supply such services.

E. The availability of fire-fighting equipment.

F. The effect of such use upon the peaceful enjoyment of people in their homes.

G. The number of people residing, working or studying in the immediate areas.

H. The type and kind of structures in the vicinity where people are apt to gather in large numbers, such as schools, churches, theaters, hospitals and the like.

I. Traffic conditions, including facilities for pedestrians, such as sidewalks, safety zones and parking facilities available and the access of cars on highways.

J. The preservation of cultural and historic landmarks.

K. The conservation of property values.

L. The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the uses of surrounding properties.

M. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

N. The accordance of contemplated action with an adopted town plan.

§ 88-65. Public hearing; publication of notice.

The Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board. A notice of time and place of such public hearing shall be published in a paper of general circulation in the Town of Walkersville at least once, not more than thirty (30) days nor less than fifteen (15) days previous to the hearing. Such notice shall contain the particular address or location of the property for which the variance or other ruling by the Board is sought, as well as a brief description of the nature of the appeal and specifications of the proposed variance.

§ 88-66. Construction permitted by Board to be undertaken within specified time.

No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than six (6) months unless a zoning certificate for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such certificate or unless an extension is granted by the Board. Only one extension may be granted by the Board for up to six (6) months provided significant progress has been made toward obtaining a zoning certificate. [Amended 10/11/95 by Ord. 95-6]

§ 88-67. Use of building permitted by Board to be established within specified time.

No order of the Board permitting the use of a building or premises shall be valid for a period longer than six (6) months unless such use is established within such period; provided, however, that where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning certificate for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such certificate or if an extension is granted by the Board. Only one extension may be granted by the Board for up to six (6) months provided significant progress has been made toward obtaining a zoning certificate. [Amended 10/11/95 by Ord. 95-6]

ARTICLE X
Amendments

§ 88-68. Power of Burgess and Commissioners to amend provisions.

The Burgess and Commissioners may from time to time, on their own motion or on petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts, regulations or restrictions herein established.

§ 88-69. Public hearing; fee to defray cost. [Amended 7-11-84; 6-25-86]

A. A public hearing shall be held by the Burgess and Commissioners before the adoption of any proposed amendment, supplement or change, public notice of which shall have been placed in a newspaper of general circulation in the Town of Walkersville once each week for two (2) successive weeks, with the first such publication of notice appearing at least fourteen (14) days, but not more than thirty (30) days, prior to the hearing. The property shall be posted with the date and time of the public hearing fifteen (15) days prior to the hearing.

B. The Burgess and Commissioners shall adopt a schedule of fees for review and processing of zoning map amendment, zoning text amendment, and annexation applications. [Ordinance 2007-08 adopted 8/22/2007]

§ 88-70. Procedures; approval.

A. No amendment shall be considered or acted upon by the Burgess and Commissioners unless it is first submitted to and approved by the Planning Commission [except, however, that failure of the Planning Commission to report within sixty (60) days shall be deemed approval], or if disapproved by the Planning Commission, it shall be considered approved if it receives a majority vote of the Burgess and Commissioners. The property shall be posted with the date and time of the Planning Commission public hearing at least fifteen (15) days prior to the hearing, and public notice of the hearing shall be published in a newspaper of local circulation at least fourteen (14 days prior to the hearing. [Amended 4-24-02 by Ordinance 2002-05]

B. Where the purpose and effect of the proposed amendment is to change the zoning classification, the Burgess and Commissioners shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission and the relationship of such proposed amendment to the town's plan; and the Burgess and Commissioners 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. A complete record of the hearing and the votes of the Burgess and Commissioners shall be kept.

C. An application for a reclassification shall not be accepted for filing by the Burgess and Commissioners if the application is for the reclassification of the whole or any part of land the reclassification of which has been opposed or denied by the Burgess and Commissioners within twelve (12) months from the date of the local legislative body's decision.

D. No change in or departure from the proposed amendment, as recommended by the Planning Commission, shall be made unless the same is resubmitted to the Commission for its further recommendations. No amendment, supplement or change shall be adopted contrary to the recommendations of the Planning Commission except by a majority vote of the Burgess and Commissioners.

Chapter 90

WELLHEAD PROTECTION ORDINANCE

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[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 2-27-2002. By Ordinance 2001-10]

ARTICLE I
In General

§ 90-1. Title.

This chapter shall be known and cited as the Wellhead Protection Ordinance of the Town of Walkersville, Maryland.

§ 90-2. Authority.

This chapter is established in accordance with the provisions of Section C4-04 of the Town Charter, Section 2(a) of Article 23A and, Sections 3.05, 3.05(a)(1)(vi) and (viii), 4.01 Article 66B of the Annotated Code of Maryland.

§ 90-3. Jurisdiction.

The provisions of this chapter shall apply to all affected lands within the territorial limits of the Town of Walkersville.

§ 90-4. Background, Purpose and Legislative Intent.

A. Given the importance of groundwater as the primary source of drinking water for so many communities and the cost and difficulty of any replacement and/or clean up of pollution or contamination, the best method for providing safe and clean ground water is pollution prevention. Over the past several decades, federal laws and programs have been established which focus on controlling potential sources of groundwater contamination on a national basis. The 1986 amendments to the Safe Drinking Water Act established the Wellhead Protection Program and required each state to develop comprehensive programs to protect public water supply wells from contaminants, which could be harmful to human health. In 1991, the Maryland Department of the Environment developed a Wellhead Protection Program for the entire state approved by the EPA, but encouraged local action to implement and enforce the program since each community varies geologically and the protection of groundwater generally involves making very specific decisions on land use.

B. Groundwater is the sole source of domestic drinking water for the Town. There are three existing wells that withdraw groundwater from the underlying limestone aquifers to supply the Town with its drinking water. These three wells are located at the Town's water treatment plant and in the Town's Community Park. In 1993, a Wellhead Protection Tracer Study was performed by Ozark Underground Laboratory of the aquifers, geology and other surface and subsurface conditions within and around the Town limits and included dye trace tests (the

"Wellhead Study"). The Wellhead Study established the wellhead protection boundaries and performed extensive dye trace tests to determine the potential impact to the Town's groundwater supplies. In 1999, additional studies were done under a grant from the Maryland Department of the Environment including identification of known sinkholes, fracture trace analysis, assessment of potential contaminant sources and dye traces. These studies were done by Earth Resources Technology, Inc.

C. Areas within the Town are underlain by carbonate bedrock. The dissolution of this bedrock causes surface depressions, open drainage passages, and the development of irregular, sub-surface rock topography known as karst. These conditions make such areas unstable and susceptible to subsidence and surface collapse. As a result, the alteration of drainage patterns in the areas by the placement of impervious coverage, grade changes, or increased loads from site improvements can lead to land subsidence sinkholes and groundwater contamination.

D. The purpose and legislative intent of this Ordinance is to protect the public health, safety, and welfare of the citizens and residents of the Town through the preservation of the Town's groundwater resources while allowing community development and growth to orderly proceed as allowed by Chapter 88 of the Town Code (the "Zoning Ordinance") and the Town's Comprehensive Master Plan (the "Comprehensive Plan"). This Ordinance addresses specific possible contamination issues in the Town such that future development and/or re-development within the Town will have minimal adverse impacts on the Town's groundwater supply. The designation of the Wellhead Protection Area, and careful regulation of development activities within these areas, can greatly reduce the potential for ground and surface water contamination of the Town's groundwater supply.

§ 90-5. Definitions.

For the purposes of this Chapter, the following definitions describe the meaning of the terms used in this document.

A. **AQUIFER** means any formation of soil, sand, rock, gravel, limestone, sandstone, or other material, or any crevice from which underground water is or may be produced.

B. **BEST MANAGEMENT PRACTICES (BMPs)** means a conservation or pollution control practice that manages storm runoff, wastes, agricultural chemicals, or hazardous materials so as to minimize movement into surface or ground waters.

C. **CONTAINMENT DEVICE** shall be defined as a device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.

D. **EPA** refers to the United States Environmental Protection Agency.

E. **HAZARDOUS MATERIALS** means any substance and/or material that; (1) conveys toxic, lethal, or other injurious effects or which causes sublethal alterations to plant, animal, or aquatic life; (2) may be injurious to human beings; or (3) persists in the environment. Hazardous materials include but are not limited to any matter identified as a "hazardous waste" by the Environmental Protection Agency or a "controlled hazardous substance" by the Maryland Department of the Environment. Because State and Federal governments already regulate hazardous materials nothing in this Ordinance shall be applied in a way to prevent a person from complying with State and Federal requirements.

F. **KARST** refers to a type of sub-surface topography that is formed over limestone or dolomite by dissolving of the carbonate rocks, and characterized by sinkholes, closed depressions, caves, solution channels, internal drainage, and irregular bedrock surfaces.

G. **LIMESTONE** refers to a carbonate sedimentary rock consisting mainly of calcium carbonate. Limestone is commonly used as a general term for that class of rocks which consists of at least 80% calcium or magnesium carbonate. In this Ordinance the term "limestone" shall be used generically to refer to carbonate rocks, and limestone formations.

H. **MDE** refers to the Maryland Department of the Environment.

I. **OWNER** shall be defined as the fee simple owner of a lot or parcel of land within the Town, or his/her duly authorized agent or attorney, or a purchase, personal representative, devisee, fiduciary, and any other person having vested or contingent interest of any kind whatsoever, in a lot or parcel of land within the Town applying for a development plan approval.

J. **PERSON** shall be defined as any individual of either gender, public or private corporation, firm, association, joint venture, partnership, company, municipality, government agency, political subdivision, public officer, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.

K. **PESTICIDE** shall be defined as any substance or mixture of substances intended for: (1) preventing, destroying, repelling, or mitigating any pest; (2) use as a plant regulator, defoliant, or desiccant; or (3) use as a spray adjuvant such as a wetting agent or adhesive.

L. **RULES AND REGULATIONS OF MDE** shall be defined as official publications of the MDE with standards and requirements for protection of groundwater resources.

M. **SINKHOLE** refers to a localized land subsidence, generally a funnel-shaped or steep-sided depression, caused by the dissolution of underlying carbonate rocks or the subsidence of the land surface into a subterranean passage, cavity or cave. Sinkholes are generally formed by the underground removal or erosion of soil and rock material.

N. **SUBDIVISION REGULATIONS** refers to Chapter 71 of the Code of the Town of Walkersville, MD, as adopted by ordinance of the Burgess and Commissioners of Walkersville, MD dated September 9, 1998, as may be amended from time to time.

O. **STUDY** refers to the 1993 Wellhead Protection Tracer Study prepared by Tom Aley of Ozark Underground Laboratory and Malcom Field of the United States Environmental Protection Agency on behalf of the Burgess and Commissioners of Walkersville, MD to determine the area of the aquifer(s) underlying the Town which contribute(s) water to the Town's wells under the MDE-permitted withdrawal rate (average annual) and average annual recharge conditions that can be anticipated based on historical data as supplemented by the additional studies done in 1999 by Earth Resources Technology, Inc., under a grant from the Maryland Department of the Environment which included the identification of know sinkholes, fracture trace analysis, assessment of potential contaminant sources and dye traces.

P. **TOWN** means the Burgess & Commissioners of Walkersville, MD, and/or its designated or delegated representative.

Q. **UNDERGROUND STORAGE TANK** means an underground tank, connecting piping, underground ancillary equipment, and/or containment system of any kind and for any purpose.

R. WELLHEAD PROTECTION AREA ("WHPA") means that area identified and established by the Wellhead Study to contribute water to the aquifer from which the Town's three wells are permitted to withdraw by Groundwater Appropriation Permit issued by MDE to the Town. The WHPA represents the recharge zone of the Town's groundwater supply and was delineated based on the Wellhead Study. The WHPA is bounded and may be influenced by groundwater divides and by the contact of the aquifer with less permeable geologic boundaries. In all cases the WHPA shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a ground water flow divide, a contact with geologic formations, or a recharge boundary), or be limited by time-of-travel.

S. ZONING ORDINANCE means Chapter 88 of the Code of the Town of Walkersville, MD, as adopted by ordinance of the Burgess and Commissioners of Walkersville, MD. dated September 9, 1998, as may be amended from time to time.

Unless otherwise specifically defined in this Ordinance, all other terms contained herein shall have the same meaning as defined in the Zoning Ordinance.

§ 90-6. Overlay Wellhead Protection District.

A. The WHPA shall be an “overlay zone or district,” to the Zoning Districts established by Chapter 88 of the Town Code ("Town Code") and the Town Zoning Map and may encompass all or portions of more than one existing Zoning District. The WHPA Overlay District shall supplement and be in addition to those requirements governing the existing underlying Zoning District (s) and are designed to respond to the special features, conditions and/or physical characteristics of land located therein.

B. Land in a WHPA may be used for any purpose otherwise permitted in the underlying zone, subject to the additional restrictions present therein. Where the provisions of all or any portion of these WHPA regulations impose a greater restriction than is imposed by other regulations or provisions of the Zoning Ordinance or the Code of the Town of Walkersville, MD., as may be amended from time to time ("Code"), the provisions hereof shall control and take precedence.

C. The maps delineating the Wellhead Protection Areas are on file in Town Hall and shall be maintained by the Town Zoning Administrator ("WHPA Maps"). Any amendments, additions, modifications or deletions to the WHPA Maps shall be made in accordance with the procedures established for a zoning map amendment in Article X of the Zoning Ordinance; provided, however, that except as otherwise provided in Article 66B of the Annotated Code of Maryland, in lieu of a finding of "substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification", the required finding shall be that there is a mistake in the WHPA Maps by reason of a mistake in the hydrogeologic and hydrologic data upon which the WHPA Maps are based or a change in the hydrogeologic and hydrologic conditions of the property that render the property inappropriate for placement within the WHPA.

(1) Any amendment to the WHPA shall, in addition to the requirements of Article X, be supported by such engineering, geologic and hydrogeologic studies and reports as may be required by the Town.

ARTICLE II.
Administration of Wellhead Protection Areas

§ 90-20. Subdivision and Land Development Review.

Unless specifically exempted pursuant to subsection A. below, and subject to the authority of the State as to the approval of individual wells and septic disposal systems, all subdivision, addition, proposed site and/or development or re-

development plans, major proposed modifications to existing uses, building permits, zoning certificates, use and occupancy certificates, grading permits, septic system certification, well installation, and/or pond certification within the WHPA (collectively referred to as a "development plan ") shall be reviewed by the Town for compliance with the provisions hereof. It shall be the responsibility of the Town to approve, disapprove, approve with conditions or continue consideration for further study, the development plan. No activity or development of any type shall occur in the WHPA **(whether by or under the authority of a private, quasi-private, quasi-public or public entity)** that is not in compliance with the provisions of this Ordinance. **Any site plan submitted for an unidentified user shall be rev iewed hereunder based upon the most intensive potential use allow ed w ithin the Zoning District where the property is located.**

A. **Exemptions**. The following activities and land uses are exempt from the provisions of this Ordinance provided that they meet the criteria for exemption set out below:

(1) **Transit:** The transportation of any hazardous or toxic materials through the WHPA, provided that the transportation meets all Federal, State and other local regulations.

(2) **Building Permits:** All residential building permits that do not involve change of use.

(3) **Application of Pesticides:** The application of liquid fertilizer and/or pesticides in residential, recreation, agriculture, pest control, and aquatic weed control activities provided that:

a. The application is in strict conformity with the use requirement as set forth in the substance's EPA registries; and

b. Chemicals are used according to their labeling and according to pertinent Federal and State laws; and

c. The application of liquid fertilizer and/or pesticides shall be noted in the records of an applicator certified by the Maryland Department of Agriculture. These records shall include but not be limited to the date and amount of these substances applied at each location and said records shall be available for inspection by the Town and/or its representatives.

(4) **Construction Activities:** Construction activities for road and utility maintenance and/or repair that follow the Best Management Practices.

(5) **Oil Storage:** Any activity proposing storage of heating oils, which meet the building modifications stated in

Subsection A.(2) of this Article, subject to **COMAR 26.10** "Oil Pollution and Tank Management" and the following conditions:

a. The underground storage of oil(s) used for heating fuel shall be exempt only if the underground storage tank used for storage is located within an enclosed structure (i.e., secondary containment or any currently EPA/MDE-approvable containment technology) sufficient to contain leakage from the underground storage tank and to provide routine access for visual inspection (e.g., concrete-floored basement), and sheltered to prevent the intrusion of precipitation. Any underground storage tank used for the underground storage of oil that is out of service for more than one year shall be removed by the owner. Liquid residue shall be disposed and all connecting piping securely capped or plugged, in accordance with State and County guidelines, codes and regulations.

b. The aboveground storage of oil(s) used for heating fuel, provided, however, that the tank used for storage is located on an impervious pad or container of sufficient volume to capture and contain spills and leakage of oil from the environment and to provide routing access for visual inspection and sheltered to prevent the intrusion of precipitation.

(6) **Non-Conformities:** Any land uses, structures, and/or activities lawfully in existence within the WHPA prior to the effective date of this Ordinance, may continue to exist on the land upon which it is located subject to meeting existing Federal, State, and local regulations, and also providing that there is no change of use or structures occurring after the Effective Date of this Ordinance and shall be considered non-conforming and/or structures subject to § 88-9 of the Zoning Ordinance.

B. **Procedure.** All development plans for projects in the WHPA shall be subject to and shall follow the requirements set forth in this Ordinance as part of a two (2) part evaluation process intended to help insure that the development plan, if constructed, will not have a detrimental or potentially detrimental impact on the Town's groundwater supply.

(1) **Phase I Preliminary Rev iew Stage.** Phase I of the process requires the Owner's (or Applicant's) submission of sufficient information about the development plan and the land upon which it is to be constructed or use implemented to allow the Town to

determine the impact or potential impact on the Town's groundwater supply. During Phase I, the Town will determine the requirements of the "Phase II Investigation Program".

(2) **Phase II Investigation Stage.** Phase II of the process requires the Owner's (or Applicant's) conducting an evaluation of the land and the development plan and providing a written report to the Town based on such investigation.

(3) No development plan shall be approved until the final acceptance of the Phase II Investigation Report by the Town.

§ 90-21. Specific Procedures and Submission Requirements.

A. **Phase I.**

(1) Unless otherwise exempt under the provisions of Subsection 90-20A. above, and simultaneously with the submission of the development plan to the Planning Commission, all development plans for projects and/or activities located in the WHPA shall include a properly completed WHPA Application ("Phase I Application") and a Phase I Checklist ("Phase I Checklist").

(2) The Phase I Application and Phase I Checklist shall be submitted to the Town for review and determination of completeness within **30 days** of the receipt thereof. At a minimum, the Phase I Checklist shall include but not be limited to a detailed description of chemicals, toxic and hazardous materials to be used and/or stored on site.

(3) The Town has the authority to require the Owner to submit additional information for part or all of the Phase I Application and/or Phase I Checklist, if in the discretion of the Town, such additional information is necessary in order for the Town to make a determination hereunder.

(4) Based upon the Phase I Application and Phase I Checklist, the Town shall make a determination of completeness within **30 days** of receipt of all information required by this Section and the Owner shall be so notified in writing of the determination of completeness by the Town. If no such written determination is received by Owner within such **30 day period** , the Phase I Application shall be deemed deficient and incomplete and Owner shall resubmit the Phase I Application and Phase I Checklist, unless otherwise directed by the Town. Within **30 days** of the date that the Phase I Application and Phase I Checklist is determined to be complete by the Town, the Town, may make a written determination that the development plan

has an adverse impact or potential adverse impact on the Town's groundwater supply ("Impact Determination") or a written determination that the development plan has no adverse impact or potential adverse impact on the Town's groundwater supply ("No Impact Determination"). If an Impact Determination is made, the Owner may be directed to proceed to Phase II and required to submit the Phase II Site Investigation Program and undertake a Phase II Site Investigation in accordance with Subsection B. below. If a No Impact Determination is made, the development plan may be processed and reviewed as per the requirements of the Zoning Ordinance and Subdivision Regulations for the zoning district underlying the WHPA on the land. If neither an Impact Determination or No Impact Determination is made by Town, within said **30 day** period, then the development plan will be required to proceed to Phase II.

B. **Phase II.** If an Impact Determination is made by the Town, the Owner shall obtain and submit to the Town within **30 days** from the date of the Impact Determination, a comprehensive Site Investigation Program for the development plan and the land upon which it is located and its immediate environs ("Site Investigation Program") prepared and sealed by a professional engineer licensed in the State of Maryland with documented experience in karst terrains. The professional shall provide this documentation of his/her experience in karst terrains to Town as part of the Site Investigation Program.

(1) The purpose of the Site Investigation Program is to identify the studies, investigations, testing and methodology associated therewith, to be undertaken by the Owner at its expense (prior to Owner undertaking the Site Investigation Study and submitting the Site Investigation Report) to produce reliable data for review and acceptance (but not approval) by the Town (in consultation with the Town Engineer and other experts or consultants deemed necessary by the Town in its discretion) on the following geologic features underlying the development plan site ("site")

a. soil types on site
b. occurrence of karst features such as sinkholes and solution cavities
c. height of the water table
d. occurrence and direction of groundwater flow; and
e. depth to rock.

(2) The Site Investigation Program is intended to provide the Town, in consultation with the Town Engineer and other experts or consultants deemed necessary by the Town in its discretion with sufficient data to review and accept that the components thereof will result in reliable

data from which the nature of all existing geologic conditions that may affect construction and land use activities on the site under the development plan will be identified. Specifically, the Site Investigation Program shall require investigations designed to yield information that sufficiently demonstrates to the Town that the development plan will result in the identification of any existing geologic conditions for which appropriate site design and/or engineering solutions may be necessary to minimize any adverse environmental impacts caused by the development plan. The Town, in consultation with the Town Engineer may determine that any proposed testing methodology is prohibited because of the potential danger that it may pose to the integrity of the site or the health, safety and welfare of the community. In such event, the Town may recommend to the Owner that alternate testing methodologies may be utilized. The Town may also recommend modifications to some or all of the proposed investigations in appropriate cases.

(3) A Site Investigation Program will require and contain the following components:

a. a description of the Phase II Site Investigation Study to be undertaken by Owner, in sufficient detail for Town to determine whether it meets the purpose and intent of this section; and

b. a detailed description of the testing and studies proposed, the area of disturbance on the site and the testing methodology to be utilized; and

c. any other information, data, considerations, factors, historical research or materials of any kind deemed necessary to the Town.

(4) The Town 's action on a proposed Site Investigation Program shall include but not be limited to consideration of the following factors and elements:

a. Containment of Hazardous Materials for all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas.

b. An Emergency/Contingency Plan (which shall be prepared and filed with the Phase I Application) indicating the procedures that will be followed in the event of a spill of a Hazardous Material and maintained on file at Town Hall.

c. Leak Inspection standard operating procedures for inspection and maintenance of the containment device and/or system for breakage

or leakage of any container holding Hazardous Material.

d. Reporting of Spills of any Toxic or Hazardous Material or contaminants such as untreated waste, raw sewage, etc. to the Town and including immediate clean-up upon discovery of the spill and a written report detailing the steps taken to contain and clean up the spill and preventing a recurrence.

e. Monitoring for Hazardous Materials in Ground Water, if required by the Town, in accordance with an approved groundwater monitoring plan developed by the Owner.

f. Stormwater Management systems and facilities and drainage swales design and construction.

g. Sinkhole(s) presence or the proclivity of the land for developing sinkholes and the compliance with the Town's Sinkhole Ordinance (Chapter 62 of the Town Code).

h. Construction and improvement plan(s) provisions for preventing spills during construction.

i. Any other factors or considerations deemed necessary by the Town in its discretion to protect the health, safety and welfare of the citizens of the Town.

(5) Within 30 days of receipt of all information required by this Subsection, the Town may accept, accept with conditions, continue for further study or reject a Site Investigation Program and the Owner shall be so notified in writing of the action by the Town. If no written notice of action is received by Owner within such **30 day** period, the Site Investigation Program shall be deemed deficient and incomplete and Owner shall resubmit the Site Investigation Program, unless otherwise directed by the Town. The notice of action on the Site Investigation Program may include authorization to the Owner to commence the Site Investigation Study pursuant to the approved Site Investigation Program.

(6) Any on-site investigations and tests undertaken pursuant to the Site Investigation Program ("Site Investigation Study") shall not begin until the Owner has received authorization from the Town. Owner shall also be responsible for providing written notice to the Town prior to commencement of any testing procedures. Initially, before work commences on the Site Investigation Study, written notification must be received at least **fifteen (15)**

days prior to the testing. After work is in progress, written notification must be received at least **two (2) days** prior to actual testing and any proposed schedule changes.

(7) All tests and studies performed by Owner as part of the Site Investigation Study shall be personally monitored by a licensed geotechnical engineer provided by the Owner.

(8) The site shall be subject to inspection by the designated Town inspectors at any time. All testing data and results shall be made immediately available to Town officials and inspectors upon request.

(9) All samples taken shall be properly preserved and shall be available for examination by the Town upon request until final action is taken by the Town on the development plan.

(10) Town may reject the Site Investigation Program if it is determined that the conditions of this Ordinance, are not met by the application and other relevant facts. This decision shall be made in writing to the Owner.

§ 90-22. Site Investigation Report.

A. **Report Requirements.**

(1) At the completion of the Site Investigation Study, a formal Site Investigation Report shall be prepared by a professional engineer licensed in the State of Maryland with documented experience in karst terrains, under its seal and submitted to the Town ("Site Investigation Report"). The Site Investigation Report shall evaluate site information gathered during the investigation, and provide recommendations for the planning, engineering, design, and construction techniques to be utilized as part of the development plan. All design recommendations shall minimize, to the greatest extent practical, impacts upon water quality and structural hazards associated with limestone formations and include as a minimum the following required information gathered during the Site Investigation Study testing protocol: logs of all borings, test pits, and probes including evidence of cavities, loss of drilling fluid circulation during drilling, voids encountered and similar cavities, type of drilling or excavation technique employed, drawings of monitoring or observation wells as installed, time and dates of explorations and tests, reports of chemical analyses of on-site surfaces and ground water, names of individuals conducting tests (if other than the professional engineer referred to in the checklist), analytical methods used on soils, water samples, and rock samples; a 1” = 100’ scale topographic map of the site (at a contour interval of two

feet) locating all test pits, borings, wells, seismic or electromagnetic conductivity or other geophysical surveys and analysis of the ground water including any potentiometric maps constructed from site data or aquifer tests with rate and direction of flow; a geologic interpretation of the observed subsurface conditions, including soil and rock type, jointing (size and spacing), faulting, voids, fracturing, grain size, sinkhole formation, water table and groundwater flow.

(2) The Site Investigation Report shall define the extent of geotechnical findings at the site in relation to the development plan. The engineering solutions proposed to minimize environmental and structural impacts for the useful life of the development plan, as well as during construction, must be clearly detailed and shall be included as a condition of the development plan and any improvement plans pursuant thereto.

(3) The Site Investigation Report shall describe methods of containment of Hazardous Materials through the use of leak-proof trays under containers, floor curbing, containment device or other containment systems to provide secondary liquid containment of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to contain any Hazardous Material at the location and prevent escape to the environment. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas.

(4) The Site Investigation Report shall describe in detail the "Emergency/Contingency Plan" (which shall be prepared and filed with the Phase I Application) indicating the procedures which will be followed in the event of a spill of a Hazardous Material to control and collect the spilled material to prevent the substance from reaching the ground, including persons to contact 24 hours per day, 7 days per week, 365 days per year, in case of a spill. The Emergency/Contingency Plan shall be updated regularly by the Owner and maintained on file at Town Hall.

(5) The Site Investigation Report shall describe the Owner's standard operating procedures for inspection and maintenance of the containment device and/or system for breakage or leakage of any container holding Hazardous Materials. Electronic sensing devices may be employed as part of the inspection process.

(6) The Site Investigation Report shall describe the Owner's proposed plan to report any spill of Toxic or Hazardous Material or contaminants such as untreated waste, raw sewage, etc. to the Town, within **two (2) hours** of

discovery of the spill. The proposed plan must include a requirement that clean-up shall commence immediately upon discovery of the spill and a written report detailing the steps taken to contain and clean up the spill and preventing a recurrence must be submitted to the Town within **five (5) working days** of the spill.

(7) The Site Investigation Report shall provide and describe in detail the Owner's plan for monitoring for Hazardous Materials in Ground Water. If required by the Town, groundwater-monitoring well(s) shall be installed at the expense of the Owner in accordance with an approved groundwater-monitoring plan. The Owner shall be responsible for developing an approved groundwater monitoring system. Samples shall be analyzed and reported to the Town by a State-certified laboratory.

B. **Report Review.**

(1) Within **90 days** of submission of the Site Investigation Report by the Owner, the Town will review the Site Investigation Report and consider the data, formal reports, maps, drawings and related submission materials contained therein. The Town may forward the Site Investigation Report to any other governmental agency deemed appropriate by the Town in order to solicit information, assistance and/or comments The Town will advise the Owner within the **90 day** period whether or not the Owner has provided the Town with:

a. Sufficient design, construction and operational information to insure that the proposed activity or development of the Site will not adversely impact the health, safety and welfare of the community;

b. Proof that the proposed method or development of the Site under the development plan will minimize any adverse effects on the quality of surface or groundwater, and will not alter the character of surface and/or ground water flow in a manner detrimental to known on-site or off-site conditions;

c. Specific details insuring that design concepts, construction and operational procedures intended to protect surface and subsurface waters will be properly implemented;

d. Specific details on inspection procedures to be followed during construction and after development plan completion.

(2) The Town, with recommendations from the Town's Engineer or consultant, will accept, reject or accept with

conditions the proposed geotechnical aspects of the development plan and associated construction techniques as set forth in the Site Investigation Report and will notify Owner in writing of its decision ("Notice of Action") within said **90 day** period. In the event the Town denies the development plan and associated construction procedures, the Town will state in the Notice of Action its reasons for denial.

(3) The Notice of Action on the Site Investigation Report may include authorization to the Owner to proceed with the development plan as per the requirements of the Zoning Ordinance and Subdivision Regulations for the zoning district underlying the WHPA on the land.

(4) The Notice of Action may at the Town's discretion, include a requirement that the Owner provide the Town with a satisfactory financial guaranty (that may be partially released by the Town upon the proper completion of the construction under the development plan and fully released by the Town at the end of one year after the completion of construction) that the geotechnical aspects of the development plan and associated construction techniques as set forth in the Site Investigation Report will be properly applied in the development and construction of the project approved on the development plan.

§ 90-23 Re-evaluation.

A. In certain situations, a specific geologic hazard may not be identified by the Site Investigation Study and may be discovered during or after construction commences on the Site. In such cases the Owner shall:

(1) Report the occurrence of the hazard to the Town within **twenty-four (24) hours** of discovery;

(2) Halt construction activities, which would impact the geologic hazard;

(3) Prepare a report on the geologic hazard which analyzes the impact of the hazard and details a redemption plan for review and acceptance by the Town;

(4) After obtaining acceptance from the Town, perform necessary redemption of the hazard to prevent or minimize damage to buildings, structures, utilities, driveways, parking areas, roadways, and other site improvements, and to minimize pollution of the surface and ground water;

(5) Repair any damage to improvements and restore ground cover and landscaping;

(6) In those cases where the hazard cannot be repaired without adversely affecting the development plan the Owner shall file an amended application for a development plan approval in compliance with the provisions of this Ordinance.

ARTICLE III.
Enforcement

§ 90-30. Compliance, Enforcement Actions and Penalties

A. Compliance with Article II is required prior to the granting of development plan approval unless an Owner is exempt from the provisions of Article II. However, an approval of a development plan shall not be construed as an approval of the Site Investigation Program. The Town shall have the authority and responsibility to enforce this Ordinance.

B. Failure to comply with any of the conditions in this Ordinance may result in the issuance of a cease and desist order, revocation of building permits, or denial of certificates of occupancy. Remedial and corrective measures may be mandated by the Town if the appropriate construction and site planning techniques, as outlined in the Owner's/Applicant's accepted Site Investigation Report, are not followed and result in actions which adversely impact karst features.

C. All costs incurred by the Town including engineering and attorney's fees for enforcing this Ordinance shall be paid by the Owner who violated the provisions of this Ordinance.

D. A penalty of up to $1,000.00 may be levied for any violation of this Ordinance.

§ 90-31. Notice of Violation

A. Whenever it is determined that there is a violation of this Ordinance, a Notice of Violation will be issued. The Notice of Violation will:

(1) Specify the violation or violations in writing.

(2) Specify the length of time available to correct the violation.

(3) State any penalties associated with the subject violation.

(4) Provide a description of any rights of appeal.

§ 90-32. Disclaimer of Liability

A. In limestone areas the alteration and development of land may be hazardous with respect to the foundation safety of structures, the creation of unstable land as a result of changes in drainage and grading, and the contamination of ground and surface waters.

B. The exact occurrence of sinkholes and/or subsidence is not always predictable; therefore, the administration of this Ordinance shall create no liability on behalf of the Town or their representatives as to damages or otherwise, which may be associated with the formation of sinkholes or subsidence. Compliance with these regulations represents no warranty, finding, guarantee, or assurance that a sinkhole and/or subsidence will not occur on an approved site. The Town, its agencies, consultants, and employees assume no liability for any financial or other damages which may result from sinkhole activity.

C. It is also noted that sinkholes and ground subsidence may occur in areas outside the WHPA and/or in areas of carbonate geology presently not identified as such. The Applicant and/or Owner should always make independent investigations of these matters prior to using this land for construction of a building or structure or any activity which alters the soil and bedrock materials.

ARTICLE IV.
Fees

§ 90-40. Fees Established by Resolution

All fees for review of development plans shall be established by resolution of the Town. Fees established may be reviewed annually and adjusted as required. The fees will include reasonable costs involved with the implementation of this Ordinance and may include administrative and professional staff review costs.

ARTICLE V.
Severability And Amendment

§ 90-50. Severability

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected and remain in full force.

§ 90-52. Amendments

This Ordinance or any part thereof may be amended from time to time in accordance with the procedures as established by law.

TOWN OF WALKERSVILLE
WATER RATE SCHEDULE

CONSUMPTION	IN TOWN	OUT OF TOWN	INDUSTRIAL
0 – 10,000 GAL.	$72.00	$108.00	$72.00
10,001-25,000 GAL	$3.66/1,000 GAL	$5.47/1,000 GAL	$2.77/1,000 GAL
25,001-50,000 GAL	$6.01/1,000 GAL	$9.02/1,000 GAL	$4.51/1,000 GAL
50,001 + GAL	$7.79/1,000 GAL	$11.68/1,000 GAL	$6.01/1,000 GAL
COLLECTION FEE	$20.00	$20.00	$20.00
READING FEE	$10.00	$20.00	
RECONNECT FEE	$100.00	$100.00	
REPLACE CAP	4/12/17 $50.00 1st Time, afterwards the Actual cost up to $300	4/12/17 $50.00 1st Time, afterwards the Actual cost up to $300	
RETURN CK FEE (per occurrence)	$35.00	$35.00	

NO AFTER-HOURS RECONNECTIONS

FEE	TYPE	INSTAL-LATION	SIZE	No. of ¾" Equivalent	IN TOWN	OUT OF TOWN
Water Connection Fee	Residential	Developer	¾"	1	$6,000.00	$7,500.00
	Commercial & Multi-Unit	Developer Only	¾"	1	5,300.00	6,950.00
			1"	2	5,950.00	7,925.00
			1 ½"	4	6,650.00	8,975.00
			2"	7	8,000.00	11,000.00
			3"	16	15,500.00	22,250.00
			4"	28	20,300.00	29,450.00
			5"	44	25,000.00	36,500.00
			6"	64	30,200.00	44,300.00
			8"	114	35,000.00	51,500.00
			10"	178	40,600.00	59,900.00
Water Meter Charge (changed 8/25/16)	Residential	Town Only Town if ¾" Developer if >3/4"	¾"	N/A	400.00	400.00
	Commercial & Multi-Unit		¾" Over ¾"	N/A	Cost of Labor &	meter plus materials

Plus $3,000 for Fire Suppression for 6"+ lines.

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