

**Town of Somerset**  
Montgomery County, Maryland

# TOWN CODE

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## CHAPTER 1

### GENERAL PROVISIONS

#### Article I. The Code

##### **Section 1-101. How Code Designated and Cited**

The ordinances and resolutions embraced in the following chapters, articles and sections shall constitute and be designated as "The Code of the Town of Somerset," and may be so cited. The Code may also be cited as "Somerset Town Code."

*Source: Ord. No. 2-89, eff. 4-24-89.*

##### **Section 1-102. Ordinances to be Incorporated Into Code**

**a.** Each ordinance and resolution adopted into law which is of general application and continuing force shall be incorporated into and become a part of this Code. Each such ordinance or resolution shall identify by chapter, article and section the provisions of the Code which are to be added, amended or repealed.

**b.** Upon the effective date of any ordinance or resolution described in the preceding subsection, the Clerk-Treasurer shall revise the Code so that it at all times accurately reflects ordinances of general application and continuing force then in effect. Following the text of each Code section or Article, the Clerk-Treasurer shall indicate its legislative source by ordinance or resolution number and effective date, including all amendments.

c. The Clerk-Treasurer shall keep available for public inspection a separate file of all ordinances and resolutions of a special or temporary nature in current effect.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-103. Authoritativeness of Code Provisions**

The provisions of the Code of the Town of Somerset, as enacted into law by Ordinance No. 2-89, are intended to supersede and replace all ordinances and resolutions of general application and continuing force previously in effect; provided, however, that the provisions of this Code, so far as they are the same in substance as ordinances existing at the effective date of this Code, shall be considered as continuations thereof and not as new enactments; all vested rights and obligations held by the Town or any other person which arise out of an ordinance in existence at the effective date of this Code shall continue in full force and effect unless this Code expressly alters those rights or obligations, or unless the Code by its terms changes the ordinance provisions giving rise to the rights and obligations.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-104. Effect of Repeal of Ordinances**

The repeal of any Code provision or other ordinance or resolution shall not revive any Code provision, ordinance or resolution in force before or at the time the provision repealed took effect. The repeal of any Code provision, ordinance or resolution shall not affect any punishment or penalty incurred before the repeal took

effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-105. Code Provisions Not Exclusive Remedies**

Unless specifically provided to the contrary, the penalties and remedies provided in this Code shall not be deemed to be the Town's exclusive remedies for violation of any Code provision. The Town may additionally exercise any legal or equitable rights existing under any other applicable statute, administrative rule or regulation, or common law.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-106. Definitions and Rules of Construction**

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

Charter. The word "Charter" shall mean the Charter of the Town of Somerset.

County. The words "the County" or "this County" shall refer to Montgomery County, Maryland.

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

Employee. The word "employee" means all salaried employees of the Town of Somerset other than public officials.

Gender. Words importing masculine gender shall include the feminine and neuter.

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

Keeper and Proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Number. Words used in the singular include the plural and the plural includes the singular number.

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

Owner. The word "owner" applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a corporation, company, partnership, association or society as well as a natural person.

Property. The word "property" shall include real and personal property.

Public Official. The word "public official" shall mean the Mayor, members of the Town Council, and any and all other persons appointed to their position by the Mayor with the approval of the Town Council, whether or not compensated.

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

Signature or Subscription. Signature or subscription includes a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

State. The words "the state" or "this state" shall be construed to mean the State of Maryland.

Street. The word "street" shall include any public ways, roads, highways, and avenues within the Town.

Tenant, Occupant. The words "tenant" and "occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

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

Town. The words "the town" or "this town" shall mean the Town of Somerset, in the County of Montgomery and State of Maryland, except as otherwise provided.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-107. Headings, Gender, Singular and Plural**

a. Headings. The headings of the chapters, articles and sections of this Code are for informational purposes only. In any conflict between a heading and the text of any section, the text shall govern.

b. Gender, Number. Throughout this Code the masculine, feminine or neuter gender shall mean the appropriate gender, and unless the context requires otherwise, the singular shall include the plural, and vice-versa.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-108. Severability**

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the Town Council without the incorporation in this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section.

*Source: Ord. No. 2-89, eff. 4-24-89.*

## **Article II. Penalties**

### **Section 1-201. Classes of Misdemeanor Violations**

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

**a. Class A Misdemeanors.** Class A misdemeanors shall be punishable by a fine of not less than \$100.00 nor more than \$1,000.00, or imprisonment not exceeding six months, or both such fine and imprisonment.

**b. Class B Misdemeanors.** Class B misdemeanors shall be punishable by a fine not exceeding \$500.00, or imprisonment not exceeding 30 days, or both such fine and imprisonment.

**c. Class C Misdemeanors.** Class C misdemeanors shall be punishable by a fine not exceeding \$100.00.

**d. Each Day a Separate Offense.** Each and every day that a violation continues shall constitute a separate offense.

*Source: Ord. No. 2-89, eff. 4-24-89.*

### **Section 1-202. Definition of Municipal Infraction**

A municipal infraction is any violation of any Town ordinance, resolution, rule or regulation (hereinafter referred to collectively as “ordinance”) now in effect, or any violation of any ordinance or code of ordinances hereafter enacted by the Town Council, which violation: (a) the Town Council has specifically declared to be a municipal infraction; or (b) has not specifically been declared to be a misdemeanor.

Each and every day that a violation continues shall constitute a separate infraction. A municipal infraction is a civil offense. Neither conviction of a municipal infraction by the district court nor payment of a fine to the Town is a criminal conviction for any purpose, nor does it impose any of the civil disabilities imposed by a criminal conviction.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 2-87, §1, eff. 9-30-87.*

**Section 1-203. Municipal Infractions -- Default Penalty**

In the event that a Town ordinance or Code provision fails to specify any penalty for a municipal infraction, the penalty shall be a fine of \$50.00.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-204. Penalties for Repeat Offenses**

For the purpose of applying Code provisions specifying a separate penalty for repeat violations, a "repeat violation" means a violation of the same Code provision by the same offender within two years of the commission of a previous offense.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 1-205. Issuance of Citation**

The Mayor, the Clerk-Treasurer, or any other official authorized by the Town Council may deliver a citation to any person alleged to have committed, or to be committing, a municipal infraction. Any such official may issue a citation either: (a) on the basis of his or her personal observation of the violation, or (b) on the basis of an affidavit submitted to any such official, which states the facts of the alleged violation

and is signed by an individual who personally witnessed the violation. The citation shall contain the following information:

- a. The name and address of the person charged;
- b. The nature of the municipal infraction;
- c. The location and time that the municipal infraction occurred or was observed;
- d. The amount of the municipal infraction fine assessed;
- e. The manner, location, and time in which the fine may be paid to the Town;
- f. The right of the person charged to contest the citation in court;
- g. A certification of the enforcing official attesting to the truth of the matter set forth in the citation, and, if appropriate, a copy of the affidavit on the basis of which the citation was issued; and
- h. The effect of failing to pay the assessed fine or to demand a trial within the prescribed time.

The Town shall retain a copy of the citation.

*Source: Ord. No. 2-87, eff. 9-30-87.*

### **Section 1-206. Payment of Fine**

The amount of a fine for a municipal infraction shall be as specified in each ordinance or code section violated, or as specified in Section 1-203. The fine is payable by the recipient of the citation to the Town within twenty (20) calendar days of receipt

of the citation. All fines, penalties, or forfeitures collected by the district court for violations of municipal infractions shall be remitted to the general fund of the Town.

Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 2-87, eff. 9-30-87.

**Section 1-207. No Formal Hearing by Town**

The Town shall not conduct any formal hearing for a person who has received a citation for a municipal infraction. Any person so cited may pay the fine as indicated in the citation or choose to contest the citation in court. This provision shall not prevent the person charged from requesting, either personally or through an attorney, additional information concerning the municipal infraction.

*Source: Ord. No. 2-87, eff. 9-30-87.*

**Section 1-208. Choice to Contest Citation in Court**

A person who has received a citation for a municipal infraction may choose to contest the citation in court by notifying the Clerk-Treasurer in writing of his intent to do so. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. Upon receipt of the notice of the intent to contest the citation in court, the Clerk-Treasurer shall forward to the district court having venue a copy of the citation and a copy of the notice from the person who received the citation indicating his intent to contest the citation in court. Upon receipt of the citation, the district court will schedule the case for trial and notify the defendant of the trial date.

*Source: Ord. No. 2-87, eff. 9-30-87.*

**Section 1-209. Failure to Pay Fine**

If a person who has received a citation for a municipal infraction fails to pay the fine by the date of payment set forth on the citation, and fails to file a notice of his intent to contest the citation in court, the person shall be liable for the assessed fine. The Mayor may double the fine to an amount not to exceed the greater of Four Hundred Dollars (\$400.00) or any higher amount consistent with State law, and request that the case be adjudicated by the appropriate district court, including a request for judgment on affidavit. The district court will then schedule the case for trial and summon the defendant to appear.

*Source: Ord. No. 2-87, eff. 9-30-87.*

**Section 1-210. Prosecution of Municipal Infraction Cases**

The State's Attorney for Montgomery County is authorized by State law, and is hereby authorized by this Ordinance, to prosecute municipal infractions. Alternatively, the Mayor in his discretion may request that the Town Attorney, or any other attorney recommended by the Town Attorney, be named as a Special State's Attorney to prosecute municipal infraction cases involving violations of Town ordinances.

*Source: Ord. No. 2-87, §9, eff. 9-30-87.*

**Section 1-211. Court Proceedings and Rights of Defendants**

In any proceeding for a municipal infraction, the person charged shall have the rights provided for by State law, which are substantially the same rights as those accorded to persons charged with misdemeanors.

*Source: Ord. No. 2-87, eff. 9-30-87.*

**Section 1-212. Abatement of Violations**

a. Abatement at Violator's Expense. The Town is entitled to abate any condition arising out of the violation of a Town ordinance, at the expense of the violator, and to seek restitution for its expenses. Neither the payment of a fine for a municipal infraction nor the adjudication thereof by the district court shall limit the rights of the Town to such additional remedies.

b. Abatement Does Not Bar Fines. It is the policy of the Town that the municipal infraction procedure be employed not only to secure the abatement of violations, but also to deter the person charged, as well as others, from committing future violations. To this end, it is the policy of the Town that civil fines shall generally be collected for ordinance violations whether or not the person charged has abated the violation, consistent with the exercise of sound prosecutorial discretion by those responsible for enforcing Town ordinances.

*Source: Ord. No. 2-87, eff. 9-30-87.*

**Section 1-213. Issuance of Warning Letters**

Whenever, on the basis of any information available to him, the Mayor or any other official authorized by the Town Council to issue citations pursuant to Section 1-205 above, finds that any person has violated or is violating any requirement of any Town code, ordinance, rule, or regulation, said official may, in his discretion, notify the person of the violation by issuing him a warning letter describing the nature of the violation, the approximate date of the violation if known, and the penalties which may be assessed for the violation. Neither issuance of a warning letter, nor a decision not to

issue a warning letter, nor abatement of the violation upon receipt of a warning letter, precludes authorized Town officials from taking other or further enforcement action if they consider it appropriate.

*Source: Ord. No. 2-87, eff. 9-30-87.*

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## CHAPTER 2

### ADMINISTRATION AND PROCEDURES

#### Article I. Town Personnel

##### Section 2-101. Establishment of the Office of Clerk-Treasurer

There shall be created the Office of Clerk-Treasurer for the Town. The Clerk-Treasurer shall be appointed by the Mayor, with the approval of the Council.

*Source: Ord. No. 3-88, eff. 4-17-88.*

##### Section 2-102. Duties of the Clerk-Treasurer

The Clerk-Treasurer shall:

- a. Attend all meetings of the Council.
- b. Record all proceedings of such meetings.
- c. Maintain the official books and records of the Town, including the Town Journal, minutes of the Town meetings, the Town Charter and Code, ordinances, resolutions, as well as other documents such as Town histories.
- d. Collect and have custody of monies due the Town.
- e. Write checks on Town funds and serve as an authorized signatory of Town checks.
- f. Prepare financial reports as directed by the Mayor and Council.
- g. Serve as Town purchasing and contracting officer. Under the direct supervision of the Mayor, the Clerk-Treasurer is authorized to make purchases or contracts involving not more than Two Thousand Five Hundred Dollars (\$2,500.00)

without prior approval of the Council. In case of emergency, the Clerk-Treasurer, with the approval of the Mayor, may authorize expenditures over Two Thousand Five Hundred Dollars (\$2,500.00), but not to exceed Five Thousand Dollars (\$5,000.00), provided such expenditures are reported to the Town Council at its next meeting.

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

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

**j.** Whenever requested by the Mayor or three 3 members of the Council, issue in writing a call for the Council to assemble.

**k.** Process applications for short-term use of the Town Hall.

**l.** Supervise maintenance of Town Hall and grounds.

**m.** Supervise Town maintenance force.

**n.** Perform secretarial work for the Mayor and Council.

**o.** Perform such other duties as required by the Charter or as the Council or Mayor may prescribe.

*Source: Ord. No. 14-06, Eff. 1-10-07; Res. No. R-8-98, eff. 7-7-98;  
Ord. No. 3-88, eff. 4-17-88; Res. No. R-5-80, eff. 6-2-80.*

**Section 2-103. Disbursements**

All checks, drafts, notes or orders drawn against the accounts of the Town must be signed by any two (2) of the following: the Mayor, the Vice president of the Council, one designated Councilmember, and the Clerk-Treasurer. Their signatures shall be

duly certified to the appropriate depositories. No checks, drafts, notes, or orders drawn against said depositories shall be valid unless signed in this manner.

*Source: Ord. No. 2-95, eff. 9-28-95;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-104. Mayor's Salary**

The Mayor of the Town shall be paid a salary of Fifteen Thousand Dollars (\$15,000) per annum commencing with the term of office beginning in 1992.

*Source: Ord. No. 2-02, eff. 4-1-02; Ord. No. 1-98, eff. 4-7-98;  
Ord. No. 1-92, eff. 4-1-92; Ord. No. 3-88, eff. 4-17-88.*

**Section 2-105. Town Attorney**

a. Retention. The Town may retain an attorney to serve as the Town's chief legal advisor. The attorney shall be appointed by the Mayor with the approval of the Town Council. This does not preclude the retention of additional legal counsel as may be deemed necessary by the Mayor with the approval of the Council.

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

*Source: Ord. No. 6-00, eff. 7-11-00;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-106. Additional Personnel**

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

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-107. Personnel Policies Manual**

The Clerk-Treasurer will maintain a Personnel Policies Manual for the Town employees which will outline at a minimum the Town policies regarding salaries, benefits, job descriptions and performance evaluations, and discrimination and bigotry. Changes to the manual will be approved by the Town Council.

*Source: Res. No. 1-97, eff. 1-7-97.*

**Article II. Defense and Indemnification of  
Public Officials and Employees**

**Section 2-201. Definitions**

**a. Public Official.** For the purposes of this Article only, the term "public official" means the Mayor, Town Council members, the Clerk-Treasurer, the Assistant Clerk-Treasurer, and chairpersons and vice-chairpersons of Town Committees established by this Code.

**b. Employee.** For the purposes of this Article only, the term "employee" means any person who was employed by the Town at the time of the act or omission giving rise to potential liability against that person. Only to the extent required by the

Local Government Tort Claims Act or other relevant state law, "employee" includes a volunteer who was providing services or performing duties at the request of a Town official, and under the control and direction of the official.

**c.** Actual Malice. For the purposes of this Article only, the term "actual malice" means ill will or improper motivation, and has the same meaning as in the Maryland Local Government Tort Claims Act.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-202 General Provisions**

**a.** Duty to Defend. Subject to the provisions of subsection c, the Town Attorney, when requested in writing by any public official or employee, shall appear and defend any civil action or special proceeding instituted in the courts of any state or of the United States against any public official or employee by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense may be rendered by the Town Attorney or by special counsel retained by the Town Attorney. The defense of the case shall include the right to assert counterclaims and to engage in third-party practice on behalf of the official or employee.

**b.** Exceptions. Notwithstanding the provisions of subsection a hereof, the Town Attorney may decline to represent a public official or employee who retains private counsel, and shall not provide a defense for any official or employee for negligence or any other tort arising from the operation of a motor vehicle as to any

claim for damages which is within the limits of any applicable policy of motor vehicle liability insurance.

c. Right to Counsel of Choice. Nothing in this section shall be construed to deprive any public official or employee of the right to select counsel of his own choice at his own expense, nor does this section prevent the Town Attorney from entering his appearance in a case to protect the interests of the Town of Somerset even though no request for such appearance has been forthcoming from the public official or employee named as a defendant.

d. Waiver. Notwithstanding the provisions of subsections a and b hereof, the Town Attorney may temporarily waive the requirement that a written request be made for representation in those instances where a timely response to the action cannot be made before a written request for representation can be made.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-203. Investigation Before Providing Defense in Civil Cases**

The Town Attorney, before undertaking any defense, shall conduct an investigation of the facts on which the civil action or special proceeding is based, and report his findings and recommendations to the Town Council. If the Council determines that the public official or employee was not acting within the scope of his employment, the Town Attorney shall provide no defense for the public official or employee. The investigation herein required may be accomplished by the Town Attorney or by any other attorney or person when directed to do so by the Town Attorney. If it appears that the public official or employee is covered by a policy of

insurance under the terms of which the carrier is required to provide counsel in such actions or special proceedings, the Council may direct the Town Attorney to terminate further investigation and provide no representation for the public official or employee.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-204. Reimbursement of Official's or Employee's Legal Expenses**

If the Town Council determines, pursuant to Section 2-203, not to assume the defense of a public official or employee, and it is judicially determined that the injuries arose out of an act or omission of the public official within the scope of his employment, or that the defense of sovereign immunity is available to the public official or employee, the Town of Somerset shall be liable to the public official or employee for reasonable expenses in prosecuting his own defense, including court costs and reasonable attorney's fees.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-205. Employment of Special Counsel**

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

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-206. Agreement Between the Town and the Public Official or Employee**

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

**a. Reimbursement.** That the Town Council, if it determines it appropriate, may require the public official or employee to reimburse the Town for all expenses, including court costs and reasonable attorney's fees, if it is judicially determined that (1) the employee acted with actual malice in committing the act or omission complained of, or (2) the injuries complained of did not arise out of an act or omission of the public official or employee occurring within the scope of his employment or authority, or by reason of an act taken in the reasonable belief that such act was within the scope of his employment or authority, and the defense of sovereign immunity as to the public official or employee is not available; but such reimbursement shall not be required if the information provided to the Town Attorney by the public official or employee was complete and was neither false nor misleading. These costs constitute a debt due the Town of Somerset and may be collected by appropriate judicial proceedings.

**b. Town Not Liable for Judgment.** That, if a judgment shall be rendered against the public official or employee, the Town shall not be responsible to pay the judgment, and the legal representation of the Town Attorney or special counsel of a public official or employee in no manner constitutes an obligation on the part of the Town of Somerset to pay the judgment or a settlement of a claim, except as provided for in section 2-208 of this Article.

c. No Settlement Without Consent. That the Town Attorney shall not compromise or settle any claim without written consent of the public official or employee. If the public official or employee does not consent to the compromise or settlement, the Town Attorney may withdraw from the representation subject to the appropriate rules of court. In that event, the Town of Somerset is not responsible for any further costs whatsoever.

*Source: Ord. No. 12-20-88 (amended 3-88), eff. 12-22-88;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-207. Sovereign Immunity Not Waived**

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

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-208. Payment of Settlement or Judgment Against Public Official or Employee**

In the event that a court or jury returns a special verdict in the form of a written finding determining that the public official or employee was acting within the scope of his employment, then the Town shall be required to pay (1) any judgment rendered by a court of competent jurisdiction against a public official or employee including court costs and reasonable attorney's fees, or (2) the amount of any settlement on any claim for which the Town Attorney has undertaken a defense. The payment of any settlement or judgment shall not be construed to abrogate the sovereign immunity of

the Town or deprive any agency, board, commission, department, officer, or employee thereof of its sovereign immunity. Nothing in this Ordinance is intended to waive the rights of the Town under State law to assert sovereign immunity for judgments or settlements exceeding the maximum amounts for which a municipality may be held liable or be required to pay under State law, or the right of the Town to seek indemnification from a public official or employee who has acted with actual malice in committing the act or omission complained of.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-209. Criminal Actions**

a. When Representation Permitted. Neither the Town Attorney nor any other counsel retained by the Town may represent a Town employee in any investigation of him by a criminal law enforcement agency, or in any criminal action against him in a court of any state or of the United States. The Town Attorney or special counsel retained by the Town Council may represent a public official in an investigation of him by a criminal law enforcement agency, or in a criminal action against him in a court of any state or of the United States, only if:

1. The Town Attorney or another person acting at his direction has investigated the facts on which the action is based, and reported his findings and recommendations to the Town Council;

2. The Town Council determines that the public official was acting within the scope of his official duties; and

3. the Town Council, in its discretion, determines that it is in the best interests of the Town to provide legal representation for the official, giving due consideration to the reasons for the official's actions, whether or not it appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.

**b.** When Reimbursement of Expenses Allowed. Subject to the limitations in subsection c below, the Town Council may reimburse a public official or employee for reasonable counsel fees incurred by him: (1) in connection with a criminal investigation into conduct as an official or employee if the investigation has concluded and criminal charges have not been filed against him; or (2) in defending against criminal charges related to conduct as an officer or employee if final disposition of all the charges does not result in a plea of *nolo contendere*, a guilty plea, or a finding of guilt.

**c.** Reimbursement - Determination by Council. The Town Council may not reimburse a public official or employee for expenses incurred in connection with a criminal investigation or defense unless: (1) the official or employee submits a written application for reimbursement; and (2) the Council determines:

**1.** In connection with a matter under criminal investigation, the official or employee discharged his public responsibilities in good faith, did not engage in unlawful conduct, and was reasonable in retaining counsel and in incurring the counsel fees for which he requests reimbursement; or

2. In connection with a matter which was the subject of criminal charges, the official or employee discharged his public responsibilities in good faith and incurred reasonable counsel fees.

*Source: Ord. No. 3-88, eff. 4-17-88.*

### **Article III. The Town Hall**

#### **Section 2-301. Designation of the Town Hall**

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

*Source: Ord. No. 3-88, eff. 4-17-88.*

#### **Section 2-302. Use Regulations**

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

b. Rental Fees. The Council shall, by resolution, establish rental fees for the use of the Town Hall meeting room.

c. Residence Requirement. For social, educational and cultural gatherings the Town Hall may be rented only by residents or non-residents sponsored by a Town resident.

*Source: Ord. No. 1-01, eff. 2-8-01;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-303. Town Hall Committee**

Reserved.

*Source: Ord. No. 4-95, eff. 10-25-95.*

**Article IV. Public Information and Finance**

**Section 2-401. Records of Council Meetings**

The Clerk-Treasurer shall furnish copies of the minutes of Council meetings and of other Town records to the public for inspection and copying as provided by state law. The Clerk-Treasurer may charge a reasonable fee to cover reproduction costs for providing copies.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-402. Town Journal**

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

**b. Objective:** To keep residents informed, in a timely, regular and efficient manner, of the Town's official business and community news, including, but not limited to, the forthcoming Council meeting agenda, Town services, Council Activities, committee activities, recreational events and neighborhood news; and to provide a

vehicle for residents to communicate their views on Town-related issues to their neighbors.

**c. Content:** The Town Journal is the official publication of the Town of Somerset, Montgomery County, MD. Its masthead is owned by the Town and may not be used by other bodies. Submissions to the Town Journal must be about the Town or issues that affect the Town and its residents. The Journal editor has discretion to (1) decide on the appropriateness of submissions – they should not be repetitious of previous or other articles; they must be appropriate and timely and within space limitations; (2) edit submissions for length, comprehension and grammar, and (3) determine in which section of the Journal a submission should appear. Contributors writing about events are encouraged to write concisely to keep the Journal short and readable. Elected officials submitting opinion pieces may submit a maximum of 500 words per issue of the Journal. Fuller and longer discussion of an issue may be published in other communications vehicles such as e-mail or the Town web site.

**d. Privacy:** To protect residents' privacy, a resident's name and address may not appear together in an article (only the name or only the address may appear). The exceptions to this policy are (1) Town meeting agendas, which must list both name and address for permits, (2) summary minutes, which appear under the title "Council Activity" and announcements of "Permits Granted," and (3) those articles that appear in the "Somerset Life" section of the Journal. This section will not be posted on the world wide web. See paragraph j.

e. Contributors: The Mayor, Clerk-Treasurer, elected officials, committee chairs or their designees, and others that the editor deems appropriate (for example, the contributors to the Gardeners' Corner column) may contribute articles to the Journal. Residents may also send their opinion contributions in the form of a letter to the editor. See paragraph h.

f. Deadlines for Submission: The editor shall set the deadlines for submission of articles to allow time for layout, design, proofreading, printing and distribution so that the Journal is distributed to residents no later than seven (7) days prior to the next Town Council meeting. The deadline for submissions to the next edition is announced in each issue. The editor may refuse any submissions not received by the published deadline. Submissions are not considered received unless acknowledged by the editor. It is the responsibility of the submitter to verify receipt. See also paragraph i for policies on submitting advertisements.

g. Style Guide: Copy should be submitted – preferably by e-mail, and preferably in a word document – with no formatting. Submissions may be made in a typed or clearly written hard copy. Submission must be received by the editor by 4:30 p.m. on the day of the Journal deadline for that month.

h. Letters to the Editor: Residents may submit letters for publication in the Town Journal and these will be published, provided they are: about Somerset or vicinity; not repetitive of other published letters in the same issue; 150 words or less; signed although names may be withheld if requested; not slanderous, libelous or profane. Communications over 150 words may be cut as space and readability

demand. The editor has discretion over what may be included in the Journal and may edit letters for length and readability. Time permitting, the editor will solicit agreement for any changes from the author. The Town does allow a resident to prepare and print, at his or her own cost, a longer piece, which may be mailed as an insert with the Town Journal. The content of such correspondence is not endorsed by the Mayor, members of the Town Council or the editor, but is subject to the conditions in the above paragraph with the exception of length. Inserts must be sent to the editor for review by the Journal deadline date. The editor will instruct the publisher that the insert may be included with the mailing. Additionally, the Town will charge the going rate for collation of the insert into the Town Journal as set by the publisher.

i. Advertisements: The Journal will carry advertisements as a service to residents. Submissions should be submitted to the Clerk-Treasurer by e-mail or typed or neatly printed and received by the Clerk-Treasurer by the published deadline. They must include a Somerset phone number or a resident's work number. There is a \$5 charge and a limit of 50 words. Payments should be by check or exact change. The Town makes no representations as to quality, safety or otherwise regarding the goods and services advertised. Readers should make their own inquiries.

j. Distribution: The Journal shall be distributed no later than as follows: seven (7) days prior to the next Town Council meeting.

1. The Journal, except for the Somerset Life section, shall be posted on the Somerset Town Hall bulletin board and posted on the Town website;

2. The Journal, including the Somerset Life Section, shall be placed in the mail, addressed to all households in the Town and to all non-resident owners of real property in the Town; and

3. Distributed electronically to those households in the Town and to non-resident owners of property in the Town who have so requested.

*Source: Ord. No. 4-12, eff 4-26-12;  
Ord. No. 1-07, eff. 3-14-07;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-403. Budget and Tax Rate**

a. Publication and Adoption. Before adopting a tax levy not later than the regular Town Council meeting in May of each year, the Council shall include, with the *Town Journal* published in March, the detailed estimates of the various items of liability and expenditure and a statement of the estimated tax rate necessary to meet these liabilities and expenditures.

b. Transfers in the adopted budget from one line item expense category to another may normally be authorized only by the Council. However, between the June meeting and the end of the fiscal year on June 30, the Mayor is authorized to make transfers up to \$500 on any line item, up to a total of \$3,000.

*Source: Ord. No. 1-06, eff. 2-09-06;  
Res. No. 6-96, eff. 7-11-96;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-404. Five-Year Fiscal Plan**

At the regular March meeting of the Council, the Mayor shall submit a five-year fiscal plan reflecting an analysis of the sources and uses of available funds. The Council

shall have the opportunity to make recommendations on the five-year plan, and it shall be subject to public hearing, but the Council need not take formal action on the plan. The plan shall be a public record reasonably available for public inspection, and shall be given due and proper consideration in developing annual budgets.

*Source: Ord. No. 3-88, eff. 4-17-88.*

**Section 2-405. Check Signing and Review**

**a. Two Signatures.** All Town checks must contain two authorized signatures. Normally, the signatures would be those of the Clerk-Treasurer and Mayor, but, in absence of one or both, would be one or both of two authorized Town Council members.

**b. Bank Statement Review.** All bank statements with accompanying cancelled checks shall be sent by the bank to a designated council member for review.

The review should include:

- 1.** Accounting for the numerical sequence of Town checks, that is, that all checks have been returned by the bank;
- 2.** Ascertaining that checks are payable to legitimate Town vendors or Town employees and that checks are endorsed by the appropriate payee; and
- 3.** Review bank account reconciliations after they are prepared by the Clerk-Treasurer.

**c. Designation by Council.** At the first Town Council meeting after each Town election, the Council will designate two Council members who will be authorized to sign Town checks in the absence of the Mayor and/or Clerk-Treasurer. At the same

meeting, the Council will authorize a different Council member to receive from the bank, and review, all Town checks and bank statements before they are returned to the Clerk-Treasurer.

*Source: Ord. No. 12-02, eff. 5-1-03.*

**Section 2-406. Investment Policy**

**a. Policy.** It is the policy of the Town of Somerset the "Town" to invest public funds so as to preserve capital, earn interest at a competitive rate without risking capital and have access to the funds during every business day while conforming to all applicable statutes governing the investment of such funds. The Town may not borrow for the sole purpose of investing the loan proceeds.

**b. Scope.** This investment policy applies to all investment assets of the Town. The funds are accounted for in the Town's Uniform Financial Report and include the General Fund, Capital Projects Fund and Debt Service Fund.

**c. Prudence.** Investments should be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.

**d. Objectives.** The primary objectives, in priority order, of the Town's investment activities are:

**1. Safety of Principal.** To attain this objective, diversification is required in order that possible losses do not exceed income generated from the remainder of the portfolio.

2. Liquidity. Investments must be sufficiently liquid to enable the Town to meet all reasonably anticipated operating requirements.

3. Return on Investments. The Town will not resort to frequent buying and selling of securities in order to seek the maximum return within the law, but rather will pursue a conservative approach befitting the size of the Town and its staff.

e. Delegation Of Authority. Authority to manage the Town's investment program is derived from State law (Article 95 and Title 6 of the Finance and Procurement Article of the Annotated Code of Maryland and Article VI. Finance of the Somerset Town Charter).

Management responsibility for the investment program is hereby delegated to the Clerk-Treasurer, who is the chief financial officer of the Town and who exercises his responsibilities under the direct supervision of the Mayor. The Clerk-Treasurer may transfer funds between investment accounts, pools and other vehicles which have been approved by the Town Council, but may not invest in new instruments without Council authorization.

Nothing herein overrides the Town Code requirement for two authorized signatures on checks drawn on Town funds.

f. Ethics And Conflicts Of Interest. The Mayor, Council and Clerk-Treasurer must not participate in Town investment decisions which would result in enhancement of personal financial positions. They must abide by Section 2-601. Conflict of Interest of the Town Code, which requires reporting any possible conflict of interest to the Town Council at an open meeting.

**g.** Authorized Institutions. Deposit of Town funds in banks shall be limited to \$100,000 per account, and the accounts must be insured by the Federal Deposit Insurance Corporation.

**h.** Suitable And Unsuitable Investments. The Town shall invest only in the Maryland Local Government Investment Pool, the Montgomery County Investment Fund, FDIC-insured money market funds and certificates of deposit.

Town-initiated repurchase agreements, derivatives, leveraged or exotic securities or similar instruments will not be employed by the Town.

**i.** Collateralization. Any funds invested in a local government investment pool shall be collateralized as specified by the State of Maryland in administering or authorizing the pool.

**j.** Diversification. No more than 60% of available funds may be invested in any one local government pool.

**k.** Term Of Investment. The term of individual investments shall not exceed one year for repayment of all principal and interest without approval by the Town Council.

**l.** Internal Controls. The Mayor shall suggest, and the Town Council shall appoint, a Town resident as a volunteer auditor. He or she will make a minimum of six unannounced visits to the Town office every year to verify financial procedures and reports for the purpose of maintaining proper internal control of Town finances. The volunteer auditor shall submit a report to the Town Council following each inspection

of the financial records and shall also submit the reports to the auditor at the end of each fiscal year.

**m.** Reporting Requirements. The Clerk-Treasurer shall prepare a financial report monthly except during the annual audit process. The report will include data on Town investments.

*Source: Ord. No. 12-02, eff. 5-1-03;  
Ord. No. 3-96, eff. 4-2-96;  
Ord. No. 3-95, eff. 10-25-95.*

**Section 2-407. Audit Committee**

**a.** Personnel. In accordance with Section 83-55. Audit. of the Town Charter, the Mayor shall nominate, and the Town Council shall appoint, an Audit Committee consisting of a minimum of four (4) residents including one (1) Councilmember, all of whom shall serve until replaced. The Committee shall select a chair annually, other than the Councilmember. Chairs may serve successive terms.

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

**c.** Report. The Committee shall meet with the Town Council within ninety (90) days after the end of the fiscal year and report on the independent audit. The Committee shall submit any additional reports/recommendations from time to time which the Committee considers appropriate.

*Source: Ord. No. 12-02, eff. 5-1-03;  
Ord. No. 1-00, eff. 3-15-00;  
Ord. No. 4-99, eff. 12-8-99.*

**Section 2-408. Town Ordinances and Resolutions**

Each ordinance and resolution of the Town of Somerset, or a fair summary thereof, shall be published in the Town Journal within twenty (20) days after its adoption. Ordinances shall be effective at the expiration of thirty-six (36) calendar days following approval by the Mayor or passage by the Council over his veto, unless adopted as emergency legislation or subjected to referendum.

*Source: Ord. No. 12-02, eff. 5-1-03; Ord. No. 4-99, eff. 12-8-99;  
Res. No. 4-96, eff. 4-2-96; Ord. No. 3-95, eff. 10-25-95;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-409. Reimbursement of Expenses**

The Town will pay travel and subsistence costs for Town officials or representatives while at Maryland Municipal League conventions, other official meetings and seminars, workshops and classes authorized by the Mayor.

*Source: Ord. No. 12-02, eff. 5-1-03;  
Res. No. 5-00, eff. 6-7-00.*

**Article V. Council Procedures**

**Section 2-501. Rules of Procedure**

a. Robert's Rules of Order. The rules of parliamentary practice and procedure as set forth in the latest published edition of Robert's Rules of Order shall govern the Mayor and Council in all matters not otherwise provided for by the Town Charter or law.

**b.**     Procedural Rules Do Not Affect Validity of Council Actions. No action of the Mayor and Council otherwise validly adopted shall be held invalid for failure to comply with a rule of procedure.

**c.**     Publication of Ordinances and Resolutions. No ordinance or resolution for Charter amendment shall be passed at the meeting at which it is introduced, nor shall it be acted upon until notice of its introduction and title has been published in the Town Journal or, at the option of the Town Council, been published in a newspaper of general circulation in the Town. The Council shall pass an ordinance or resolution for Charter amendment, pass it as amended, reject it, or defer its consideration to some specified future date, at a regular or special meeting of the Council held not less than six (6) nor more than sixty (60) days after the meeting at which it was introduced. In cases of emergency, all the above requirements may be suspended by the affirmative vote of at least four (4) members of the Council.

**d.**     When Seconding Required. An ordinance or resolution for Charter amendment need not be seconded when introduced. Other resolutions must be seconded when introduced and may be acted upon at the same meeting.

*Source:        Ord. No. 3-88, eff. 4-17-88.*

**Section 2-502.     Council Agenda**

The agenda for the meetings of the Mayor and the Council shall be formulated by the Mayor, with the assistance of the Clerk-Treasurer, provided, however, that no item shall be placed on the agenda by the Mayor without the approval of the Vice President of the Council or, if the Vice President is not reasonably available, with the

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

*Source: Ord. No. 9-91 (amended), eff. 12-10-91;  
Ord. No. 3-88, eff. 4-17-88.*

**Section 2-503. Open Meetings**

**a. Public Attendance.** The general public is invited to attend any open session of the Town Council and participate in discussions when recognized by the Mayor.

**b. Recording, Photographing, Broadcasting, Televising.** The public, including members of the news media, may photograph, videotape, broadcast or televise the proceedings of the Town Council at an open session if the camera or other equipment:

**1.** Is operated without excessively bright light that disturbs the Mayor, Councilmembers or others attending the session; and

**2.** Does not create excessive noise that disturbs the Mayor, Councilmembers or others in attendance.

The Mayor may restrict the movement of a person who is using a recording device, camera, or broadcasting or televising equipment if necessary to maintain the orderly conduct of the session. A recording of an open session made by a member of the public, or any transcript derived from such a recording, may not be deemed a part of the record of the proceeding.

*Source: Ord. 11-92, eff. 10-26-92;  
Resolution of 9-14-77.*

## **Article VI. Ethics**

### **Section 2-601. Conflict of Interest**

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

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

*Source: Ord. No. 3-8, eff. 4-17-88.*

### **Section 2-602. Neutrality of Officials with Election Functions**

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

*Source: Ord. No. 3-88, eff. 4-17-88.*

**CHAPTER 3**  
**STREETS AND SIDEWALKS**

**Article I. In General**

- § 3-101. Unlawful to Obstruct Without Permit
- § 3-102. Contents of Application
- § 3-103. Action on Permit Application
  - a. Temporary Permit
  - b. Driveway Apron or Curb Cut
- § 3-104. Extension of Permit Duration
- § 3-105. Elimination of Curb Cut
- § 3-106. Existing Curb Cuts
  - a. More than one curb cut per property
  - b. Existing curb cuts and driveway aprons greater than twenty feet (20') in width.
- § 3-107. Provisions Not Applicable to WSSC
- § 3-108. Indication of Obstruction
- § 3-109. Destruction of Streets
- § 3-110. Penalties
- § 3-111. Waiver

**CHAPTER 3**  
**STREETS AND SIDEWALKS**

**Article I. In General**

**Section 3-101. Unlawful to Obstruct Without Permit**

It shall be unlawful for any person or firm to obstruct or cause to be obstructed in any manner any street, lane, side-walk or public space or any portion thereof within the Town of Somerset or to break or remove or cause to be broken or removed any curb or any part of the surface, whether natural or improved, of any such street, lane, sidewalk or public space or to make or cause to be made any excavation within any such street, lane, sidewalk or public space, except upon making written application and deposit of security as hereinafter prescribed.

*Source: Ord. No. 1-78, eff. 9-5-78.*

**Section 3-102. Contents of Application**

**a.** An application for a temporary permit shall be made in writing to the Mayor and shall state in full the purpose, manner, character and extent of the proposed obstruction, breaking, removal or excavation, and the length of time during which it is desired to continue the same.

**b.** An application for a permit for a permanent driveway apron or curb cut shall be made in writing to the council and shall include a plan of the proposed driveway apron or curb cut. The application shall be accompanied by a payment of

Seventy-Five Dollars (\$75.00) and a deposit to cover possible damage to Town property, in the form of a check or bond in an amount of not less than One Thousand Dollars (\$1,000.00). An application for a permit for a driveway apron or a curb cut relating to building renovation or construction on private property shall be submitted with the related building permit application.

*Source: Ord. No. 5-10, eff. 9-8-10;  
Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 1-78, eff. 9-5-78.*

**Section 3-103. Action by Permit Application**

**a. Temporary Permit.** If in the discretion of the Mayor a good and valid reason is presented by the said applicant, the Mayor may instruct the Clerk-Treasurer to issue a temporary permit, which shall be for a time certain and shall specify and limit the purpose, nature and extent of the work authorized thereby, provided the applicant shall have paid a fee of Fifty Dollars (\$50.00) for each week or fraction of a week for which such permit shall be in effect and shall have deposited with the Clerk-Treasurer a sum in the discretion of the Mayor sufficient to insure the restoration of the street, lane, sidewalk, curb or public space to as good condition as it was before it was obstructed, broken, removed or excavated, said sum to be not less than One Thousand Dollars (\$1,000.00), which sum may be applied to such restoration in default thereof by the applicant.

**b. Driveway Apron or Curb Cut.**

1. The Town Council shall act upon the permit application for a permanent driveway apron or curb cut following the procedures and criteria for consideration of building permit applications and the procedures and criteria in this Article.

2. If a property has access through an existing curb cut, no additional curb cuts may be approved for that property. (This subsection is applicable even if the access is shared with another property through a single curb cut.) For a property which has access by a driveway shared with another property through a single curb cut, that property shall not be precluded from obtaining a new curb cut, provided that the shared driveway is abandoned and the shared driveway's curb cut fronting on that property is closed.

3. When considering an application for any new curb cut and its location, the Town Council shall take into consideration such factors as character of the street, removal of trees, reduction in the area available for plantings, amount of impervious surface, reduction in the space available for on-street parking, traffic and pedestrian safety, and location of public utility structures.

4. For all new curb cuts, a private driveway which crosses a sidewalk in the public right-of-way may not exceed ten feet (10') in width in the area between the street pavement and the edge of the sidewalk farthest from the street, except that the apron may extend beyond this ten foot (10') width, as provided in Section 3-103.b.6.

5. For all new curb cuts, a private driveway which does not cross a sidewalk in the public right-of-way may not exceed ten feet (10') in width within seven feet (7') of the street pavement, except that the apron may extend beyond this ten foot (10') width, as provided in Section 3-103.b.6.

6. The apron where the driveway connects with the street pavement shall be allowed a five foot (5') radius on each side of the driveway for a total entrance at the curbside not to exceed twenty feet (20') in width.

*Source: Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 4-07, eff. 6-13-07;  
Ord. No. 1-78, eff. 9-5-78.*

**Section 3-104. Extension of Permit Duration**

The Mayor shall have authority and discretion to authorize and direct the Clerk-Treasurer to extend the time of any temporary permit upon payment of a further fee of Fifty Dollars (\$50.00) for each week or part of a week for which such extension is requested and the Mayor may require an increase of the deposit whenever in the Mayor's judgment such increase is advisable. If said deposit be insufficient, the difference shall be assessed as a tax against the property of the applicant, collectable in the same manner as other taxes.

*Source: Ord. No. 5-10, eff. 9-8-20; Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 4-07, eff. 6-13-07; Ord. No. 1-78, eff. 9-5-78.*

**Section 3-105. Elimination of Curb Cut**

When a property owner eliminates a curb cut, the property owner shall install, at the property owner's expense, a curb, sidewalk, grass, and/or trees or other

plantings, so that the area where the curb cut is eliminated is consistent with the adjacent area.

**Section 3-106. Existing Curb Cuts**

a. More than one curb cut per property. If a property has more than one curb cut lawfully existing or approved for a permit as of December 5, 2011, such curb cuts shall remain lawful and may continue in use.

b. Existing curb cuts and driveway aprons greater than twenty feet (20') in width. All curb cuts and driveway aprons that were lawfully existing or approved for a permit as of December 5, 2011 that do not comply with the twenty foot (20') width limit described in Section 3-103.b.6, shall remain lawful and may continue in use.

**Section 3-107. Provisions Not Applicable to WSSC**

The provisions of this section shall not apply to the Washington Suburban Sanitary Commission. The Mayor is authorized to enter into such agreement as may be specified by the Council with any public service corporation whereby the permit and deposit herein specified may not be required.

*Source: Ord. No. 1-78, eff. 9-5-78.*

**Section 3-108. Indication of Obstruction**

It shall be unlawful for any person to leave any obstruction or excavation on the sidewalk or street, avenue, alley, road or highway after dark without having such obstruction or excavation protected by two red lights placed in such manner as to show the extent of such obstruction or excavation, and in case two lights cannot clearly

show the extent of such obstruction or excavation then such additional number shall be placed as to clearly show the extent of same.

*Source: Ord. No. 1-78, eff. 9-5-78.*

**Section 3-109. Destruction of Streets**

It shall be unlawful for any person or persons to remove from or deposit in any street, avenue, alley, road or highway, or in the gutter or on the sidewalks along same, any earth, cinders, stone, sand, or other material of whatever kind without permission from the Mayor.

*Source: Ord. No. 1-78, eff. 9-5-78.*

**Section 3-110. Penalties**

A violation of any of the provisions of this Article is a municipal infraction punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for a first offense, and a fine of Five Hundred Dollars (\$500.00) for each repeat offense.

*Source: Ord. No. 5-06, eff. 6-7-06;  
Ord. No. 2-89, eff. 4-24-89.*

**Section 3-111. Waiver**

The Town Council may grant a waiver from the driveway and curb cut requirements of this Article if the Town Council finds, due to conditions specific to that property, such waiver will:

- a. Lessen traffic constraints;
- b. Lessen adverse environmental effects; or
- c. Improve safety.

*Source: Ord. No. 07-11; eff. 7-10-12.*

## **CHAPTER 4**

### **GROUNDS**

#### **Article I. Maintenance of Property**

- § 4-101. Location and Maintenance of Trees and Shrubbery
  - a. Definitions
  - b. Trimming and Pruning of Shrubbery and Trees
  - c. Nonconforming Shrubbery and Trees
- § 4-102. Grass and Weeds
- § 4-103. Land Between Property; Sidewalks
- § 4-104. Handling of Offensive and Unhealthy Matter
- § 4-105. Penalties

#### **Article II. Protection of Town Property**

- § 4-201. Injury to Town Property
- § 4-202. Definitions

#### **Article III. Litter Control**

- § 4-301. Littering a Municipal Infraction

#### **Article IV. Refuse Collection**

- § 4-401. Purpose
- § 4-402. Refuse Defined
- § 4-403. Back, Side or Front Yard Refuse Collection
- § 4-404. Curbside Collection

- a. Mixed commingled recyclables
- b. Lawn and garden waste
- c. Newspapers
- d. Miscellaneous household waste
- e. Mixed paper
- f. Special collection items

§ 4-405. Leaves and Grass Clippings

§ 4-406. Refuse on Streets and Sidewalks

§ 4-407. Accumulation of Refuse

§ 4-408. Enforcement and Penalties

## CHAPTER 4

### GROUNDS

#### Article I. Maintenance of Property

##### Section 4-101. Location and Maintenance of Trees and Shrubbery

a. Definitions.

1. "Shrubbery": woody, perennial plants having permanent stems branching from or near the surrounding ground level, any of which having a height of twelve inches (12") or more from the ground to the top of the plant.

2. "Tree": a perennial plant having a well defined permanent, woody, self-supporting main stem or trunk, a more or less definite crown, a height at maturity of at least eight feet (8'), and developing branches, as it matures, above the surrounding ground level.

b. Trimming and Pruning of Shrubbery and Trees. Any shrubbery or tree near a Town sidewalk shall be trimmed and pruned so as not to have any part of the shrubbery or tree be within one foot (1') of the vertical plane of either edge of the Town sidewalk for a height of eight feet (8'). The Mayor or his delegate may notify the owner or agent of the abutting property of any shrubbery or tree not in compliance with this section and may require compliance with this section within ten (10) days. In the event of the owner's failure to comply with such notice, the Town may correct the violation noted. In such event, the cost will be charged to the owner of the abutting property and shall be collected as delinquent taxes are collected.

c. Nonconforming Shrubbery and Trees. Any shrubbery or tree that is nonconforming to Section 4-101.b may, at the discretion of the Mayor or his delegate, be exempt from compliance with section 4-101.b, if the Mayor or his delegate determines, with regard to any such nonconforming shrubbery or tree, that compliance with section 4-101.b, would be likely to result in the substantial disfigurement or destruction of such nonconforming shrubbery or tree and that noncompliance would not unduly interfere with the public's use of the Town sidewalk.

Source: Ord. No. 1-91, eff. 4-29-91;  
Ord. No. 1-78, eff. 9-5-78.

**Section 4-102. Grass and Weeds**

The owner or owners of any property in the Town of Somerset shall keep the grass and weeds on such property at a height of no more than twelve inches. Whenever directed by the Mayor to do so, the Clerk-Treasurer shall notify the owner or owners, or agents of same, of said lot or lots to remove said material from said lot or lots within ten days, and in the event of failure of said owner or owners or their agents to remove said material it shall be removed from said lot or lots by the Town of Somerset, the cost thereof to be assessed as a tax against the lot or lots and collected as other delinquent taxes are collected.

Source: Ord. No. 1-78, eff. 9-5-78.

**Section 4-103. Land Between Property; Sidewalks**

Owners of property and occupants of dwellings shall:

a. Maintain the land between their property and the street curb in good and

orderly condition; and,

**b.** Clean the Town sidewalk in front, and on the side, of their property and keep the sidewalk free from overhanging shrubbery.

*Source:* Ord. No. 4-2015; eff. 1-4-2016;  
Ord. No. 3-04, eff. 6-9-04;  
Ord. No. 1-02, eff. 2-13-02;  
Ord. No. 1-78, eff. 9-5-78, as amended 1-4-79.

**Section 4-104. Handling of Offensive and Unhealthy Matter**

It shall be unlawful for any person or persons to cast or throw, discharge or cause to flow into any of the streets, avenues or alleys of the Town, or on any vacant lot or to keep, collect, use or suffer to remain on his or their premises any noxious liquid, stagnant water or other offensive matter; or to collect or transport any such matter in other than approved containers. Whatever is dangerous to life or health; whatever renders air or food or water or other drink unwholesome or unfit for use of man; whatever odor or exhalations are offensive to the inhabitants or dangerous to the public health; whatever accumulations of animal or vegetable matter, solid or liquid; whatever growth of rank vegetation, which are dangerous or hurtful to the neighborhood or are likely to become so, are declared to be nuisances and unlawful.

*Source:* Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 1-78, eff. 9-5-78.

**Section 4-105. Penalties**

All violations of the provisions of this Article shall be municipal infractions punishable by a fine of Fifty Dollars (\$50.00) for a first offense and by a fine of One Hundred Dollars (\$100.00) for each repeat offense.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Article II. Protection of Town Property**

**Section 4-201. Injury to Town Property**

Any person who shall intentionally damage or injure, or cause to be damaged or injured, any Town property of any kind whatsoever, shall be guilty of a Class A misdemeanor.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 4-202. Definitions**

For the purpose of this section, the term "Town property" shall include, but is not limited to, buildings, fixtures, furniture, grounds, streets, alleys, curbs, signs, sidewalks, gutters, storm drainage and other structures located in or on lands owned by the Town, or dedicated to the use of the public.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Article III. Litter Control**

**Section 4-301. Littering a Municipal Infraction**

Any violation of Section 468 of Article 27 of the Annotated Code of Maryland

(the Litter Control Law) shall be punishable as a municipal infraction. When the litter improperly disposed of weighs two pounds or less, the fine shall be Fifty Dollars (\$50.00) for a first offense and One Hundred Dollars (\$100.00) for each repeat offense. When the litter improperly disposed of weighs more than two pounds but less than ten pounds, the fine shall be Two Hundred Dollars (\$200.00) for a first offense and Four Hundred Dollars (\$400.00) for each repeat offense. When the litter improperly disposed of weighs ten pounds or more, the fine shall be Four Hundred Dollars (\$400.00) for each offense.

*Source: Ord. No. 2-89, eff. 4-24-89.*

#### **Article IV. Refuse Collection**

##### **Section 4-401. Purpose**

The Town, through its contractors, provides both back or side yard and front curbside collection of refuse to its residents. The provisions of this Ordinance are designed to make refuse collection efficient and thereby keep the costs of collection as low as possible, to prevent littering on rights-of-way and other public property and on private property, to prevent offensive odors and attraction of vermin and to conserve recyclable materials and encourage recycling because of the growing problem of the increasing cost of solid waste disposal and the limited capacity of landfills, and the impact of solid waste disposal on our environment.

*Source: Ord. No. 8-90, eff. 10-21-90;  
Ord. No. 1-89, eff. 3-27-89.*

**Section 4-402. Refuse Defined**

The term “refuse” shall include, but is not limited to, the following:

**a.** Household garbage and trash: Normal and usual household waste that will fit in covered trash cans or plastic bags, including kitchen waste, waxed and greasy food containers and wrapping, cleaning rags, certain plastic and carbon paper.

**b.** Lawn and garden waste: Grass clippings, garden trimmings, weeds, leaves, sticks, tree branches under four inches (4”) in diameter and under four feet (4’) long, vines and all other recyclable debris normally generated and accumulated in gardening, lawn care and tree care.

**c.** Miscellaneous household waste: Items such as curtains and curtain rods; small toys; and a maximum of two cartons of other refuse.

**d.** Mixed (commingled) recyclables: Cans, glass bottles and jars, plastic bottles and jugs marked with a “1” or a “2” on the bottom, aluminum foil and foil products, and other recyclable materials which the Montgomery County Recycling Center and the Town Council approve as mixed recyclables and which are announced in the *Town Journal*.

**e.** Mixed paper: Stationery, computer paper, fax paper, envelopes, file folders, self-carbon forms, colored paper, paperboard such as cereal boxes and milk cartons, corrugated cardboard (broken down), magazines, catalogs and junk mail.

**f.** Special collection items: All refuse other than household garbage and trash, lawn and garden waste, miscellaneous household waste and mixed recyclables. The term, “special collection items” includes refrigerators, washing machines and

other large appliances, furniture, large toys, tree limbs in excess of four inches (4") in diameter or four feet (4') in length, rocks and large quantities of unusual items or construction materials.

Source: Ord. No. 2-96, eff. 3-13-96;  
Ord. No. 11-91, eff. 1-26-92;  
Ord. No. 1-89, eff. 3-27-89.

**Section 4-403. Back, Side or Front Yard Refuse Collection**

Household garbage and trash shall be collected twice per week from back, side or front yards.

The following requirements apply to the storage of household garbage and trash:

a. Containers shall be vermin-proof and waterproof of noncorrosive material and equipped with tight-fitting lids. Containers recessed into the ground shall be permitted only if they do not permit waste or waste material seepage.

b. Each owner or occupant shall provide a sufficient number of containers for storage of household garbage and trash to prevent overflow between times of collection.

c. No liquid refuse shall be placed in a container for collection unless secured in a leak-proof wrapping.

Source: Ord. No. 11-91, eff. 1-26-92;  
Ord. No. 1-89, eff. 3-27-89.

**Section 4-404. Curbside Collection**

All refuse deposited for collection at the curb must be in the public right-of-way,

but not on the sidewalk or street. Empty containers must be removed from the public right-of-way within twenty-four (24) hours of collection.

**a.** Mixed commingled recyclables. Mixed recyclables must be deposited in the blue plastic containers which have been supplied by the Town. The “blue boxes” must be placed at the curb no more than twenty-four (24) hours in advance of the weekly collection.

**b.** Lawn and garden waste. All lawn and garden waste must be recycled in accordance with Section 4-405. Except for leaves deposited in the public right-of-way in the fall, all lawn and garden waste placed at the curb must be in recyclable paper bags, bundles no longer than four feet (4') in length, trash cans or other similar rigid receptacles. Lawn and garden waste in plastic bags will not be collected by the Town or its contractor. Lawn and garden waste will be collected twice per week except during January, February and March, when it will be collected once a week.

**c.** Newspapers. Newspapers must be packaged in paper grocery-type bags or tied in bundles under twelve inches (12”) high. They will be collected once per week.

**d.** Miscellaneous household waste. Miscellaneous household waste will be collected twice per week, on the same days as household garbage and trash.

**e.** Mixed paper. Mixed paper should be placed in a paper bag in the resident’s blue bin alongside newspapers for once-a-week pickup. Corrugated cardboard should be flattened and placed in or next to the blue box.

**f.** Special collection items. Property owners or occupants must arrange for

the pickup and disposal of special collection items, either through the Town's contractor or some other responsible person or entity. No such refuse shall be placed on the public right-of-way or in public view more than twenty-four (24) hours before the time arranged for pickup, unless such arrangements are impracticable.

*Source: Ord. No. 2-96, eff. 3-13-96;  
Ord. No. 11-91, eff. 1-26-92.*

**Section 4-405. Leaves and Grass Clippings**

**a.** Leaves shall be disposed of in any of the following ways:

- 1.** Collected in mulch piles in back or side yards;
- 2.** Bagged in recyclable paper bags and placed curbside as set forth in

Section 4-404.b;

- 3.** Deposited in trash cans or other similar rigid receptacles; or
- 4.** Deposited on the public right-of-way without being enclosed in

containers for pickup by the Town maintenance force. Leaves shall not be placed in the street.

**b.** Grass clippings shall be disposed of in any of the following ways:

- 1.** Collected in mulch piles in back or side yards;
- 2.** Left on the grass where cut;
- 3.** Placed curbside in recyclable paper bags or trash cans or other

similar rigid receptacles as set forth in Section 4-404.b.

*Source: Ord. No. 3-92, eff. 5-25-92; Ord. No. 2-92, eff. 3-23-92;  
Ord. No. 11-91, eff. 1-26-92; Ord. No. 8-90, eff. 10-21-90;  
Ord. No. 1-89, eff. 3-27-89.*

**Section 4-406. Refuse on Streets and Sidewalks**

a. Other than as provided above and in Section 4-406.b below, no person shall discard any refuse on any public right-of-way.

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

*Source: Ord. No. 3-92, eff. 5-25-92; Ord. No. 2-92, eff. 3-23-92;  
Ord. No. 11-91, eff. 1-26-92; Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 1-89, eff. 3-27-89.*

**Section 4-407. Accumulation of Refuse**

a. No owner or occupant shall allow any refuse to accumulate on his or her property, with the following exceptions:

1. Refuse stored in accordance with this Article and awaiting collection.

2. Accumulation of matter intended for garden compost is permitted in side and back yards, provided it does not exceed the reasonable requirements of a home garden and does not attract vermin or produce offensive odors.

3. Accumulation of firewood is permitted, provided that the wood is cut into fireplace-size lengths and stacked so as not to be hazardous or attract vermin.

b. No person shall accumulate refuse in a manner that would permit it to be carried or deposited by the elements or animals upon any street, sidewalk or other

public place, or upon any other private property, or in a manner that produces offensive odors or which attracts vermin.

*Source: Ord. No. 11-91, eff. 1-26-92;  
Ord. No. 1-89, eff. 3-27-89.*

**Section 4-408. Enforcement and Penalties**

A violation of any provision of this Article shall be a municipal infraction punishable by a fine of Fifty Dollars (\$50.00) for a first violation and by a fine of One Hundred Dollars (\$100.00) for each repeat violation. A “repeat violation” means a violation of the same Article provision by the same offender within two (2) years of the commission of the prior offense.

*Source: Ord. No. 12-92; eff. 11-23-92;  
Ord. No. 11-91, eff. 1-26-92;  
Ord. No. 1-89, eff. 3-27-89.*

## **CHAPTER 5**

### **PARKS AND RECREATION**

#### **Article I. Designation of Town Parks**

- § 5-101. Designation of Town Parks
- a. Founders Park
  - b. Vinton Park
  - c. Capello Park
  - d. Somerset Tennis Courts
  - e. Somerset Swimming Pool

#### **Article II. Park Regulations**

- § 5-201. Unlawful Acts

#### **Article III. Swimming Pool**

- § 5-301. In General
- a. Residence Requirement
  - b. Use by Nonmembers
  - c. Fees
  - d. Reduced Fees
  - e. Fee Waivers and Deferrals
  - f. Special Circumstances
  - g. Adoption of Rules and Regulations
  - h. Suspension of Privileges
  - i. Support of Swim Team
- § 5-302. Maximum Number of Pool Users
- § 5-303. Swimming Pool Committee
- § 5-304. Swim Team

## **Article IV. Tennis Courts**

§ 5-401. Tennis Courts

## **Article V. Requirements for Swimming Pool and Tennis Courts**

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## **Article VI. Protection of Town Parks from Damage Caused by Water Discharge**

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§ 5-605. Permit Conditions and Amendments

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## **Article IX. Parks and Natural Resources Committee**

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## **Article X. Batting Cage Committee**

§ 5-1001. Size

§ 5-1002. Teams

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**CHAPTER 5  
PARKS AND RECREATION**

**Article I. Designation of Town Parks**

**Section 5-101. Designation of Town Parks**

The following properties owned by the Town of Somerset are hereby designated as Town parks:

a. Founders Park: A rectangular piece of land on the north side of Dorset Avenue; one corner of the rectangle is located on the northwest corner of Dorset Avenue and Surrey Street and the rectangle extends thirty feet (30') north and one hundred fifteen feet (115') west.

b. Vinton Park: All Town property south of Dorset Avenue, generally running in a southwesterly direction on either side of Little Falls Branch from the point where the Branch enters the Town at Wisconsin Avenue south of Dorset Avenue, to Trent Street between 5403 and 5411.

c. Capello Park: Bounded on the east by Wisconsin Avenue, on the north by Cumberland Avenue, on the west by the Somerset Town Hall fence and the east lot line of 4507 Dorset Avenue, and on the south by Dorset Avenue and the north lot lines of 4507-4511 Dorset Avenue.

d. Somerset Tennis Courts: Bounded on the east by the Somerset Town Hall, on the north by Cumberland Avenue, on the west by the east lot line of 4518 Cumberland Avenue, and on the south by the north lot lines of 4519, 4521, and 4523 Dorset Avenue.

e. Somerset Swimming Pool: Includes the swimming pool, the wading pool, the associated bathhouse, and the grounds within the fence. The Somerset Swimming Pool is surrounded entirely by Vinton Park.

*Source: Ord. No. 2-06, eff. 3-15-06;  
Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 5-88, eff. 3-21-88.*

## **Article II. Park Regulations**

### **Section 5-201. Unlawful Acts**

It shall be unlawful for any person, without approval of the Mayor, to engage in the following in any Town Park:

- a. To indulge in riotous, boisterous, threatening, or indecent conduct, or abusive or threatening language.
- b. To catch, injure, destroy, or interfere in any way with animal life.
- c. To carry or consume any drug or controlled substance the possession or consumption of which is illegal under federal or state law.
- d. To carry or consume any alcoholic beverage except on occasions for which the Town Council has granted permission.
- e. To cut or remove any wood, turf, grass, soil, rock, sand, or gravel; but this does not prohibit the removal of leaf compost or leaf mulch from piles thereof designated for this purpose.
- f. To post, place, or erect any bill, notice, paper or advertising device or matter of any kind.

- g.** To make or kindle a fire for any purpose.
- h.** To camp.
- i.** To climb in any tree.
- j.** To sell, or offer for sale, any merchandise, article or thing whatsoever; but

this does not prohibit the sale of articles by the Swim Team or by other non-profit organizations on the grounds of the Somerset Swimming Pool, if authorized by the Town Council or the Mayor.

**k.** To practice, carry on, conduct or solicit for any trade, occupation, business or profession.

**l.** To operate an automobile, motorcycle, motorbike, go-cart, or other motor vehicle in any area except the paved park streets or parking areas.

**m.** To park a vehicle anywhere except in a designated parking area.

**n.** To repair or wash a vehicle.

**o.** To ride a bicycle on other than a paved vehicular road or path designated for that purpose.

**p.** To enter in an unauthorized manner or to trespass into the fenced pool area or bathhouse.

**q.** To dump wood, brush, leaves, grass, construction materials or refuse of any kind in any Town Park or on any Town property unless authorized by the Mayor.

**r.** To loiter in any Town Park or any other Town property - with the exception of the Somerset Swimming Pool and Bathhouse during Pool operating hours - between sunset and sunrise.

*Source: Ord. No. 13-92, eff. 11-23-92; Ord. No. 9-92, eff. 9-30-92;  
Ord. No. 2-89, eff. 4-24-89; Ord. No. 5-88, eff. 3-21-88.*

### **Article III. Swimming Pool**

#### **Section 5-301. In General**

**a. Residence Requirement.** Only residents are eligible for pool membership. Exceptions may be made by the Town Council on a limited basis under special circumstances. The unit of membership shall be the household.

**b. Use by Nonmembers.** Unless all the memberships authorized by Section 5-302 have been purchased, Town residents who are not members may not use the pool facilities. Once the maximum allowable number of memberships has been purchased for a given swimming season, non-member residents may use the pool as guests of members only when accompanied by a member. Non-residents may use the pool as guests of members in accordance with the swimming pool rules and regulations.

**c. Fees.** The Council, by resolution, shall establish user and guest fees. Fees shall be payable prior to use.

**d. Reduced Fees.** The Mayor shall set reduced user fees for households moving into Somerset after the start of the swimming season and households not eligible to join at the start of the swimming season. The Mayor shall authorize reduced fees or refunds to households that move out of Somerset prior to August 1. New residents may buy or have transferred to them a membership from the former resident of the same address only if there is no waiting list for pool membership.

**e.** Fee Waivers or Deferrals. Town households whose financial circumstances make it impossible for them to pay the prescribed swimming pool user fee during a particular season may, upon application to and in the discretion of the Mayor, qualify for a fee waiver or deferral or for such token fee as can be afforded. Proof of need shall be required. The Mayor shall report at the next Council meeting the number of waivers, deferrals, and token fees granted since the last Council meeting. Residents may appeal decisions of the Mayor to the Council, which will hear the appeals in executive session. The identity of applicants shall be kept confidential at all times. The Mayor and Council may issue regulations governing fee waiver or adjustment.

**f.** Special Circumstances. The Council, at its discretion, may open the pool under special circumstances to individuals and groups who have not paid user fees.

**g.** Adoption of Rules and Regulations. The Council may adopt rules and regulations governing the operation of the pool and the conduct of users and guests and providing for the enforcement of such regulations.

**h.** Suspension of Privileges. The Mayor or the Swimming Pool Committee Chairperson may suspend for up to two months the privileges of any user who repeatedly violates the pool rules, who trespasses, or who commits acts of vandalism at the Somerset Swimming Pool. Such suspension may be appealed to the Town Council.

**i.** Support of Swim Team. The Mayor and Council shall support a swim team program at the Somerset Swimming Pool.

*Source: Ord. No. 4-93, eff. 4-22-93;  
Ord. No. 5-88, eff. 3-21-88.*

**Section 5-302. Maximum Number of Pool Users**

**a.** The number of households which may be members of the Somerset Swimming Pool may not exceed three hundred twenty-five (325).

**b.** The Swimming Pool Committee of the Town shall establish a waiting list from which shall be drawn in order, as vacancies occur, those households which wish to become members.

**c.** A vacancy shall be deemed to exist when and if a member-household shall not have paid the seasonal user fee by May 5 immediately preceding the swimming season.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-303. Swimming Pool Committee**

**a.** The Committee shall consist of a minimum of 5 and a maximum of 11 members. The Mayor shall appoint, with approval of the Council, Town residents, including one Councilmember, to serve on a permanent Swimming Pool Committee.

The Mayor shall strive to include on the Committee --

Younger and older residents  
Individuals with and without children at home  
Residents from various parts of Town  
Longtime residents and newcomers  
Pool Users  
Males and females

**b.** The terms of all Committee members, except for the Council member, shall be for three (3) years. The terms shall begin after the Council meeting in

September of each year. A member, excluding Councilmembers, may serve for no more than two (2) consecutive terms. If a Committee member resigns or is terminated, the Mayor will appoint a replacement for the remainder of that term. Replacement members are eligible for two (2) full consecutive terms. After a one (1) year absence from the Committee, a former Committee member is eligible for reappointment to the Committee regardless of prior service. If any of the eleven (11) Mayor-appointed members misses three (3) scheduled meetings during any calendar year, his or her service will be terminated.

**c.** The Mayor shall appoint a chairperson each year, with approval of the Council.

**d.** The Swimming Pool Committee shall have the following specific duties:

**1.** Each October, after the closing of the pool, the Committee shall meet with the pool staff and the pool management to review the operations of the pool during the past summer and to prepare a list of recommendations, including budget recommendations, if any, for the next pool season to be submitted to the Mayor and Town Council prior to their November meeting.

**2.** Each May, before the opening of the pool, the Committee shall conduct an orientation program for the pool staff, covering such subjects as pool regulations, life guard behavior, record keeping, front desk management, and dressing room maintenance.

**3.** The Committee shall convene at least once a month between April and September at open meetings to discuss current aspects of the care, operation, and

maintenance of the pool. Any matters discussed which require the attention of the Mayor and Council shall be brought to their attention immediately by the Committee chairperson.

e. The Swimming Pool Committee shall carry out its duties with the full understanding that the Mayor and Council have the legal and fiscal responsibility for the Somerset Swimming Pool. During the pool season all instructions to the pool staff and the pool management services shall be given by the Mayor, the Clerk-Treasurer, the Committee member who is a Council member, or the Committee chairperson.

*Source: Ord. No. 2-2012; eff. 4-26-12; Ord. No. 11-06; eff. 12-13-06;  
Ord. No. 9-05, eff. 1-10-06; Ord. No. 1-96, eff. 2-10-96;  
Ord. No. 3-94, eff. 4-24-94; Ord. No. 4-91, eff. 5-7-91;  
Ord. No. 5-88, eff. 3-21-88.*

**Section 5-304. Swim Team**

The Mayor, with input from the current swim team committee, with the approval of the Town Council, shall appoint a swim team committee solely made up of parents or guardians of swim team members, with the exception of the Council liaison, with a minimum of 5 and a maximum of 11 members to include the team manager, the A-team representative(s) and B-team representative(s), a financial manager, and a Council liaison. The Mayor will appoint the chair of the committee with the input of current swim team committee members.

a. The terms of all committee members shall be for three (3) years. The term shall begin after the Town Council meeting in September of each year. A member may serve for no more than two (2) consecutive terms. If a committee member resigns

or is terminated, the Mayor shall appoint a replacement for the remainder of that term. Replacement members are eligible for two (2) full consecutive terms. However, if at the end of the two (2) terms there is no one else to fill the position, the Mayor shall have the authority to extend the term until a suitable replacement is found. After a one (1) year absence from the committee, a former committee member is eligible for reappointment regardless of prior service. If a member of the committee misses three (3) scheduled meetings during any calendar year, the Mayor has the option to terminate the service of this individual.

**b.** The Town will pay from its general operating expenses the yearly dues for membership in the Montgomery County Swim League and will provide additional funds from its general operating expenses, as approved by the Town Council, to be applied to compensation for personnel to coach team participants. Additional funds may be approved by the Town Council only to the extent necessary due to insufficient funds raised by the swim team committee through swim team registration fees, the sale of food or drink and t-shirts, or through other revenue sources approved by the Mayor.

**c.** Funds raised by the swim team committee through registration fees, sale of concessions and other sources approved by the Mayor, will be Town funds and held in a Town account that is dedicated to and reserved exclusively to support activities of the swim team. In the event these funds are not exhausted at the end of the fiscal year, the funds will roll over into the same account for availability the next fiscal year.

**d.** The swim team committee shall have the following duties:

1. Organize, conduct and promote swim team activities for children residing in the Town of Somerset as participants in the Montgomery County Swim League.
2. Obtain volunteers.
3. Cooperate and coordinate with the Town of Somerset and the pool management company to provide coaching services to swim team participants.
4. Raise funds through swim team registration fees, sale of food, drink and other items, and through other revenue sources approved by the Mayor.
5. Prepare and submit annually for Town Council approval, at a time requested by the Town Council, a swim team committee budget for all committee activities, specifying:
  - i. Anticipated expenses by category;
  - ii. Anticipated revenues by source;
  - iii. Anticipated funds of the Town of Somerset, if any, needed to pay expenses beyond funds obtained from other sources.
6. Submit team rules to the Council annually for approval at a time to be determined by the committee, but prior to the season to which the rules apply.
7. Operate within the team budget approved by the Council.
8. All monies received by the swim team committee shall be transmitted timely by the Finance Manager to the Mayor or the Manager/Clerk-Treasurer of the Town, for deposit as part of the swim team's dedicated account with Town funds. A report specifying the amount and source of such funds shall accompany

the transmittal. In the event these funds are not exhausted at the end of the fiscal year, the funds will roll over into the same account for availability the next fiscal year.

9. Bills for all expenses approved by the swim team committee shall be submitted for payment to the Mayor or Manager/Clerk-Treasurer of the Town. The Mayor or Manager/Clerk-Treasurer of the town shall pay such expenses if they have been authorized as part of the original, or supplemental, swim team committee budget, approved by the Town Council. With the approval of the Mayor or Manager/Clerk-Treasurer of the Town, some of the funds authorized for expenses in the budget approved by the Town Council may be given to the swim team committee in advance of the actual incurrence of the expense so as to provide funds to committee member volunteers to purchase food and other items for swim team activities. The Financial Manager shall timely transmit to the Mayor or the Manager/Clerk-Treasurer a report of how the advanced funds were expended, accompanied by a receipt for such expenditure.

10. Those in charge of swim team activities shall respect the wishes of adults who wish to swim after working hours and the needs of families who live in the vicinity of the pool by (i) posting in advance at the pool the schedule of practice times, (ii) obtaining prior authorization from the Mayor to close the pool for swim team activities other than the meets, and (iii) notifying neighboring families in advance of the date and times of meet and special events at the pool.

*Source: Ord. 2-2012; eff. 4-26-12;  
Ord. No. 5-88, eff. 3-21-88.*

## **Article IV. Tennis Courts**

### **Section 5-401. Tennis Courts**

**a.** Town tennis courts are for the exclusive use of Somerset residents, their house guests, and Town employees. The courts are also open to guests playing with any of the above.

**b.** The Town Council, by resolution, shall set user fees for use of the courts.

**c.** The Mayor shall appoint a Tennis Committee, subject to Council approval. The Mayor shall strive to include on the committee tennis court users, younger and older residents, individuals with and without children at home, residents from various areas of Town and males and females.

**d.** The terms of Committee members shall be three (3) years. The terms shall begin after the Town Council meeting in January of each year. A member may serve no more than two (2) consecutive terms. If a Committee member. Resigns or is terminated, the Mayor shall appoint a replacement for the remainder of that member's term. Replacement members are eligible to serve for two (2) full consecutive terms. After a one (1) year absence from the committee, a former member is eligible for reappointment regardless of prior service. If any member of the Committee misses three (3) scheduled meetings during the calendar year, his or her membership may be terminated.

**e.** The Mayor shall appoint a Chairperson each year subject to Town Council approval.

**f.** In addition to the five (5) Committee members, there shall be a member of the Town Council and an alternate member of the Town Council appointed by the Town Council who serve on the Committee as liaisons between the Town and the Committee.

**g.** The duties of the Tennis Committee shall include, but not be limited to, making recommendations to the Mayor and Council regarding user fees for tennis courts, rules and regulations governing use of the tennis courts, maintenance of the tennis courts, budget allocation related to the tennis courts, capital improvements to the tennis courts and special events at the tennis courts.

**h.** The Mayor may suspend for up to two (2) months the privileges of any user who repeatedly violates the tennis court rules and regulations who trespasses or who commits acts of vandalism at the Somerset tennis courts. Such suspension may be appealed to the Town Council.

**i.** The Mayor shall reduce user fees for households moving to the Town after August.

*Source: Ord. No. 8-2012, eff. 10-17-12;  
Ord. No. 5-88, eff. 3-21-88.*

**Article V. Requirements for Swimming Pool  
and Tennis Courts**

**Section 5-501. Determinations of Eligibility**

**a.** The Mayor is hereby authorized to determine questions of residency, status as a Town employee, household membership, and other bases for eligibility for membership in the Somerset Swimming Pool and for membership in the Somerset Tennis Courts. In making determinations of residency, the Mayor shall consider the following factors:

**1.** The intent of the applicant for membership to establish a fixed, present, and permanent residence in the Town;

**2.** A showing of affirmative abandonment of the applicant's previous residence; and

**3.** Any facts which reveal contact with one jurisdiction or the other, which may include, but not be limited to: where the applicant is registered to vote; where taxes are paid and any statement on tax returns; ownership of property or binding lease agreement; and where children attend school.

**b.** The applicant shall have the burden of proving that he is a resident of the Town.

**c.** The decision of the Mayor shall be final, subject to appeal to the Town Council.

**d.** Pending a final determination of eligibility for membership, an applicant may not use the facilities of the Somerset Swimming Pool or the Somerset Tennis

Courts. Any unauthorized use of the facilities pending such determination, shall be considered a trespass and shall subject the violator to the appropriate penalties.

*Source: Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 5-88, eff. 3-21-88.*

## **Article VI. Protection of Town Parks from Damage Caused by Water Discharge**

### **Section 5-601. Definitions**

**a.** Device -- means any artificially-created or constructed mechanism, including pipe, tank, culvert, ditch, and channel, for the concentration or conveyance of water.

**b.** Ten-year storm -- means a storm of such intensity that it is anticipated to occur on the average of once every ten years, as set forth in terms of intensity, in official publications or regulations of the Montgomery County Department of Transportation or Department of Environmental Protection. If the official publications or regulations of the County set forth differing intensities, the highest intensity shall govern.

**c.** One hundred-year storm -- means a storm of such intensity that it is anticipated to occur on the average of once every hundred years, as set forth in terms of intensity, in official publications or regulations of the Montgomery County Department of Transportation or Department of Environmental Protection. If the official publications or regulations of the County set forth differing intensities, the highest intensity shall govern.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-602. Permit Required for Discharge of Water into a Town Park**

a. Except pursuant to a valid permit issued under this Article, no person, through any device, shall discharge or cause to be discharged, within five hundred feet (500') of a Town park, water onto or into the ground at a rate of more than one-half of one (.50) cubic foot per second.

b. In determining the amount of the water to be discharged, the peak discharge that would be anticipated to be generated by a ten-year storm shall be utilized.

c. Notwithstanding any other provision of this Article, the Town Council may issue to an applicant a waiver from the requirements of this Article, after notice and public hearing, upon finding that although the water discharge is within five hundred feet (500') of a Town park, no water from that discharge, generated by a ten-year storm, is likely to flow into a Town park.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-603. Permit to Discharge Water into a Town Park -- Procedures**

An applicant for a permit to discharge water into a Town park shall file a written request for such permit with the Clerk-Treasurer, and the request shall be accompanied by a One Hundred Dollar (\$100.00) application fee. Such request shall also be accompanied by a plan for the discharge of water into a Town park. Such plan shall contain the following information, as well as any other information that may be reasonably requested by the Town:

- a. the quantity of water to be discharged;
- b. the location of the point of discharge;
- c. the anticipated course of water through the Town park;
- d. the source of water to be discharged;
- e. the water quality of the water to be discharged;
- f. the frequency with which the water is to be discharged;
- g. mechanisms for managing the water in the Town parks, including design of such mechanisms, costs of construction and maintenance, parties responsible for such costs;
- h. the anticipated effect of the water in the Town parks, including erosion, stream water quality, effect on trees and other vegetation, and effect on improvements in the Town park; and
- i. whether any permit or other approval is required from county, state or federal governments, and if so, whether such permit or approval has been obtained, relating to the concentration, conveyance, or discharge of the water that is the subject of the application to the Town for a permit.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-604. Permit to Discharge Water into a Town Park -- Town Action on Permit**

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

b. The Town Council may grant the permit only upon a finding that the proposed discharge would not have an undue adverse effect upon a Town park.

c. In determining whether the proposed discharge would have an undue adverse effect on a Town park, the Town Council shall consider and shall make findings as to the effect on the Town park in terms of:

1. erosion;
2. water quality of Town streams;
3. damage to trees and other vegetation;
4. odor;
5. aesthetics;
6. damage to improvements;
7. interference with the use and enjoyment of the Town park and its

improvements; and

8. costs of implementing and maintaining control of the discharged water.

d. The Town Council may consider any other factor which may have a bearing upon the preservation and protection of a Town park.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-605. Permit Conditions and Amendments**

a. The Town Council may grant a permit subject to reasonable conditions to effectuate the purposes of the Article. Such conditions may include, among others, a requirement that the permit holder enter into an agreement binding upon his or its heirs, successors and assigns, to be liable for, administer and maintain, including all costs, the plan and mechanisms for managing the water in the Town park. In determining the adequacy of the plan and the mechanisms for managing the water in the Town park, the Town Council may consider the amount of water anticipated to be discharged during a one hundred-year storm.

b. Any permit issued pursuant to this Article, and the conditions upon which it is based, upon notice to the holder and hearing, may be amended by the Town Council to better effectuate the purposes of this Article.

c. No permit shall be issued unless the applicant has obtained all required permits or other approvals from county, state, and federal governments relating to the concentration, conveyance, or discharge of the water that is the subject of the application to the Town for a permit, and the Town permit shall be conditioned upon such county, state, and federal government permits or approvals remaining valid.

*Source: Ord. No. 5-88, eff. 3-21-88.*

**Section 5-606. Decisions on Permit Applications**

a. Hearing. The Town Council shall conduct fact-finding hearings on permit applications. The applicant and all interested parties shall be given the opportunity to present evidence and testimony, so long as it is relevant and not repetitive. The hearing

shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply.

**b.**     Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on the application, shall be rendered within forty-five (45) days of the date of the hearing. The decision shall be in writing and shall state the Town Council's findings of fact and conclusions of law. The decision of the Town Council shall become final unless an appeal is taken as set forth below within thirty (30) days. The decision of the Town Council shall approve the permit application, disapprove it, approve it with modifications or approve it with conditions.

**c.**     Judicial Review. Any person aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this Article and who appeared before the Town Council in person, by an attorney, or in writing, shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

*Source:           Ord. No. 5-96, eff. 11-13-96;  
                      Ord. No. 8-93, eff. 10-25-93;  
                      Ord. No. 5-88, eff. 3-21-88.*

**Section 5-607. Effective Date**

This Article shall apply to water discharge from any device constructed or created after March 15, 1988.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Article VII.  
Weapons Prohibited in Town Parks**

**Section 5-701. Purpose**

This section is intended to protect the health, safety and welfare of patrons of Town Parks, by prohibiting the purchase, sale, transfer, ownership, possession and transportation of certain weapons and ammunition in Town Parks. The Town has authority to promulgate this Article pursuant to Article 27, Section 36H of the Maryland Annotated Code.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 5-702. Prohibited Activities**

It shall be unlawful for any person to purchase, sell, transfer, own, possess, transport or discharge in any Town Park any of the following weapons and ammunition:

- a.** Handgun, as defined in Article 27, §36F(a), Maryland Annotated Code;
- b.** Rifle, as defined in Article 27, §36F(a)(2), Maryland Annotated Code;
- c.** Shotgun, as defined in Article 27, §36F(a)(5), Maryland Annotated Code;
- d.** Ammunition and components for the above enumerated items.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 5-703. Exceptions**

This Article does not apply to law enforcement personnel duly authorized to possess, maintain and use any such weapons and ammunition.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Article VIII.  
Penalties and Enforcement**

**Section 5-801. Violation of Article II**

**a. Class A Misdemeanor Offenses.** Any violation of the provisions of Sections 5-201.a, 5-201.b, or 5-201.c shall constitute a Class A misdemeanor.

**b. Class B Misdemeanor Offenses.** Any violation of Section 5-201.d shall constitute a Class B misdemeanor.

**c. Municipal Infractions.**

**1.** Any violation of Section 5-201.e shall be a municipal infraction punishable by a fine of \$200.00 for a first offense, and Four Hundred Dollars (\$400.00) for each repeat offense.

**2.** Any violation of Sections 5-201.f through 201.p and 5-201.r shall be a municipal infraction punishable by a fine of Fifty Dollars (\$50.00) for a first offense, and by a fine of One Hundred Dollars (\$100.00) for each repeat offense.

**3.** Any violation of section 5-201.q shall be a municipal infraction punishable by a fine of Four Hundred Dollars (\$400.00) for each offense.

*Source: Ord. No. 3-93, eff. 2-2-93; Ord. No. 2-93, eff. 1-19-93;  
Ord. No. 13-92, eff. 11-23-92; Ord. No. 9-92, eff. 9-30-92;  
Ord. No. 2-89, eff. 4-24-89.*

**Section 5-802. Violation of Articles III and IV**

Any violation of the rules and regulations promulgated pursuant to the provisions of Articles III and IV of this Chapter shall be a municipal infraction punishable by a fine of \$50.00 for each initial offense, and by a fine of \$100.00 for each repeat offense.

*Source: Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 2-89, eff. 4-24-89.*

**Section 5-803. Violation of Article VI**

**a.** Violation of any provision of Article VI is a municipal infraction punishable by a fine of \$400.00. Each day that the violation continues may be considered a separate and further violation subject to such fine.

**b.** In addition to any other fine, penalty or remedy, the Town may seek, in a court of competent jurisdiction, to enjoin any violation of this Article and may recover from any violator the costs of such action, including attorney's fees.

**c.** In addition to any other fine, penalty or remedy, the Town may abate any condition in violation of this Article at the violator's expense, including legal fees, and the costs of constructing mechanisms for managing water discharge in Town parks.

d. For failure to comply with the terms of a validly-issued permit, or the conditions upon which it is based, and for other good cause, after notice and hearing, the Town Council may revoke a permit issued under this Article.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 5-88, eff. 3-21-88.*

**Section 5-804. Violation of Article VII**

Violation of any provision of Article VII shall constitute a Class A misdemeanor.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**ARTICLE IX.  
Parks and Natural Resources Committee**

**Section 5-901. Parks and Natural Resources Committee**

a. The Mayor shall appoint, with approval of the Council, nine (9) residents to serve for a three (3) year term as members of the Parks and Natural Resources Committee. The Mayor shall appoint, with the approval of the Council, a member of the Committee to serve as Chair and a member of the Committee to serve as Vice-Chair. In selecting members of the Committee, the Mayor will make every effort to represent the Town with wide geographic diversity.

b. Initially, three (3) members will serve a one (1) year term, three (3) members will serve two (2) year terms and three members will serve a three (3) year terms. Afterwards, members will serve three (3) year terms and may serve two (2) consecutive terms. The initial term of any member which is less than three (3) years shall not be counted toward the two (2) consecutive term limit.

c. One Councilmember will be selected by the Council as the liaison to the Committee. One additional Councilmember will be selected by the Council as an alternate liaison to the Committee. The designated Councilmembers will not be counted as two (2) of the nine (9) members of the Committee.

d. The Parks and Natural Resources Committee shall make recommendations to the Council and Mayor in areas as assigned by the Mayor or the Council. These areas shall include initially:

1. Educating the Council and Mayor concerning the continued reforestation of Vinton Park.

2. Preparation of a plan to maintain and care for newly planted Town trees.

3. Continuing study of the Town's monoculture plan.

4. Continuing study of the landscaping plan surrounding the Town entrance, pool house, Town Hall, Town tennis courts, and other Town structures.

e. The Chair of the Parks and Natural Resources Committee shall submit to the Council, on a timely basis, any information or Committee recommendations relating to the formulation of the Annual Town Budget.

*Source: Ord. 4-11; eff. 3-22-11;  
Res. No. 4-98, eff. 4-7-98;  
Res. No. 6-97, eff. 8-5-97.*

## **Article X. Batting Cage Committee**

### **Section 5-1001. Size**

The committee shall consist of five Town residents.

### **Section 5-1002. Terms**

Terms of committee members shall be two years except that two of the original members shall serve only one year so that terms will be staggered.

### **Section 5-1003. Appointments**

The Mayor shall appoint committee members, who must be confirmed by the Town Council. The Mayor shall appoint a chairperson each year. That appointment shall also be confirmed by the Council.

### **Section 5-1004. Duties**

a. Supervise use of the batting cage to ensure that safeguards are in place and rules followed.

b. Submit a report to the Council by January 15 each year. The report should include proposed changes in rules, including fees and deposits, for use of the batting cage. Rules should ensure a balance between enjoyment of the facility by users and the interest of the community in preventing excessive noise and maintaining the beauty of parkland.

c. Submit an itemized budget request to the Mayor by January 31 each year for batting cage maintenance, improvements and special events for the following fiscal year.

*Source: Ord. No. 2-03; eff. 3-12-03.*

## **CHAPTER 6**

### **BUILDING CODE**

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**CHAPTER 6**  
**BUILDING CODE**

**Article I. Purpose and Definitions**

**Section 6-101. Purpose**

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

*Source:* Ord. No. 1-88, eff. 6-29-88.

**Section 6-102. Definitions**

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

**a.** “Adjoining and confronting property” is land in Somerset which touches the boundary line of other property at least at one point, which may be a corner, or which would do so except for an intervening road, street, or right of way.

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

c. “Person” includes persons, firms, partnerships, corporations, estates, trusts, associations, and government institutions or agencies.

*Source:* Ord. No.2-97, eff. 12-10-97;  
Ord. No.1-95, eff. 7-27-95;  
Ord. No.8-92, eff. 8-24-92;  
Ord. No.1-88, eff. 6-29-88.

## **Article II. Montgomery County Building Code**

### **Section 6-201. Adoption of Montgomery County Executive Regulations**

In addition to the adoption of Chapter 8 of the Montgomery County Code pursuant to Town Code section 10-101, all executive regulations or amendments to regulations hereafter adopted by the County Executive for Montgomery County Code shall be effective within the Town of Somerset unless the Town Council by ordinance elects not to adopt any such regulation or amendment to regulations.

*Source:* Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 1-88, eff. 6-29-88.

### **Section 6-202. Enforcement of Montgomery County Chapter on Buildings**

Montgomery County, Maryland, is hereby requested to enforce within the corporate limits of the Town of Somerset the provisions of Chapter 8 of the Montgomery County Code, adopted by this Chapter and Somerset Town Code section 10-101.

*Source:* Ord. No. 1-88, eff. 6-29-88.

**Section 6-203. Applicability of Town Building Code**

a. In addition to the provisions of Chapter 8 of the Montgomery County Code adopted by this Chapter and section 10-101, the Town of Somerset shall be governed by this Chapter, which contains supplemental procedures and provisions.

b. The Town of Somerset shall administer any and all provisions in this Chapter that contain provisions additional to those required under Chapter 8 of the Montgomery County Code adopted by this Chapter and section 10-101 and may request the assistance of Montgomery County and the State's Attorney in enforcement.

*Source:* Ord. No. 188, eff. 6-29-88.

**Article III. Town Building Permits**

**Section 6-301. Town of Somerset Building Permit -- When Required**

No building, air conditioner, heat pump or generator located within the Town of Somerset shall be commenced, installed, constructed, extended, repaired, removed or altered, nor shall excavation for a building be commenced, without obtaining a building permit from the Town of Somerset, except that no such permit is required for ordinary repairs as defined in Montgomery County Code (1984), Chapter 8, Section 8-3, which definition is incorporated herein by reference; and except repairs or changes that do not alter the exterior dimensions of the building.

*Source:* Ord. No. 11-07, eff. 10-11-07;  
Ord. No. 18, eff. 6-29-88.

**Section 6-302. Inapplicability of Section 8-24B(e) of Montgomery County Code**

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

*Source:* Ord. No. 1-88, eff. 6-29-88.

**Section 6-303. Town of Somerset Building Permit -- Application Form**

**a. Duty of Mayor to Prepare Application Form.** The Mayor shall prepare a building permit application form. The form shall state conspicuously that a permit can be granted solely by the Town Council after a public hearing at which the applicant and any other interested persons may be heard.

**b. Completed Application Required.** No building permit shall be issued in the absence of a completed application for a Town building permit.

**c. County Permit Required.** No building permit shall be issued in the absence of a valid building permit issued by Montgomery County for the identical work which is the subject of the Town permit.

**d. Signing of Application.** The building permit application shall be signed by the owner, and/or his authorized agent, of the site upon which the proposed work is to take place. If the application is made by a person other than the owner of the site, it

shall be accompanied by written statement of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

e. Required Information. The building permit application shall be submitted to the Clerk-Treasurer and shall contain the following minimum information, in addition to other information requested:

1. the street address, legal description (lot number) and the date of subdivision plat recordation of the lot upon which the pro-posed work is to be performed;

2. the full name and address or addresses of each owner;

3. a brief description of the work to be performed for which a building permit is requested;

4. the names and addresses of all owners of adjoining and confronting property as shown in the records of the Town maintained by the Clerk-Treasurer at the time of submission of the application, or of the occupants of said property if the owners are not the occupants;

5. the cost of the proposed work, as set forth on the Montgomery County building permit for this project;

6. the date which the applicant anticipates the proposed work will commence and will be completed;

7. a description and the location of any easements located on the lot upon which the proposed work is to be performed;

**8.** name and phone number of contractor and MD Home Improvement Commission license number, or, for new homes, Montgomery County Office of Consumer Protection license number, unless the home owner is serving as the general contractor;

**9.** the location and size of all facilities which conduct or discharge stormwater, including downspouts and pipes, to be located, constructed or altered pursuant to the project for which the building permit is sought, and a description, in written or diagram form, indicating the direction and approximate course on the applicant's lot of the stormwater from such facility and for a new building on a recorded lot smaller than 15,000 sq. ft., or for any addition to a residential building that would increase the building lot coverage by more than 400 sq. ft., a plan providing for the safe conveyance or control of increased water runoff as required by Section 8-29(b) of the Montgomery County Code (2009);

**10.** the location of the silt fences and super silt fences;

**11.** for new houses and extensions in front, the front yard setback and side yard setback of corner houses measured according to Division 59-B-3.1 and 2 of the Montgomery County Zoning Ordinance for all houses on the same side of the street in the same block on lots any part of which is within three hundred feet (300') of subject lot or four (4) consecutive adjacent lots, whichever distance is greater;

**12.** for new houses and additions of a second or third story, the height of the house according to the Montgomery County Zoning Ordinance;

**13.** for new houses and accessory buildings and additions to houses and/or accessory buildings that cover more of the lot, the percent coverage of the lot according to the Montgomery County Zoning Ordinance;

**14.** for additions or alterations to existing houses and new or altered accessory buildings, a photograph of the front of the house;

**15.** for a demolition, a copy of the affidavit of a compy licensed by the State of Maryland filed as part of the application to Montgomery County for a demolition permit stating that the property has been inspected and is free of any rodents or other pests;

**16.** a tree plan showing:

**i.** the location of all living trees on the lot on the abutting Town right-of-way and on adjoining and confronting property if the tree drip line overhangs subject property, provided the trees are four inches (4") or more in diameter measured four and one half feet (4 1/2') from the ground;

**ii.** the species, trunk diameter four and one half feet (4 1/2') from the ground and drip line of each of the above trees; and

**iii.** location of temporary fences that will be installed to protect the trees;

**17.** such further information which the Mayor or Town Council deems necessary for review of the building permit application.

**f.** When Filed. In order to permit sufficient time for the Town Council to consider the application, and to provide notice in the *Town Journal*, the complete

permit application shall be filed by the 15<sup>th</sup> of the month prior to the month during which the permit is to be considered, except if a late or expedited procedure is requested as set forth in Section 6-306 below.

*Source:* Ord. No. 7-2012, eff. 9-15-12;  
Ord. No. 5-09; eff. 11-3-09; Ord. No. 1-09; eff. 2-11-09;  
Ord. No. 2-08, eff. 6-11-08; Ord. No. 12-07, eff. 11-7-07;  
Ord. No. 10-04, eff. 1-12-05; Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 3-01, eff. 6-13-01; Ord. No. 2-01, eff. 3-14-01;  
Ord. No. 4-00, eff. 9-13-00; Ord. No. 1-95, eff. 7-27-95;  
Ord. No. 4-92, eff. 5-25-92; Ord. No. 1-88, eff. 6-29-88.

**Section 6-304. Town of Somerset Building Permit Documents to Accompany Application**

An applicant for a Town of Somerset building permit shall submit the following materials with the permit application in addition to any other materials that may be requested by the Mayor:

**a.** A copy of the Montgomery County building permit granted by Montgomery County for the identical work for which the applicant seeks a permit from the Town of Somerset.

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

1. New and replacement locations for air conditioners, heat pumps and generators;
2. Removal of trees with a diameter of four inches (4") or more, as measured four and one half feet (4 1/2') above the ground (see requirements in Section 8-204);
3. New curb cuts (see requirements in Section 3-102.b);
4. New fences and walls (see requirements in Section 6-710);
5. Estimated location of exterior side, front and rear perimeters of existing buildings on directly adjoining properties.

c. A parking plan, whenever it is likely that more than three vehicles of persons involved in construction sought to be authorized by a Town building permit (other than the owner of the property which is the subject of the permit) will be parked within the Town at any one time. Such plan shall identify the location of the parking areas to be used by such vehicles. Compliance with a parking plan approved by the Town Council shall be a condition of the issuance of the building permit and a violation of the parking plan shall be grounds for revocation of such permit. The parking plan shall provide that:

1. To the maximum extent feasible, parking shall be located on the property which is the subject of the Town building permit;
2. To the maximum extent feasible, if additional parking is needed, parking shall be located on more than one street in the immediate area of the property which is the subject of the Town building permit; and

**3.** To the extent feasible, parking more than three vehicles in the same area of a Town street shall not be permitted.

**d.** A plan showing location and screening of portable toilet or statement that there will be none.

**e.** A building permit fee, as set forth in Section 6-310 below.

**f.** A deposit or bond for repairs, as set forth in Section 6-311 below.

**g.** A certification by the applicant that, before submitting the application to the Clerk-Treasurer, he provided to each owner of adjoining and confronting property whose property is located within the Town of Somerset, and to the occupants of said property if the owners are not the occupants:

**1.** a reasonable opportunity to inspect the construction specifications, plans, surveys and all other documents to be filed with the application explaining the nature of the work to be performed;

**2.** a copy of the standard notice to be provided by the Town on request of the applicant as to the Town's process for considering the application and resident comments concerning it, together with the anticipated date of hearing on the application before the Town Council.

**h.** The certification required by subsection g shall include an explanation of the steps taken to comply with the requirements of this section and shall identify those persons who have been contacted. Unless there are unusual circumstances, initials of those persons who have been contacted are required on the building permit form.

i. If an expedited procedure is requested, a written request for expedition, and reasons therefore, and the applicable fee.

j. If a late filing procedure is requested, the applicable fee.

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

*Source:* Ord. No. 3-10, eff. 7-13-10; Ord. No. 1-09; eff. 2-11-09;  
Ord. No. 4-08; eff. 11-12-08; Ord. No. 12-06, eff. 12-13-06;  
Ord. No. 7-06, eff. 8-11-06; Ord. No. 9-04, eff. 12-8-04;  
Ord. No. 7-04, eff. 11-10-04; Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 4-03, eff. 5-14-03; Res. No. 2-98, eff. 3-3-98;  
Ord. No. 6-93, eff. 8-23-93; Ord. No. 5-91, eff. 6-24-91;  
Ord. No. 1-88, eff. 6-29-88.

**Section 6-305. Town of Somerset Building Permit Conditions**

a. Time for Completing Work. Any permit issued under this Chapter shall become invalid if the authorized work is not commenced within six (6) months from the date of approval or is suspended or abandoned for a period of six (6) months; provided, however, that the Town Council, for good cause shown, may extend a permit for an additional six (6) months upon payment by applicant of 50 percent of original building permit fee. This additional fee may be waived by the Council for good cause shown.

b. Duration of Permit. A building permit shall be valid for the date requested but not more than a one (1) year period. The Town Council, upon written request, for good cause shown, may grant a permit for a longer time, or may grant an extension of time for an existing permit of six (6) months upon payment by applicant of 50 percent of original building permit fee.

c. Signature on Permit. The Mayor shall sign each permit issued.

d. Location of Permit and Plans. The permit or a true copy of it and a copy of all plans and other documents submitted with the permit shall be kept on the site of the property and shall be available for inspection by officials of the Town, in the course of their duties, during the entire time that the work is in progress and until its completion.

e. Compliance with Permit. All work shall conform to the approved application and plans for which the permit has been issued.

f. Stop Work Order. Whenever the Mayor may determine that actions are being taken in violation of the provisions of this Chapter, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop work order shall be issued in writing by the Mayor and served upon the owner of the property or the owner's agent or the person doing the work. It shall be unlawful for any person to continue or permit the continuation of work in or about the property after having been served with the stop work order. The permit holder may appeal such order to the Town Council which, upon request, shall hold a hearing within fourteen (14) days, pursuant to the procedures set forth in Section 6-308 below.

g. Revocation of Building Permit.

1. The Mayor may revoke a permit issued under this Chapter in case of any false statements or misrepresentations of fact in the application or on the plans

on which the permit was based or in case of violation of any of the conditions upon which the permit was issued.

2. The Mayor may revoke a permit issued under this chapter where work relating to the permit has resulted in, or is likely to result in, a violation of Chapter 8, Protection of Trees.

3. The Mayor may revoke a permit issued under this Chapter upon the revocation of a permit issued by Montgomery County for the identical work which is the subject of the Town permit.

4. The permit holder may appeal any such revocation to the Town Council which, upon request, shall hold a hearing within fourteen (14) days, pursuant to the procedures set forth in Section 6-308 below.

*Source: Ord. No. 5-05, eff. 6-8-05; Ord. No. 10-02, eff. 11-13-02;  
Ord. No. 8-91, eff. 7-15-91; Ord. No. 1-88, eff. 6-29-88.*

**Section 6-306. Action on Building Permit**

a. Standard Procedure. The Mayor shall submit to the Town Council for its consideration at its next regularly-scheduled session any building permit application which has been filed with the Clerk-Treasurer by the 15<sup>th</sup> of the month prior to such session. The Town Council, in its discretion, may defer or continue consideration of the application until the next regularly-scheduled session or until a special session.

b. Late Procedure. A building permit application filed with the Clerk-Treasurer after the 15<sup>th</sup> of the month prior to the next regularly-scheduled Town Council session, but no later than the 22<sup>nd</sup> of the month may be submitted to the Town

Council by the Mayor and considered by the Town Council, in its discretion, at the next regularly-scheduled session. The Town Council, in its discretion, may defer or continue consideration of the application until the next regularly-scheduled session or until a special session. A late fee of Two Hundred Dollars (\$200.00) shall be charged in addition to all other permit fees for consideration by the Town Council under this procedure.

**c. Expedited Procedure.**

**1.** An applicant may request in writing that a building application be considered by the Town Council on an expedited basis at a special session of the Town Council. The Town Council, in its discretion, may hold a special session to consider such application. The Town Council, in its discretion, may continue consideration of the application until the next regularly-scheduled session or until a special session.

**2.** An expedited consideration fee of Four Hundred Dollars (\$400.00) shall be charged in addition to all other permit fees for consideration by the Town Council under this procedure.

**3.** No special session of the Town Council to consider a permit application shall be held on less than seven (7) days notice nor more than thirty (30) days after submission of the request for the expedited procedure.

**4.** Notice of a special session of the Town Council to consider a permit application shall be given by posting such notice on the Town Hall bulletin board, by broadcasting on the Town e-mail network and by the applicant notifying

property owners and residents as set forth in the certification of the applicant as required under Section 6-304(f).

**d.** Determination Whether to Hold Late or Expedited Procedures. The Town Council has discretion to determine whether to consider a building permit application under the late or expedited procedures that are set forth in this section. In exercising its discretion, the Town Council shall consider such factors as: reasons for late filing; need for expedition; nature, extent, and complexity of the work proposed to be performed; effect upon adjoining and confronting properties; extent of prior notice to interested persons; actual or likely opposition; and hardship to the applicant.

**e.** Air Conditioning and Heat Pump Emergency Procedure. In addition to the procedures set forth in this Section on processing an application for a building permit, the following procedures may be utilized regarding a building permit for an air conditioner or heat pump.

**1.** In the discretion of the Mayor, the Mayor may issue a temporary building permit upon a finding that the following conditions are met.

**i.** An existing air conditioner has failed to operate during hot weather, or an existing heat pump has failed to operate during cold weather.

**ii.** The failed air conditioner or heat pump requires immediate replacement to prevent harm to the health and safety of persons serviced by such equipment.

**iii.** The Town of Somerset building permit application form (a) – (e-8) is completed and the Fifty Dollar (\$50.00) fee paid.

**iv.** The mayor is satisfied that the applicant has successfully notified all adjoining and confronting property owners and residents to such property, or has made reasonable efforts to do so, of the application and the opportunity to make their views known to the Mayor.

**v.** The air conditioner or heat pump is installed at the same location as the existing air conditioner or heat pump.

**vi.** Information is submitted with the application as to the noise that may be emitted by the replacement sufficient to permit the Mayor to reasonably conclude that noise level will comply with the requirements of the Town Code.

**vii.** The applicant shall acknowledge in writing that the applicant is proceeding at his own risk since the Mayor may issue only a temporary permit; that only the Town Council may issue a permanent permit after a public hearing; that the Town Council may determine not to issue a permanent permit or may issue it with new conditions.

**viii.** The Mayor may issue the temporary permit with conditions the Mayor determines are necessary to protect the health, safety and welfare of neighbors.

**ix.** In the exercise of the Mayor's discretion, the Mayor shall give weight to the comments of the neighboring property owners and residents, whether there have been prior noise complaints regarding the operation of an air conditioner or a heat pump on the applicant's property.

**x.** The temporary permit shall be valid until the next regularly scheduled meeting of the Town Council, unless the time is extended by the Town Council.

**2.** At the next regularly scheduled Town Council meeting after the issuance of a temporary permit, pursuant to the above procedure, the Council shall

hold a public hearing on whether to grant a permanent permit, unless the Town Council votes to defer such hearing,

**i.** The Town Council may grant a permanent permit with conditions; or may deny a permanent permit.

**ii.** Any permit issued by the Town Council shall be conditioned to require the air conditioner or heat pump be subject to noise testing to assure compliance with the noise level standards of the Town Code that are required for permits obtained by non-emergency procedures.

*Source: Ord. No. 3-2012; eff. 4-26-12; Ord. No. 6-03, eff. 8-13-03; Ord. No. 8-91, eff. 7-15-91; Ord. No. 1-88, eff. 6-29-88.*

**Section 6-307. Criteria for Permit Decisions.**

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

**a.** Whether the application is complete and conforms to the requirements of this Chapter.

**b.** Whether the proposed work complies with the provisions of Chapter 8 of the Montgomery County Code, incorporated into this Chapter.

**c.** Whether the proposed work complies with all applicable subdivision and zoning requirements.

**d.** Whether the proposed work complies with all other applicable Town ordinances, including Chapter 8, Protection of Trees, county, state and federal laws.

e. Whether the proposed work unduly and adversely affects the health and safety of adjoining or confronting property owners and residents, or the enjoyment of their property.

f. Whether the proposed work otherwise unduly and adversely affects the health, safety and general welfare of the Town, its property, and its residents.

*Source: Ord. No. 6-05, eff. 6-08-05;  
Ord. No. 1-88, eff. 6-29-88.*

**Section 6-308. Decisions on Building Permit Applications.**

a. Hearing. The Town Council shall conduct fact-finding hearings on building permit applications. The applicant and all interested parties shall be given the opportunity to present evidence and testimony, so long as it is relevant and not repetitive. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply.

b. Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on the application, shall be rendered within forty (40) days of the date of the hearing. The decision shall be in writing and shall state the Town Council's findings of fact and conclusions of law. The decision of the Town Council shall become final unless an appeal is taken as set forth below within thirty (30) days. The decision of the Town Council shall approve the building permit application, disapprove it, or approve it with modifications. Unless stated to the contrary, approval of a building permit includes permission to remove trees for which removal authority is requested in the building permit application.

c. Judicial Review. Any person aggrieved by a decision of the Town Council with regard to an application for a building permit filed under the provisions of this Chapter and who appeared before the Town Council in person, by an attorney, or in writing, shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

*Source: Ord. No. 2-05, eff. 5-18-05; Ord. No. 7-96, eff. 12-13-96;  
Ord. No. 8-93, eff. 10-25-93; Ord. No. 1-88, eff. 6-29-88.*

**Section 6-309. Modification of Approved Plans.**

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

*Source: Ord. No. 1-88, eff. 6-29-88.*

**Section 6-310. Building Permit Fees.**

Any applicant for a Town of Somerset building permit shall pay the following fees for the processing of such permit, or one-half of the building permit fee charged by Montgomery County for the same demolition and construction, whichever is greater:

New Construction	\$1,500.00
Addition with total square footage of:	
Less than 200 square feet	\$150.00
200 to 400 square feet	\$250.00
Greater than 400 square feet	\$500.00
Porch, Stoop, or Deck	\$75.00
Shed with a footprint of:	
Less than 200 square feet	\$75.00
200 square feet or more	\$150.00
Detached Garage	\$200.00
Air Conditioner, Generator, or Heat Pump	\$50.00
Demolition of a building with footprint of:	
Less than 500 square feet	\$100.00
500 square feet or more	\$200.00

*Source: Ord. No. 3-10, eff. 7-13-10; Ord. No. 5-03, eff. 6-11-03;  
Res. No. 1-99, eff. 4-6-99; Ord. No. 1-88, eff. 6-29-88.*

**Section 6-311. Deposit for Repairs**

**a.** Each applicant shall submit with the application for a Town of Somerset building and demolition permit a deposit in the form of a check or a bond in a form satisfactory to the Mayor in the amount of half of the Town building permit and demolition fees for the same project or Two Thousand Dollars (\$2,000.00), whichever is greater.

**b.** The deposit, or so much of it as may be necessary, shall be used or applied to restore or repair any damage to the Town rights-of-way, sidewalks, curbs, streets or parklands. The deposit, or so much of it as may remain after the restoration of Town rights-of-way, sidewalks, curbs, streets or parklands to as close to their

original condition as possible, shall be returned to the owner of the property by the Mayor.

c. The Town, in its discretion, shall determine how the deposit funds shall be spent if there has been damage or injury to Town rights-of-way, sidewalks, curbs, streets or parklands.

d. Any interest earned on the deposit shall be retained by the Town of Somerset to be applied toward the costs associated with administering this Chapter. The deposit shall not be returned until the work for which the permit had been issued is completed. Such completion shall be determined by the Mayor after notification by the applicant.

*Source: Ord. No. 5-07, eff. 6-13-07; Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 5-95, eff. 12-25-95; Ord. No. 1-88, eff. 6-29-88.*

**Section 6-312. Increased Setbacks for Certain New Construction**

a. Applicability. Section 6-312 shall apply to all “New Building Construction” as defined below, for which a Town building permit is required under the Town Building Code and for which a Town building permit has not been approved as of the effective date of this section. Section 6-312 shall apply only to such New Building Construction on land zoned for single-family residential use. Section 6-312 shall not apply to buildings owned by the Town of Somerset.

b. Definitions. “New Building Construction” for the purposes of this section only:

1. the construction or erection of a new building; or

2. the repair, alteration, replacement or remodeling of an existing building which would change its exterior dimensions, to the extent of such change.

c. Setback Requirements. New Building Construction shall be set back from property lot lines at least as follows:

1. Primary building, non-corner lot:

<i>Side</i>	Eight feet (8') one side; Eighteen feet (18') sum for both sides
<i>Rear</i>	Twenty feet (20')
<i>Front</i>	A front yard setback must be at least twenty-five feet (25') as measured according to §59-B-3.1 and §59-B-3.2 of the Montgomery County Code, and must also be consistent with the setbacks of nearby houses. For the purposes of this paragraph, "nearby houses" are those houses that are:(i) on the same side of the street as the subject property; (ii) not separated from the subject property by an intersecting street; and (iii) on a lot any part of which is within three-hundred feet (300') or four (4) consecutive adjacent lots of each side lot line of the subject property, whichever distance is greater. The setback for the new building construction shall be the average of the setbacks on the nearby houses, or twenty-five feet (25'), whichever distance is greater. For the purposes of this paragraph, if any of the nearby houses is on a corner lot and fronts on a different street, the setback of the side yard closest to the subject property shall be the setback used to determine the average. If the setback determined according to this paragraph is less than the setback that would result by applying the Montgomery County Code, the setback according to the County Code shall apply

2. Primary building, corner lot:

<i>Side</i>	The setback from the adjoining non-address right-of-way for the new building construction must be at least twenty-five feet (25') as measured according to §59-B-3.1 and §50-B-3.2 of the Montgomery County Code, and must also be consistent with front setbacks of the nearby houses on the adjoining non-address right-of-way. For the purposes of this paragraph, "nearby houses" are those houses that are: (i) on the same side of the street as the subject property; (ii) not separated from the subject property by an intersecting street; and (iii) on a lot any part of which is within three-hundred feet (300') of the subject lot, or four (4) consecutive adjacent lots of the rear lot line of the subject property, whichever distance is greater.
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	The setback from the adjoining non-address right-of-way for the new building construction shall be the average of the front setbacks for the nearby houses, or twenty-five feet (25'), whichever distance is greater. For the purpose of this paragraph, if any of the nearby houses is on a corner lot and fronts on a different street, the setback of the side yard closest to the subject property shall be the setback used to determine the average. If the setback determined according to this paragraph is less than the setback that would result by applying the Montgomery County Code, the setback according to the County Code shall apply
Other	Eight feet (8')
Rear	Twenty feet (20')
Front	A front yard must be at least twenty-five feet (25') as measured according to §59-B-3.1 and §59-B-3.2 of the Montgomery County Code, and must also be consistent with the setbacks of nearby houses. For the purposes of this paragraph, "nearby houses" are those houses that are: (i) on the same side of the street as the subject property; (ii) not separated from the subject property by an intersecting street; and (iii) on a lot any part of which is within three hundred feet (300'), or four (4) consecutive adjacent lots of the side lot line of the subject property, whichever distance is greater. The setback for the new building construction shall be the average of the setbacks in the nearby houses, or twenty-five feet (25'), whichever distances is greater. For the purposes of this paragraph, if any of the nearby houses is on a corner lot and fronts on a corner lot and fronts on a different street, the setback of the side yard closest to the subject property shall be the setback used to determine the average. If the setback determined according to this paragraph is less than the setback that would result by applying the Montgomery County Code, the setback according to the County Code shall apply

3. Accessory buildings:

i. Accessory buildings shall be located only in the rear yard of an interior lot, must not occupy more than twenty-five percent (25%) of the rear yard, must be a minimum of sixty feet (60') from the front lot line and set back a minimum from side and rear yard property lines, as follows:

	<u>Minimum Setback</u>
<u>Building Height</u>	

Ten Feet (10') or less	Five Feet (5')
Over Ten Feet(10') but less than Fifteen Feet(15')	Five Feet (5') plus one foot (1') for each foot or fraction of a foot in excess of Ten Feet (10')
Fifteen Feet (15') or over	Ten Feet (10') plus two feet (2') for each foot or fraction of a foot in excess of Fifteen Feet (15')
<b><u>Linear Dimension</u></b>	
Twenty-Four Feet (24') or less	Five Feet (5')
Over Twenty-Four Feet (24')	Five Feet (5') plus One Foot (1') for every foot or fraction of a foot in excess of twenty- four feet (24')

If an accessory building has both a height greater than ten feet (10'), and a linear dimension greater than twenty-four feet (24'), the building must be set back the minimum setback distance of five feet (5'), plus the distance as determined according to the provisions of this paragraph above for building height, plus the distance as determined according to the provisions of this paragraph above for linear dimension. Example: the setback for a building with a height of fifteen feet (15') and a linear dimension of thirty feet (30') would be sixteen feet (16') (five feet (5') minimum setback plus five (5') additional feet for the height in excess of ten feet (10'), plus six (6') additional feet for the linear dimension in excess of twenty-four feet (24').

Setbacks for accessory buildings on corner lots must be in accordance with the Montgomery County Zoning Ordinance, Division 59-C-1.326(B), adjusted for height and linear dimensions as established above in this paragraph.

**ii.** Accessory building height is the vertical distance measured to the highest point of the roof surface regardless of roof type, from the lowest of the following points:

**(a)** The average elevation of the pre-development grade along the front of the structure;

**(b)** The average elevation of the finished grade along the front of the structure;

**(c)** The average elevation of the pre-development grade along the rear of the structure;

**(d)** The average elevation of the finished grade along the rear of the structure.

**iii.** Pre-development grade is the grade that existed at the time of the application for a building permit.

**iv.** The provisions of paragraph 6-312.c.3 shall apply to all property within the Town, except the following properties which shall be subject to the provisions of the Montgomery County Code regarding setbacks for accessory buildings: any lot with less than sixty (60') feet of frontage; any lot that has a rear lot line adjoining a lot that fronts on Drummond Avenue; any lot with a side or rear lot line adjoining land that is not owned by the Town that is dedicated for use as parkland.

**d.** Other Requirements.

1. Effective date. All new building construction shall comply with this section regardless of the date on which the lot, on which new building construction is proposed, was recorded or the date of construction of an existing building or structure.

2. Town grandfathering created. Any building existing on the effective date of this section and which lawfully met the setback requirements in effect immediately prior to the effective date of this section, but which does not meet the setback requirements of this section, shall continue to be a lawful use and shall not be deemed a non-conforming use. Such a building may be extended to the rear provided that the extension is no closer to the side property line than the existing building excluding projections (such as stoops, decks and chimneys) and the extension otherwise complies with this section. However, except as provided in the previous sentence, new building construction, as defined in this section, relating to such existing building, must comply with this section.

3. County grandfathering abrogated. Notwithstanding any provision to the contrary in the Montgomery County Zoning Code, the setback requirements set forth herein shall apply.

4. Height limitations. Height limits shall not be affected by these provisions.

5. Compliance or waiver required. No Town building permit shall be granted for such new building construction unless it complies with these provisions or waiver has been granted by the Town Council, as provided below.

e. Waiver. The Town Council may grant a waiver of the requirements of this section, subject to the following limitations:

1. The Town Council finds after a duly noticed public hearing, based on the evidence before it, that good cause has been shown on either of the following grounds:

A. The proposed new building construction would not unduly interfere with light and air between residences or other structures, would not be unduly incompatible with the scale, massing, and character of the Town or of nearby residences or other structures, and would otherwise not unduly adversely affect the use, enjoyment or value of nearby properties. In making such finding, the Council may consider such factors as:

i. size and location of proposed new building construction

ii. size and location of existing and potential buildings and other structures on nearby lots; and

iii. topography and existing or planned vegetation of the lot on which the proposed new building construction will be located and of nearby lots.

Should the Council be requested to consider planned vegetation, the applicant for the waiver shall submit a landscape plan with the waiver application, or

B. that the strict and literal application of this section would result in peculiar or unusual practical difficulties to the owner of the lot on which the proposed new building construction is to be located due to exceptional narrowness,

shallowness, shape, topographical conditions or other extraordinary situations or conditions peculiar to a specific parcel of property. The following do not constitute practical difficulty for the purposes of this section:

**i.** the existence of nearby structures or buildings which do not comply with this section;

**ii.** the granting of a waiver on other lots; or

**iii.** any condition resulting from the conduct of the applicant or applicant's predecessor(s) in title.

**2.** The waiver must be for the minimum reasonably necessary to avoid the above conditions or situations.

**3.** The Town Council may impose, in granting a waiver, such conditions as it deems in the public interest and necessary to effectuate the purposes of this section.

**f.** Procedure for Waiver.

**1.** The Mayor shall prepare a waiver application form for execution by the owner(s) of the site or authorized agent of the owner(s), which shall conspicuously state that a waiver may be granted by the Town Council only after a public hearing at which the applicant and any other interested persons may be heard, and shall state the nature of the information and documents that must accompany the application.

**2.** An applicant may, at the time application is made for a Town building permit, submit on the form prepared by the Mayor a written application for a

waiver of this section's requirements, together with documentary exhibits relating to the waiver and need therefore.

3. The procedure for hearing, decision and judicial review shall be as provided for building permits in Section 6-308.

4. A separate waiver application fee of Two Hundred Dollars (\$200.00) shall be paid at the time of filing of the application.

5. The procedure for late or expedited review of the waiver application shall be as provided in Section 6-306, including Town Council discretion as to whether such late or expedited review shall be held.

6. Late and expedited review fees shall apply to the waiver application; provided, however, that should a late or expedited review also be requested for the building permit, which is to be heard simultaneously with the waiver application, only one late or expedited review fee shall be required.

7. No waiver shall be granted unless the Town Council finds, based on the evidence before it, that the waiver requirements of this section are met.

*Source: Ord. No. 5-2014, eff. 12-13-14; Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 2-06, eff. 3-15-06; Ord. No. 8-01, eff. 10-11-01;  
Ord. No. 7-01, eff. 10-11-01; Res. No.14-98, eff. 11-3-98;  
Res. No. 3-98, eff. 3-3-98; Ord. No. 7-94, eff. 11-28-94.*

#### **Article IV. Requirements During Construction**

##### **Section 6-401. New Structures**

a. Notice of Somerset quiet hours must be posted on site next to County Building Permit.

**b.** Parking Plan, if approved by Town Council, must be posted on site next to County Building Permit.

**c.** Wall Check. A copy of an engineer's wall check must be delivered or faxed to the Clerk-Treasurer within 24 hours of receipt by the contractor.

**d.** Height Check. If the structure will be more than two stories high, the contractor must notify the Clerk-Treasurer after the frame and partitions have been erected, but before the installation of insulation and dry wall.

*Source: Ord. No. 4-04; eff. 6-9-04;  
Ord. No. 6-03; eff. 8-13-03;  
Ord. No. 1-88; eff. 6-29-88.*

**Section 6-402. Additions**

**a.** Notice of Somerset quiet hours must be posted on site next to County Building Permit.

**b.** Parking Plan, if approved by Town Council, must be posted on site next to County Building Permit.

**c.** Footers Check. The contractor must notify the Clerk-Treasurer within 24 hours of completion of excavation for footers so that setback from property lines can be checked.

**d.** Height Check. If the new construction will be more than two stories high, the contractor must notify the Clerk-Treasurer after the frame and partitions have been erected, but before installation of insulation and dry wall.

*Source: Ord. No. 4-04, eff. 6-9-04;  
Ord. No. 6-03, eff. 8-13-03.*

**Section 6-403. Noise Control**

All activity shall be conducted in compliance with the noise limitations set forth in this Code, Chapter 11, Article III, Noise Control. Violation of any noise limitations is punishable as set forth in that article.

*Source: Ord. No. 6-2012; eff. 6-20-12;  
Ord. No. 13-06, eff. 12-13-06;  
Ord. No. 1-04, eff. 6-9-04.*

**Section 6-404. Traffic Control**

- a. It is not permissible to block a street unless:
  - 1. notice is provided to the Town prior to the blocking, and
  - 2. the blocking is not for an unreasonable period of time, and
  - 3. the Town approves the blocking, and
  - 4. the individual or entity blocking the street positions persons at both ends of the blocked street to advise motorists the street is blocked and direct traffic around the area blocked.
  
- b. In the event a concrete or other large truck is unloading and leaving room for only a single lane of traffic, a person must be stationed at the obstruction to direct traffic around it.

*Source: Ord. No. 8-07, eff. 8-8-07.*

**Article V. Subdivisions**

**Section 6-501. Subdivision of Land**

No person shall subdivide any land in the Town without prior notification to the Mayor and Council. Such notification shall be given by filing with the Clerk-Treasurer a

description, including a plat, of the land to be subdivided and of each of the lots that comprise the subdivision. Such description shall be filed with the Clerk-Treasurer no later than the filing of a subdivision application for such property with the Maryland-National Capital Park and Planning Commission (“Commission”). All documents filed by the applicant with the Commission shall also be filed with the Clerk-Treasurer at the time of the filing with the Commission or prior thereto.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 1-88, eff. 6-29-88.*

## **Article VI. Penalties**

### **Section 6-601. Penalties**

Violation of this Chapter shall constitute a municipal infraction. Any person, including an owner of property, any authorized or unauthorized agent, any contractor for such owner, and any person performing work on or about the owner’s property, that violates this Chapter shall be subject to a fine of Five Hundred Dollars (\$500.00) for each violation. Each day that the violation continues may be considered a further and separate offense subject to such fine. In addition to the fine, a violator may be required to remove or restore, within fifteen (15) days of the date of notification of the violation, any structure, alteration, addition or excavation, erected or commenced, and constituting the basis of the violation, and if so required, upon expiration of such fifteen (15) days, each additional day during which that person shall not have so removed or restored the same, shall constitute a further and separate violation subject to such fine. Further, the Town may abate any such condition at the violator’s expense.

*Source: Ord. No. 6-03, eff. 8-13-03; Ord. No. 2-00, eff. 3-15-00;  
Ord. No. 2-89, eff. 4-24-89; Ord. No. 1-88, eff. 6-29-88.*

## **Article VII. Regulation and Permitting of Certain Fences and Walls**

### **Section 6-701. Purpose.**

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

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 1-91, eff. 4-29-91.*

### **Section 6-702. Definitions**

For the purposes of this Article the following terms have the following meanings:

- a. "Corner lot": a lot in which two or more adjoining sides abut a public street.
- b. "Decorative iron-type materials": materials consisting of wrought iron or a similar material, designed so as to be decorative rather than solely utilitarian.
- c. "Fence": a structure serving as an enclosure, barrier or boundary, including the gate or gate posts.
- d. "Front yard": any portion of a yard of a lot located between a house and the inside front curb line of a public street upon which the house fronts.

e. “Inside curb line”: the line formed by the junction of the horizontal and vertical edges of the portion of the public street curb closer to the individual lot and farther from the public street.

f. “Interior lot”: any lot having access to a public street, other than a corner lot.

g. “Public street”: a road, street, alley or avenue, maintained by the Town, county or state for vehicular use.

h. “Replacement fence or wall”: a fence or wall which replaces a pre-existing fence or wall.

i. “Retaining wall”: a wall constructed for the sole purpose of holding back ground or earth.

j. “Side/Back yard of corner lot”: the portion of the side yard of a corner lot between the side of the house facing away from public street (the back of the house) and the rear property line. For the purpose of this Article, a homeowner may designate either side, but not both sides, of the house facing away from a public street as the back of the house.

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

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

m. “Wall”: an architecturally-solid erection of stone, brick or other material, greater than twelve inches (12”) in height, and intended for the purposes of privacy, security or enclosure.

*Source: Ord. No. 8-06, eff. 8-11-06; Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 8-02, eff. 7-10-02; Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 3-91, eff. 5-7-91; Ord. No. 1-91, eff. 4-29-91.*

**Section 6-703. Town of Somerset Permit for Fence or Wall Construction**

a. When Required. A permit is required to be obtained from the Town for any new or replacement fence or wall to be placed or constructed in the Town of Somerset.

b. Exemptions.

1. This Article does not apply to a temporary fence or wall placed or constructed to protect the public from construction or other dangerous activity or condition.

2. The Town of Somerset is exempt from all provisions of this Article.

3. This article does not apply to any replacement fence or wall built as an original and integral architectural feature of a house, provided that the fence or

wall has been in place continuously from the time of the house's construction and that the replacement is of identical design, materials and finish.

*Source: Ord. No. 5-10, eff. 9-8-10; Ord. No. 6-07, eff. 6-5-07;  
Ord. No. 6-03, eff. 8-13-03; Ord. No. 1-91, eff. 4-29-91.*

**Section 6-704. Applicable Provisions of Montgomery County Code**

**a.** In addition to the provisions of this Article, provisions of the Montgomery County Code regulating fences and walls are applicable within the Town. Chapter 51 of the Montgomery County Code, Swimming Pools, is applicable as provided in Section 10-102.a.11 of the Town Code. Section 59-B-2.1, Walls or Fences, of the Montgomery County Code, is applicable as provided in section 10-101.h of the Town Code.

**b.** If there is any conflict between any provision of this Article and of Chapter 51 of the Montgomery County Code, the Montgomery County Code provision shall apply.

**c.** To the extent the provisions of this Article are more restrictive than those of section 59-B-2.1 of the Montgomery County Code, this Article shall apply. In such cases, the Town of Somerset shall administer any such more restrictive provisions.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-705. Materials Required for Construction of Certain Fences**

Any new or replacement fence to be placed or constructed within thirty-nine feet (39') of the inside front curb line in a front yard or within twenty-nine feet (29') of the inside side curb line in a corner lot shall consist primarily of wood or decorative iron-type materials.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-706. Requirements for Finished Side of Certain Fences and Walls and For Removal of Existing Fences**

a. Any new or replacement fence or wall located in a front or side yard of a corner lot or interior lot, or side/back yard of a corner lot, facing and visible from a public street shall have a finished side facing the street. Any fence or wall located in the same area but not facing the street shall have a finished side facing the property of the nearest neighbor unless the fence is not visible from that neighbor's property. Any fence or wall in a back yard shall have a finished side facing the property of the nearest neighbor unless the fence or wall is not visible from the neighbor's property.

b. Any existing fence on the applicant's property that is visible from a neighbor's property or from a street must be removed by the applicant as a condition of the grant of a permit for the erection of a new or replacement fence, provided the new or replacement fence is located in the same yard as the existing fence and approximately parallel to, and in proximity with, the existing fence. The Town Council may grant an exception from this provision for good cause.

*Source: Ord. No. 9-06, eff. 8-11-06; Ord. No. 8-05, eff. 12-13-05;  
Ord. No. 6-03, eff. 8-13-03; Ord. No. 3-02, eff. 4-10-02;*

*Ord. No. 5-94, eff. 8-21-94; Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-707. Requirements for Walls**

a. No new or replacement wall shall be permitted within thirty-nine feet (39') of the inside front curb line in a front yard or within twenty-nine feet (29') of the inside side curb line in a side yard. This section shall not apply to building walls or to retaining walls necessary to retain existing earth, only to the extent of the height of the earth to be retained.

b. A new or replacement wall to be placed or constructed in any location other than those locations described in section 6-607(a) shall be no more than six and one-half feet (6 1/2') in height. This section shall not apply to building walls or to retaining walls necessary to retain existing earth, only to the extent of the height of the earth to be retained.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-708. Requirements for Fences on Interior Lots**

a. On interior lots, any new or replacement fence to be placed or constructed within thirty-nine feet (39') of the inside front curb line shall be forty-two inches (42") or less in height measured from the ground immediately under the fence, and shall be at least fifty percent (50%) open when viewed from straight ahead, with solid parts being evenly distributed throughout and no solid part being greater than

four inches (4") in width, with the exception of brick fence posts, which may be up to twelve inches (12") in width.

b. On interior lots, any new or replacement fence to be placed or constructed in a location other than that described in section 6-608(a) shall be no more than six and one-half feet (6-1/2') in height measured from the ground immediately under the fence.

c. Notwithstanding the forgoing, no new or replacement fence shall be placed within three feet (3') of a Town sidewalk.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-709. Requirements for Fences on Corner Lots**

a. On corner lots, any new or replacement fence placed or constructed within thirty-nine feet (39') of the inside front curb line in a front yard or within twenty feet (20') of the inside side curb line in a side yard shall be forty-two inches (42") or less in height measured from the ground immediately under the fence and shall be at least fifty percent (50%) open when viewed from straight ahead, with solid parts being evenly distributed throughout and no solid part being greater than four inches (4") in width, with the exception of brick fence posts, which may be up to twelve inches (12") in width;

b. On corner lots, any new or replacement fence placed or constructed between twenty feet (20') and twenty-nine feet (29') of the inside side curb line in a side yard shall be five feet (5') or less in height measured from the ground immediately

under the fence and shall be at least fifty percent (50%) open, with solid parts being evenly distributed throughout and no solid part being greater than four inches (4") in width, with the exception of brick fence posts, which may be up to twelve inches (12") in width; or

c. On corner lots, any new or replacement fence placed or constructed in a location other than those described in Sections 6-609.a and b shall be no more than six and one-half feet (6 1/2') in height measured from the ground immediately under the fence.

d. Notwithstanding the foregoing, no new or replacement fence shall be placed within three feet (3') of a Town sidewalk.

*Source: Ord. No.6-03, eff. 8-13-03; Ord. No.8-91, eff. 7-15-91;  
Ord. No.3-91, eff. 5-7-91; Ord. No.1-91, eff. 4-29-91.*

**Section 6-710. Permit for Fence or Wall Placement or Construction - Application Form**

a. Duty of Mayor to Prepare Application Form. The Mayor shall prepare an application form for a permit to be issued pursuant to this Article.

b. Completed Application Required. A permit shall be issued only if a completed application has been provided.

c. Signing of Application. The permit application shall be signed by the owner of the site upon which the fence or wall is to be placed or constructed, or by his authorized agent.

**d. Required Information.** The permit application shall be submitted to the Clerk-Treasurer and shall contain the following information, in addition to other information that may be requested by the Mayor or Town Council:

**1.** The street address of the site upon which the fence or wall is to be placed or constructed or the legal description, if no address;

**2.** The full name and address of each owner of the property upon which the fence or wall is to be placed or constructed;

**3.** A plan or drawing showing the location of the fence or wall in relation to the entire property, and showing the location of adjacent streets and sidewalks;

**4.** A description of the fence or wall to be placed or constructed, including design, height, width of wall, width of solid parts of fence, and openness;

**5.** A specific description of the materials of which such fence or wall shall consist;

**6.** A copy of the Historic Preservation Commission work permit approving the identical fence or wall for which the applicant seeks a Fence or Wall Permit, if such permission is required.

**7.** Signature of occupant of each property in and outside of Somerset whose property is adjacent to the proposed fence or wall indicating that the neighbor has seen the plans for the proposed fence or wall.

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

f. Fee. A Seventy-Five Dollar (\$75.00) Fence or Wall Permit fee shall accompany the application.

g. Deposit. To cover possible damage to Town property, a deposit in the form of a check or bond in the amount of One Thousand Dollars (\$1,000.00) shall accompany an application for a permit for wall placement or construction. No deposit is required to accompany an application for a permit for fence placement or construction.

*Source: Ord. No. 5-11, eff. 9-9-11; Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 10-07, eff. 9-12-07; Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 9-02, eff. 7-10-02; Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-711. Mayor's Request for Additional Information**

The Mayor, in his discretion, may require such additional documents to accompany the permit application as: (a) A drawing of the fence or wall viewed from the public street; and (b) A photograph or sketch of a representative segment of the outside of a fence or wall identical to or as similar as possible in design and materials to the one to be placed or constructed.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-712. Mayor's Decision on Permits for Fence or Wall Placement or Construction**

The Mayor shall examine the application for the permit for placement or construction of a fence or wall under this Article and the accompanying documents. If the Mayor is satisfied that the proposed fence or wall complies with the criteria

for permits under this Article, he shall issue a permit for such fence or wall as soon as is practicable. If the application does not conform to the requirements of this Article, the Mayor shall disapprove such application in writing, stating the reasons for such disapproval. The Mayor shall act on a permit application within thirty (30) days after its submission.

*Source: Ord. No. 6-03, eff. 8-13-03; Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-713. Criteria for Mayor's Permit Decisions**

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

- a. Whether the application is complete and conforms to the requirements of this Article;
- b. Whether the Historic Preservation Commission has approved the proposal, if applicable; and
- c. Whether the proposed work complies with all other applicable Town Code provisions, county, state and federal laws.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 1-91, eff. 4-29-91.*

**Section 6-714. Exceptions Granted by the Town Council**

a. Upon the application of an owner or his authorized agent, the Town Council may grant an exception to the requirements of this Article under the following circumstances:

- 1. In any case of unnecessary hardship specific to that property; or

2. For front yard fences up to four feet (4') high and up to sixty-five percent (65%) closed and with solid parts up to six inches (6") in width, if they will otherwise meet the open streetscape purposes of this Article and will not be closer than three feet (3') from a Town sidewalk; or

3. For fences in the side/back yards of corner lots of up to five and one-half feet (5 1/2') high and up to sixty-five percent (65%) closed and with solid parts up to six inches (6") in width, if they will otherwise meet the open streetscape purposes of this Article, will be suitably obscured from the public street by plantings, and will not be closer than five feet (5') from a Town sidewalk. In determining whether the proposed fence will be suitably obscured from the public street, the Council shall consider the type, location, and density of proposed plantings; the degree to which the fence and plantings will be in harmony with neighboring properties; and a landscape plan, if the owner submits one; or

4. In the case of building materials other than those specified in Section 6-705, if the fence materials are in harmony with the neighboring properties and the fence will otherwise meet the open streetscape purposes of this Article.

**b.** In addition to the information and material specified in sections 6-710 and 6-711, the Council may request any further information necessary for it to reach a decision.

**c.** The Mayor shall prepare, upon the approval of the Council, the necessary forms to implement this Section.

*Source: Ord. No. 6-03, eff. 8-13-03;*

*Ord. No. 3-91, eff. 5-7-91;*  
*Ord. No. 1-91, eff. 4-29-91.*

**Section 6-715. Procedures for Decision on Permit for Fence or Wall Placement or Construction**

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

**a.** Section 6-305, regarding conditions for a permit, except that the reference to the Town Council in Sections 6-305.a and b shall refer to the Mayor;

**b.** Section 6-309, regarding modification of plans or specifications, except in the case of a Fence or Wall Permit, it shall mean modifications of the information contained in the application and accompanying documents as to design, location, height, width of wall, width of solid parts of fence, openness, and appearance of the fence or wall;

**c.** Section 8-208, which, as applied to this Article VI of Chapter 6, shall authorize appeals of the Mayor's decisions under this Article to the Town Council; and

**d.** Section 8-209, which as applied to this Article VI of Chapter 6, shall authorize judicial review of Town Council decisions to the Circuit Court for Montgomery County, Maryland; and

**e.** Section 6-308 shall apply to this Article VI of Chapter 6 to provide the procedure for and judicial review of Town Council decisions for exceptions provided for in Section 6-714 above. In addition, the Town Council shall conduct the required

fact-finding hearing within sixty (60) days following the filing of the exception application, after giving at least ten (10) days notice of such hearing to the applicant and to all owners or occupants of property which adjoins or confronts the property which is subject to the exception application.

*Source: Ord. No. 6-03, eff. 8-13-03; Ord. No. 7-92, eff. 7-28-92;  
Ord. No. 3-91, eff. 5-7-91; Ord. No. 1-91, eff. 4-29-91.*

**Section 6-716. Nonconforming Fences and Walls**

Nothing in this Article shall be construed to make unlawful nonconforming fences or walls placed or constructed prior to April 29, 1991 and not changed, replaced, modified or repaired so as to constitute a replacement fence or wall.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 3-91, eff. 5-7-91;  
Ord. No. 1-91, eff. 4-29-91.*

**Article VIII. Property Restriction Signs**

**Section 6-801. Property Restriction Signs**

**a. Defined.** Property Restriction Signs are those signs designed to give notice to deter public entry on private property, including “no trespassing”, “no soliciting”, “keep off the grass”, and “beware of dog” signs.

**b. Restrictions.** The posting of a Property Restriction Sign is subject to the following:

- 1.** A Property Restriction Sign shall not exceed 6 x 11 inches in size.
- 2.** The upper horizontal edge of a Property Restriction Sign shall not be higher than two and one-half feet (2-1/2’) from the ground.

3. A Property Restriction Sign must be set back at least twenty feet (20') from the front property line.

4. A maximum of one Property Restriction Sign may be placed in the front yard, one in the rear yard, and one in each side yard; however, if the yard is greater than one hundred fifty feet (150') in length, there may be one sign for each one hundred fifty feet (150').

5. A Property Restriction Sign cannot be attached or fastened in any way to any structure, house, including any window, or tree.

6. A Property Restriction Sign may not be illuminated.

*Source: Ord. No. 6-03, eff. 8-13-03; Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 1-91, eff. 4-29-91; Ord. No. 4-90, eff. 4-23-90.*

## **Article IX. Miscellaneous**

### **Section 6-901. Previous Approvals**

Nothing in this Chapter shall affect the validity of any building permit issued by the Town prior to the effective date of this Chapter; provided, however, that the construction under such permit shall have been commenced within six (6) months of the date of approval of such permit. If work has not been commenced during such six (6) month period, the Town Council, at its next regularly-scheduled meeting, upon a permit holder's request, shall determine whether to require or to waive compliance with this Chapter.

*Source: Ord. No. 6-03, eff. 8-13-03;  
Ord. No. 4-90, eff. 4-23-90;*

*Ord. No. 1-88, eff. 6-9-88.*

**Section 6-902. Town Exempt**

The provisions of this Chapter shall not apply to the Town of Somerset when it is performing construction on any building or property owned by the Town, except that the Town must follow the notification-of-neighbors requirements of Sections 6-304.e and f of this Chapter.

*Source: Ord. No. 6-03, eff. 8-13-03; Res. No.13-98, eff. 11-3-98;  
Ord. No. 1-91, eff. 4-29-91; Ord. No. 4-90, eff. 4-23-90;  
Ord. No. 1-88, eff. 6-29-88.*

**Section 6-903. Limitations on Dumpsters**

a. Definition. As used in this section, “Dumpster” is a large bin designed or used to store construction and/or demolition debris awaiting transportation to a disposal site, including, but not limited to, detached wheeled trailers.

b. Approval Required. No person shall place or maintain a dumpster within the Town without obtaining a permit from the Mayor.

c. Permit. The Mayor may grant a permit if the Mayor finds that the dumpster will not impede traffic, will not adversely affect the public health, safety or welfare, will not have significant adverse effects on neighboring property, and will be in the public interest.

d. Fee and Deposit. The fee for a dumpster permit is seventy-five dollars (\$75.00). To cover possible damage to Town property, a deposit in the form of a check or bond in the amount of One Thousand Dollars (\$1,000.00) is required for a dumpster permit.

e. Additional Terms. The Mayor may set such additional terms or restrictions as the Mayor deems necessary to protect the public health, safety or welfare.

f. Duration if Association with a Building Permit. A permit for placement of a dumpster that is for use in building demolition or construction activity allowed under a Town building permit shall be valid as long as the related Town building permit is valid. If the Council approves an extension of a building permit, the Mayor may also authorize an extension of the related dumpster permit, with such conditions as the Mayor may deem necessary. In addition to making the findings in Section 6-903(c), the Mayor may only grant an extension if the Mayor finds that the applicant has good cause for requesting an extension.

g. Duration if Not Associated with a Building Permit. A permit for placement of a dumpster that is not for use in building demolition or construction activity allowed under a Town building permit shall be valid for up to thirty (30) days. The Mayor may authorize an extension of such a dumpster permit for up to thirty (30) days, with such conditions as the Mayor may deem necessary. In addition to making the findings in Section 6-903.c, the Mayor may only grant an extension if the Mayor finds that the applicant has good cause for requesting an extension.

*Source: Ord. No. 5-10, eff. 9-8-10; Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 6-03, eff. 8-13-03; Ord. No. 8-91, eff. 7-15-91.*

**Section 6-904. Limitations On Portable Storage Units**

**a.**     Definition. As used in this section, “Portable Storage Unit” is a container, designed or used for the outdoor storage of personal property, which is movable and is typically rented to owners or occupants of a property for their temporary use

**b.**     Approval Required. No person shall place or maintain a portable storage unit in the Town without obtaining a permit from the Mayor.

**c.**     Permit. The Mayor may grant a permit for a portable storage unit on private property if

**1.**     The Mayor finds that the portable storage unit will not have significant adverse effects on neighboring property and will not adversely affect the public health, safety or welfare, and

**2.**     The Mayor finds that the applicant has demonstrated that denial would cause the applicant undue hardship, or that the applicant has demonstrated other good cause.

**d.**     Fee and Deposit. The fee for a portable storage unit permit is Seventy-Five Dollars (\$75.00). To cover possible damage to Town property, a deposit in the form of a check or bond in the amount of One Thousand Dollars (\$1,000.00) is required for a portable storage unit permit.

**e.**     Additional Terms. The Mayor may set such additional terms or restrictions as the Mayor deems necessary to protect the public health, safety or welfare.

**f.**     Duration. A permit for placement of a portable storage unit shall be for a term of up to thirty (30) days.

**g.**     Extension. The Mayor may authorize an extension of a portable storage unit permit for up to thirty (30) days, with such conditions as the Mayor may deem necessary. In addition to making the findings in Section 6-904.c, the Mayor may only grant an extension upon finding that the applicant has demonstrated good cause for an extension and that extraordinary circumstances exist which necessitate an extension.

*Source:       Ord. No. 3-10, eff. 7-13-10.*

## CHAPTER 7

### UTILITY LINE CONSTRUCTION

#### Article I. In General

- § 7-101. Applicability
- § 7-102. Application for Permit
- § 7-103. Restoration Required
- § 7-104. Expert to Oversee Construction and Restoration
- § 7-105. Methods of Construction and Restoration
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- § 7-107. Conditions of Permit
  - a. Time Limit
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#### Article II. Action on Permits

- § 7-201. By Town Council
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- § 7-301. Stop Work Orders
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§ 7-303. Penalties

**Article IV. Administrative Procedures**

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## CHAPTER 7

### UTILITY LINE CONSTRUCTION

#### Article I. In General

##### **Section 7-101. Applicability**

All utility lines, including, but not limited to, sewers, water, gas, electricity, telephone and solar and telecommunication facilities or structures, constructed or installed in or through Town-owned land shall be constructed or installed in accordance with this Chapter. As used in this Chapter, the term “owner” shall mean the owner of any utility line, and shall include any agent or contractor of an owner of a utility line.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 1-79, § 1, eff. 4-8-79.*

##### **Section 7-102. Application for Permit**

No utility line shall be constructed or installed in or through Town-owned land without first submitting an application for, and receiving approval of, a permit from the Town Council. The application for permit shall contain a plan and schedule for the construction or installation of the utility lines, showing the controls proposed for clearing, excavation, grading, alignment, and restoration and landscaping, plus controls on access, haul roads, and borrow pits and a plan for disposal of waste materials. The application shall not be approved unless the plan and schedule comply with all requirements of this Chapter. The Town may impose any additional requirements it

deems necessary to maintain the integrity of the land affected and the health, safety, and welfare of its residents.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 1-79, § 2, eff. 4-8-79.*

**Section 7-103. Restoration Required**

The owner shall restore all disturbed areas, including landscaping and grades, as nearly as possible to the condition that existed prior to the start of work.

*Source: Ord. No. 1-79, § 3, eff. 4-8-79.*

**Section 7-104. Expert to Oversee Construction and Restoration**

The owner shall hire and pay for an independent professionally recognized expert acceptable to the Town to oversee the construction or installation of the line and to supervise the restoration of the disturbed areas.

*Source: Ord. No. 1-79, § 4, eff. 4-8-79.*

**Section 7-105. Methods of Construction and Restoration**

The owner shall construct or install the utility line in accordance with the following specifications:

- a.** The owner shall comply with all provisions concerning the protection of trees and shrubs contained in Chapter 8 of this Code.
- b.** Only ground cover specified as necessary for the actual excavation for the utility line, including the area of alignment and storage, shall be cleared.

**c.** Planting and/or transplanting of bushes, grass and other ground cover specified in the approval of the application shall be done after the utility line is constructed or installed to eliminate the construction scar as soon as possible.

**d.** Where construction of the utility line crosses or encroaches on Little Falls Branch, the stream bed and embankments shall be restored to their prior natural condition and grade to confine the stream flow as it was prior to being disturbed.

**e.** The owner shall provide and maintain throughout the construction period, from its beginning, such temporary measures which are necessary and effective to prevent erosion. Measures may involve construction of temporary berms, dikes, dams, sediment basins, sloop drains, and use of temporary mulches, mats, seeding, or other control devices or methods as approved by the independent professional supervisor or Town. Cut slopes shall be seeded and mulched to the extent practicable as the excavation proceeds. The Town may limit the surface area of exposed erodible material.

**f.** The owner shall remove the temporary environmental control features as needed and incorporate permanent control features into the project at the earliest practicable time, as determined by the independent professional supervisor. Grades of cut slopes shall be returned to the same average grade as that which existed prior to the start of work.

**g.** The owner shall follow all other applicable Federal, State of Maryland, Montgomery County, and Town environmental regulations to insure that air and water quality and noise levels shall be maintained within prescribed standards.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 1-79, § 5, eff. 4-8-79.*

**Section 7-106. Performance Bond**

The owner shall post a performance bond with the Clerk Treasurer in the amount equal to the total cost of the required restoration of landscaping, grades, or other required measures to restore the area disturbed by the construction or installation of the line.

*Source: Ord. No. 1-79, § 6, eff. 4-8-79.*

**Section 7-107. Conditions of Permit**

a. Time Limit. Any permit issued shall become invalid if the authorized work is not commenced within sixty (60) days of the date of issuance; provided, that the Mayor may, upon good cause shown, extend the permit for an additional period not exceeding thirty (30) days.

b. Location of Permit and Plans. The permit or a true copy thereof and a copy of any plans submitted with the application for the permit shall be kept on the site of operations and open to inspection by officials of the Town in the course of their duties, during the entire time that the work is in progress and until its completion.

c. Compliance with Permit. All work shall conform to the approved application and plans for which the permit has been issued.

(d) Compliance with Stop Work Order. The issuance of a permit shall be expressly conditioned upon the applicant's agreement to promptly comply with all stop work orders issued by the Mayor.

*Source: Ord. No. 2-89, eff. 4-24-89.*

## **Article II. Action on Permits**

### **Section 7-201. By Town Council**

**a. Fact-Finding Hearing.** The Town Council shall examine all applications for permits and shall seek the advice of the state forester, the County extension agent, or other individuals as it finds appropriate. Within sixty (60) days, but not earlier than ten (10) days, following the filing of the application, the Town Council shall conduct a fact-finding hearing on such application after giving at least ten (10) days' notice of such hearing to the applicant and to all owners and occupants of property which adjoins or confronts the property on which the utility line is to be constructed. If the Council finds that the application or the plan does not conform to the requirements of this Chapter or that the actions proposed by the application would be inconsistent with the purposes of this Chapter, the Council shall reject such application in writing stating the reasons therefore. If the Council is satisfied that the proposed work conforms with the purposes and requirements of this Chapter, it shall direct the Mayor to issue a permit therefore as soon as practicable. The Mayor shall affix his signature to each permit issued.

**b. Decision.** The decision of the Town Council, by a majority vote of those members present at the hearing on said appeal, shall be rendered within thirty (30) days of the date of the hearing. The decision shall be in writing and shall state the Council's findings of fact and conclusions of law. The decision of the Council shall

become final unless a judicial appeal is taken as hereinafter set forth within thirty (30) days.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 7-202. Judicial Review**

Any person who is aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this Chapter shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure. In any judicial proceeding under this Section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

*Source: Ord. No. 8-93, eff. 10-25-93;  
Ord. No. 2-89, eff. 4-24-89.*

**Article III. Enforcement and Penalties**

**Section 7-301. Stop Work Orders**

Whenever the Mayor may determine that actions are being taken in violation of the provisions of this Chapter, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop work order described herein shall be issued by the Mayor in writing and served upon the owner of the utility line, or its agent or contractor doing the work. It shall be unlawful for any person to continue or permit the continuance of work after having served with the stop work order.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 7-302. Permit Revocation**

The Mayor may revoke a permit issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application or on the plan on which the permit was based or in case of any violation of the conditions upon which such permit was issued.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 7-303. Penalties**

Any person who shall violate the provisions of this Chapter by performing any prohibited act, including, but not limited to, construction of a utility line without a permit, or violating the terms of permit or the terms of a stop work order issued hereunder, shall be guilty of a municipal infraction and shall be subject to a civil penalty of Four Hundred Dollars (\$400.00). Each and every violation of this Chapter shall constitute a separate offense and shall be punishable as such.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Article IV. Administrative Procedure**

**Section 7-401. Permit Hearing Before the Town Council**

All interested parties shall be given the opportunity to present evidence and testimony, as long as it is relevant to the issues under consideration. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply. The hearing may, but need not necessarily, be held

during a regular meeting of the Council as provided in Section 83-5 of the Charter of the Town of Somerset. The decision of the Town Council shall be by majority vote of those members present at the hearing on the application.

*Source: Ord. No. 2-89, eff. 4-24-89.*

## CHAPTER 8

### PROTECTION OF TREES

#### Article I. Purpose and Definitions

- § 8-101. Purpose
- § 8-102. Definitions
- a. Adjoining and Confronting Property
  - b. Dripline of a Tree
  - c. Landscape Plan
  - d. Public Utility
  - e. Reforestation
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#### Article II. Permits

- § 8-201. Actions Which are Unlawful Without a Permit
- a. Private Property
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- § 8-202. Actions for Which No Town Permit is Required
- a. Emergencies
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- a. One or Two Trees
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- § 8-205. Criteria for Permit Decisions
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- a. Time Limit
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- c. Compliance with Permit
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- § 8-207. Action on Permit Applications
  - a. One or Two Trees
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- § 8-208. Appeal of Permit Decisions
  - a. Time and Form for Appeal
  - b. Hearing Before Town Council
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### **Article III. Enforcement and Penalties**

- § 8-301. Stop Work Orders
- § 8-302. Permit Revocation
- § 8-303. Penalties
  - a. Municipal Infractions
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### **Article IV. Administrative Procedures**

- § 8-401. Permit Hearings Before the Town Council

## CHAPTER 8

### PROTECTION OF TREES

#### Article I. Purpose and Definitions

##### Section 8-101. Purpose

It is the purpose of this Chapter, in the interests of promoting the general health and public welfare of the citizens of the Town, to protect and preserve trees within the Town, and also to insure, where removal of existing trees is necessary, that adequate provision is made, as much as is reasonably and physically possible, for reforestation following removal. It is also the purpose of this chapter to assure some protection to the applicant and the applicant's neighbors by requiring contractors who remove trees in Somerset to have a Maryland tree expert and/or liability and property damage insurance.

*Source: Ord. No. 5-02, eff. 5-8-02;  
Ord. No. 4-88, eff. 4-17-88.*

##### Section 8-102. Definitions

For the purpose of this Chapter, the following terms have the following meanings:

a. Adjoining and Confronting Property: land in Somerset which touches the boundary line of other property at least at one point, which may be a corner, or which would touch the boundary line of other property at least at one point except for an intervening road, street, or right of way.

**b.** Dripline of a Tree: the area beneath a tree circumscribed by an imaginary line below the outermost ends of the tree's branches.

**c.** Landscape Plan: a plan, drawn to scale, of an entire lot, parcel, or tract of land indicating the location of existing and/or proposed structures, all abutting public rights-of-way, the location of all public utility lines, including, but not limited to, water, sewer, gas, electric, telephone and cable television, whether above or below the ground surface, and proposed reforestation, including the number, size, species, and location(s) of the tree(s) and/or shrub(s) to be planted.

**d.** Public Utility: any 'public service company' as that term is defined in Article 78, Section 2(o) of the Annotated Code of Maryland, any agency of the State of Maryland, or the Washington Suburban Sanitary Commission.

**e.** Reforestation: the planting or transplanting of a tree or trees and/or a shrub or shrubs following removal of an existing tree or trees.

**f.** Roadside Tree: any tree or shrub growing within the right-of-way of any public road.

**g.** Shrub: a woody, perennial plant smaller than a tree, having permanent stems branching from or near the surrounding ground level.

**h.** Tree: a perennial plant having a well-defined permanent, woody, self-supporting main stem or trunk, a more or less definite crown, a height at maturity of at least eight feet (8'), and developing branches, as it matures, above the surrounding ground level.

*Source: Ord. No. 3-97, eff. 12-10-97;  
Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 4-88, eff. 4-17-88.*

## Article II. Permits

### Section 8-201. Actions Which are Unlawful Without a Town Permit

a. Private Property. Except as allowed by Section 8-202 below, it shall be unlawful for any person to:

1. Destroy, mutilate, injure, cut down, girth, uproot, poison, or
2. undertake any action that may significantly and permanently detract from the health or growth of, any tree on private property within the Town with a diameter of four inches (4") or more, as measured four and one half feet (4 1/2') above the average surrounding ground level, or any tree or shrub, notwithstanding its size, which has been planted or transplanted as part of reforestation or landscaping measures undertaken pursuant to a previously issued permit in accordance with this Chapter, without first filing a written application with the Clerk-Treasurer and obtaining the required permit therefore.

b. Town Property. Except as allowed by Section 8-202 below, it shall be unlawful for any person to

1. destroy, mutilate, injure, cut down, girth, uproot, poison, trim or
2. undertake any action that may significantly and permanently detract from the health or growth of any tree or shrub on real property owned by the Town, or on Town rights-of-way, or on other rights-of-way adjoining Town property, regardless of the size of the tree or shrub affected. Activities prohibited under subsection 8-201.b.2 include the parking or placing of vehicles, construction equipment, debris, or other objects totaling more than 500 pounds on any unpaved

surface within the dripline of a tree, and include the cutting or trimming of roadside trees except as excluded by Section 8-202(c) below, or

3. Cut down any Town tree without permission from the Town Council if the tree is over four inches (4") in diameter, measured four and one half feet (4 1/2') above the ground, or permission from the Mayor in case of emergency. The Council may approve removal of a Town tree in connection with a building or driveway permit only in an extraordinary situation.

i. An extraordinary situation is one that would result in extreme hardship to the permit applicant if the permission to cut down the tree is not approved due to such factors as:

(a.) Vehicular access to the permit applicant's property would be precluded as no alternative access is feasible.

(b.) Reasonable and customary improvements to the permit applicant's property are precluded as no alternative building siting or building design, including improvements of a lesser size, is feasible.

ii. If permission is granted to cut down a Town tree, the applicant shall pay to the Town of Somerset. The cost of removing the tree and stump by the Town tree contractor;

(a.) The cost of an appraisal by a tree expert hired by the Town;

(b.) The value of the tree as determined by the Town Council upon consideration of the appraisal of the Town's tree expert and the

appraisal of any permit applicant's or other tree expert, but not more than ten thousand dollars (\$10,000.00), with such funds to be used by the Town of Somerset to plant a replacement tree(s) within the Town.

**iii.** A building permit may be denied or a building permit previously issued revoked if the permit applicant or holder has cut down a Town tree without approval or has otherwise not complied with the provisions of this section.

*Source: Ord. No. 1-09, eff. 2-11-09; Ord. No. 3-07, eff. 6-13-07;  
Ord. No. 10-05, eff. 1-10-06; Ord. No. 8-04, eff. 12-8-04;  
Ord. No. 8-91, eff. 7-15-91; Ord. No. 4-88, eff. 4-17-88.*

**Section 8-202. Actions for Which No Town Permit Is Required**

No permit under this Chapter shall be required:

**a.** Emergencies. When immediate destruction or removal of a tree is necessary to abate a substantial, immediate and imminent danger to life or property;

**b.** Maintenance by Owner. When the owner or resident of a property, or a contractor hired by him, performs maintenance on trees located on said property in accordance with professionally accepted standards;

**c.** Pruning by Public Utility. When a public utility prunes roadside trees; but only if:

**1.** said trees are not located on property owned by the Town (including but not limited to Town parks) or on a public right-of-way adjacent to or adjoining property owned by the Town; and

2. the utility has obtained and fully complies with a permit issued by the Maryland Department of Natural Resources pursuant to Section 5-406, Natural Resources Article, Annotated Code of Maryland; and

3. the utility has given at least two weeks notice to the Clerk-Treasurer of its intent to prune specified trees, and included with its notice a copy of the State-issued permit;

d. By Town. When tree removal or destruction is performed by employees and authorized agents of the Town, within the normal course of their employment and scope of their authority on property owned by the Town.

e. When Approved by Planning Commission. When tree removal is performed in accordance with a site plan approved by the Maryland-National Capital Park and Planning Commission and an enforcement agreement has been entered into pursuant to the provisions of Divisions 59-D-3 of the Montgomery County Code, and a sediment and erosion control permit has been issued for such property, and copies of all such documents have been filed with the Mayor prior to the removal of any trees.

*Source: Ord. No. 6-02, eff. 6-12-02;  
Ord. No. 6-96, eff. 12-13-96;  
Ord. No. 4-88, eff. 4-17-88.*

**Section 8-203. Who May Apply for Permit**

Application for a permit shall be made by the owner(s) of the property upon which the proposed action is to be taken, by an agent of the owner(s), by the licensed engineer or architect employed in connection with the proposed work, or by the public utility as appropriate. If the application is made by a person other than the owner(s), it

shall be accompanied by a written certification by the owner(s) or the qualified person making the application that the proposed work is authorized by the owner(s) and that the applicant is authorized to make such application.

*Source: Ord. No. 4-88, eff. 4-17-88.*

**Section 8-204. Form of Application**

a. One or Two Trees. A written application for a permit shall be submitted to the Clerk-Treasurer, and shall contain the following minimum information:

1. the street address of the property upon which the proposed action is to be taken;
2. the full name(s) and address(es) and daytime and evening telephone number(s) of the owner(s);
3. a brief description of the proposed action and the location of the tree or trees on the property to be affected;
4. the species of the tree(s) to be affected;
5. the approximate diameter of the tree(s) to be affected, as measured four and one-half feet (4 1/2') above the average surrounding ground level;
6. a brief statement explaining why the proposed action is reasonable and necessary and consistent with the purposes of this Chapter;
7. a statement whether the applicant intends to perform reforestation after tree removal is completed. If the applicant does so intend, he shall describe the number, size, species, and location of the tree or trees and/or shrubs to be planted;

8. the names and addresses of all owners of adjoining and confronting property as shown in Town records maintained by the Clerk-Treasurer at the time of submission of the application, or of the occupants of said properties if the owners are not the occupants; and also, the names and addresses of occupants of houses outside of Somerset who have a common property line with applicant; and

9. a certification that, prior to submission of the application, a copy of the application, including any landscape plan(s), as submitted, has been shown or provided to all owners of adjacent and confronting property at their addresses as shown in Town records maintained by the Clerk-Treasurer at the time of submission of the application, or to the occupants of said property if the owners are not the occupants and to occupants of houses outside of Somerset who have a common property line with applicant. This requirement shall not apply if trees to be affected are dead when the application is submitted.

10. The name of the company or individual who will remove the tree or trees and his Maryland Tree Expert License number.

**b.** Three or More Trees. In the event a permit is sought for an action affecting three (3) or more trees, the following shall also be required in addition to the information required by subsection (a) above:

1. a landscape plan, drawn to a scale of not less than one inch (1") equals twenty feet (20');

2. the proposed schedule for completion of reforestation as indicated on the landscape plan; and

3. a performance bond or check made payable to the Town of Somerset in an amount equal to Five Hundred Dollars (\$500.00) times the number of trees or shrubs to be planted, as indicated on the landscape plan, which shall be conditioned upon completion of the reforestation indicated on the plan and in accordance with the timetable provided by the applicant, as approved by the Town Council.

*Source: Ord. NO. 5-10, eff. 1-30-11; Ord. No. 3-10, eff. 7-13-10;  
Ord. No. 9-07, eff. 9-12-07; Ord. No. 11-05, eff. 1-10-06;  
Ord. No. 8-03, eff. 12-10-03; Ord. No. 5-02, eff. 5-8-02;  
Ord. No. 6-96, eff. 12-13-96; Ord. No. 4-88, eff. 4-17-88.*

**Section 8-205. Criteria for Permit Decisions**

The following factors shall be considered in approving or disapproving an application for a permit:

a. the desirability of preserving any tree because of its age, size or outstanding qualities such as uniqueness, rarity, or status as a landmark or species specimen;

b. the extent to which the immediate area, and the Town in general, would be subject to environmental degradation due to removal of the tree(s) or shrub(s);

c. the desirability of preserving tree cover;

d. the desirability of the species;

e. whether the tree or shrub is diseased, insect-infested, or injured beyond restoration;

f. whether the tree is in danger of falling, presents a threat of injury to life or property, or is, in fact, damaging property;

g. the hardship which the applicant may suffer if a permit for the requested action is not issued;

h. the extent to which the tree or shrub removal is necessary to achieve proposed development, redevelopment, land use, utility construction or utility maintenance, and the extent to which there is no reasonable or prudent alternative; and

i. any reforestation proposed by the applicant.

*Source: Ord. No. 4-88, eff. 4-17-88.*

#### **Section 8-206. Conditions of Permit**

a. Time Limit. Any permit issued shall become invalid if the authorized work is not commenced within sixty (60) days of the date of issuance; provided, that the Mayor may, upon good cause shown, extend the permit for an additional period not exceeding thirty (30) days.

b. Location of Permit and Plans. The permit or a true copy thereof and a copy of any plans submitted with the application for the permit shall be kept on the site of operations and open to inspection by officials of the Town in the course of their duties, during the entire time that the work is in progress and until its completion.

c. Compliance with Permit. All work shall conform to the approved application and plans for which the permit has been issued.

d. Compliance with Stop Work Order. The issuance of a permit shall be expressly conditioned upon the applicant's agreement to promptly comply with all stop work orders issued by the Mayor.

e. Compliance with Applicable Laws. Nothing herein contained shall be construed as exempting a person to whom a permit has been issued in accordance with this Chapter from compliance with all applicable Town, County, State and Federal law. The issuance of a permit is conditioned upon the applicant's compliance with said laws.

*Source: Ord. No. 4-88, eff. 4-17-88.*

**Section 8-207. Action on Permit Applications**

a. One or Two Trees. The Mayor shall examine all applications for permits affecting fewer than three (3) trees and/or shrubs and shall seek the advice of the state forester, county extension agent, or other individuals as he finds appropriate. If the application or the plans do not conform to the requirements of this Chapter, or if the work proposed by the application would be inconsistent with the purposes of this Chapter, he shall reject such application in writing stating the reasons therefore; or in the case of an application submitted with a building permit application, he shall recommend that the Council reject the application, with reasons therefore. If he is satisfied that the proposed work conforms with the purpose and requirements of this Chapter, he shall issue a permit therefore as soon as practicable; or in the case of an application submitted with a building permit application, he shall recommend that the Council approve the application. Except in the case of an application submitted with a building permit application, the Mayor may grant a permit immediately if the applicant provides the Mayor written consents by all owners or occupants of property which adjoins or confronts the

property on which is located the tree or shrub which is the subject of the application. If the applicant does not provide such written consents, the Mayor may not grant a permit until the fourth calendar day after the day on which the application was submitted. In either event, the Mayor must take action on the application within fifteen (15) days after the application was submitted.

**b. Three or More Trees.** The Town Council shall examine all applications for permits affecting three (3) or more trees and/or shrubs and shall seek the advice of the state forester, the county extension agent, or other individuals as it finds appropriate. Within sixty (60) days, but not earlier than ten (10) days, following the filing of the application, the Town Council shall conduct a fact-finding hearing on such application after giving at least ten (10) days notice of such hearing to the applicant and to all owners and occupants of property which adjoins or confronts the property on which are located the trees or shrubs which are the subject of the application. If the Council finds that the application or the plan does not conform to the requirements of this Chapter or that the actions proposed by the application would be inconsistent with the purposes of this Chapter, the Council shall reject such application in writing stating the reasons therefore. If the Council is satisfied that the proposed work conforms with the purposes and requirements of this Chapter, it shall direct the Mayor to issue a permit therefore as soon as practicable.

**c. Signature on Permit.** The Mayor shall affix his signature to each permit issued.

*Source: Ord. No. 7-96, eff. 12-13-96; Ord. No. 4-88, eff. 4-17-88.*

**Section 8-208. Appeal of Permit Decisions**

**a. Time and Form for Appeal.** Any person aggrieved by a decision of the Mayor with regard to an application for a permit affecting fewer than three (3) trees may appeal said decision within thirty (30) days to the Town Council. An appeal shall be in writing and shall be submitted to the Clerk-Treasurer for presentation to the Town Council. The notice of the appeal filed by the appellant shall state the decision of the Mayor of which review is sought and the manner in which the appellant is aggrieved by the decision.

**b. Hearing Before Town Council.** Within sixty (60) days, but not earlier than ten (10) days, following the filing of the appeal, the Town Council shall conduct a fact-finding hearing on such appeal, after giving at least ten (10) days' notice of such hearing to the appellant (and to the applicant if the applicant is not the appellant) and to all owners or occupants of property which adjoins or confronts the property on which is located the tree or shrub which is the subject of the application.

**c. Decision.** The decision of the Town Council, by a majority vote of those members present at the hearing on said appeal, shall be rendered within forty (40) days of the date of the hearing. The decision shall be in writing and shall state the Council's findings of fact and conclusions of law. The decision of the Council shall become final unless a judicial appeal is taken as hereinafter set forth within thirty (30) days.

*Source: Ord. No. 3-05, eff. 5-18-05;  
Ord. No. 4-88, eff. 4-17-88.*

**Section 8-209. Judicial Review**

Any person who is aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this Chapter shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

*Source: Ord. No. 8-93, eff. 10-25-93;  
Ord. No. 4-88, eff. 4-17-88.*

**Article III. Enforcement and Penalties**

**Section 8-301. Stop Work Orders**

Whenever the Mayor may determine that actions are being taken in violation of the provisions of this Chapter, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop work order described herein shall be issued by the Mayor in writing and served upon the owner of the property involved or his agent or the person doing the work. It shall be unlawful for any person to continue or permit the continuance of work in or about the property after having been served with the stop work order.

*Source: Ord. No. 4-88, eff. 4-17-88.*

**Section 8-302. Permit Revocation**

The Mayor may revoke a permit issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application or on the plan on which the permit was based or in case of any violation of the conditions upon which such permit was issued.

*Source: Ord. No. 4-88, eff. 4-17-88.*

**Section 8-303. Penalties**

**a. Municipal Infractions.**

1. Unless otherwise specifically provided in this section, each violation of any provision of this chapter shall constitute a municipal infraction subject to a fine of Five Hundred Dollars (\$500.00). Each tree affected in violation of this chapter shall constitute a separate offense; and

2. A violation of any provision of this chapter with respect to a tree that measures ten and one half inches (10.5') or more in diameter at four and one half feet (4 ½') above average ground level shall constitute a municipal infraction subject to a fine of One Thousand Dollars (\$1,000.00). Each such tree affected in violation of this chapter shall constitute a separate offense.

**b. Misdemeanors.** It shall be a Class A misdemeanor, as defined in this Code (Chapter 1, Article II, Section 1-201):

1. to commit any act in violation of this chapter with respect to any tree for which a tree permit was sought and denied;

2. to commit any act in violation of this chapter with respect to any tree for which a tree permit is pending; and,

3. to commit any other violation of this chapter with actual knowledge that such act violates this chapter.

*Source: Ord. No. 2-10, eff. 7-13-10;  
Ord. No. 4-05, eff. 6-8-05;  
Ord. No. 4-88, eff. 4-17-88.*

#### **Article IV. Administrative Procedures**

##### **Section 8-401. Permit Hearings Before the Town Council**

All interested parties shall be given the opportunity to present evidence and testimony, as long as it is relevant to the issues under consideration. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply. The hearing may, but need not necessarily, be held during a regular meeting of the Council as provided in Section 83-5 of the Charter of the Town of Somerset. The decision of the Town Council shall be by majority vote of those members present at the hearing on the application.

*Source: Ord. No. 4-88, eff. 4-17-88.*

**CHAPTER 9**

**VEHICLES AND TRAFFIC**

**Article I. Moving Violations**

- § 9-101. Speed Limit
- § 9-102. Advisory Speed Limit on Essex Avenue
- § 9-103. Speed Humps Authorized
- § 9-104. Warning Signs for Speed Humps
- § 9-105. Through Trucks
- § 9-106. Stop Signs
- § 9-107. School Zones and Traffic
- § 9-108. No-Passing Zone on Dorset

**Article II. Parking Violations**

- § 9-201. Applicability of Montgomery County Code
  - a. Adoption of Chapter 31 of the Montgomery County Code (2004)
  - b. Future Amendments to Chapter 31 of the Montgomery County Code (2004)
  - c. Council Resolutions
  - d. Amendments to County Council Resolutions and Executive Regulations
- § 9-202. No-Parking Zones
- § 9-203. Limited Parking on Dorset Avenue
- § 9-204. Limited Parking Areas
- § 9-205. Authority of Mayor

### **Article III. Miscellaneous**

§ 9-301. Sledding Area

### **Article IV. Enforcement and Penalties**

§ 9-401. By State and County Officers

§ 9-402. Moving Violations

§ 9-403. Parking Violations

## CHAPTER 9

### Vehicles and Traffic

#### Article I. Moving Violations

##### **Section 9-101. Speed Limit**

No motor vehicle shall be driven within the Town at a speed in excess of twenty (20) miles per hour.

*Source: Ord. No. 15-06, eff. 1/10/07;  
Ord. No. 2-78, eff. 1-1-79.*

##### **Section 9-102. Advisory Speed Limit on Essex Avenue**

The Mayor shall cause to be erected and maintained warning signs to advise motorists of a recommended speed limit of fifteen (15) miles per hour at the top of the hill of Essex Avenue, in the vicinity of the property with premises numbered 4816 and 4817 Essex Avenue.

*Source: Ord. No. 9-01, eff. 12-12-01;  
Ord. No. 2-78, Amd. No. 12-20-88, eff. 12-22-88.*

##### **Section 9-103. Speed Humps and Bumps Authorized**

The Mayor shall cause to be constructed speed humps or bumps on Town streets in the vicinity of the property with premises numbered 4505 Cumberland Avenue; 4517 Cumberland Avenue, 4807 Cumberland Avenue; 4817 Cumberland Avenue; 4907 Cumberland Avenue; Devon Lane midway between Cumberland Avenue and Dorset Avenue; 4509 Dorset Avenue; 4521 Dorset Avenue; 4708 Dorset Avenue;

4721 Dorset Avenue; 4817 Dorset Avenue; 4902 Dorset Avenue; 4914 Dorset Avenue; 4705 Falstone Avenue; 5407 Greystone Street; 5518 Greystone Street; Surrey Street midway between Grantham Avenue and Greystone Street; 5509 Uppingham Street; 5522 Uppingham Street; 5604 Warwick Place; and in front of the four stop signs at the intersection of Dorset Avenue and Warwick Place; and in front of the three stop signs at the intersection of Warwick Place and Essex Avenue.

*Source: Ord. No. 2-2014; eff. 6-13-14; Ord. No. 2-09; eff. 5-29-09  
Ord. No. 9-01, eff. 12-12-01; Ord. No. 6-90, eff. 5-27-90  
Ord. No. 1-90, eff. 1-1-90; Ord. No. 2-78, Am 12-20-88, eff. 12-22-88.*

**Section 9-104. Warning Signs for Speed Humps**

The Mayor shall cause to be erected a warning sign at an appropriate distance before a speed hump to advise motorists that they are approaching a speed hump. Such warning signs shall indicate a recommended speed limit of fifteen (15) miles per hour when driving over such speed humps.

*Source: Ord. No. 9-01, eff. 12-12-01; Ord. No. 2-78, Am 12-20-88, eff. 12-2-88.*

**Section 9-105. Through Trucks**

No through truck, as defined by the Transportation Article of Maryland, §11-171, or through commercial vehicles shall traverse any street within the Town.

*Source: Ord. No. 2-78, as amended on 9-8-86.*

**Section 9-106. Stop Signs**

All motor vehicles on the following streets moving in the following directions shall come to a full stop before proceeding across the following intersections and curves:

Cumberland Avenue:	Eastbound at Wisconsin Avenue
	East- and westbound at Surrey Street
	Westbound at Deal Place
Deal Place:	Southbound at Dorset Avenue
	Northbound at Cumberland Avenue
Devon Lane:	Southbound at Dorset Avenue
	Northbound at Cumberland Avenue
Dorset Avenue:	Eastbound on red light on Wisconsin Avenue at a point sixty (60) feet west of the Wisconsin Avenue curb
	East- and westbound at Warwick Place
	East - and westbound at Surrey Street
	Westbound at Little Falls Parkway on a red light
	East- and westbound at Deal Place
Essex Avenue:	Eastbound at Warwick Place
	East- and westbound at Surrey Street
Falstone Avenue:	East- and westbound at Surrey Street
	Southeastbound at Warwick Place
	Westbound at Greystone Street
Grantham Avenue:	Eastbound at Surrey Street
	Westbound at Greystone Street
Greystone Street:	North- and southbound at Uppingham Street
	North- and Southbound at Grantham Avenue
	Northbound at Falstone Avenue
	Southbound at River Road
Surrey Street:	North- and southbound at Dorset Avenue
	North- and southbound at Essex Avenue
	Westbound at Greystone Street
	Northbound at Cumberland Avenue
	North- and southbound at Grantham Avenue
Swimming Pool Driveway:	Northwestbound at Warwick Place
Trent Court:	Southwestbound at Falstone Avenue
Trent Street:	North- and southbound at Uppingham Street
	Northbound at Falstone Avenue
Trent Street:	When approaching the curve in a southerly or easterly direction a the 5400 dead-end block of the street
Uppingham Street:	East- and westbound at Trent Street
	Northbound at Falstone Avenue
Warwick Lane:	Southbound at Cumberland Avenue

Warwick Place:	North- and southbound at Dorset Avenue
	Northbound at a point thirty-five (35) feet south of Essex Avenue
	Southbound at a point thirty-three (33) feet north of curb line of Essex Avenue
	Northwest- and southbound at Falstone Avenue.

*Source: Ord. No. 4-09, eff. 6-10-09; Ord. No. 6-04, eff. 1-12-05; Ord. No. 10-92, eff. 9-30-92; Ord. No. 2-90, eff. 1-28-90; Ord. No. 2-78, as amended 11-7-83.*

**Section 9-107. School Zones and Traffic**

**a.** Warwick Lane shall be closed to all traffic on days the school is in session from 8:30 a.m. to 9:15 a.m. and from 3:00 p.m. to 3:45 p.m. except on days when the school is released earlier than normal time. When there is early release, Warwick Lane shall be closed to all traffic for 45 minutes at release time.

**b.** During the time period, Warwick Lane is closed to traffic as provided in Section a , traffic on Warwick Place from Dorset Avenue to Cumberland Avenue shall move only in a northbound direction, and traffic on Cumberland Avenue from Warwick Place to Surrey Street shall move only in a westbound direction.

**c.** No trucks shall be permitted on Warwick Lane at any time.

**d.** Dorset Avenue three hundred feet (300') east and three hundred feet (300') west of its intersection with Warwick Place is established as a school zone, which shall consist of:

**1.** Markings on the pavement of Dorset Avenue reading "School" east and west of the intersection of Dorset Avenue and Warwick Place.

2. Stop lines and crosswalks with diagonal lines at the intersection of Dorset Avenue and Warwick Place.

3. "School" signs and non-lingual "School Advance" signs installed in the ground between the sidewalk and street in the most effective positions east and west of the intersection of Dorset Avenue and Warwick Place.

*Source: Ord. No. 2-2015, eff. 10-5-15;  
Ord. No. 4-06, eff. 5-10-06;  
Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 2-78, eff. 1-1-79.*

**Section 9-108. No-Passing Zone on Dorset**

Dorset Avenue from Wisconsin Avenue to a point two hundred (200) feet to the west shall be a no-passing zone. This shall be designated by a double yellow line which shall run nine (9) feet from the south curb of Dorset Avenue.

*Source: Ord. No. 2-78, eff. 1-1-79.*

**Article II. Parking Violations**

**Section 9-201. Applicability of Montgomery County Code**

a. Adoption of Chapter 31 of the Montgomery County Code (2004). Except insofar as it conflicts with other provisions of this Code, Chapter 31, entitled "Motor Vehicle and Traffic" of the Montgomery County Code (2004), as amended, is hereby incorporated by reference and adopted to be applicable within the boundaries of the Town of Somerset, with the following amendments and deletions:

1. Amendments. Whenever in Articles 1 through 6 and Article 8 of Chapter 31 of the Montgomery County Code the terms “County”, “County Executive”, “Executive”, or “County Executive of His Designee” are used, such terms are amended and shall be deemed to mean and refer to the Town of Somerset Council. Whenever in this ordinance the term “County” (when used in its geographic sense) is used, such term is amended and shall be deemed to mean and refer to the Town of Somerset Council. Whenever in this ordinance the term “County” (when used in its geographic sense) is used, such term is amended and shall be deemed to mean and refer to the corporate limits of the Town of Somerset.

2. Section 31-35 of Chapter 31 of the Montgomery County Code is hereby amended to substitute “town of Somerset Council” for “County Personnel Board”.

b. Future amendments to Chapter 31 of the Montgomery County Code (2004). All amendments to Chapter 31 of the Montgomery County Code (2004) which are hereinafter enacted shall become effective within the Town of Somerset upon the effective date thereof unless prior thereto a Resolution shall have been adopted by the Town of Somerset Council disapproving such amendments.

c. Council Resolutions. All Montgomery County Council Resolutions and Executive Regulations now adopted by the County Council or County Executive for Montgomery County pursuant to the authority contained in Chapter 31 of the Montgomery County Code (2004) are hereby incorporated by reference and adopted to be effective within the boundaries of the Town of Somerset.

**d. Amendments to County Council Resolutions and Executive Regulations.**

All County Council Resolutions and Executive Regulations or Amendments to either hereafter adopted by the County Council or Executive for Montgomery County pursuant to the authority contained in Chapter 31 of the Montgomery County Code (2004) become effective within the boundaries of the Town of Somerset upon the effective date thereof unless prior thereto a Resolution shall have been adopted by the Town of Somerset Council disapproving such Resolutions, Regulations or Amendments.

**e.** This ordinance shall become effective immediately upon its adoption.

**f.** The Mayor of the Town of Somerset is hereby authorized to enter into and execute on behalf of the Town of Somerset an Agreement with the County Executive of Montgomery County for the enforcement of the Town of Somerset traffic and parking ordinance hereby adopted in form and substance materially consistent with the attached Agreement.

*Source: Ord. No. 7-07, eff. 10-25-07.*

**Section 9-202. No-Parking Zones**

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

Cumberland Avenue:	South side, entire length
	North side, seventy-five feet (75') west of Wisconsin Avenue
	North side, fifty feet (50') east of Deal Place
	North side, twenty-five feet (25') west of Warwick Lane and east of Warwick Lane to Somerset School grounds
	North side, seventy-five feet (75') east and west of center of Surrey Street

Deal Place:	East side, entire length West side, seventy-five feet (75') south of Cumberland Avenue
Devon Lane:	Both sides, entire length
Dorset Avenue:	South side, entire length
	North side, one hundred eighty feet (180') west of Wisconsin Avenue
	North side, between Devon Lane and Little Falls Parkway
	North side, fifty feet (50') east to fifty feet (50') west of intersection with the south leg of Surrey Street
Essex Avenue:	South side, entire length
Falstone Avenue:	South side, entire length
Grantham Avenue:	South side, entire length
Greystone Street:	East side, entire length West side, seventy-five feet (75') north of River Road
	West side, between a point twenty-five feet (25') north of north curb line of Uppingham Street to a point fifty feet (50') south of south curb line of Uppingham Street
Surrey Street:	East side, from Cumberland Avenue to Falstone Avenue
	West side, seventy-five feet (75') north of Dorset Avenue and seventy-five feet (75') south of Dorset Avenue
	West side, from Falstone Avenue to Greystone Street
	East side, fifty feet (50') North of Greystone Street
	West side, seventy-five feet (75') south of center of Cumberland Avenue
Trent Street:	East side, entire length
Uppingham Street:	East and south sides, entire length
	West and north side, 17-foot (17') section between the driveways of 5514 and 5516
Warwick Lane:	Both sides, entire length
Warwick Place:	East side, entire length
	West side, seventy-five feet (75') north of Dorset Avenue
	West side, one hundred feet (100') north of Essex Avenue
	West side, seventy-five feet (75') south of Dorset Avenue

*Source: Ord. No. 3-08, eff. 10/9/08; Ord. No. 1-93, eff. 2-93; Ord. No. 9-90, eff. 10-21-90; Ord. No. 2-78, as amended 2-5-79, and on 10-1-84.*

**Section 9-203. Limited Parking on Dorset Avenue**

a. Parking shall be prohibited on the following sections of the north side of Dorset Avenue from 7:30 to 9:30 a.m. and 4:30 to 6:30 p.m., except on Saturdays, Sundays and holidays:

1. Wisconsin Avenue west to 4603-4605 Dorset Avenue property line; and
2. Warwick Place west to Surrey Street.

b. Parking shall be prohibited on the north side of Dorset Avenue from Warwick Place east to the 4603-4605 Dorset Avenue property line between 7:30 a.m. and 6:30 p.m., except on Saturdays, Sundays and holidays.

*Source: Ord. No. 2-78, eff. 1-1-79.*

**Section 9-204. Limited Parking Areas**

Parking shall be limited to two (2) hours Monday through Friday from 9:30 a.m. to 4:30 p.m., as follows:

Cumberland Avenue:	North side, Wisconsin Avenue to Deal Place
Deal Place:	West side, Cumberland Avenue to Dorset Avenue
Dorset Avenue:	North side, Wisconsin Avenue to the 4603-4605 Dorset Avenue property line
Essex Avenue:	North side of 4700 Block
Falstone Avenue:	North side, Warwick Place to Surrey Street
Greystone Street:	West side, Uppingham to River Road
Uppingham Street:	Northwest side from Falstone Avenue to property line between 5518 and 5520 Uppingham Street
Warwick Place:	West side of the entire street

*Source: Ord. No. 3-99, eff. 10-13-99; Ord. No. 2-99, eff. 6-8-99; Ord. No. 10-90, eff. 10-21-90; Ord. No. 5-89, eff. 6-25-89; Ord. No. 3-89, eff. 5-1-89; Ord. No. 2-78, eff. 1-1-79.*

**Section 9-205. Authority of Mayor**

The Mayor of Somerset or the Montgomery County Police may at any time temporarily prohibit parking on any public street by designating same as an "Emergency No Parking" zone, or may temporarily prohibit traffic on any public street or sidewalk in the event of an emergency. The Mayor is further authorized to prohibit temporary parking on any street for any other public purpose, such as repairs or cleaning of streets, sidewalks, or adjacent public property.

Source: Ord. No. 2-78, eff. 1-1-79.

**Article III. Miscellaneous**

**Section 9-301. Sledding Area**

**a.** Cumberland Avenue from Surrey Street West to the 4902 Cumberland Driveway is designated a sledding area. For the twenty-four hour period following each substantial snowfall, as determined by the Mayor, snow in the sledding area shall be left unplowed and unsanded.

**b.** The Mayor shall submit sledding rules to the Town Council for its approval. Such rules shall be published in the Town Journal, along with the Town's plowing and sanding policy, each year.

**c.** During the sledding period, appropriate signs shall be erected to alert drivers of the sledding area. Rules shall be posted at the top and bottom of the sledding hill.

d. Each year the Mayor shall communicate the sledding policy, along with a map outlining affected streets and alleys, to the Montgomery County Police and Fire Departments and the Bethesda-Chevy Chase Rescue Squad.

*Source: Ord. No. 3-2015; Eff. 12-7-2015;  
Ord. No. 9-03, Eff. 12-10-03; Ord. No. 2-78, amendment of 4-2-79.*

#### **Article IV. Enforcement and Penalties**

##### **Section 9-401. By State and County Officers**

a. The provisions of this Chapter may be enforced by any law enforcement officer of the State of Maryland or Montgomery County.

b. Violations of the provisions of Article II of this Chapter may be enforced by the following parking control officers: any law enforcement officer of the state of Maryland or Montgomery County, the Mayor, the Clerk-Treasurer, or any other person authorized by Resolution of the Town Council.

c. The Mayor is hereby authorized to enter into and execute on behalf of the Town of Somerset an agreement with the County Executive of Montgomery County for the enforcement of Article II of this chapter in form and substance materially consistent with the attached agreement.

*Source: Ord. No. 7-07, eff. 10-25-07;  
Ord. No. 2-89, eff. 4-24-89.*

##### **Section 9-402. Moving Violations**

Violations of the provisions of Article I of this Chapter shall be cited and prosecuted as offenses of Title 21 of the Transportation Article of the Annotated Code

of Maryland, punishable as misdemeanors under the provisions of Title 27 of the Transportation Article.

*Source: Ord. No. 2-89, eff. 4-24-89.*

**Section 9-403. Parking Violations**

Violations of the provisions of Article II of this Chapter, or of Chapter 31 of the Montgomery County Code when such violation occurs within the Town, shall be cited on a form provided by the County. The fines for such violations will be those established from time to time by written regulation of the County Council pursuant to Section 31-51 of the Montgomery County Code. All fines shall be payable to the County.

*Source: Ord. No. 7-07, eff. 10-25-07;  
Ord. No. 2-89, eff. 4-24-89.*

## **CHAPTER 10**

### **MONTGOMERY COUNTY LEGISLATION ADOPTED IN SOMERSET**

#### **Article I. In General**

- § 10-101. County Laws Applicable
- § 10-102. Other Applicable County Laws
  - a. Board of Health Legislation
  - b. Tax and Revenue Legislation
  - c. Laws Enacted by General Assembly
- § 10-103. Enforcement by County

## CHAPTER 10

### MONTGOMERY COUNTY LEGISLATION ADOPTED IN SOMERSET

#### Article I. In General

##### **Section 10-101. County Laws Applicable**

The Town is hereby exempt from all legislation heretofore or hereafter enacted by Montgomery County, Maryland, except for the Chapters listed below. Any amendment by the County to such Chapters shall become effective within the Town to the extent not disapproved by the Town Council by Ordinance. Any repeal by the County of any provision(s) of any Chapter listed below or listed in Section 10-102 of the Town Code shall be effective to repeal such provision(s) within the Town unless an ordinance shall have been adopted by the Town Council expressly enacting such repealed provision(s).

- a.** Chapter 3, Air Quality Control
- b.** Chapter 3A, Alarms
- c.** Chapter 5, Animal Control, as modified by Somerset Code Sections 11-201 to 11-203
- d.** Chapter 5A, Arts
- e.** Chapter 7, Bicycle
- f.** Chapter 8, Buildings, as modified and supplemented by Chapter 6 of this Code.

**g.** Chapter 8A, Cable Communications, as modified and supplemented by Somerset Code Sections 11-101 to 11-105

**h.** Chapter 11, Consumer Protection

**i.** Chapter 11A, Condominiums

**j.** Chapter 17, Electricity

**k.** Chapter 18, Elm Disease

**l.** Chapter 19, Erosion, Sediment Control and Stormwater Management

**m.** Chapter 21, Fire and Rescue Services

**n.** Chapter 22, Fire Safety Code

**o.** Chapter 23A, Group Residential Care Facilities

**p.** Chapter 26, Housing and Building Maintenance Standards

**q.** Chapter 27, Human Relations and Civil Liberties

**r.** Chapter 29, Landlord-Tenant Relations(s)

**s.** Chapter 30A, Montgomery County Municipal Revenue Program

**t.** Chapter 31, Motor Vehicles and Traffic, to the extent provided in Section 9-201 of this Code

**u.** Chapter 31B, Noise Control, as modified and supplemented by Chapter 11, Article III, of the Somerset Town Code

**v.** Chapter 31C, New Home Warranty and Builder Licensing

**w.** Reserved for Future Use

**x.** Chapter 34, Plumbing and Gas Fitting

**y.** Chapter 36, Pond and Excavation Safety Standards

- z.** Chapter 37, Public Welfare
- aa.** Chapter 40, Real Property
- bb.** Chapter 41A, Rental Assistance
- cc.** Chapter 44A, Secondhand Personal Property
- dd.** Chapter 47, Solicitors, Hawkers and Peddlers
- ee.** Chapter 49-21A, Covered Loads
- ff.** Chapter 49-30 to 49-44, Road Construction Code
- gg.** Chapter 57, Weapons
- hh.** Section 59-B-2.l, Walls or Fences.
- ii.** Article 59-F, Signs and Billboards, of Chapter 59, as modified and supplemented by Chapter 6, Article VII of this Code
- jj.** Chapter 32, Sections 32-10 (Stalking), 32-12A (Graffiti), 32-13 through 32-17, inclusive (Loitering), and 32-19A (Harassment) only.

Source: Ord. 1-04, eff. 6-9-04; Ord. No. 6-94, eff. 8-21-94;  
 Ord. No. 7-93, eff. 9-8-93; Ord. No. 8-91, eff. 7-15-91;  
 Ord. No. 2-91, eff. 4-9-91; Ord. No. 1-91, eff. 4-29-91;  
 Ord. No. 5-90, eff. 4-23-90; Ord. No. 6-89, eff. 9-26-89;  
 Ord. No. 2-89, eff. 4-24-89; Ord. No. 2-88, eff. 3-1-88;  
 Ord. No. 3-86, eff. 6-22-86; Ord. No. 2-86, eff. 5-5-86;  
 Ord. No. 6-84, eff. 12-3-84; Ord. No. 6-81, eff. 11-23-81.

**Section 10-102. Other Applicable County Laws**

Notwithstanding the provisions of Section 10-101, the following additional County legislation shall apply within the Town of Somerset:

- a.** Board of Health Legislation. Legislation enacted by the Montgomery County Council sitting as a Board of Health for Montgomery County. As of the effective

date of this Article, the following legislation enacted by the Montgomery County Council sitting as a Board of Health applies within the Town of Somerset:

1. Chapter 2, Division 7, Department of Health
2. Chapter 10, Group Day Care Centers
3. Chapter 15, Eating and Drinking Establishments
4. Chapter 24, Health and Sanitation: Section 24-1 and Sections 24-4

to 24-8 of Article I; Article III, Health Planning; Article IV, Mental Health; Article V, Local Alcoholism Advisory Council; and Article VI, Local Drug Abuse Advisory Council

5. Chapter 25, Hospitals, Sanitariums, Nursing & Care Homes
6. Chapter 27A, Individual Water Supply and Sewage Disposal

Systems

7. Chapter 30B, Massage Establishments and Massage Technician.
8. Chapter 39, Rat Control
9. Chapter 44, Article III, Private Schools & Recreational Camps
10. Chapter 46, Slaughterhouses
11. Chapter 51, Swimming Pools

**b. Tax and Revenue Legislation.** Any Montgomery County law or regulation involving County revenue or taxation enacted pursuant to the provisions of Article 81 of the Annotated Code of Maryland, 1957, or legislation adopting the county budget.

**c. Laws Enacted by General Assembly.** Any law enacted by the General Assembly which so provides.

*Source: Ord. No. 2-91, eff. 4-9-91; Ord. No. 6-84, eff. 12-3-84.*

**Section 10-103. Enforcement by County**

Nothing contained in this Article shall limit or otherwise affect the Town's authority to request enforcement of Town legislation by Montgomery County and to enter into agreements providing for such enforcement.

*Source: Ord. No. 6-84, § 2-103, eff. 12-3-84.*

## **CHAPTER 11**

### **MISCELLANEOUS**

#### **Article I. Cable Communications**

- § 11-101. Changes to County Code
  - a. Sections Added
  - b. Sections Amended
- § 11-102. Adoption of County Regulations
- § 11-103. Adoption of Future County Regulations
- § 11-104. Enforcement
- § 11-105. Compliance with Other Laws
- § 11-106. Cable TV Committee

#### **Article II. Animal Control**

- § 11-201. Exceptions to Adoption of County Code
- § 11-202. Enforcement by the Town
- § 11-203. Penalties

#### **Article III. Noise Control**

- § 11-301. Adoption of County Noise Control Ordinance
- § 11-302. Supplemental Requirements to County Code
- § 11-303. Enforcement and Penalties

#### **Article IV. Town History Committee**

- § 11-401. Town History Committee

## **Article V. Security Committee**

§ 11-501. Establishment of Committee

§ 11-502. Duties

## **Article VI. Special Events Committee**

§ 11-601. Size

§ 11-602. Terms

§ 11-603. Appointments

§ 11-604. Duties

## CHAPTER 11

### MISCELLANEOUS

#### Article I. Cable Communications

##### Section 11-101. Changes to County Code

a. Sections Added. Chapter 8A of the Montgomery County Code (1972), adopted by Section 10-101 of this Code, is hereby amended by adding the following additional sections:

1. Section 8A-3(u): "Town" means the Town of Somerset, Maryland, an incorporated municipality. Notwithstanding anything to the contrary contained herein, the corporate limits of the Town of Somerset shall be included with the geographical areas of the county to which this law applies.

2. Section 8A-10(j): Approval by Town of Somerset. Whenever in this Section the approval of the county is required, a franchisee shall also be required to obtain the approval of the Town of Somerset, which approval shall not unreasonably be withheld.

b. Sections Amended. Chapter 8A of the Montgomery County Code (1984), adopted by Section 10-101 of this Code, is hereby amended as follows:

1. Section 8A-6(h): Indemnity. A franchisee shall, at its sole cost and expense, indemnify, hold harmless, and defend the county (including the Town of Somerset), its officials, boards, commissions, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of

construction, maintenance, or operation of the cable communication system under the franchise. These damages shall include but not be limited to penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by cable communications system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise.

*Source: Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 6-81, eff. 11-23-81.*

**Section 11-102. Adoption of County Regulations**

All executive regulations now adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984) are hereby incorporated by reference and deemed to be effective within the Town of Somerset.

*Source: Ord. No. 8-91, eff. 7-15-91;  
Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 6-81, eff. 11-23-81.*

**Section 11-103. Adoption of Future County Regulations**

All regulations or amendments to regulations hereafter adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984) shall become effective within the Town to the extent not disapproved by the Town Council by Ordinance.

*Source: Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 6-81, eff. 11-23-81.*

**Section 11-104. Enforcement**

Montgomery County, Maryland, is hereby requested and authorized to administer and enforce the provisions of this Article, and any franchise granted by the County Council for Montgomery County, Maryland, will be effective within the corporate limits of the Town as fully and to the same extent as if granted by the Town.

*Source:Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 6-81, eff. 11-23-81.*

**Section 11-105. Compliance with Other Laws**

Nothing herein contained shall in any way be construed as exempting the franchisee from compliance with any other applicable ordinance of the Town of Somerset now or hereafter enacted.

*Source:Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 6-81, eff. 11-23-81.*

**Section 11-106. Cable TV Committee**

A Cable TV Committee will represent the Town's cable television interests vis-à-vis Montgomery Municipal Cable and the Montgomery County government. The Mayor shall appoint, and the Town Council shall confirm, a committee chair and members. The chair and other members shall serve until they resign or are replaced by the Mayor and Council.

*Source:Res. No. 1-98, eff. 3-3-98.*

## **Article II. Animal Control**

### **Section 11-201. Exceptions to Adoption of County Code**

For purposes of establishing rules and regulations dealing with animal control, the Town adopts the provisions of Chapter 5, Montgomery County Code, except that a dog shall be deemed 'at large' if it is either: (a) off the premises of its owner and not leashed, or (b) off the premises of its owner and leashed, but not under the immediate control of a responsible person capable of physically restraining it.

*Source: Ord. No. 3-86, eff. 6-2-86.*

### **Section 11-202. Enforcement by the Town**

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

*Source: Ord. No. 3-86, eff. 6-2-86.*

### **Section 11-203. Penalties**

Violation of any provision in this Article is a municipal infraction punishable by a fine of Fifty Dollars (\$50.00) for a first offense, and by a fine of One Hundred Dollars (\$100.00) for each repeat offense.

*Source: Ord. No. 2-89, eff. 4-24-89;  
Ord. No. 3-86, eff. 6-2-86.*

## **Article III. Noise Control**

### **Section 11-301. Adoption of County Noise Control Ordinance**

The Town adopts and incorporates by reference Chapter 31B, Noise Control, of the Montgomery county Code in its entirety, both as currently enacted and as modified in the future. The County Noise Ordinance continues to be enforceable by the County in the Town of Somerset in accordance with the provisions of that Ordinance. The Town of Somerset may also enforce the County Ordinance as its own Ordinance as set forth in this Article.

The County's Noise Ordinance is supplemented by provisions of this Article establishing specified stricter limitations. These stricter limitations are enforceable by the Town as set forth in this Article, as well as by the County.

*Source: Ord. No. 1-04; eff. 6-9-04.*

### **Section 11-302. Supplemental Requirements to County Code**

In addition to the requirements set out in Chapter 31B of the Montgomery County Code, as adopted by Section 10-101 and Section 11-301 of this Code, the following supplemental stricter noise limitations are applicable within the Town:

**a.** Definitions:

**1.** As used herein, "construction activities" means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other similar activities including, but not limited to, moving heavy equipment, delivering materials,

loading or unloading/operating equipment with audible “back-up” warning devices, or allowing engines to idle.

2. As used herein, “holidays” means public holidays for federal employees as established by federal law 5 U.S.C., Section 6103.

3. As used herein, “lawn maintenance activities” means any and all activities or tasks associated with the care or maintenance of a lawn, garden, flower bed, tree or other landscaping.

4. As used herein, “power equipment” means motorized equipment such as a lawn mower, chainsaw, leaf blower or other similar equipment utilized to perform lawn maintenance activities

**b. Construction activities noise restrictions:**

1. Weekdays (non-holidays) - no construction activities shall commence prior to 7:00 am on weekdays and all construction activities shall end no later than 7:00 pm;

2. Saturdays - no construction activities shall commence prior to 9:00am on Saturdays and all construction activities shall end no later than 7:00 pm;

3. Sundays - construction activities are prohibited on Sundays unless it is interior work that cannot be heard by neighbors; and

4. Holidays – construction activities on a holiday weekday or a holiday Saturday are limited to the hours of 9:00 am to 7:00 pm and on holiday Sundays are limited as set forth in b.3.

**c. Lawn maintenance activities noise restrictions:**

1. Lawn maintenance activities that involve the use of power equipment are permitted on non-holiday weekdays between the hours of 8:00 am and 7:00 pm, with the sole exception that lawn maintenance work that involves the use of power equipment is also permitted on non-holiday weekdays between the hours of 7:00 pm and 8:00 pm if only one (1) piece of power equipment is used; and

2. Lawn maintenance activities that involve the use of power equipment are permitted on weekends and holidays between the hours of 9am and 7pm.

d. Such supplemental requirements shall not be construed to apply to the use of any snow removal equipment.

*Source: Ord. No. 6-2012; eff. 6-20-12; Ord. No. 1-04, eff. 6-9-04;  
Res. No. 7-97, eff. 11-4-97; Ord. No. 2-91, eff. 4-9-91;  
Ord. No. 2-86, eff. 5-5-86.*

**Section 11-303. Enforcement and Penalties**

a. A violation of this Article may be enforced by Montgomery County, or by the Town as a municipal infraction in accordance with Chapter 1, Article 1. Sections 1-201-203 of this Code

b. Violation of any provision of Chapter 31B-6 of the Montgomery County Code, Noise Control, governing construction noise, as supplemented by this Article, is a municipal infraction punishable by a fine of One Hundred Dollars (\$100.00) for a first offense, and by a fine of Five Hundred Dollars (\$500.00) for each repeat offense.

c. Violation of any provision of Chapter 31B, as supplemented by the Article, other than those provisions specified in Section 11-303(b), is a municipal

infraction punishable by a fine of One Hundred Dollars (\$100.00) for a first offense and by a fine of Five Hundred Dollars (\$500.00) for each repeat offense.

Source: Ord. No. 1-05, eff. 2-9-05; Ord. No. 1-04, eff. 6-9-04;  
Ord. No. 2-89, eff. 4-24-89; Ord. No. 2-86, eff. 5-5-86.

#### **Article IV: Town History Committee**

##### **Section 11-401 Town History Committee**

**a.** The Mayor shall appoint, with approval of the Council, five (5) interested Town residents to serve on a permanent Town History Committee. Terms of initial appointees will be staggered so that two (2) will be appointed to two-year terms and three (3) to three-year terms. Starting November 2004, all new appointments and reappointments will be for three years except for appointments to fill unexpired terms.

**b.** The Mayor shall appoint, with approval of the Council and the committee members, the committee chairperson.

**c.** The committee shall have the following duties:

**1.** Identify and recommend to the Town Council and staff a suitable place and equipment to keep the Town's records, archives and historical materials safe from fire, water and humidity, dust, and loss or theft. Review the adequacy of the facility on an annual basis and make recommendations for keeping up with its growth.

**2.** Work with Town staff to organize, catalog and digitally scan archives and historical material and/or obtain professional support as required.

3. Identify historical material that may be held by residents and others and negotiate donation of the material for the Town archives.
4. Work with the Town staff to identify and establish ways to make the material accessible to researchers and interested parties while ensuring protection from loss and physical deterioration.
5. Plan events and exhibits to showcase the Town's historical material, especially for special events such as anniversaries.
6. Periodically update the Town's written history, and initiate oral history projects.
7. Coordinate with the Chevy Chase Historical Society, the Montgomery County Historical Society and other local historical societies in appropriate joint activities. Periodically assess organizing a not-for-profit Town of Somerset Historical Society.
8. Meet in open session at the call of the chairperson, but at least twice a year to review the condition of the Town's archives and historical material.
9. Recommend to the Mayor and Council proposed plans and major expenditures.

*Source: Ord. No. 11-02, eff. 11-13-02.*

## **Article V: Security Committee**

### **Section 11-501. Establishment of Committee**

- a. The Mayor shall appoint, with the approval of the Council, eleven (11) Town residents, including at least one Council member, to serve on a permanent

Security Committee. The committee members shall serve for three-year terms and shall be eligible for reappointment. The terms shall be staggered so that some of the terms expire each year.

- b. The Mayor shall appoint, with approval of the Council, a chairperson.

**Section 11-502. Duties**

- a. Maintain an ongoing database of criminal activity in and around the Town.

- b. Distribute crime data to the Town through a monthly column in the Town Journal and online.

- c. Maintain a liaison/oversight relationship with any security-related committees established by the Town and other surrounding communities.

- d. Organize Crime Prevention/Security Days for the Town when appropriate.

- e. Conduct committee meetings as needed to evaluate crime trends and security needs in Town, based on accumulated data, and make recommendations to the Town Council and residents.

- f. Identify security tips that the Town should distribute periodically as a separate packet within the Town Journal mailing.

*Source: Ord. No. 1-04, eff. 2-12-03.*

**Article VI: Special Events Committee**

**Section 11-601. Size**

The committee shall consist of seven Town residents.

### **Section 11-602. Terms**

Terms of committee members shall be two years except that three of the original members shall serve only one year so that terms will be staggered.

### **Section 11-603. Appointments**

The Mayor shall appoint committee members, who must be confirmed by the Town Council. The Mayor shall appoint a chairperson each year. That appointment shall also be confirmed by the Council.

### **Section 11-604. Duties**

**a.** Nominate Town residents for Mayoral selection as chairpersons of Town events, such as Fourth of July celebration, adult parties at pool, welcoming party, flu shot session, health fair and community service projects.

**b.** Assist the chairpersons in the planning and implementation of Town special events, including recruitment of volunteers.

**c.** By December 15 of each year, submit to the Mayor and Council a list of all planned events for the following year, including proposed dates.

**d.** By January 31 each year, submit an itemized budget request to the Mayor for the following fiscal year.

*Source: Ord. No. 3-03, eff. 3-12-03.*

## TOWN OF SOMERSET ORDINANCES

[From Year 2000 to present]

<b>2000</b>	
1-00	Audit Committee, Amend Section 2-406 of Town Code
2-00	Penalties, Building Code Violations, Amend Section 6-501 of Town Code
3-00	Adopting Budget for Fiscal Year 2001 and Setting the Tax Rate
4-00	Amend Building Code, MD Home Improvement Comm, license #

<b>2001</b>	
1-01	Amend Town Code - rent of Town Hal
2-01	Amend Building Code - inclusion of trees 4" or greater in diameter
3-01	Amend Building Code to add required info
4-01	Amend Building Code governing setbacks for primary construction
5-01	Amend Building Code governing setbacks for accessory buildings
6-01	Adopting Budget for FY 2002
7-01	Amend Building Code governing front setbacks for primary construction
8-01	Amend Building Code governing front setbacks for accessory buildings
9-01	Amend Vehicles and Traffic Code adding speed humps on Essex and Uppingham, etc.

<b>2002</b>	
1-02	Amend Town Code - deleting snow/ice clearing from sidewalks as responsibility of residents
2-02	Amend Town Code - Setting Mayor's Salary at \$15,000 per annum
3-02	Amend Town Code Sec 6-606 pertaining to finished side of fences/walls
4-02	Amend Town Code Sec 2-503 requiring notice of committee meetings
5-02	Amend Town Code Sec 8-204 tree permit information
6-02	Amend Town Code Sec 8-202 tree permit required for dead tree removal
7-02	Adopting Budget for FY 2003
8-02	Amend Town Code Sec 6-602, to add alley to public street definitions
9-02	Amend Town Code Sec 6-610 fence permit application
10-02	Fee for Building Permit Extensions
11-02	Town History Committee
12-02	Check Writing Procedures

13-02	Town Tent, Adding Article VII to Town Code
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<b>2003</b>	
1-03	Adding Security Committee to Town Code
2-03	Adding Batting Cage Committee to Town Code
3-03	Adding Special Events Committee to Town Code
4-03	Amending Building Code to Provide a Parking Plan
5-03	Amending Building Code to Increase Permit Fees
6-03	Amending Building Code - Building Permits
7-03	Adopting Budget for FY 2003
8-03	Amending Chapter 8 - Trees - Requiring Performance Bond
9-03	Amending Chapter 9 - Vehicles and Traffic - Sledding Policy

<b>2004</b>	
1-04	Amending Building Code, Noise Limitations and Enforcement
2-04	Amending Building Code, Construction Requirements
3-04	Maintenance of Property
4-04	Adopting Budget for FY 2005
6-04	Amending Section 9-106 - Stop Signs
7-04	Amending Building Code, Documents to Accompany Application
8-04	Amending Building Code, protecting Town trees
9-04	Amending Building Code to include placement of generators
10-04	Amending Building Code, Required Information for Building Permit

<b>2005</b>	
1-05	Noise Control - Enforcement and Penalties
2-05	Decisions on Building Permit Application
3-05	Protection of Trees - Appeal of Permit Decisions
4-05	Enforcement of Tree Ordinance
5-05	Building Permits - Protection of Trees
6-05	Building Permit Application - Compliance with Town Trees Ordinance
7-05	Adopting Budget for FY 2006
8-05	Fences - Adding Requirement to Remove Existing Fences
9-05	Swimming Pool Committee - Members
10-05	Trees on Town Property
11-05	Trees - Maryland Tree Expert License Requirement

<b>2006</b>	
1-06	Publication and Adoption of Town Budget and Tax Rate (Bill No 1-06)

2-06	Amend building Code, Accessory Buildings (Bill No 3-06)
3-06	Rename Mini Park Founders Park (Bill No 2-06)
4-06	School Zones and Traffic - (Bill No 4-06)
5-06	Streets and Sidewalks - Penalties (Bill No 5-06)
6-06	Adopting Budget for FY 2007 and Setting Tax Rates
7-06	Building Code - increasing number of plans to 8
8-06	Building Code - definition of replacement wall or fence
9-06	Building Code - removal of existing fences
10-06	Requiring Action by Town Council to remove Town Trees
11-06	Swimming Pool Committee
12-06	Building Permit - Documents to Accompany Application
13-06	Noise Control
14-06	Administration and Procedures - Raising purchasing powers to \$2,500 without Town Council Approval
15-06	Vehicles and Traffic - reducing speed to 20 mph

<b>2007</b>	
1-07	Public Information and Finance Chapter 2, Article IV
2-07	Adopting budget for FY 08 and Setting Tax Rate
3-07	Removal of Town Trees
4-07	Extension of Building Permit - Increasing Fee and Deposit
5-07	Building Code - Deposit for Repairs - Demolition Fees
6-07	Fence Permit - 5801 Warwick Place
7-07	Parking Enforcement
8-07	Traffic Control
9-07	Tree Removals - Notification to non-Town residents, who share property line
10-07	Fence and Wall Permits - Notification to non-Town residents, who share property line
11-07	Building Permits - Air Conditioners, Heat pumps and Generators
12-07	Building Code - Silt Fences - specs

<b>2008</b>	
1-08	Adopting budget for FY 09 and Setting Tax Rate
2-08	Building Code - Contractor License Number
3-08	No-Parking Zones - 5514 - 5516 Uppingham Street
4-08	Building Permits - Documents to Accompany Application

<b>2009</b>	
1-09	Measuring Trees - Chapter 8, Sections 6-303 and 304; Chapter 8,

	Section 8-201
2-09	Speed Humps – Section 9-103 – Additional humps
3-09	Adopting budget for FY 10
4-09	Stop Signs – Section 9-106 – Additional signs
5-09	Storm Water management – Building Code

<b>2010</b>	
1-10	Adopting Budget for FY 2011
2-10	Protection of Trees Section 8-303
3-10	Setting Fees for Security Deposits, Dumpsters, PODS, Protection of Trees, etc. Sections 3-102,3-103, 3-104, 6-304(b), 6-310, 6-312(f) 6-703 (b) 6-710(f), 6-903, 6-904, and 8-204(b) (3)
4-10	To obtain Financing Bond in The Aggregate Principal Amount Not To Exceed \$2,000,000
5-10	Construction Regulation and Fees – Section 3-102 (B), 3-104, 6-703, 6-903(B) and 6-904
6-10	Protection of Trees – Section 8-204 (a)(5)

<b>2011</b>	
4-11	Parks and Natural Resources Committee, Section 5-901
5-11	Building Code, Section 6-710
6-11	Vehicles and Traffic – Section 9-106
7-11	Streets and Sidewalks 3-103,3-105,3-106, 3-111,

<b>2012</b>	
1-2012	Vehicles and Traffic – Section 9-104
2-2012	Swimming Pool Committee and Swim Team Section 5-303 & 5-304
3-2012	Building Code – Section 6-306
4-2012	Submissions and Distribution of Town Journal Administration & Procedures, Deadlines for Submissions Section 2-402 (f), 2-402(J)
5-2012	Budget Fy 2013 and Tax Rate