

**Code of the
Town of Cottage City
(As Codified on 10/31/07)**

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Chapter 1

Animals & Fowls

Section 1-1. Purpose.

The purpose of this ordinance is to provide regulations concerning animals kept within the Town of Cottage City so that such animals will not be or become a public nuisance.

Section 1-2A. Definitions.

- (1) *Animal at large.* An animal not under restraint and off the premises of the owner.
- (2) *Animal exposed to rabies.* An animal will be deemed to have been exposed to rabies if it has been bitten by or has associated with any animal determined by the county health officer or the director of the Maryland Livestock Sanitary Service to be infected with rabies.
- (3) *Animals under restraint.* An animal secured by a leash or lead, and under control of a responsible person or confined within a vehicle or within the real property limits of its owner.
- (4) *Attack dog.* A dog which is trained to attack with or without provocation.
- (5) *Domesticated animals.* Including, but not necessarily limited to, cats (genus *Felix Domestica*), cows, dogs, fowl, horses, sheep, goats, swine, rabbits, guinea pigs, hamsters, gerbils, chinchillas, mice, rats, fish, birds and domesticated wild animals.
- (6) *Guard or sentry dog.* A dog which will detect and warn its handler that an intruder is present in or near an area that is being secured.
- (7) *Owner.* Any person owning, keeping, harboring or acting as custodian of a domesticated animal.
- (8) *Pet.* A domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals and other animals associated with human environment.
- (9) *Fierce, dangerous or vicious animal.* Any animal which attacks without provocation and threatens or causes bodily harm to a person.

Section 1-2B. Animals constituting nuisance.

- (1) It shall be lawful for any person in the Town of Cottage City to have an animal which is a public nuisance.
- (2) Public nuisance animals are any animals which:

- (a) Are repeatedly found at large;
- (b) Damage the property of anyone other than the owner of the animal;
- (c) Are vicious;
- (d) Cause fouling of the air by odors;
- (e) Cause unsanitary conditions of enclosures or surroundings;
- (f) By virtue of number or types of animals maintained, are offensive or dangerous to the public health, safety or welfare;
- (g) Excessively make disturbing noises;
- (h) Molest passersby or passing vehicles;
- (i) Attack other domesticated animals or pets;
- (j) Have been designated by the animal control commission or any body politic to be public nuisance animals by virtue of being a menace to the public health, welfare, or safety.

Section 1-3. Control and confinement of animals generally.

A. It shall be unlawful for the owner of any animal, at all times, either not to confine the animal securely on the owner's premises so that it cannot escape therefore, or not to have the animal accompanied by a responsible person and effectively controlled by such person by a leash or otherwise.

B. Any animal must be so controlled as to prevent it from molesting the person or property of any other person.

Section 1-4. Confinement of vicious animals or dogs with history of biting people.

It shall be unlawful for the owner of any fierce, dangerous or vicious animal, including dogs which have a history of unlawful biting of a human, not to confine such animal within a building or secure enclosure. Such animal shall not be taken out of such building or secure enclosure unless securely muzzled.

Section 1-5. Cruelty to animals.

It shall be unlawful for any person to treat any animal in a cruel manner, either willfully or by neglect. It shall also be unlawful for any person to incite animals to fight, or to tease or harass animals.

Section 1-6. Raising or keeping certain animals and fowl prohibited.

It shall be unlawful for any person to raise or maintain or keep domestic fowl (including pigeons), bees and beehives, livestock or wild animals of any kind within the Town of Cottage City. For the purpose of this section, livestock shall include, but is not limited to, cows, sheep, goats, swine, mules, donkeys, horses or ponies.

Section 1-7. Commercial breeding, hospitalizing or boarding of animals.

It shall be unlawful for any person to engage in the breeding, hospitalizing and boarding of household pets or other animals on a commercial basis within the Town of Cottage City.

Section 1-8. Rabies vaccination of dogs and cats.

It shall be unlawful for any person to own or harbor a dog or cat over the age of four (4) months without a valid rabies vaccination.

Section 1-9. Solid animal waste.

It shall be unlawful for a person owning, keeping or having custody of an animal, except a seeing eye dog, to allow or permit solid waste of such animal to remain on the property of any other person without the consent of the owner or occupant thereof; on the property of the owner in such manner as to become offensive or a hazard to health; or on sidewalks, streets, immediately adjoining areas to sidewalks and streets, and active play areas or other parks.

Section 1-10. Confinement of female animals in heat.

Every female animal, while in heat, shall be kept confined in a building or secure enclosure by the owner in such manner that she will not be in contact (except for intentional breeding purposes) with a male member of the same species nor create a nuisance by attracting other animals.

Section 1-11. Dog and Cat license; noisy dogs, attack dogs.

(1) *Dog and Cat licenses required.* It shall be unlawful for any person to own or harbor within the Town of Cottage City any dog or cat, unless such dog or cat is licensed as provided by the ordinances and regulations of Prince George's County.

(2) *Noisy dogs.* It shall be unlawful for any person to keep within the Town of Cottage City a dog or other animal which shall, by barking, whining or howling or in any other manner, disturb the peace and quiet of any person or neighborhood.

(3) *Attack dogs.* It shall be unlawful for any person to raise, maintain or keep within the residential area of the Town of Cottage City a dog which is being trained or has been trained as an attack dog, except that these provisions do not apply to a law enforcement officer of any

state, county, municipal, or local government who, as a part o such officer's job, is engaged in the training of or working with dogs in any police related function.

Section 1-12. Proclamation of rabies danger; duties of police during period.

Whenever the Commission of the Town of Cottage City shall determine that the health and safety of the people of the town are endangered by reason of an animal with rabies having been or being in said town, the Commission shall forthwith issue a proclamation informing the people of the town that their health and safety are endangered by reason of rabies. For thirty (30) days after issuance of the proclamation, it shall be the duty of the police officers of the Town of Cottage City and any person authorized by the Commissioners to handle or dispose of any animal running at large in such a manner as the officer or authorized person may deem proper.

Section 1-13. Impoundment.

(1) *When animals impounded.* An animal found at large may be impounded by the animal control warden and after a reasonable time taken to the county animal control shelter, except as provided in subsection (3) below.

(2) *Notice to owner of impounded animal.* Upon impounding an animal, the animal control warden shall make a prompt and reasonable effort to locate and notify the animal's owner.

(3) *Alternative procedure to impoundment where animals are running at large.* In addition to or in lieu of impounding an animal found at large, the animal control warden, municipal officer, or any other duly appointed law enforcement officer, may issue to the known owner of such animals a notice of violation of this chapter.

Section 1-14. Animal warden.

(1) *General.* There is hereby established the position of animal warden which shall have the responsibility and authority of a police officer in the Town of Cottage City for the investigation and enforcement of the provisions of this chapter, except that the warden shall not be authorized to carry a firearm or make arrests.

(2) *Duties of animal warden.* The duties of the animal control warden shall be to direct investigations into complaints or inquiries raised by residents of the Town of Cottage City with respect to the custody and control of animals within the town, including matters relating to the enforcement of an compliance with ordinances and regulations of the town concerning animals, and to recommend actions to resolve such complaints and inquiries. The warden shall establish regulations and procedures to govern the conduct of its investigations.

(3) *Appointment and removal.* The animal warden shall be appointed by and shall serve at the pleasure of the Commission and may be removed from office for any reason by the

Commission at any public meeting.

(4) *Compensation.* The animal warden may serve without compensation, or with reimbursement for expenses, or by fee or contract, or by salary, or any combination of such modes of payment as may be approved by the Commission.

(5) *Police powers.* Nothing in this section shall abridge or restrict the authority of the town police officers to investigate or enforce the provisions of this chapter.

Section 1-15. Violations and penalties.

Violation of this chapter is declared to be a municipal infraction. The penalty for violation shall be Fifty Dollars (\$50.00) for each initial offense and One Hundred Dollars (\$100.00) for each repeat offense.

Chapter 2

Cable T.V.

Section 2-1. Definitions.

- (1) *Basic Cable Rates* means the monthly charges for a subscription to the basic service tier and the associated equipment.
- (2) *Basic Service Tier* means a separately available service tier to which subscription is required for access to any other tier of service, including as a minimum, but not limited to, all must-carry signals, all peg channels, and all domestic television signals other than superstations.
- (3) *Benchmark* means a per channel rate of charge for cable service and associated equipment which the FCC has determined as reasonable.
- (4) *Cable Act of 1992* means the Cable Television Consumer Protection and Competition Act of 1992.
- (5) *Cable Operator* means any person or group of persons
 - (a) Who provide cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or
 - (b) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.
- (6) *Cable Television (CATV)* means any communications facility consisting of a set of transmission paths and associated signal generation, reception and control equipment, under common ownership and control, that among other services distributes or is designed to distribute to subscribers the signals of one or more television broadcast stations by cable to subscribing members of the public who pay for such service.
- (7) *Channel* means a unit of cable service identified and selected by a channel number or similar designation.
- (8) *Commissioners or Commission* means the governing body of the Town of Cottage City or a committee or person appointed and empowered by resolution of the governing body to perform any or all of the duties outlined in this chapter.
- (9) *Cost of Service Showing* means a filing in which the cable operator attempts to show that the benchmark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.
- (10) *FCC* means the Federal Communications Commission.

(11) *Franchise* is an authorization granted by the town, which permits the construction, operation and maintenance of a CATV system within the town.

(12) *Franchisee* is any entity, its successors, heirs or assigns that is a cable operator and is awarded a franchise in accordance with the provisions of this chapter.

(13) *Initial Basic Cable Rates* means the rates that the cable operator is charging for the basic service tier, including charges for the associated equipment, at the time the town notifies the cable operator of the town's qualification and intent to regulate basic cable rates.

(14) *Must-Carry Signal* means the signal of any local broadcast station (except superstations which is required to be carried on the basic service tier.)

(15) *Peg Channel* means the channel capacity designated for public, educational, or governmental use, and facilities and equipment for the use of that channel capacity.

(16) *Price Cap* means the ceiling set by the FCC on future increases in basic cable rates regulated by the city, based on a formula using the gnp fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

(17) *Public Ways* means the surface of and the space above and below any public streets, highways, sidewalks and adjacent public areas, bridges, tunnels, parks, waterways, alleys and all other public rights-of-way and public grounds or waters within the Town.

(18) *Subscriber* means any person or organization receiving any of the services delivered over a CATV system.

(19) *State of the Art* means whatever has been offered or provided to any municipal or any other governmental body in Prince George's County.

(20) *Superstation* means any non-local broadcast signal secondarily transmitted by satellite.

Section 2-2. Franchise Required; Authority of Commissioners to Join with Other Authorities.

A. Except as provided in subsection B of this section, it shall be unlawful for any person or organization to own, construct, operate or solicit subscribers for any CATV system wholly or partially located in the town without first having obtained a franchise.

B. Notwithstanding the remaining provisions of this chapter, the commission of the Town may by resolution or ordinance join with any other municipality or municipalities in the state or with Prince George's County for a common franchise in whole or in part. Any such franchise shall be subject only to the provisions of such resolution or ordinance; provided that any such resolution or ordinance shall be subject to the notification and publication provisions for the award of a franchise as provided in the section 2-5 of this Chapter.

Section 2-3. Limitations of Franchise.

A. The franchise granted under this chapter shall be non-exclusive and nothing herein shall be construed to prevent the franchise authority from granting identical or similar franchises to more than one person, within all or any portion of the franchise entity.

B. Franchises shall be subject to the lawful exercise of the Town's police powers and such reasonable regulations as the town may subsequently promulgate thereunder.

C. Franchisees shall be subject to all federal, state, county and local laws, rules and regulations and specifications heretofore or hereafter enacted.

D. The rights granted by any franchise shall be subordinate to any existing public use or any existing franchise or lawful occupancy of any public ways. Should a CATV system in any way interfere with the construction, maintenance or repair of public ways, public improvements or public utilities within the town, the franchisee shall at its own cost and expense protect or relocate its facilities.

Section 2-4. Application for Franchise.

A. No application for a franchise shall be considered unless it is submitted in accordance with the terms of a resolution approved by the commission which shall provide a period for submission of application of at least thirty (30) days from the date of publication of the resolution in a newspaper of general circulation in Prince George's County.

B. Such resolution shall require that such applications shall provide for a detailed description of a CATV system proposed in accordance with the terms of this chapter, including costs of construction, maintenance and operation, a construction time schedule, and a full disclosure of the ownership and management organization of the prospective franchisee, finances, including the names and addresses of all persons owning an interest of five (5) percent or more of the entity applying for a franchise, the amount of each such interest, and the names and addresses of any persons residing in the state who have or will have a pecuniary interest in the granting or management of such franchise.

C. Such resolution shall provide for an application fee sufficient to cover the estimated cost to the Town of soliciting and reviewing such applications.

Section 2-5. Procedure for Awarding of Franchise.

A. Within thirty (30) days after the due date for the receipt of applications, the Town shall schedule a public hearing for review and discussion of applications. All applicants shall be given an opportunity to participate and be represented at the hearing.

B. Within sixty (60) days following such hearing the commissioners shall announce their decision with respect to such applications, which may include the awarding of a franchise,

the rejection of any or all applications, or the rescheduling of a public hearing for consideration of additional information to be solicited from or form the basis for further negotiation with an applicant or applicants.

Section 2-6. Franchise Fee; Liability and Indemnification.

A. Within the limits of the Federal Communications Commission regulations, the franchise agreement shall prescribe a fee which shall be at least sufficient to cover the estimated cost of further investigation of the successful CATV application and the establishment and operation procedures for CATV operation. Such fee shall be paid in accordance with terms set forth in the franchise agreement.

B. Concurrently with the acceptance of its franchise, the franchisee shall file with the Town a bond with an acceptable surety in an amount set by the Town to indemnify and hold harmless the Town against any losses it may suffer in the event the franchisee fails to comply with ne or more of the provisions of its franchise. Such bond shall be obtained at the sole expense of the franchisee and remain in effect for the full term of the franchise or any renewal thereof, plus an additional six (6) months thereafter.

C. The franchisee shall pay, and by its acceptance of a franchise specifically agrees to pay, any and all damages or penalties which the Town may be legally required to pay as a result of franchisee's installation, operation or maintenance of a franchise cable television system under this chapter whether or not the acts or omissions complained of are authorized, allowed or prohibited by the Town.

D. The franchisee shall also pay all expenses incurred by the Town in defending itself with regard to any and all damages and penalties mentioned in subsection C above. These expenses shall include all out-of-pocket expenses, including reasonable attorneys' fees and the reasonable value of services rendered by any employee of the Town.

E. The franchisee shall maintain, throughout the term of the franchise, liability insurance insuring the Town and the franchisee with regard to all damages mentioned in subsection C above, caused by franchisee or its agents, in such amounts as may be set forth in the franchise.

Section 2-7. Technical Requirements; Channel Capacity; Interconnection Capability.

A. Each franchise shall provide for a home subscriber network of a program channel carriage signal capacity not less than that provided for Prince George's County, and which shall be installed, maintained and operated at all times in full compliance with the technical and channel capacity standards of the Federal Communications Commission. Annual performance tests shall be required.

B. No franchise shall be granted which provides initially for equipment, cable cast signal quality, technical facilities and channel capacity less than the state of the art competitively provide. Each application shall provide a section describing how the CATV system may be maintained up to the state of the art throughout the term of the franchise.

C. Each franchise shall provide for interconnection capability so that subscribers may have access to the local access, public access, educational, governmental and emergency channels of any CATV system franchised by Prince George's County.

Section 2-8. Safety Requirements.

Each franchise shall install and at all times maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the town and Prince George's County building, electrical, fire, health and plumbing codes.

Section 2-9. Public Service Requirements.

A. Each franchise shall provide for channels for public service at least one of which shall provide noncommercial public access on a first-come nondiscriminatory basis, at least one of which shall be designated for use by state or county educational authorities, at least one of which shall be designated governmental uses and at least one channel of which shall provide for local program origination and programming control.

B. Until such time as there is demand for all locally originated channels, the franchisee may combine programs on one or more channels, and to the extent that time is available therefor, local access channels may be used for other broadcasts and nonbroadcast services, except that programs originated by the town or its public service organizations will have priority as to time and channel use.

C. Each franchisee shall provide, without cost, production facilities and training for officers and employees of the Town and for public service organizations of the Town, so as to maximize opportunities for broadcast of programs of general interest within the Town.

D. Access to the public service channels shall be available without charge to educational, governmental, religious and public service organizations of the Town and to the public on the public access channel, and the franchisee shall maintain a studio, headed and equipped for broadcasting such programs live or on tape. The franchise may provide reasonable charges for equipment and facilities used to broadcast live or on tape programs originated away from such studio or headed.

E. Each franchisee shall provide at least one service outlet to each public building within the Town without charge.

F. In the event of an emergency, the Town may interrupt signals otherwise being distributed by any franchise in order to deliver signals necessitated by such emergency.

Section 2-10. Operation.

A. During the term of a franchise, the franchisee shall furnish all subscribers a service producing as good a quality of television picture or reception as the state of the art permits, and shall make betterments to the service as improvements in the science of the carrying of television signals warrant.

B. Each franchisee shall maintain all parts of its system in good condition, and maintain sufficient employees to provide safe, adequate and prompt service for all of its facilities. Service complaints and equipment malfunction shall be responded to within twenty-four (24) hours, and corrected as promptly as possible.

C. Planned interruption of service shall only be for good cause, and shall be preceded by notice over such channels as are affected, and by notice to the Town. Insofar as possible such interruptions shall be of brief duration and occur during minimum viewing hours.

D. Each franchisee shall maintain a complete list of all complaints received and the measures taken to resolve such complaints. This list shall be available to the Town upon request.

E. Each franchisee shall maintain a conveniently located business office and service to which subscribers may telephone without incurring any toll charges. This office shall be open during all usual business hours, and be so operated that complaints and requests for repairs or adjustments may be received by telephone at any time when any television signals are being broadcast.

Section 2-11. Rates.

I. Initial review of Basic Cable Rates

(a) *Notice.* Upon the adoption of this ordinance and the certification of the Town by the FCC, the Town shall immediately notify all cable operators in the Town, by certified mail, return receipt requested that the Town intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the Cable Act of 1992.

(b) *Cable Operator Response.* Within 30 days of receiving notice from the Town, a cable operator shall file with the Town, its current rates for the basic service tier and associated equipment and any supporting material concerning the reasonableness of its rates.

(c) *Expedited Determination and Public Hearing.*

(1) If the commissioners are able to expeditiously determine that the cable operator's rates for the basic service tier and associated equipment are within the FCC's reasonable rate standard, as determined by the applicable benchmark, the commissioners shall:

(A) Hold a public hearing at which interested persons may express their views; and

(B) Act to approve the rates within 30 days from the date the cable operator filed its basic cable rates with the Town.

(2) If the commissioners take no action within 30 days from the date the cable operator filed its basic cable rates with the Town, the proposed rates will continue in effect.

(d) *Extended Review Period.*

(1) If the commissioners are unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the commissioners shall, within 30 days from the date the cable operator filed its basic cable rates with the Town and by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

(A) 90 days if the commissioners need more time to ensure that a rate is within the FCC's reasonable rate standard; or

(B) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable benchmark.

(2) If the commissioners have not made a decision within the 90 or 150 day period, the commissioners shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate and on whose behalf the amounts are paid.

(e) *Public Hearing.* During the extended review period and before taking action on the proposed rate, the commissioners shall hold at least one public hearing at which interested persons may express their views and record objections.

(f) *Objections.* An interested person who wishes to make an objection to the proposed initial basic rate may request the Town clerk-treasurer to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the town clerk-treasurer with the objector's name and address.

(g) *Benchmark analysis.* If a cable operator submits its current basic cable rate schedule as being in compliance with the FCC's reasonable rate standard, the commissioners shall review the rates using the benchmark analysis in accordance with the standard for authorized by the FCC. Based on the commissioners' findings, the initial basic cable rates shall be established as follows:

(1) If the current basic cable rates are below the benchmark, those rates shall become the initial basic cable rates and the cable operator's rates will be capped at that level.

(2) If the current basic cable rates exceed the benchmark, the rates shall be the greater of the cable operator's per channel rate on September 30, 1992, reduced by 10 percent, or the applicable benchmark, adjusted for inflation and any change in the number of channels occurring between September 30, 1992 and the initial date of regulation.

(3) If the current basic cable rates exceed the benchmark, but the cable operator's per channel rate was below the benchmark on September 30, 1992, the initial basic cable rate shall be the benchmark, adjusted for inflation.

(h) *Cost-of-service showings.* If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing an attempt to justify the initial basic cable rates above the FCC's reasonable rates standard. The commissioners will review a cost-of-service submission pursuant to FCC standards for cost-of-service reviews. The commissioners may approve initial basic cable rates above the benchmark if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in rates below the benchmark or below the cable operator's September 30, 1992 rates minus 10 percent, will prescribe the cable operator's new rates.

(i) *Decision.*

(1) *By formal resolution.* After completion of its review of the cable operator's proposed rates, the commissioners shall adopt its decision by formal resolution. The decision shall include one of the following:

(A) If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, the commissioners shall approve the initial basic cable rates proposed by the cable operator; or

(B) If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the commissioners shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that are justified by a cost-of-service analysis.

(2) *Rollbacks and refunds.* If the commissioners determine that the initial basic cable rates as submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the commissioners may order the rates reduced in accordance with paragraph (g) or (h) above, as applicable. In addition, the commissioners may order the cable operator to pay to subscribers, refunds of the excessive portion of the rates with interest (computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments), retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the commissioners' decision resolution.

(3) *Statement of reasons for decision and public notice.* If rates proposed by a cable operator are disapproved in whole or in part, or if there were objections made by other parties to the proposed rates, the resolution must state the reasons for the decision and the commissioners must give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the Town.

(j) *Appeal.* The commissioners' decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations.

II. Review of request for increase in basic cable rates

(a) *Notice.* A cable operator in the town who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the city and notify all subscribers at least 30 days before the cable operator desires the increase to take effect. This notice may not be given more often than annually and not until at least one year after the determination of the initial basic cable rates.

(b) *Expedited determination and public hearing.*

(1) If the commissioners are able to expeditiously determine that the cable operator's rate increase request for basic cable service is within the FCC's reasonable rate standard, as determined by the applicable price cap, the commissioners shall:

(A) Hold a public hearing at which interested persons may express their views; and

(B) Act to approve the rate increase within 30 days from the date the cable operator filed its request with the Town.

(2) If the commissioners take no action within 30 days from the date the cable operator filed its request with the Town, the proposed rates will go into effect.

(c) *Extended review period.*

(1) If the commissioners are unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before them, or if the cable operator submits a cost-of-service showing, the commissioners shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination.

(A) 90 days if the commissioners need more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and

(B) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

(2) The proposed rate increase is tolled during the extended review period.

(3) If the commissioners have not made a decision within the 90 or 150 day period, the commissioners shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate increase and on whose behalf the amounts are paid.

(d) *Public hearing.* During the extended review period and before taking action on the requested rate increase, the commissioners shall hold at least one public hearing at which interested persons may express their views and record objections.

(e) *Objections.* An interested person who wishes to make an objection to the proposed rate increase may request the Town clerk-treasurer to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the Town clerk-treasurer with the objector's name and address.

(f) *Delayed determination.* If the commissioners are unable to make a final determination concerning a request rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the commissioners later issue a decision disapproving any portion of the increase.

(g) *Price cap analysis.* If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the commissioners shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based in the commissioners' findings, the basic cable rates shall be established as follows:

(1) If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.

(2) If the proposed basic cable rate increase exceeds the price cap established by the FCC, the commissioners shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

(h) *Cost-of-service showings.* If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the commissioners will review the submission pursuant to the FCC standards for cost-of-service review. The commissioners may approve a rate increase above the price cap if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

(i) *Decision.* The commissioners' decision concerning the requested rate increase shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a person requesting the Town's secretary to record the objection or may be submitted in writing at anytime before the decision resolution is adopted.

(j) *Refunds.*

(1) The commissioners may order refunds of subscribers' rate payments with interest if:

(A) The commissioners were unable to make a decision within the extended time period as described in paragraph (c) above; and

(B) The cable operator implemented the rate increase at the end of the extended review period; and

(C) The commissioners determine that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing, and the commissioners disapprove any portion of the rate increase.

(2) The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the commissioners' decision resolution.

(k) *Appeal.* The commissioners' decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations.

III. Cable Operator Information

(a) *City may require.*

(1) In those cases when the cable operator has submitted initial rates or proposed an increase that exceeds the reasonable rate standard, the commissioners may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed to make a rate determination. In these cases, a cable operator may request the information be kept confidential in accordance with this section.

(2) In cases where initial or proposed rates comply with the reasonable rate standard, the commissioners may request additional information only in order to document that the cable operator's rates are in accordance with the standard.

(b) *Request for confidentiality.*

(1) A cable operator submitting information to the commissioners may request in writing that the information not be made routinely available for public inspection. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies.

(2) If feasible, the information to which the request applies shall be physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.

(3) Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts upon which those reasons are based, including reference to the state government article of the Maryland Code, currently codified at 10-617(d) as to commercial information.

(4) Casual requests which do not comply with the requirements of this subsection, shall not be considered.

(c) *Commissioners' action.* Requests which comply with the requirements of subsection (b) will be acted upon by the commissioners. The commissioners will grant the request if the cable operator presents a preponderance of the evidence, a case for nondisclosure consistent with applicable federal regulations. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from public inspection. If the request does not present a case for nondisclosure and the commissioners deny the request, the commissioners shall take one of the following actions:

(1) If the information has been submitted voluntarily without any direction from the town, the cable operator may request that the town return the information without considering it. Ordinarily, the town will comply with this request. Only in the unusual instance that the public interest so requires, will the information be made available for public inspection.

(2) If the information was required to be submitted by the commissioners, the information will be made available for public inspection.

(d) *Appeal.* If the commissioners deny the request for confidentiality, the cable operator may seek review of that decision from the FCC within five working days of the commissioners' decision, and the release of the information will be stayed pending review.

IV. Automatic Rate Adjustment

(a) *Annual inflation adjustment.* In accordance with FCC regulations, the cable operator may adjust its capped base per channel rate for the basic service tier annually by the final GNP-PI index.

(b) *Other external costs.*

(1) The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceed the GNP-PI. These factors include retransmission consent fees, programming costs, state and local taxes applicable to the provision of cable television service, and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per channel rate, without regard to its relation to the GNP-PI.

(2) For all categories of external costs other than retransmission consent and franchise fees, the starting date for measuring changes in external costs for which the basic service per channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 28, 1994, whichever occurs first. The permitted per channel charge may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

(c) *Notification and review.* The cable operator shall notify the Town at least 30 days in advance of a rate increase based on automatic adjustment items. The Town shall review the increase to determine whether the item or items qualify as automatic adjustments. If the Town makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.

V. Enforcement

(a) *Refunds.* The Town may order the cable operator to refund to subscribers a portion of previously paid rates under the following circumstances:

(1) A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or

(2) The cable operator has failed to comply with a valid rate order issued by the Town.

(b) *Fines.* If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$400 for each day the cable operator fails to comply.

Section 2-12. Conditions for use of public ways and rights-of-way.

A. No construction or relocation of any CATV system, or any part thereof, within a public right-of-way, shall be commenced until written permits have been obtained from the proper governmental authority.

B. A franchisee shall, at its own expense, protect, support, temporarily disconnect, relocate or remove any of its facilities or property when required by any public body by reason of traffic conditions, public safety, road construction, change of street grade, installation or repair of sewers, drains, water pipes, power lines or other public improvements; provided, however, that a franchisee shall have the privilege of abandoning any property in place.

C. If trees or other factors in the public way interfere with proper operations of the equipment or facilities of the franchisee, the franchisee may, with the approval of the Town, and other governmental units deemed legally necessary, correct such interference.

Section 2-13. Restrictions against assignment of franchises.

A. Franchises shall not be sold, transferred, leased, assigned or disposed of, in whole or in part, either by sale, merger, consolidation, bankruptcy or otherwise, without prior consent of the Town by resolution, and then only under such conditions as may therein be prescribed and in accordance with the regulations of the FCC.

B. Any change of ownership or management organization not acceptable to the Town shall be grounds for termination of the franchise.

Section 2-14. Equal opportunity retirement.

A. A franchisee may not discriminate against any person or organization regarding employment, compensation, programming or otherwise because of sex, race, color, age, creed or national origin.

B. Any finding by the town of a violation of this section shall be grounds for termination of the franchise in accordance with FCC regulations.

Section 2-15. Tampering, unauthorized connections.

A. It shall be unlawful for any person, without the consent of the franchisee, to willfully tamper with, remove or injure cables, wires or equipment authorized under a franchise granted by the chapter.

B. It shall be unlawful for any person to make or use any unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise, with any part of a franchise CATV system within the Town for the purpose of enabling himself or others to receive any CATV signal without authorization of the franchisee or the Town.

Section 2-16. Use of individual antennas protected.

This chapter shall not prohibit the erection or continued use of individual antennas, not require any person or organization to receive CATV service, or to connect with a CATV system.

Section 2-17. Termination of franchise; authority and procedure.

A. If a franchisee fails to comply with any of the provisions of this chapter, or regulations promulgated under the authority of this chapter, or defaults in any of its obligations under the franchise agreement, and fails within thirty (30) days after written notice from the Town to the franchisee has been received by such franchisee to correct such noncompliance or default, the Town may, at its option, terminate the rights granted under the franchise; provided, that before any franchise is terminated under this section, the franchisee shall be entitled to a hearing before the commission to show cause why the franchise should not be terminated.

B. In the event that the Town terminated a franchise, the Town may, at its option, either:

(1) Require the franchise to remove its facilities within sixty (60) days after such termination; or

(2) In the event that the franchisee does not remove its facilities within such sixty day period, the town may remove such facilities and charge to the franchisee the costs of the removal; or

(3) Take possession of such equipment and facilities with the amount of compensation to be paid by the Town or a successor franchisee for the cost of such facilities to be determined by agreement for arbitration.

Section 2-18. Delegation of authority, rules for enforcement and administration.

A. The commission shall have the right by resolution to delegate any of its authority to any town official, or to a committee to be named by the commission, to enforce or administer any of the provisions of this chapter.

B. The commission or any town official or committee delegated authority under this chapter, shall have the authority to issue such reasonable rules and regulations as may be necessary for the implementation, enforcement and administration of this chapter and any franchise granted hereunder.

Section 2-19. Violations and penalties.

Violation of any of the provisions of subsection 2-2(e) or Section 2-15 shall be deemed a misdemeanor and punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days, or both. Each connection, subscription, operation or tampering shall be considered a separate violation, for purposes of this section.

Section 2-20. Duration of franchise.

The commissioners shall establish the duration of each franchise granted under this chapter and the terms and conditions for any renewal thereof. Any such franchise may be renewed for a period not exceeding its original duration without soliciting additional applications. The commissioners shall have the power to extend an existing franchise for a period of time less than that of the franchise or originally granted upon the commissioners' finding that such a grant is in the best interest of the subscribers within the Town. (Revised 10/12/94)

Section 2-21. Right of franchise entity to intervene.

The franchise entity reserve to itself the right to intervene in any suit, action or proceed involving any provision of this chapter.

Section 2-22. Severability; invalid provision.

If any provision of this chapter, or the particular application thereof, shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining provisions, and their application, shall not be affected thereby.

Chapter 3

Garbage and Trash Collection

Section 3-1. Definitions.

- (1) *Waste* refers to all unwanted materials, including liquid and solid waste materials.
- (2) *Refuse* refers to all solid waste and includes garbage, rubbish and ashes.
- (3) *Garbage* refers to the unwanted organic refuse, largely foods, either unconsumed or spoiled, organic waste from the processing of foods, containing natural moisture, and a minimum of free liquids.
- (4) *Rubbish* is all other types of refuse, other than garbage.

Section 3-2. Garbage Containers.

It is hereby ordained and required that within the corporate limits of the Town of Cottage City all garbage and any refuse consisting of waste animals or vegetable matter upon which insects and rats may feed, or in which insects may breed, and all small dead animals, shall be placed and stored until collected, in rust resistant, tight, non-absorbent, and easily washable receptacles which are covered with close fitting lids. These receptacles must be of adequate capacity (10 or 20 gallon), and must be provided in sufficient number to hold all collectible garbage and refuse that accumulates between collections. All cans shall be washed occasionally, and treated with disinfectant, if necessary, to prevent odors from being a nuisance.

Section 3-3. Storage of Rubbish.

All rubbish shall be stored in covered containers between collections except in the case of large articles, such as logs. Such large articles should be cut into sections not to exceed three feet in length and placed at the street curb for collection.

Section 3-4. Refuse.

No refuse whatsoever shall be allowed to accumulate on any premises or vacant lot except in covered containers as described above. If garbage and rubbish are not collected separately, they may be kept in one or more containers as described in Section 3-2 and 3-3 above. In such cases the household garbage shall be drained and wrapped before placing in containers. If garbage and other types of refuse are disposed of separately, separate containers are required.

Section 3-5. Stacking.

All lumber or other building materials or articles stored on the premises must be stacked on racks at least 18 inches above the floor or ground level.

Section 3-6. Accumulation of Trash.

It shall be unlawful for any person to place, leave, dump, or permit to accumulate any garbage, rubbish or trash in any building or on any premises so that the same shall or may afford food or harborage for rats or insects, or shall or may afford breeding places for insects.

Section 3-7. Inspection.

All premises within the corporate limits of the Town of Cottage City may be inspected periodically for compliance with the requirements of this ordinance by the police of the Town of Cottage City.

Section 3-8. Trash Collection.

No person shall deposit trash or debris of any kind or nature, whatsoever, on any public property within the Town of Cottage City except in compliance with this ordinance.

Section 3-9. Regular Trash Collection.

All residents of the Town of Cottage City are hereby authorized to deposit household trash and debris on the public right-of-way, at the curb line or property line, easily accessible from the street, where trash pickup normally occurs by the designated contractor of Cottage City nearest their place of residence on the days of the week designated by the Town Commissioners for a regular trash collection. Items to be collected shall be placed prior to 6:00 A.M. on the scheduled collection day but no earlier than 2:00 P.M. of the day preceding the day of the week designated by the Town commissioners for regular trash collection. Except as further provided in this Chapter 3, such household trash shall not include any item too bulky to be included in a standard trash can, nor shall automobile parts, building materials, dirt or any such other matters not within the ordinary meaning of the term household trash be deposited for regular trash pickup. Except for bulky trash, yard debris (grass, clippings, leaves, etc.) that has no food or garbage in it must be stored in plastic bags or containers. No paper bags of any kind may be used except for disposing of newspapers. Empty cardboard boxes may be put out without bagging them. Christmas trees may be placed out on the public right-of-way as a part of regular trash pickup without being cut to size or containerized in any way. All other trash that is not recyclable must be contained in a metal or plastic trash can with a tightly fitting metal or plastic lid to keep animals out of it. In the event reusable containers are used, the resident shall bring such containers back onto their premises from the public right-of-way within twenty-four (24) hours after the containers have been emptied by the trashmen. Any resident desiring to place trash out earlier than the above time on a regular basis must apply to the commissioners of the Town of Cottage City for such permission. The town commissioners may only grant such permission after considering the special circumstances put forward by the resident or owners and weighing that against the Town's interest in having the Town free of trash and debris on public property. The decision of the town commissioners is final.

Section 3-10. Bulky Trash Collection.

A. All residents of the Town of Cottage City are hereby authorized to deposit, on the public right-of-way, at the curb line or property line, easily accessible from the street, where normal trash pickup occurs by the designated contractor of Cottage City nearest their residence, certain items hereinafter specified on the day designated by the Commissioners of the Town of Cottage City as the Bulky Trash Collection Day. The items permitted to be deposited as bulky trash shall include those items used in the residence and yard. It may not include debris from renovation or construction activities of any kind, building parts, nor automobile parts. No more than four (4) items may be placed out on any single bulky trash collection day and all materials shall be appropriately bagged, boxed or bundled to facilitate easy collection, by which is meant, for example, that bushes or branches except for household Christmas trees shall be cut to length of no more than four (4) feet and tied into a bundle easily handled by one person. However, any single large object, as for example a heavy chair or sofa, may be placed out without breaking it into pieces or bagging or bundling it in any way. Items to be collected shall be placed prior to 6:00 A.M. on the scheduled collection day but not prior to 2:00 P.M. of the day preceding the day designated by the commissioners of the Town of Cottage City as bulky trash collection day. Any resident desiring to place out earlier than the above time must apply to the commissioners of the Town of Cottage City for such permission. The Town commissioners may only grant such permission after considering the special circumstances put forward by the resident or owner and weighing that against the Town's interest in having the Town free of trash and debris on public property. The decision of the Town commissioners is final.

B. At no time is it permissible to empty the complete contents of a house for bulky trash collection. In those instances where residents are either moving in or out of town, and have more than four (4) items allowed under bulky trash collection, or more than normally would be put out on a regular trash collection day as under this Chapter, such trash shall be removed by the residents or owners of the property at their expense. The use of the town truck in these instances is permissible provided the residents or owners of the property pay all expenses associated with the removal of trash and they load the truck.

Section 3-11. Trash Pickup for Apartments, Condominiums, and Commercial Enterprises.

All apartment dwellings, condominiums and other commercial enterprises located within the corporate limits of the Town of Cottage City shall make separate and distinct arrangements for their own garbage and refuse disposal from that afforded the occupants of single family dwellings. Unless other provisions reasonably acceptable to the Town are made. All such garbage and refuse for multi-family dwellings and condominiums and commercial enterprises must be placed in dumpsters or similar containers and such containers/dumpsters shall be fully enclosed and screened from public view.

Section 3-12. Leaf Pickup.

All residents of the Town of Cottage City are hereby authorized to deposit leaves from their property onto the public property where trash pickup normally occurs by the designated contractor nearest their residences on those days designated for leaf pickup by the Commissioners of the Town of Cottage City. The leaves must be bagged.

Section 3-13. Violations.

Any violation of this Chapter shall be punished by a fine of \$50.00. The penalty for such violation shall be a \$50.00 fine for an initial offense and \$100.00 for each repeat offense. Each day any violation continues shall be a separate offense.

Chapter 4

Health and Nuisances

Section 4-1. No person shall keep, collect or suffer to be in his or her house or on his or her premises over and above the period of 24 hours any putrid or decaying animal or vegetable matter, nauseous liquids, stagnant water or other offensive matter, or any liquid or matter which is liable to or which by a stench or smell becomes a nuisance to the neighborhood or which becomes a breeding place for germs, or liable to become a detriment to the public health. (See Chapter 12, Property Maintenance).

Section 4-2. No owner of property within the corporate limits of the Town of Cottage City shall cause or permit weeds, grass or thickets to grow upon his, her or their property, so as to constitute a menace to health or an obstruction to the free passage of persons using the sidewalk contiguous to the property.

Section 4-3. Upon it appearing to the Commissioners that a condition exists which is prohibited by the foregoing section, the Town Clerk or the police or Code Enforcement shall notify the owner of the property to remedy the condition within ten (10) days after receipt of such notice, and upon failure to comply with such notice, the Commissioners shall employ a person to do the work, who shall have the right of entering the premises for the purpose, and the cost thereof shall be assessed against the property owner. The Town shall proceed to collect this cost by entering same on the tax records as a tax upon such real estate, or by suit if deemed necessary, or both.

Section 4-4. It shall be unlawful for any person to keep any live swine, horse or animal of the horse-kind, sheep, goats, cows or animals of the bovine-kind, pigeons, rabbits, or fowls or progeny thereof in the Town of Cottage City.

Section 4-5. It shall be unlawful for any person or persons to occupy any trailer, car or other vehicle as his, her or their living quarters within the limits of the Town of Cottage City.

Section 4-6. Nuisances – Grass and Weeds.

A. *Defined Generally.* Whatever is dangerous to life or health, whatever renders air, food, water and drink unwholesome or unfit for the use of man; whatever odors or exhalations are offensive to the inhabitants or dangerous to the public health; whatever accumulations of animal or vegetable matter, solid or liquid, which are dangerous or harmful to the neighborhood, or are likely to become so, are declared to be nuisances within the scope and meaning of this chapter.

B. *Trash, Waste Materials, Etc., Weeds – As Public Nuisances.* Any trash, waste materials, garbage, offensive and dirty materials or weeds, briars, bushes and grass more than one foot tall, which may be allowed to accumulate or grow on any private property adjoining any of the streets, alleys, or lanes and within two hundred feet thereof, in the town, are declared a

public nuisance.

C. *Duty to Remove After Being Notified to do so.* It shall be the duty of the Town Commissioners to take all reasonable steps to send notice to the owner, tenant or person in possession of any real estate where a nuisance exists to remove such public nuisance within ten days, inclusive of Sundays and holidays, after the date of such notice. Upon failure to remove such public nuisance within the time specified, the nuisance will be removed by the town and the cost thereof be charged to him, her or them, as the case may be, unless cause to the contrary be shown by filing objections in writing with the Town Commissioners on or before the expiration date of such notice. If such written objections are filed the Commissioners shall review the objections and advise such person in writing within ten (10) days of the receipt of the objections as to the result of his or her review. In the event the appellant or appellants fail to abide by the decision of the Commissioners of if such public nuisance is not removed within the time specified in any notice and no written objections have been filed, or are filed and overruled, then the Town Commissioners shall cause the public nuisance to be removed, and may incur the necessary expense in so doing, and shall place a charge against the proper person or persons for such costs and proceed to collect the same by entering same on the tax records as a tax upon such real estate, or by suit if deemed necessary, or both.

Section 4-7. Unfit Structures.

A. *Dangerous Structures.* Any dwelling or unit, including outbuildings and sheds which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Town Commissioners.

(1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

(3) One which, because of its general conditions or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

B. *Form of Notice.* Whenever the Town Commissioners, after hearing, have declared a dwelling or multifamily dwelling as unfit for human habitation, they shall give notice to the owner or owners of such declaration and placarding of the dwelling or multifamily dwelling as unfit for human habitation. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

- (3) Include a statement of the reason or reasons why it is being issued.
- (4) State the time to correct the conditions;
- (5) State the time occupants must vacate the dwelling units, if applicable.

C. *Service of Notice.* Service of notice that a building is unfit and must be vacated shall be as follows:

- (1) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion;
- (2) By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepared thereon; or
- (3) By posting a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

D. *Sealing of Unfit Structures.* It shall be the responsibility of the owner of the property to remove all unsanitary or flammable material and to board up all windows and doors after a dwelling has been properly determined to be unfit for human habitation, if such boarding up is determined by the Town Commissioners to be necessary for reasons of health or safety. In the event that the owner of the property fails to properly seal the structure against unsanitary or flammable waste material and to board up all windows and doors so as to prevent entrance. The cost of this action shall be a lien on the property and collectible in the same manner as delinquent taxes.

Section 4-8. Violations.

Any violation of this ordinance shall be deemed a municipal infraction and shall, in addition to any cost or fee, be punished by a fine of fifty dollars (\$50.00). Each day any violation of this ordinance shall continue shall constitute a separate offense.

Chapter 5

Permits and Licenses

Section 5-1. Permit fees, construction.

It shall be unlawful for any person or persons, firm or corporation to build or construct or cause to be built or constructed, a new building dwelling, garage or swimming pool, or renovate, enlarge or extend an existing building of the type described above or do any act for which a permit for such building or construction is required by Prince George's County, without obtaining a permit from the Cottage City Commission issued by the Clerk thereof. No permit shall be issued until the Clerk is provided with (1) a copy of plans regarding the proposed construction which have been approved by the County, (2) A County permit and (3) Fees as follows: ten dollars (\$10.00) plus two dollars (\$2.00) addition per thousand dollars (\$1,000.00) value thereof over ten thousand dollars (\$10,000.00) up to a total fee no more than forty-two dollars (\$42.00) for each permit. The value of the construction shall be the cost or estimate thereof, of the completed construction.

Section 5-2. Business License.

That it shall be unlawful for any person, firm or corporation to engage in any trade, or business of any kind whatsoever including vending without first obtaining from the Cottage City Commission, or the Clerk thereof, a license, in writing, authorizing the person, firm or corporation so procuring same to engage in such trade or business.

Section 5-3. Form of Business Licenses.

Each permit or license shall state the name of the person, firm or corporation to whom it is issued, the date of issue and of expiration the kind of business for which issued, the location of business, and the amount of the fee paid for said permit or license. All permits or licenses except for sale of whiskey and beer shall expire on June 30th of each year. All permits or licenses issued for a longer period than six months shall be issued for the full annual fee only; those issued for six months or less shall be issued for one-half the annual fee. The fee will be sufficient to cover all costs of regulation, issuance of licenses, inspections, health regulations supervision, policing and other regular activities or expenditures and which are deemed necessary to protect the public health, safety and morals. All permits or license fees shall be paid before the permit or license is issued.

Section 5-4. Application for License.

The application for a permit or license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (a) The applicant's full name, current address, telephone number and proof of identity, issued by the State of Maryland, or other recognized governmental entity;
- (b) A brief description of the business nature, including its character and the quality of goods or services offered;
- (c) The specific location, if any, of the business;
- (d) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation;
- (e) If a motor vehicle is to be used in the business, a description of the vehicle together with the motor vehicle identification number and license number;
- (f) A complete listing of any other licenses or permits issued to the applicant by the Town within the five (5) years immediately preceding the date of the application;

Any application for a license to engage in the sale of food or beverages shall also be referred to the county and state health department for approval and issuance of a certificate of health inspection [or health permit] in addition to the regular vending license. The applicant's equipment shall be subject to inspections at the time of application and at periodic intervals thereafter. The Town will not issue or renew a vending license until all the provisions of this code have been complied with until all required county or state licenses or permits have been issued and evidence of such, to the reasonable satisfaction of the Town, has been demonstrated.

Section 5-5. Issuance of License.

- (a) No license or permit shall be issued until the applicant presents reasonable proof that the licensed or permitted activity will not violate any of the provisions of Section 5-7 below. The Town Clerk or Commission can issue a license or permit subject to such conditions or restrictions as reasonably necessary to protect the public safety and the purposes of this Chapter.
- (b) The applicant shall be notified in writing by the Town of the decision to issue or deny the vending license not later than sixty (60) days after the applicant has filed a completed application with the Town.
- (c) Each license shall show at a minimum the name and address of the licensee, the type of license issued, the kind of goods or services to be sold, the amount of the license fee, the date of issuance, the license number, and a copy of any state issued photo identification. Each license shall also show the expiration date of the license and the vendor's permit number which is issued by the Town and any conditions or restrictions as well as a statement that it is subject to revocation by the Town.

(d) All licenses, permits and/or identification badges issued under this Section are valid for no longer than one (1) year unless suspended or revoked and shall be both non-assignable and non-transferable.

Section 5-6. Fees.

A. All license fees shall be paid before the licenses are issued, and the annual fees shall be paid as set out below. In addition to the below fees, there shall be a late fee of 25% of the original fee if a renewal of an annual license is applied for thirty (30) days after it expired.

B. The fee for any business license or permit not specifically provided for in this code shall be \$200.00 per year or portion of a year.

C. The permit fee shall be as follows:

- (1) For each transient peddler and vendor, except farmers selling and delivering their own produce, \$50.00
- (2) For each musical or cigarette machine, \$50.00
- (3) For each slot machine or game of skill, \$50.00
- (4) For the sale of vehicles, motor vehicles, motorcycles, and mobile homes or trailers, \$500.00
- (5) For each alcoholic beverage license, \$250.00

Section 5-7. Suspension and Revocation of License.

A. No person or entity shall cause or allow the following to occur or exist. Further, any license or permit issued under this Chapter may be suspended or revoked for any of the following reasons:

- (1) Fraud, misrepresentation or knowingly false statement contained in the application for the license;
- (2) Fraud, misrepresentation or knowingly false statement in the course of carrying on the business;
- (3) Conducting the business of vending in any manner contrary to the conditions of the license or to a direct order by the town or the police;
- (4) Conducting the business in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, or welfare, or interfere with the rights of abutting property owners;

(5) Cancellation or suspension of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations or cancellation or suspension of a required county or state license or permit; or

(6) Conducting the business in violation of any law or ordinance of the United States, the State of Maryland, or any subdivision thereof, including the Maryland National Capital Park and Planning Commission and the District Council created in connection therewith, as well as the Town.

B. The Town shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of his/her right to a hearing. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested and regular mail.

C. If the Town revokes a license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this section may not apply for a new license for a period of one (1) year from the date that the revocation took effect.

D. If the Town denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may have a hearing before the Commission. The Commission shall either hear the matter or appoint the hearing officer to hear the matter. The decision of the Commission (or designee) shall be final.

E. The filing of a hearing request ordinarily stays the action of the Town in suspending or revoking a license or permit or any part of the business operation being conducted under such license or permit until the Commission makes a final decision. However if the Chairman Commissioner determines that continued operation of the vending business constitutes an imminent and serious threat to the public health or safety, the Chairman Commissioner may order that the appeal does not stay the suspension or revocation, and shall immediately (within 3 days) order a hearing on such stay.

F. A license or permit may be renewed, provided an application for renewal and license fees are received by the Town no later than the expiration date of the current license. The Town shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of this Chapter and all applicable Town, County and State codes, shall issue a new license.

Section 5-8. Display of Identification Badges and Other Permits.

A. Any license or permit issued by the Town shall be carried with the licensee

whenever he/she is engaged in vending. Certificates of health inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

B. A Certificate of Health Inspection shall be deemed to be properly displayed when it is clearly to the public and law enforcement officials.

Section 5-9. Notification of Name and Address Change.

All licensees and permittees shall assure that a current and correct name, residence address and mailing address are on file with the Town Clerk. Whenever either the name or address provided by a licensed vendor on his application for a vending license changes, the licensee shall notify the town in writing within fifteen (15) days of such change and provide the same with the name change or address change.

Section 5-10. Street Vendors.

A. *Definitions.*

(1) *Conveyance* includes any public or privately owned vehicle, method or means of transporting people, bicycles, motorized or non-motorized vehicle, handcart, pushcart, lunch wagon or any other device or thing, whether or not mounted on wheels.

(2) *Public space* includes all parks and property owned or operated by the town or MNCP&P.

(3) *Public way* means all areas legally open to public use such as public space, public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

(4) *Pushcart* means any wheeled vehicle approved by the Department of Code Enforcement in accordance with this Chapter, designed for carrying property and for being pushed by a person without the assistance of a motor or motor vehicle.

(5) *Stand* means any showcase, table, bench, rack, handcart, pushcart, stall or any other fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverage, goods, wares or merchandise upon a sidewalk.

(6) *Vendor* means any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the Town. A “vendor” also includes any street vendor,

hawker, huckster, itinerant merchant or transient vendor. This definition does not include a door-to-door peddler or solicitor or farmer selling his own produce.

(7) *Vending* is doing any act as a vendor.

(8) *Vehicle* means every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

B. *License Required.* It shall be unlawful for any person to engage in vending unless the person has first obtained a license from the Town.

C. *Hours of Operation.* Unless the license specifically provides otherwise, vendors shall be allowed to engage in the business of vending only between the hours of 9:00 a.m. and 8:00 p.m. for no more than fifteen (15) minutes at a single stop after which the vendor must move their vending station or conveyance and other related items a minimum of 1,000 feet from the previous location. They may not return to within 500 feet of a previous location for twenty-four (24) hours. No vending station, conveyance or other items related to the operation of a vending business shall be located on any sidewalk or other public way during non-vending hours. Nor shall any vehicle be parked, stored or left overnight other than in a lawful parking place.

D. *Littering and Trash Removal.*

(1) Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their businesses. All trash or debris accumulated within twenty-five (25) feet of any vending stand shall be collected by the vendor and deposited in a trash container.

(2) Persons engaged in food vending shall affix to their vending station, vehicle, pushcart or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

E. *Vending Restrictions.* Absent an explicit authorization by the town for a special event or circumstance, no vendor shall be permitted to operate:

(1) On any public space, within twenty-five (25) feet of any street, intersection or pedestrian crosswalk.

(2) Within twenty-five (25) feet of any loading zone or bus stop, intersection, or pedestrian crosswalk.

(3) In any area within twenty-five (25) feet of a building entrance or exit.

(4) On the median strip of a divided roadway.

- (5) Against display windows of fixed location businesses.
- (6) Any area within one thousand (1,000) feet of a school.
- (7) Within twenty-five (25) feet of any fire hydrant or fire escape.
- (8) Within twenty-five (25) feet of any parking space or access ramp designated for persons with disabilities.

F. *Prohibited Conduct.* No person authorized to engage in the business of vending shall do any of the following:

- (1) Obstruct pedestrian or motor vehicle traffic flow, except for no more than 5 minutes to load and unload vending stations and/or vending merchandise.
- (2) Obstruct traffic signals or regulatory signs.
- (3) Stop, stand or park any vehicle, pushcart or conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
- (4) Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public space overnight.
- (5) Use a handcart or pushcart whose dimensions exceed 6 feet in width, 6 feet in length, and 7 feet in height.
- (6) Use any stand or other fixed-location conveyance whose dimensions exceed 6 feet in width, 7 feet in length, and 3 feet in height.
- (7) Use any conveyance that when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee, his employee, or an attendant.
- (8) Sell any goods, wares or merchandise on public space unless the location has been or shall be hereafter so designated by the Town for vending.
- (9) Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention, or otherwise violate the Town's Noise Ordinance or the Transportation Article of the Maryland Code §22-401 and 22-401.1, as amended.
- (10) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(11) Fail to obey the lawful order of a police officer.

(12) Operate in violation of the terms and conditions of the Town permit or in violation of the vending restrictions above.

Section 5-11. Violations.

Unless provided otherwise, any violation of this Chapter shall be deemed a Municipal Infraction. The penalty for such violation shall be a \$250.00 fine for an initial offense together with a suspension of the license for no more than 90 days and \$500.00 for each repeat offense together with a revocation of the license. Each day any violation continues shall be a separate offense.

Chapter 6

Peace and Good Order

Section 6-1. Noise.

A. The Commission of the Town of Cottage City hereby declares it to be the public policy of the Town that every person is entitled to an environment free of noise levels which are detrimental to life, health and enjoyment of property. The purpose of this Chapter is to establish the lawful and unlawful limits of noise within the town and the enforcement procedures and requirements pertaining thereto.

B. *Definitions.*

(1) *Noise* means any sound occurring on either a continuous, intermittent or impulsive basis. It also means the intensity, frequency, duration and character of sound, including sound and vibration of subaudible frequencies.

(2) *Continuous noise* means any noise, whether or not the sound level varies to the human ear, is audible for at least one (1) minute.

(3) *Intermittent noise* means any noise that is audible for more than a period of ten (10) seconds but less than one (1) minute.

(4) *Impulsive noise* means a short burst of sound not exceeding ten (10) seconds in duration.

(5) *Daytime*, unless otherwise specifically noted, means the hours from 8:00 a.m. to 9:00 p.m.

(6) *Nighttime*, unless otherwise specifically noted, means the hours from 9:00 p.m. to 8:00 a.m.

C. *Noise Prohibitions.*

(1) It shall be unlawful for any person whether that person be a homeowner, owner, tenant, firm, or corporation to cause a violation of this chapter or to allow on property that person owns or occupies or on property which that person has a right or license to occupy, any noise or sound level that exceeds the maximum permissible sound level or is in violation of this Chapter.

(2) Nothing in this chapter shall be deemed to abridge or conflict with the powers of the State of Maryland or of Prince George's County over noise control.

D. *Presumption.* Except as otherwise provided in this Chapter, a noise which emanates from any operation, activity, or source and which exceeds the maximum permissible

sound levels established by the following subsection is prohibited. Any noise audible from a distance greater than the distance specified in this subsection is presumed to exceed the maximum permissible sound level.

E. *Vehicle.* The use or operation of a motor vehicle or equipment in or on the motor vehicle in such a manner as to exceed the maximum sound levels established by this chapter is prohibited.

F. *Nonresidential Zones.* Provided that the noise is not audible within any residential area, if the noise emanates from a source located within a nonresidential zone, the maximum permissible sound level is:

(1) Daytime:

(a) Any continuous noise audible from a distance of fifty (50) feet or less from either the source of the noise or the property that is the source of the noise.

(b) Any intermittent noise audible from a distance of the one hundred (100) feet or less from either the source of the noise or the property that is the source of the noise.

(c) Any impulsive noise repeated at least once within a five-minute period that is audible from a distance of one hundred fifty (150) feet or less from either the source of the noise or the property that is the source of the noise.

(2) Nighttime: any noise audible from a distance of fifty (50) feet or less from either the source of the noise or the property that is the source of the noise.

G. *Residential Zones.* If the noise emanates from a source located within a residential use zone or if the noise can be heard within a residential use zone, regardless of the location of the source, the maximum permissible sound level is:

(1) Daytime:

(a) Any continuous or intermittent noise audible from a distance of fifty (50) feet or more from either the source of the noise or the property that is the source of the noise.

(b) Any impulsive noise audible from a distance of sixty (60) feet or more from either the source of the noise or the property that is the source of the noise.

(2) Nighttime: any noise audible from a distance of forty (40) feet or less from either the source of the noise or the property that is the source of the noise.

H. *Exemptions for construction, repair or demolition of structures and yard equipment.*

(1) There shall be an exemption for noise above the maximum permissible sound levels outlined in this chapter if the noise is due to construction, repair, demolition of structures, facilities, or public roads or rights-of-way. Except for emergencies, this exemption shall not apply during the nighttime hours and on Sundays and Christmas Day.

(2) Noise in excess of the noise limits specified in this Chapter and emanating from power equipment for garden, lawn or trees, such as saws, drills, sanders, grinders, garden tools, and snowblowers, shall be exempted when such equipment is performing work during daytime hours and when the equipment is used in accordance with manufacturer's specifications.

I. *Special Noise Restrictions.* The following special noise restrictions are hereby established without regard to their distance impact unless specifically noted in this subsection and may be enforced without the warning procedures hereinafter prescribed:

(1) Motor vehicle horns. It shall be unlawful for any person to sound a horn or other signaling device on any motor vehicle except as an emergency or danger warning signal.

(2) Radios, music, etc. It shall be unlawful to operate and radio, CD or tape player, loudspeaker or other such noise-producing device upon public streets, rights-of-way or parks if the noise is audible fifty (50) feet from the noise-producing device.

(3) Muffler cutoffs. It shall be unlawful to use a muffler cutout, bypass or similar device on any motor vehicle.

(4) Selling by outcry. It shall be unlawful to sell anything by outcry except during daytime hours when authorized by permit or as part of a sporting event, parade, fair, circus or other entertainment event authorized by the town administrator.

(5) Amplified musical instruments. It shall be unlawful for any person to use any drum or amplified musical instrument upon the streets, other public rights-of-way or parks without a permit issued by the Town.

(6) After 11:00 p.m. it shall be unlawful between the hours of 11:00 p.m. and 8:00 a.m. to operate any radio, record player, audio system, television set, or to create noise in any other way when such noise is audible to others located or living on adjacent nearby property even when the property is less than forty (40) feet from the source of the noise, or such as to disturb the peace and quiet of any neighborhood.

(7) Mechanically powered tools. It shall be unlawful to operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device in residential areas during nighttime hours so as to cause a noise

disturbance across a residential real property boundary. These actions are prohibited before 9:00 a.m. on Sundays.

(8) Alarm signals. It shall be unlawful to allow an alarm signal to sound, either continuously or at intervals, for a period of ten (10) minutes or more if such sound is audible from a distance of at least fifty (50) feet from the source of the sound and/or disturbs the peace and good order of the neighborhood. The owner of the real or personal property that is the source of the above sound shall be presumed to have knowledge of this sound.

J. *Applicability.* The maximum permissible sound limits and prohibitions of this section 6-1 shall not apply to:

(1) Warning devices necessary for public safety, such as police, fire and ambulance sirens and train horns.

(2) Motor vehicles and equipment employed in emergency work by a governmental agency or a public utility.

(3) Devices used in conjunction with places of religious worship, such as church bells.

(4) Aircraft, trains and similar types of noise.

(5) Exemptions allowed in this section 6-1 or established by the Town Commissioners for the public good.

K. *Exemption Procedure.*

(1) Request for exemption or permit. Any person who believes that meeting the requirements of this chapter is not practical in a particular case may request an exemption or permit to its requirement.

(2) To whom requests made, form, evidence. Requests for exemptions or permits shall be made to the Town Clerk in writing and shall include evidence to show that compliance is not practical.

(3) Hearing. Upon receipt of a request for an exemption or permit, the town commission may schedule a hearing within sixty (60) days. Notice of the hearing shall be published. The notice shall contain a brief description of the exemption or permit requested and any other pertinent data.

(4) Grant of exemption; renewal. Based on evidence presented at the hearing, the town may grant an exemption or permit for a period not to exceed three (3) years under terms and conditions appropriate to reduce the impact of the exemption or permit. Exemptions or

permits may be renewed upon proper showing that the conditions and justifications have not changed significantly.

(5) Factors. Exemptions or permits may only be granted upon the town commission considering the following factors:

- (a) The extent of the exemption or permit proposed and the impact of the noise on the immediate neighborhood;
- (b) Proposed mitigation of the noise;
- (c) The hardship to the applicant if the exemption or permit is not granted;
- (d) The size and character of the area affected;
- (e) The public safety;
- (f) The time of day and the particular circumstances when the event will occur; and
- (g) The benefit to the community if the exemption or permit is granted.

L. *Enforcement.* Unless otherwise herein provided, before issuing an initial citation subjecting the violator to a fine or other penalty, the alleged violator or the owner of the source of noise in question shall be advised verbally or in writing by a representative of the Town or the County of the nature of the alleged violation and shall be warned and ordered to cease the violation and not repeat it or else be subject to fine or other penalty. If the violation fails to cease or should repeat, then a citation subjecting the violator or owner to a fine or other penalty shall be issued. No warning need be issued if the source of the noise is a vehicle, or if a warning has been issued within the last twenty-four (24) hours to the alleged violator or property owner.

M. *Violations.* Violations of this subsection 6-1 are declared to be a municipal infraction. The penalty of violation shall be fifty dollars (\$50.00) for each initial offense and five hundred dollars (\$500.00) for each repeat offense that occurs within one calendar year after the first offense. Each time that a violation occurs shall be a separate offense.

Section 6-2. Drinking.

Any person who shall, within the limits of the Town of Cottage City, in any street or alley, in any public place, drink any intoxicating liquor of any kind, possess an open container of alcohol in public view, or act in a disorderly manner to the disturbance of the public peace shall be guilty of disorderly conduct.

Section 6-3. Loud and Profane Language.

Any person who shall, within the limits of the Town of Cottage City, in any street, alley or other public place, use any loud, boisterous, or indecent language within the hearing of others, and to the disturbance of the public peace, shall be guilty of disorderly conduct.

Section 6-4. Throwing Objects at Vehicles.

It shall be unlawful for any person to throw or propel, or cause to be thrown or propelled any object, substance, or paper against or into any vehicle within the corporate limits of the Town of Cottage City.

Section 6-5. Public Drunkenness.

It shall be unlawful for any person to appear upon the streets, alleys or other public places in the Town of Cottage City in such drunken condition as to be unable to take care of themselves, or in such condition as to disturb the public peace.

Section 6-6. Loitering.

It shall be unlawful for any person or persons to loaf and loiter at any time upon any street, corner, alley, vacant lot, school, church or other public place in the Town of Cottage City, wither on foot or in an automobile.

Section 6-7. Guns.

It shall be unlawful to discharge any gun, pistol or other firearm or air rifle or sling shot within the corporate limits of the Town of Cottage City.

Section 6-8. Begging and Panhandling.

It shall be unlawful to engage in begging or panhandling within the corporate limits of the Town of Cottage City.

Section 6-9. Signs on Public Property.

All persons must obey all rules and signs posted by authority of the Town on public property and rights-of-way.

Section 6-10. The Presence and Conduct of Minors on Streets and Public Places.

A. *Definitions.* For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word “shall” is always mandatory and not merely directory.

- (1) *City* is the Town of Cottage City.
- (2) *Minor* is any person under the age of 18.
- (3) *Parent* is the natural or adoptive parent of a minor.
- (4) *Guardian* is any person other than a parent who has legal guardianship of a minor.
- (5) *Custodian* is any person over the age of 21 who is in loco parentis to a juvenile.
- (6) *Public Place* shall mean any street, alley, highway, sidewalk, park, playground or other place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, café, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

B. *Curfew for Minors.* It shall be unlawful for any minor to walk or to cruise about without a set destination in any vehicle in, about or upon any place in the city between the hours of 10:00 p.m. ad 5:30 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 5:30 a.m. Friday through Saturday unless accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor or unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor or where the presence of such minor is connected with or required by some employment, trade, profession or occupation.

C. *Responsibility of Owners of Public Places.* It shall be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors under the age of 18 between the hours and times stated in Section B.

D. *Parents' Responsibility.* It shall be unlawful for the parent, guardian or other adult person having custody or control to allow such person to be on the streets or sidewalks or on or in any public property or public place within the city between the hours and times stated in Section B. However, the provisions of this Section do not apply to a minor accompanied by his parent, guardian, custodian or other adult person having the care, custody or control of the minor, or if the minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of the minor, or if the parent, guardian or other adult person herein has made a missing person notification to the Police Department.

E. *Special Functions.* Any minor attending a special function or entertainment of any church, school, club, or other organization that requires such minor to be out at a later hour than

that called for in Section B shall be exempt from the provisions of Section B of this ordinance provided the church, school, club or other organization or the individual or his or her parent or guardian shall register in advance with the Chief of Police or his designate to have the minors stay out to this later hour. The registrant shall state the time the function or entertainment shall end, and the minors who attend the function shall be required to be in their homes or usual places of abode within one half hour after the function is ended.

F. *Procedures.*

(1) Any police officer upon finding a minor in violation of Section B shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the Chief of the Police Department who in turn shall notify the parents, guardian or person having custody or control of such minor.

(2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities of Prince George's County.

G. *Penalties.* Any minor violating the provisions of Section 6-10 shall be dealt within accordance with the Juvenile Court law and procedure. Any parent, guardian or other adult person having the care and custody of a minor violating this ordinance shall, after having been previously notified under Section 6-10 F of this ordinance be fined not more than \$100.00 for each offense.

Section 6-11. Emergency Barricades.

It shall be unlawful for any person to drive any vehicle and to disobey or cause any person or animal under his or her control to disobey any police barricades erected to control pedestrian and vehicular traffic where a need for such has been determined and authorized by the Chief of Police because of a local and temporary emergency which cannot safely be dealt with in any other manner.

Section 6-12. Fences and Barriers.

A. *Definitions.*

(1) *Fence* is any structure, barrier or partition erected for the purpose of enclosing a piece of land, dividing a piece of land into distinct proportions, separating two (2) contiguous estates, or stopping and/or creating an obstacle to pedestrian crossing; or consisting

of a section or sections of any type of fencing material, chain, railing, arbor, trellis or any type of similar structure constructed or set in place between the front or side building line and any dedicated street; and made of any material such as blocks, bricks, stones, wood, iron, wire, plastics, concrete, or any other building or construction materials.

(2) *Building restriction line* is the building set back requirement established by the Prince George's County Zoning Ordinance which establishes the closest point to a street that a building may be constructed in the zone in question.

B. Fences over 48 inches in height and fences of any height over 1 foot which are open for less than 50% of its surface (as viewed by a person directly facing the fence) are prohibited between the curb line of any paved street and the building restriction line for that street, regardless of whether the fence is constructed in the front, side or rear yard of the particular property in question.

C. The side yard of a property that is not on a corner lot and rear yard of any property may be enclosed by a fence no higher than 6 feet so long as such fence does not violate the prohibition in 6-12B above.

D. General Restrictions.

(1) Any wall or fence not in keeping with the provision of Section 6-12 herein is prohibited.

(2) No fence or barrier made in whole or in part of barbed wire, razor wire or chicken wire shall be erected or constructed along or adjacent to any street, avenue, road, alley, public walk, or immediately adjacent to an adjoining lot or property line.

(3) No wall or fence, the design or construction of which, in the judgment of the Commissioners, would be detrimental to the public welfare, health, safety or comfort of the citizens of the Town of Cottage City will be permitted to be erected.

E. The provisions of this section shall apply to all residential properties within the Town of Cottage City except those for which a special exception has been granted by the Commissioners.

F. All fences or walls which were constructed prior to the enactment of this ordinance dated April 12, 1995 and which are not in conformance with this ordinance must be either granted a special exception or removed by January 1, 1996.

G. Special Exceptions.

(1) The Commissioners may consider an application for a special exception to the above fence requirements and may grant an exception authorizing the construction of a fence or wall not in strict compliance with Section 6-12 provided they find that said fence or wall:

- (a) Is not a danger to the general public;
 - (b) Does not unduly interfere with or obstruct the visibility of motorcyclists, cyclists or the immediate neighbors;
 - (c) Is not a detriment to or inharmonious with the existing ordinances applicable to the property;
 - (d) Does not adversely affect the health, safety, welfare or peace of the general public or the immediate neighbors;
 - (e) Will not unduly restrict the enforcement or administration of any municipal, county or state ordinance or regulation; and
 - (f) Is located in such circumstances that the application of 6-12B would work a hardship on the owner or the applicant, or is located in such unusual circumstances that justify not enforcing 6-12B.
- (2) If the wall or fence was erected prior to the effective date of this ordinance and if, further, the owner can produce a valid County Building Permit for such fence or wall, an exception may be granted by the Commission upon its finding that conditions and 2 above have been met.

Section 6-13. Violations.

Unless otherwise specified, any violation of this Ordinance shall be deemed a Municipal Infraction. The penalty for such violation shall be a \$50.00 fine for an initial offense and \$100.00 for each repeat offense. Each day any violation continues shall be a separate offense.

Chapter 7

Fire Prevention

Section 7-1. Sirens.

It shall be unlawful for any person to operate, within the limits of the Town of Cottage City any motor-driven vehicle, other than vehicles operated by regularly organized police or fire departments, having attached hereto an explosive or exhaust whistle or siren.

Section 7-2. Safe Distance of Vehicles.

It shall be unlawful for any person operating any motor-driven or horse-drawn vehicle to follow closer than three hundred feet of any fire apparatus responding to an alarm within the corporate limits of the Town of Cottage City, and no vehicle or vehicles of any kind whatsoever shall be permitted within a radius of three hundred feet of the location or place where any fire apparatus is working or in service.

Section 7-3. Presence of Firemen.

At least two firemen who are members of the Fire Department of the Town of Cottage City shall be permitted to be present at any public assembly hall where entertainments, lectures, dances, moving pictures, or other forms of public amusements or gatherings are in progress within the corporate limits of the Town of Cottage City.

Section 7-4. Right-of-way of Fire Department Vehicles.

Any vehicle owned or operated by the Fire Department of the Town of Cottage City, while responding to an alarm of fire, shall have the right-of-way over all streets, avenues, alleys, ways and other public places while engaged in its duties, and the fireman in charge thereof shall have the right to rope off and close to the public any street, avenue, alley or other place in ingress or egress during the time any fire is in progress.

Section 7-5. Interference with a Fire Fighter.

It shall be unlawful for any person or persons to hinder, delay, impede or interfere with any officer, member or other person connected in any capacity with the Fire Department of the Town of Cottage City, while engaged in preventing or putting out any fire or fires within the corporate limits of the Town of Cottage City.

Section 7-6. Parking Near Fire Hydrants.

It shall be unlawful for any person to leave any vehicle, without driver or operator, within fifteen feet of any public fire hydrant or fire station entrance within the corporate limits of the Town of Cottage City.

Section 7-7. False Alarm.

It shall be unlawful for any person to knowingly or willfully give or cause to be given, a false alarm of fire.

Section 7-8. Driving Over Hoses or Barricades.

It shall be unlawful for any person to drive any vehicle over any hose, wire, line, warning barricade or other property of the Town of Cottage City of the Cottage City Fire Department which said hose, line, wire or barricade is being used or is intended to be used in fighting or preventing any fire within the corporate limits of the Town of Cottage City.

Section 7-9. Fireworks.

A. It shall be unlawful for any person, firm or corporation to sell any firecrackers, fireworks, rockets, squibs, explosives or any similar article in the Town of Cottage City.

B. It shall be unlawful for any person to shoot or discharge, or cause to be shot or discharged, or aid or abet in the shooting or discharging of any firecracker, fireworks or other explosives within the limits of the Town of Cottage City.

Section 7-10. Storing Inflammable Liquids.

It shall be unlawful for any person, firm or corporation to store, cause to be stored or permit to be stored above the ground within the corporate limits of the Town of Cottage City any Gasoline, Benzine or other inflammable liquids except in closed metallic containers of a type approved by the proper governmental agency, and not to exceed twenty-five gallons in capacity, for which no permit shall be required; provided that no more than one such container shall be stored upon any premises or in any vehicle.

Section 7-11. Violations.

Any violation of this Ordinance shall be deemed a Municipal Infraction. The penalty for such violation shall be a \$50.00 fine for an initial offense and \$100.00 for each repeat offense. Each day any violation continues shall be a separate offense.

Chapter 8

Streets and Sidewalks

Section 8-1. Trash.

It shall be unlawful for any person to throw, sweep, deposit, scatter or drop, or cause or permit to be thrown, swept, deposited, scattered or dropped any dirt, filth, sawdust, shavings, hay, straw, litter, paper, vegetable matter, decayed fruits, fruit skins, animal matter, manure, scraps, rubbish, garbage, tin cans, ashes, coal, broken stones, mortar, gravel, hedge trimmings, bottles or broken glass, or any other refuse or loose material in or upon any of the streets, roadways, gutters and/or sidewalks or other public places within the Town of Cottage City.

Section 8-2. Fires.

It shall be unlawful for any person to start, place or build, or cause or permit to be started, placed or built, any fire on the streets or roadways, gutters or sidewalks in the Town of Cottage City, or to burn any trash, leaves, paper or other litter or other material thereon.

Section 8-3. Street and Sidewalk Repairs.

It shall be unlawful for any person or persons, firm or corporation to dig up, cut, excavate, break, destroy or in any way injure any sidewalk, curb, gutter, driveway, street or roadway within the Town of Cottage City without first obtaining a permit so to do from the Commissioners of said Town. Such permit is to be issued by the Clerk-Treasurer upon approval by the Commissioner, and payment by the person, firm, or corporation applying for same of a fee of \$25.00 and upon said applicant making deposit with the Clerk-Treasurer in the case of routine works such as driveway aprons of a refundable sum of \$50.00 to guarantee that the applicant will cause the street, sidewalk or curb and gutter to be properly repaired or a bond for the full price of work to be done in all other cases.

Section 8-4. Signs.

It shall be unlawful for any person to break, damage, mutilate or carry away any lantern, street light, barrier, street designation, fixture, road marker, official sign, or any part of such lantern, street light, official marker or street designation erected for the regulation and control of traffic, or any other Town property.

Section 8-5. Games.

It shall be unlawful for any person to play baseball or football or any other game in which a ball or any other object is batted or thrown upon the streets or sidewalks of the Town of Cottage City, Maryland.

Section 8-6. Reward.

The Town shall offer a reward of \$25.00 to any person who gives information that leads to the conviction of any person for malicious destruction or vandalism of Town property.

Section 8-7. Penalties.

Any person, partnership, corporation, joint-stock company, or syndicate who violates any provision of this ordinance shall be deemed guilty of a Municipal Infraction and upon conviction thereof shall be fined in an amount not exceeding \$50.00. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

Chapter 9

Traffic and Vehicles

Section 9-1. Parking, Generally.

No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any public place or street in the Town of Cottage City in violation of any of the ordinances, signs or local laws of the town regulating public places, or the standing and parking of vehicles, nor shall any vehicles be so placed or parked by anyone.

Section 9-2. Towing of Illegally Parked Vehicles.

Any vehicle found standing or parked in violation of such ordinance or local law in a public place or street, may be removed, towed or conveyed by, or at the direction of a member of the police force, to a vehicle pound designated by the Chief of Police and such removal shall be deemed the abatement of a nuisance and at the risk and expense of the owner or person entitled to possession of such vehicle. The Chief of Police may store said vehicles in designated vehicle pounds or other suitable places at the risk and expense of the owner or person entitled to possession hereof. Such owner or person entitled to possession of the vehicle shall pay to the vehicle pound the amount of all expenses actually and necessarily incurred in effecting such removal, together with any charges for storage. The town shall be deemed a creditor of such owner or person entitled to possession and shall have a lien against such vehicle for the amount of expense so incurred. The town may maintain an action against the owner or owners, the person who parked said vehicle or any of them, to recover the amount of the lien in a civil action as a penalty for violation of Section 9-1 of this ordinance.

Section 9-3. Disposition of Unclaimed Vehicles.

If no bids are received at the public sale hereinbefore authorized, the Chief of Police may remove, destroy and break up or otherwise dispose of such vehicle without liability or damages to the owner thereof, or to any person having or claiming any interest therein. The town shall be deemed a creditor of such owner or person entitled to possession thereof, and any other person violating this chapter or local laws, for the amount of the expenses for such removal, advertisement, sale, destruction and disposal, and may maintain a civil action against them, or any of them, to recover the same as a penalty for violation of Sections 9-1 and 9-2 of this ordinance.

Section 9-4. Parking Signs and Notices.

The Cottage City Commission is hereby authorized to erect such signs and notices regarding parking for the common good.

Section 9-5. On-Street Parking Restrictions.

A. It shall be unlawful to park or leave standing any commercial vehicle, as hereinafter defined, upon any public street in a residential zone within the Town of Cottage City for a period in excess of two (2) hours between the hours of 8 p.m. and 6 a.m. A commercial vehicle is any vehicle which either:

- (1) has a manufacturer's gross vehicle weight specification exceeding 7500 pounds; or
- (2) contains advertising lettering exceeding 4 inches in height; or
- (3) has in excess of 300 cubic feet of load space; or
- (4) is a stake platform truck; or
- (5) is a dump truck; or
- (6) is a crane or tow truck; or
- (7) is a vehicle with dual rear wheels; or
- (8) is a truck of any kind having a capacity of more than $\frac{3}{4}$ of a ton.

B. However, the Police Department shall grant an exception for a household for parking a consumer vehicle for recreation purposes unless it is determined by the Chief of Police, or his designee, that the parking of that vehicle will restrict traffic flow on the street or be a danger to the public. The Police Department shall grant the permit subject to the above conditions, for a period not to exceed fifteen (15) days in any calendar year.

C. A consumer vehicle, for recreation purposes, includes but is not limited to camping trailers, campers, and motor homes.

D. It shall be unlawful to park any vehicle nearer than twenty feet of any STOP or SLOW-SCHOOL sign, or nearer than fifteen feet of any fire hydrant, or nearer than twenty feet of any street intersection in the Town of Cottage City.

E. It shall be unlawful to park any vehicle and leave the same standing unattended to a greater distance from the curb than 12 inches.

F. Except while actually loading or unloading, it shall be unlawful to double park on the streets any vehicle.

G. It shall be unlawful to park any vehicle on the street, avenue or alley, or part thereof where an official sign or device has been placed showing that parking is prohibited or restricted.

H. It shall be unlawful to park any vehicle on the shoulders of the west side of Bladensburg Road between the highway bridge and the south boundary of the property occupied by the Reagan Outdoor Advertising Company.

I. It shall be unlawful to park any vehicle in or on any street, avenue, or alley in the Town of Cottage City in such a manner as to obstruct or to prevent passage over and upon any private driveway or private vehicle entrance connecting said street, avenue or alley with the private property or real estate abutting said street, avenue or alley.

J. No automobile or vehicle of any description shall be left unattended, parked or stored upon any street, avenue, road, highway or alley or public space within the corporate limits of the Town of Cottage City, Maryland for a continuous period longer than seventy-two (72) hours.

K. It shall be unlawful to park an automobile or motor vehicle at any place in the Town unless such vehicle is in compliance with the vehicle registration or non-resident permit requirements of §13-402.1 of the Transportation Article of the Maryland Code. Enforcement for violation of the provisions of this section shall be conducted in accordance with the procedures specified by the Chief of Police.

Section 9-6. Parking on Sidewalks.

It shall be unlawful for any person to park any vehicle so that any part of that vehicle is within the public sidewalk, including that portion of the sidewalk which crosses the driveway of any premises. This Ordinance does not prohibit parking in the driveway between the street and the sidewalk if such parking can be accomplished without any portion of the vehicle protruding onto any portion of the sidewalk.

Section 9-7. Abandoned Vehicles.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

(1) *Abandoned vehicle* means any motor vehicle, trailer or semitrailer that is inoperable or not displaying a valid registration plate/

(2) *Garage* means any of the following if operated for commercial purposes:

(a) A parking place or establishment.

(b) A vehicle storage facility.

(c) An establishment for serving, repair or maintenances of vehicle.

(3) *Inoperable vehicle* means any vehicle that is not licensed for the current

year as required by law or which exhibits any of the following characteristics:

(a) Cannot legally travel on a public street, including having a broken, damaged or missing windshield or other glass customary to the vehicle, fender, door, bumper, hood, wheel, steering wheel, or exhaust system;

(b) Lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed;

(c) Has become a habitat for rats, mice, snakes, or any other vermin or insects; or

(d) Constitutes a threat to the public health and safety because of its defective or obsolete condition.

B. Restriction. No person or entity may allow or cause an abandoned vehicle to be:

(1) On public property for more than forty-eight (48) hours.

(2) On private property without the permission of the owner or person in control of the property.

(3) On private property for more than thirty (30) days with the knowledge and the consent of the owner or person in control of the property unless:

(a) The vehicle is totally housed within a building with walls and roof.

(b) The vehicle is undergoing repairs and the custodian has obtained an exemption from the town administration.

(c) The vehicle is not required to be registered under the Maryland vehicle law and is operable.

(4) The vehicle is in a garage for more than ten (10) days after the garage keeper has given notice to the owner of the vehicle by registered mail, return receipt requested, to remove the vehicle, or after the period when, by contract, the vehicle was to remain in the garage.

C. Impoundment and Disposal.

(1) The Police Department may take any abandoned vehicle into custody. For this purpose, the Police Department may use its own personnel, equipment and facilities or use other personnel, equipment and facilities for removing, preserving, storing and disposing of abandoned vehicles, all expenses, costs and debts arising from the impoundment of an abandoned vehicle will be the responsibility of the owner of the vehicle.

(2) The Police Department will dispose of impounded vehicles in accordance with the Maryland vehicle law.

(3) Before impounding a vehicle abandoned on private property as described in subsection B(3) of this section, the last registered owner of the vehicle and the owner, agent or tenant of the property will be notified by certified mail, return receipt requested, to remove the vehicle or to show cause why it should not be removed, unless the owner, agent or tenant has given prior written permission to remove the vehicle.

Section 9-7A. Impoundment or Attachment of Vehicles.

A. A vehicle may be impounded or attached if:

(1) It is parked unattended or found parked in violation of any traffic law, ordinance or regulation.

(2) It is disabled and is creating a traffic hazard.

(3) It is parked unattended and there are three (3) or more outstanding town parking violations, all of which were issued at least thirty (30) days prior.

(4) It is parked on public or private property in violation of Section 9-7.

B. A vehicle parked in violation of subsection A of this section may be impounded or attached by:

(1) Towing or conveying the vehicle to a place of storage designated by the Chief of Police, and all expenses incurred in the impoundment will be the responsibility of the owner of the vehicle.

(2) Attaching an immobilized device (commonly called a “boot”) to the vehicle, and all expense incurred for the attaching and detaching of the immobilizing device will be the responsibility of the owner of the vehicle.

C. Vehicles impounded or attached will not be released unless:

(1) All outstanding parking citations for the Town of Cottage City have been satisfied; and

(2) All expenses incurred by the Town for impoundment or attachment have been satisfied.

D. The expenses incurred for attaching and detaching the immobilizing device, the expenses of certified mail and/or newspaper publication and the man-hours expended will be set by the Chief of Police.

Section 9-7B. Payment of Fines, Fees and Other Charges.

A. Penalties and administrative fees will be set by resolution of the Commission.

B. Fines and administrative fees.

(1) Payment of fines and administrative fees will be paid within fifteen (15) days after the citation is issued.

(2) If payment is not received by the Town within fifteen (15) days, a warning letter will be sent to the last known registered owner of the vehicle.

(3) If payment is not received within thirty (30) days, the fine and administrative fees will double.

(4) Any vehicle which is impounded or attached will not be released until all fines, administrative fees and other related expenses are paid.

(5) If the vehicle is registered in the State of Maryland, it will be subject to the State's flagging programs until all fines, fees and expenses are paid.

Section 9-8. Rules of the Road.

A. It shall be unlawful for any person to operate an vehicle in or upon any of the streets or highways in the Town of Cottage City, except on Bladensburg Road, at a speed greater than twenty-five (25) miles per hour.

B. At any street intersection in the Town of Cottage City, at which the Cottage City Commissioners have caused to be erected a STOP sign, all operators of vehicles shall come to a complete stop and shall not proceed to cross or enter such street intersection until a crossing or entry can be safely made; at any street intersection or other place in the Town of Cottage City at which the Cottage City Commissioners have cause to be erected a SLOW sign, or SLOW-SCHOOL sign, all operators of vehicles shall slow down and proceed into the intersection or along said street cautiously, with due regard for other vehicles or pedestrians in the said intersection or along or upon the said street.

C. It shall be unlawful for any person to operate a motor vehicle over any public highway or street in the Town of Cottage City recklessly or at a rate of speed greater than is reasonable and proper, having regard to the condition of said street or highway and the traffic thereon.

D. All motor vehicles when parked upon the public streets or highways in the Town of Cottage City shall be parked near the curb on the right side of the street facing the direction in which said vehicle is traveling.

E. It shall be unlawful for any person to drive or operate any automobile or other vehicles across any street intersection in the Town of Cottage City which is controlled by a green light when the red light is showing against the traffic moving in the direction in which such vehicle is traveling.

F. Any ambulance, fire, police or emergency vehicle with its emergency equipment on shall have the right-of-way on all streets and avenues in the Town of Cottage City. All operators of vehicles, upon the approach of such emergency apparatus, shall immediately draw near to and parallel with the curb and stop.

G. It shall be unlawful to drive any vehicle upon or over the curb and/or sidewalk except at alleys and designated driveway crossings, except emergency or Town maintenance vehicles.

H. It shall be unlawful for any person to ride any bicycle or motorcycle or skateboard upon any sidewalk within the corporate limits of the Town of Cottage City; provided this section shall not be construed to prohibit small children from riding tricycles or other light toy vehicles upon the sidewalks.

I. It shall be unlawful for any person to ride a skateboard on any of the streets or public property of the Town of Cottage City. The police of the Town of Cottage City shall have the authority to confiscate temporarily or permanently any vehicle or skateboard operated in violation of subsections (H) and (I) of this Section.

J. Between the hours of one-half hour after sunset and one-half hour before sunrise, it shall be unlawful for any person to ride a bicycle upon the streets of the Town of Cottage City without having the same equipped with a light in front and a light or reflecting jewels in the rear.

K. All vehicles emerging from alleys, garages, driveways or places of business shall stop and then allow the right-of-way to pedestrians or passing vehicles before crossing the sidewalk.

L. It shall be unlawful for any person to drive or operate any vehicle with cleats or cleated wheels over any of the streets or highways of the Town of Cottage City.

M. It shall be unlawful to operate a vehicle on Parkwood Street between 38th Avenue and 40th Avenue on weekdays in the Town of Cottage City in a northerly direction between the hours of 4:00 p.m. and 7:00 p.m. and in a southerly direction between 7:00 a.m. and 9:00 a.m.

N. It shall be unlawful to operate a vehicle on Bunker Hill Road between 40th Place and Parkway Street on weekdays in an easterly direction between the hours of 4:00 p.m. and 7:00 p.m. and in a westerly direction between the hours of 7:00a.m. and 9:00 a.m.

Section 9-9. Through Trucks.

It shall be unlawful to operate at any time upon any public street or alley in the Town of Cottage City any truck or other motor vehicle, except passenger buses, having a gross weight in the excess of 10,000 pounds unless the same is being operated to or from a bona fide destination within the Town of Cottage City at which all or part of its load is to be or was loaded or unloaded, or unless permission shall have been obtained for such operation from the Commissioners, or for operation on any particular day from any member of the Town Police; provided, however, that nothing herein contained shall apply to such operation on the public highways of the State of Maryland located within the Town of Cottage City.

Section 9-10. Tampering with Traffic Control Devices.

It shall be unlawful for any person to tamper with or injure or molest any of the equipment connected with the traffic signal system in the Town of Cottage City.

Section 9-11. Violations.

A. Unless otherwise provided any person or persons who shall fail to comply with any of the provisions of this chapter, or who shall violate or fail to comply with any order or regulation made under this chapter, shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.

B. The fine for a violation of 9-7 abandoned vehicles, in addition to the fees outlined therein, shall be one hundred dollars (\$100.00) per vehicle.

Chapter 10

Personnel System

Section 10-1. In order to extend to employees of the Town of Cottage City, Maryland, and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act of the United States, it is hereby declared to be the policy of the Town of Cottage City, Maryland, subject to the limitations of the Maryland Code, that such steps be taken as to provide such protection to employees of the Town of Cottage City, Maryland, on as broad a basis as is permitted under the Social Security Act. It is also the policy of the Town of Cottage City, Maryland, that the protection afforded employees in positions covered by a retirement system on the date an agreement under the Maryland Code is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of legislative enactment in anticipation thereof.

Section 10-2. Social Security benefits are to apply to:

- A. All employees and officials receiving wages from the Town of Cottage City, Maryland;
- B. All police officers, if eligible;
- C. All fire department employees, if eligible.

Section 10-3. The Town of Cottage City, Maryland by their Commissioners be and the same are hereby authorized to sign a plan of agreement consisting of three (3) pages prepared by the State of Maryland Division of Social Security, a copy of which is attached hereto.

Section 10-4. The Town of Cottage City, Maryland, or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this ordinance.

Chapter 11

Police

Section 11-1. General powers; authorization of department; establishment of police manual; delegation of authority.

A. *General powers of Commission.*

(1) The police powers of the Town of Cottage City are vested by Section 18 of the Town Charter in the Commission who are authorized to provide for the exercise of such powers by ordinance.

(2) Subject to specific delegations of authority herein or hereinafter made, the Commission shall retain all authority necessary to provide an oversee responsibility of the Police Department, shall appoint all police officers and review all actions regarding police personnel.

(3) No Commissioner shall give instructions or orders to an officer or employee of the Police Department, or otherwise interfere with the administration of the department. However, nothing in this or any other Act shall be construed to abridge the right of the Commission as a body to inquire or investigate as it deems necessary in order to carry out its powers and responsibilities, and to see that the charter and laws of the town are faithfully executed.

(4) There shall be a police commissioner as appointed by the chairman of the Commission, who shall communicate with the commission and the Chief of Police on all matters regarding the Police Department.

B. *Authorization of Police Department.*

(1) There is hereby established and confirmed a Cottage City Police Department to report to the Commission through the Chief of Police, the Police Commissioner, as appointed by the chairman of the Commission, or person designated by the Commission.

(2) The department shall consist of any office of the Chief of Police and such other employees as the Commission may designate.

C. *Establishment of police manual.* There is hereby established a police manual to govern the conduct of the police powers and the police force authorized by the Town Charter. Certain sections of the manual shall be issued and codified as ordinances and laws of the town through action of the Commission. These sections shall prescribe the general policies, organization, general rules of conduct, procedures for appointment, discipline and termination, and certain other matters deemed necessary to assure the effective management and shall consist of permanent operational and administrative orders, procedures, rules and regulations and be issued by the Chief of Police as general orders of the department.

D. *Delegation of authority.* The Chief of Police is hereby delegated the authority to issue such general orders of the department, and such additional instruction, orders, rules and regulations, and to take such actions as are hereinafter authorized, directed or implied, which are necessary for the effective and efficient management of the department, and supervision of the police force.

Section 11-2. Appointment of officers; their removal.

A. The Chief of Police shall be appointed by and shall serve at the pleasure of the Commission, and may be removed from office for any reason by the Commission at any public meeting unless the Commission has agreed otherwise. The Chief of Police shall be a full time position and the Commission shall not allow any officer ordinarily working less than 38 hours per week for the police department to hold this position. In the event the Commission enacts or grants to the Chief of Police a term of office rather than requiring him or her to serve at the pleasure of the Commission, such grant or enactment is only effective and binding if four affirmative votes are cast for such an enactment or grant.

B. All other police officers shall be appointed by the commission from a list of qualified candidates presented by the Chief of Police. To be a qualified candidate, a person:

- (1) Must be 21 years of age by the date of appointment;
- (2) Must be in the appropriate physical condition necessary to perform required duties;
- (3) Must successfully pass a physical examination and drug screen;
- (4) Must successfully pass a psychological pre-employment examination;
- (5) Must be successfully screened through a background investigation; and
- (6) Must have a good criminal and motor vehicle background.

C. Police officers, except the Chief of Police, may be removed from office, by the Chief of Police, subject to the Law Enforcement Officers Bill of Rights, for the following reasons:

- (1) Written resignation;
- (2) Inefficiency, or failure to meet or maintain the standards expected of an officer following a review of performance, fitness and duty reports of the department;
- (3) Failure to comply with one or more rules, of conduct as here before or after described or authorized; or
- (4) Reorganization or reduction in force.

D. All police employees shall have a probation period equal to 18 months of active duty unless otherwise agreed in writing by the chief of the employee, which agreement must be ratified by the Commission. Probationary officers may be dismissed by the Chief of Police with or without cause.

Section 11-3. Line of Command.

A. In addition to the requirements of this chapter, the Chief of Police shall maintain a roster of officers by rank and seniority in rank and publish it for knowledge of all officers.

B. All police officers shall promptly obey any order emanating from any superior officer in the line of command. Should any such order conflict with a previous order from any other superior officer, the provisions of this manual, or with any general order, instruction, rule or regulation of the department, the member of the force to whom such order is given shall respectfully call attention to such conflict of orders, and if the official giving the order does not change the order as to obviate such conflict, the order shall stand and the responsibility shall be his or hers, and the person obeying same will not be held in any way responsible for disobedience of any orders so issued.

C. In emergencies, during the absence of the police chief from jurisdiction, or if such officer is unable for any reason to carry out such officers' duties, the highest ranking officer or such person appointed by the Commission may temporarily assume the command responsibility of the Chief of Police.

Section 11-4. General police policies, objectives, and functions; limits on jurisdiction.

A. The Commission provides within the town limits of the Town of Cottage City:

(1) All police services normally expected of the county uniformed police division;

(2) More frequent and intensive patrol and faster response to trouble calls than would normally be expected from the county;

(3) Limited investigation and follow-up of crimes committed and other criminal activity in the Town of Cottage City to supplement and complement county investigation programs;

(4) Enforcement of town ordinances; and

(5) Programs to meet the specific needs of the Town of Cottage City for police services, crime prevention and public safety.

B. The Town of Cottage City Police Department's primary objectives are to assure peace, good order and safety for the public throughout its jurisdiction, and to achieve adherence

to town and county ordinances and state laws. Primary responsibilities include the diligent protection of life and property, public and private, and surveillance of and responsive action with respect to violation of town and county ordinances and state laws. In addition, the Town of Cottage City police are expected to provide prompt response to citizen request for assistance, to the extent that circumstances permit.

C. To the maximum extent practicable and limited only by the resources available at the time, the Town of Cottage City Police Department will handle all requirements within the town for police patrol, initial response to requests for police assistance, preliminary investigation or crimes reported or suspected, and other responsibilities normally expected of uniformed police officers.

D. Except in cases of Type I crimes (armed robbery, grand larceny, rape and homicide), the Town of Cottage City policy will request county police assistance only to the extent it is needed and feasible. In the case of Type I crimes, the county police will be called immediately, if they are not already aware of the crime. Type I crimes will be turned over to the county police for investigation and follow-up as soon as the Town of Cottage City police initial responsibilities are completed and such action can appropriately be accomplished. It is desirable for the county police to respond to the maximum required by the circumstance at hand in the case of Type I crimes, although the existence of the Town of Cottage City police will also conduct investigation of such crimes not inconsistent with action being taken by the county.

E. Town of Cottage City police will be trained so as to be fully competent in the execution of county ordinances and state laws wherever they occur. However, it is town policy that police action will be confined to the town incorporated limits, except as outlined in the General Order of the Chief of Police. In all such cases, the Town of Cottage City police action will be limited to such action as is authorized under state law to protect life and property, or as is directed by an authorized officer of the jurisdiction involved under police mutual aid agreements.

F. To the extent practicable, the Town of Cottage City police will rely on friendly persuasion and programs to encourage compliance, rather than on punitive action, as a deterrent to law and ordinance violations. Special emphasis must be made to establish a friendly and cooperative attitude toward all residents under all circumstances. In those instances where these attitudes are not returned, the Town of Cottage City police are charged with maintaining a professional calm, and under no circumstances will the Town of Cottage City police engage in abusive verbal exchanges.

Section 11-5. Duties and Responsibilities of police officers.

A. *General duty responsibilities of officers.*

(1) Police officers are considered at all times to be on duty, or subject to call for duty by proper authority or, when in the town limits, by citizens in trouble. The fact that they

may be temporarily off duty or on leave does not preclude them from responsibility of taking proper police action in any matter coming to their attention requiring such action.

(2) The Chief of Police shall assign recurring work periods. The Chief of Police may modify such schedules and provide otherwise for special duty for reasons he or she deem necessary for effective and efficient operation of the department.

(3) The descriptions in this section as outlined below shall be the chain of command within the Police Department. All police officers must obey the orders and directions of any employee of the Police Department with higher rank.

B. *Responsibilities of Chief of Police.* The Chief of Police is the general executive and administrative officer of the Town of Cottage City Police Department, and shall:

(1) Be able to delegate such authority as he or she deems necessary.

(2) Be fully responsible for its operations, including efficient conduct, control and discipline of the force, subject to the policies, orders, rules and regulations of the Commission. When the chief is on leave of absence, suspension, or the position is vacant, the Commission will name an acting Chief of Police, who will assume the responsibilities of the chief during such absence or vacancy.

(3) Issue orders, rules and regulations necessary to administer the department and not inconsistent with policies, orders, rules and regulations approved by the Commission.

(4) Establish standards of performance and efficiency for all police operations, and take steps to assure that such standards are maintained through periodic personal observation, and reports of performance and efficiency which will be made available to the police commissioner upon request.

(5) Make decisions on all disciplinary actions involving probationary, full-time and part-time police officers, including terminations, dismissals, demotions, reductions of pay, and all suspensions subject to the Law Enforcement Officer's Bill of Rights, and except as otherwise provided by law.

(6) Investigate all complaints relating to Police Department personnel and will determine the steps necessary to provide appropriate disciplinary action. It will be the responsibility of the Chief of Police, acting in accordance with the Law Enforcement Officers Bill of Rights, to determine and administer disciplinary action in all matters relating to Police Department personnel.

(7) Be responsible for the appropriate deployment of available personnel to provide the Town of Cottage City with the most efficient coverage possible, and to ensure the safety of the public, to the extent possible.

(8) Function as an active member of the Police Department's patrol force, providing patrol coverage when necessary. The police chief will perform other duties as assigned.

(9) Be responsible for the training and refresher training of officers so as to develop and maintain their professional competence. The chief shall provide for specialized training and improvement of probationary officers, and shall report regularly to the police commissioner on the performance evaluation of each probationary officer.

(10) Be responsible for exacting from all members of the department strict obedience to the rules of conduct laid down for officers, and for taking prompt action in administering the discipline prescribed for violations of such rules.

(11) Proceed immediately to the scene of any riot, tumultuous assembly, dangerous barricade, police officer in trouble, firearms discharge by a police officer, or other unusual occurrence indicating danger to the community, and take command of the police force.

(12) Be the custodian of all property coming into possession of the department and shall be accountable for the same, including safekeeping, proper disposition and maintenance of appropriate property records. The chief shall see that all property used for evidence is returned to its lawful owner when no longer needed as evidence.

(13) Periodically inspect all public places within the town, including public rights-of-way, parks and alleys; the means of entrance and exit to schools and churches; and the quantity, flow and control of traffic for the purpose of assuring public safety. The chief shall develop programs for, and shall, promote public safety throughout the town, including meeting with public, private, business, school and other community groups and individuals to advance community confidence and support in police and public safety programs.

(14) Analyze data concerning crime, traffic accidents and other incidents, and otherwise keep abreast of needs and opportunities for new or improved police programs to meet the town's policies and objectives, and on the basis of such analysis shall recommend to the Commission plans and programs to meet such needs and opportunities.

(15) Be responsible for developing and supervising the execution of safety programs within the department for the purpose of reducing hazards and accidents to persons and equipment.

(16) Not less than once a month, at irregular and unannounced times, visit all components of the command, inspecting them for the efficiency and effectiveness of their operations and conformity with regulations and orders, initiating corrective action or disciplinary measures where indicated.

(17) Assign personnel and hours of duty to most effectively meet the town's requirements for police service. The police commissioner shall be kept advised of duty hours and assignments, and consulted where unusual variations and requirements appear necessary.

(18) Be alert to grievances of personnel within the department and to complaints concerning the operations of the department, and shall assure that all grievances and complaints are handled promptly with due regard to the rights of all parties concerned and the town. Grievances and complaints which cannot be resolved within the department will be forwarded to the police commissioner for advice and recommendation.

(19) Be responsible for devising and administering a system of daily, weekly and monthly reports from which a full record of all police activity in the town can be made available to the police commissioner and the Commission.

(20) Perform patrol duty and all other police duties as are necessary to maintain close familiarity with the town, its residents and regular visitors and their activities, and to supplement the regular patrol, particularly at times of special need or emergency, or in the absence of other officers or as directed by the commission.

C. *Police Lieutenant.*

(1) The Police Lieutenant is superior in the line of command to every other rank or employee in the Police Department except for the Chief of Police. He or she will be responsible for performing any or all of those duties assignable to the Chief of Police in the absence of the Chief of Police or at the specific direction of the Chief of Police. The Police Lieutenant will provide assistance to the Chief of Police in the areas of supervision and evaluation of Police Department personnel and will make recommendations to the Chief of Police for the improvement of police operations. In addition the Police Lieutenant will be responsible for maintaining the police records section and will ensure that all records, reports, correspondence and memoranda are properly maintained in a complete and orderly fashion.

(2) The Police Lieutenant will provide full service police patrol coverage and will perform all those duties normally ascribed to the patrol division. The Police Lieutenant will perform other duties as assigned by the Chief.

D. *Police Sergeant.*

(1) The Police Sergeant is superior in the line of command to every other rank or employee in the Police Department except for the Chief of Police and a lieutenant. He or she will act as the first line patrol supervisor and will be responsible for direct supervision of all subordinate personnel in the patrol division. The Sergeant will be responsible for the maintenance of the police property system and will insure that all evidence, recovered property and departmental property is properly logged, secured and documented.

(2) In addition, the Police Sergeant will develop and implement the department Vehicle Maintenance program, and will direct subordinate officers in proper vehicle maintenance procedures. The Police Sergeant shall, when directed, assume any of those duties ascribed to the Police Lieutenant.

(3) The Police Sergeant will be responsible for providing fill service patrol coverage and will perform all those duties normally ascribed to the patrol division. The Police Sergeant will perform other duties as assigned by the chief and the lieutenant.

E. *Police Corporal.*

The Police Corporal will assist the Sergeant in the performance of his supervisor duties and may, in the absence of the Sergeant, perform the duties of first line or shift supervisor. The Corporal will be expected to perform all of those duties ascribed to the position of patrol officer and will perform other duties as assigned by his or her superior officers, namely the chief, the lieutenant and the sergeant.

F. *Police Officer First Class.*

The Police Officer First Class will perform those duties ascribed to the position of patrol officer and may, as directed, assist the Corporal and Sergeant in the performance of their supervisory duties. The Police Officer First Class will perform other duties as assigned by his or her superior officers, namely the chief, the lieutenant, the sergeant and the corporal.

G. *Patrol Officer.*

(1) Police officers are required to enforce laws, provide service to the community and instill public trust and confidence by virtue of their position and oath of office. Often police officers are exposed to incidents or situations where certain temptations arise which could lead to corruption and/or unlawful monetary gain. It is a business necessity that officers exhibit a history of and possess characteristics of honesty, reliability and integrity in order to establish and maintain public confidence.

(2) Patrol Officers are expected to:

(a) Respond immediately to calls for service using in order to obtain or provide necessary information, enforce the law, provide timely assistance, and make referral to other Town, City, County and State agencies as necessary.

(b) Patrol assigned area by vehicle and where appropriate on foot, to deter crime, apprehend violators, and provide assistance to other officers, to include physically checking doors and windows of buildings and businesses in their patrol area, and providing residential security checks as needed.

- (c) Observe and respond to violations of traffic law by taking immediate action in order to maintain public safety.
- (d) Enforce State, County and Town laws and ordinances in an impartial manner by warning when appropriate or arresting offenders in order to promote public safety.
- (e) Prepare and complete notes, reports, daily activity logs and documents using proper grammar, all available information and equipment in order to provide an accurate and complete description of the reported incident.
- (f) Testify in court and other proceedings in a clear, concise, and professional manner in order to provide information on the issues under consideration.
- (g) Conduct preliminary and follow-up investigations of crimes and accidents reported or observed by using resources immediately available in order to assist with or close the investigation in a short period of time.
- (h) Process prisoners by properly fingerprinting, photographing, checking records, and accurately preparing all charging documents and reports in order to positively identify a prisoner prior to release or incarceration.
- (i) Administer appropriate first aid using First Responder techniques in order to stabilize the victim's condition until qualified medical treatment can be obtained.
- (j) Conduct interviews and interrogations in order to obtain information needed for investigations and arrests.
- (k) Secure and manage crime scenes by limiting access in order to preserve evidence from contamination until it can be properly collected.
- (l) Present a professional appearance and maintain assigned equipment by exercising personal hygiene, wearing a neat and clean uniform and caring for equipment as a means of fostering community respect and assuring proper operation of equipment.
- (m) Communicate effectively and coherently over a two-way radio to give and receive information and broadcast lookouts in order to carry out police functions.
- (n) Effect arrests through command presence, verbal direction, and if necessary by using minimal force to include a graduated use of pressure points, control holds, impact weapons, chemical weapons, and handcuffs to control suspects and restrain them for transport in order to enforce laws and protect the public.

(o) Exercise effective independent judgment in determining when there is a reasonable suspicion to detain; probable cause to arrest and search, or seize; and the appropriate level of force that may be used in order to enforce laws and protect individuals' rights.

(p) Operate a police vehicle both day and night during emergency and non-emergency situations in order to safely arrive at the scene of incidents and to prevent injury to pedestrians or damage to other vehicles and property.

(q) Assemble necessary reports from appropriate sources in order to provide the State's Attorney's office with necessary information.

(r) Pursue fleeing suspects as necessary to effect an arrest or assist other persons.

(s) Load, unload, aim and fire departmental firearms from a variety of positions, in normal light, low light and darkness, in clear and inclement weather; in training situations and as needed for self-protection and protection of others, and as required to meet training standards.

(t) Safely perform searches of people, vehicles, buildings and outdoor areas for evidence, weapons and other objects that may be a danger to the officer or others.

(u) Communicate effectively and coherently with people by giving and receiving information in order to provide needed assistance.

(v) Identify and collect evidence at the scene of traffic or criminal incidents by visually inspecting and physically searching the crime or accident scene in order to obtain items of information that may assist in the investigation and/or prosecution.

(w) Maintain a professional demeanor especially when enduring verbal and mental abuse while encountering antagonistic persons in a hostile environment.

(x) Perform rescue functions at accidents and disasters as needed for public safety and protection.

(y) Read and comprehend a variety of legal and non-legal documents, maps, and reference material to properly enforce the law, assist others, and to comply with departmental rules, regulations and orders.

(z) Direct traffic to ensure the free flow of traffic, prevent accidents and deny access to dangerous situations.

(aa) Perform related work as required by any superior officer.

Section 11-6. Evaluation of Personnel.

A. Personnel in the Police Department will be evaluated at least semi-annually on the basis of their performance in those areas designated in their position descriptions. Each member of the department will receive an evaluation from their immediate supervisor acting as the rater with the Chief of Police acting as the evaluator. Personnel will have an opportunity to discuss their evaluations and make written comments that will be attached to the evaluation and placed in the employee's permanent personnel file.

B. Evaluations will be utilized in part in determining promotions and overall officer performance levels. Officers receiving poor performance evaluations will be afforded counseling from their supervisor and will ordinarily have an opportunity to improve in those areas where they were found to be deficient.

Section 11-7. Mutual Aid and Reciprocal Enforcement Agreements.

A. *Authority.* The Town shall have the authority to enter into mutual aid and reciprocal enforcement agreements with other police agencies in and outside the State of Maryland. Such agreements shall enable Town police officers to enforce state law and the laws of such other jurisdiction(s) within the territory of such other jurisdiction(s) with the protections/immunities granted by law to police officers of the other jurisdiction(s) and/or to allow the police officers of such other jurisdiction(s) to enforce the Town's code and laws within the Town.

B. *Procedures.* All such agreements shall be approved by the commissioners by motion or resolution after consultation with the Town Police Department and the Town Attorney.

C. *Required terms.* Every agreement pursuant to this section shall provide the following:

(1) Each party to the agreement must waive any and all claims it may have against the other parties to the agreement and that may arise out of activities outside its respective jurisdiction; and

(2) Each party shall indemnify and hold harmless the other parties to the agreement from all claims that are made by third parties for property damage or personal injury and that may arise out of the activities of the other parties to the agreement outside their respective jurisdictions under the agreement.

D. *Existing agreements.* At the time of enactment of this ordinance, which date is April 13, 2005, any mutual aid and/or reciprocal enforcement agreement entered into by the Town Administrator or the Chief of Police, be and hereby is declared to be valid provided it conforms to Subsection (c) immediately above.

This ordinance is not intended to give police officers any additional powers outside the Town, except pursuant to agreements approved by the commission pursuant to this Section.

Chapter 12

Property Maintenance

Article 1. Generally

Section 12-1. Adoption of International Property Maintenance Code, as amended.

The Town of Cottage City hereby adopts Chapters 2 and 3 of the 2003 Edition of the International Property Maintenance Code, as hereafter amended by the International Code Council, subject to the deletion of all penalties mentioned therein. It is the intent of the Town of Cottage City to adopt only the definitional and standards for the maintenance of structures, equipment and exterior property set forth in the International Property Maintenance Code. A copy of the 2003 Edition of the International Property Maintenance Code is on file of the office of the City Clerk.

Article 2. Definitions

Section 12-2. Definitions.

A. *Exterior.* Yards and other open outdoor spaces or premises, including porches and the external surfaces of any structure.

B. *Maintenance.* The act of keeping property, structures or vegetation in a proper condition so as to prevent their decline, failure or uncontrolled growth.

C. *Deterioration.* A state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.

D. *Exposed to Public View.* Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.

E. *Extermination.* The control and elimination of insects, rodents, and vermin.

F. *Garbage.* Unwanted organic refuse, largely foods, either unconsumed or spoiled, organic waste from the processing of foods, containing natural moisture, and a minimum of free liquids.

G. *Infestation.* The presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.

H. *Inoperable Vehicle.* Any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics:

cannot legally travel on a public street due to a broken, damaged, or missing windshield or other glass customary to the vehicle, fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both moving forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or any other vermin or insects; or constitutes a threat to the public health or safety because of its defective or obsolete condition.

I. *Premises.* A lot, plot, or parcel of land including any structures thereon.

J. *Rubbish.* Unwanted materials, including discarded waste paper, cartons, boxes, wood, tree branches, yard trimmings (unless in a lawful compost system), furniture, appliances, metals, cans, glass, crockery, and/or similar materials.

K. *Weeds.* All rank vegetative growth including but not limited to kudzu, poison ivy, jimsonweed, burdock, ragweed, thistle, cocklebur, dandelion, plants of obnoxious odors, or other similar unsightly vegetative growths; however, this term shall not include cultivated shrubs and flowers, fruits and vegetables, and gardens.

Article 3. Property

Section 12-3. Generally.

It shall be unlawful to allow or cause any property to violate the standards promulgated in the portions of the International Property Maintenance Code adopted herein or in this Code.

Section 12-4. Fences and Walls.

Fences and walls shall be maintained in a structurally sound condition and in good repair. Fences shall be free from loose or rotting materials and shall have braces and supports attached or fastened in accordance with common building practices.

Section 12-5. Grass, Weeds and Uncultivated Vegetation.

Premises and exterior property shall be maintained free from grass in excess of 12" in height, and from weeds, or uncultivated vegetation except for landscaping, shrubs and flowers that are maintained, cultivated and trimmed.

Section 12-6. Inoperable Vehicles.

Any inoperable vehicle which is exposed to public view, unless located on the premises of a lawfully operated junk yard or undergoing repairs in an expeditious manner at a vehicle repair business, shall not be kept, permitted, parked, stored or maintained on any premises or public street right-of-way. Inoperable vehicles shall be promptly removed from the premises or stored within a fully enclosed building or other location not exposed to public view. (See 9-7)

Section 12-7. Rubbish and Garbage.

All exterior property and premises shall be free from accumulation of rubbish or garbage, including but not limited to refuse, household trash, scrap lumber or metal, inoperable machinery or parts thereof, glass, and unused and inoperable appliances.

Section 12-8. Open or Outdoor Storage.

All exteriors shall be free of appliances, including indoor stoves and refrigerators, furniture not designed for outdoor use, building materials or rubbish, equipment, garbage, goods, glass, materials, merchandise, rubbish, trash or similar items, except such may be allowed temporarily, i.e. for no more than 48 hours.

Section 12-9. Trees.

A. *Hazardous Trees.* Dead trees shall not be allowed to exist or to be maintained on any premises which are hazardous to persons on adjacent property or to adjacent property.

B. *Tree Stumps.* Tree stumps greater than 12 inches in height about ground level shall not be permitted or maintained on any premises for more than fourteen days after the tree has been cut.

C. *Tree Debris.* Felled trees, slash, or removed tree limbs shall not be permitted or maintained on the ground on any premises for more than fourteen days.

Section 12-10. Stagnant Water.

Open or untreated stagnant water conducive to the breeding or harboring of mosquitoes or other insects shall not be permitted or maintained on any exterior premises.

Section 12-11. Mud, Dirt, or Other Debris.

Mud, dirt, gravel or other debris or matter, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems shall be promptly removed, upon notice, within 48 hours.

Section 12-12. Lot Maintenance.

A. *Flow of silt, dirt, mud, etc. onto public property.* It shall be unlawful for any person or persons, homeowners or owners, tenant or tenants, firm or corporation to cause or allow to flow any dirt, earth, mud or silt upon any of the sidewalks, streets, roads, highways, avenues, alleys, gutters, ditches, parks or other public space within the corporate limits of the town.

B. *Compost systems.* It shall be lawful for any person or entity to keep or allow to be kept on any property within the town a compost system only if the compost system conforms to

the provisions of this chapter. Compost systems that do not conform to the provisions of this chapter are hereby deemed to be both unlawful and a public nuisance.

(1) An open air compost bin shall contain no edible waste and its contents shall be limited to the materials listed in this subsection, except for subsection (5) below. The contents of a contained compost system shall be limited to the following materials:

- (a) Yard waste, such as grass clippings and tree leaves;
- (b) Dirt;
- (c) Wood and branches (chipped or cut so that their longest dimension is no more than three (3) inches);
- (d) Lime; and
- (e) Raw (uncooked), unprocessed vegetable and fruit waste.

(2) All compost bins shall be properly maintained so that the composting process is controlled, active and free of obnoxious odor. Such maintenance is to include, but not be limited to:

- (a) Turning the entire compost material frequently so as to avoid unpleasant odors and keep the composting process active.
- (b) Adding one (1) inch of dirt per six (6) inches of the above-specified materials.
- (c) Adding lime sufficient to reduce any noxious odors.
- (d) Using all composted materials within one (1) year.

Section 12-13. Infestation.

All structures and premises, yards, and all exteriors shall be kept free from insect and rodent infestation. All places in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, the proper precautions shall be taken to prevent reinfestation.

Section 12-14. Parking on Unpaved Areas in Residential Lots.

A. It shall be unlawful to park or store any motor vehicle, or allow such, on any unpaved area on a lot zoned for residential use.

B. An unpaved area shall be any area not covered either completely or along parking strips, by asphalt, brick, block and/or concrete. The area covered must extend for at least the

length of any vehicle parked on it and all the wheels of the vehicle must be in contact with the asphalt, brick, block and/or concrete.

C. Gravel shall only be acceptable as paving if the owner can prove that such covering on that site predated January 1, 2007 and further proves that such covering has been continuously maintained up to the date of enforcement of this section.

Article 4. Buildings

Section 12-15. Generally.

All buildings and structures shall be maintained in good repair, structurally and sanitary, pursuant to the portions of the International Property Maintenance Code adopted herein, so as not to pose a threat to the public health, safety or welfare.

Section 12-16. Exterior Surface Treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches and trim shall be maintained in good repair. Exterior wood surfaces, other than decay resistant surfaces, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints shall be maintained weather resistant and water tight.

Section 12-17. Exterior Walls.

Exterior walls of buildings shall be maintained free from holes, breaks, loose or rotting materials, and shall be maintained weatherproof and properly surface coated as needed to prevent deterioration.

Section 12-18. Roofs.

Roofs of buildings shall be maintained so that they are structurally sound and in a safe condition and have no defects which might admit rain or cause dampness in the interior portions of a building. All portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit, sheathing, rafter tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, shall be complete with all trip strips, moldings, brackets, braces and supports attached or fastened in accordance with common building practices.

Section 12-19. Exterior Stairways, Decks, Porches and Balconies.

Exterior stairways, decks, porches and balconies, and all appurtenances attached thereto, of buildings shall be maintained so that they are structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

Section 12-20. Exterior Handrails and Guards.

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Section 12-21. Windows.

Windows of buildings shall be fully supplied and maintained with glass window panes and without open cracks or holes. Screens, if provided, shall be securely fastened to the window.

Section 12-22. Exterior Doors and Frames.

Exterior doors of buildings shall be maintained so that they fit reasonably well within their frames so as to substantially prevent rain and wind from entering a building. Exterior door jambs, stops, headers and moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration. Additionally, exterior doors shall be provided with proper hardware and maintained in proper working condition.

Section 12-23. Decorative Features.

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

Article 5. Graffiti

Section 12-24. Graffiti.

A. *Graffiti*. As used in this section, “graffiti” includes any inscription, word, figure, or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on an surface, regardless of the nature of the material of that structure component, to the extent that same was not authorized in advance by the owner thereof, or, despite advance authorization, is otherwise deemed by the commission to be a public nuisance by its impact on surrounding properties and on the quality of life in the community.

B. *Aerosol Paint Container* means any aerosol container, regardless of the material from which it was made which adapted or is made for the purpose of spraying paint or other substance capable of defacing property.

C. *Felt Tip Marker* means any indelible marker or similar implement with a tip which at its broadest width is greater than one-eighth inch, containing an ink that is not water soluble.

D. *Graffiti Stick* means a device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and upon application

leaving a mark at least one-eighth of an inch in width, visible from a distance of twenty (20) feet and not water soluble.

E. *Graffiti Implement* means an aerosol paint container, a felt tip marker or a graffiti stick.

Section 12-25. Antivandalism Provisions.

A. *Unlawful to Apply Graffiti.* It shall be unlawful for any person to apply graffiti on any public or privately owned structure, wall or surface located on public or privately owned real property within the town.

B. *Possession By Minors; School Exception for Felt Tip Markers.* It shall be unlawful for any person under the age of eighteen (18) to have in his or her possession any graffiti implement while upon public property or upon private property without the consent of the owner of such private property, whose consent is given in advance and whose consent shall be given to the person's presence while in the possession of a graffiti implement.

The foregoing provision shall not apply while the person is attending or traveling to or from a school at which the person is enrolled and if the person is participating in a class at said school which has, as a written requirement of said class, the need to use felt tip markers.

C. *Possession in Designated Public Places.* No person shall have in his or her possession any graffiti implement while doing any activity in any public park, playground, recreational facility, except as may be authorized by the Town or the owner/manager of the facility.

Section 12-26. Removal Provisions.

A. *Graffiti as a Nuisance.* The existence of graffiti within the Town is a public and private nuisance and may be abated according to the provisions and procedures contained in article 6 of this chapter.

B. *Right of Town to Require Removal (Self-Removal).* It is unlawful for any person who is the owner or who has primary responsibility for control of property or who has primary responsibility for the repair or maintenance of property ("responsible party") to permit property which is defaced with graffiti to remain so defaced for a period of seven (7) days after notice of same, unless they can demonstrate that they have an active program for the removal of graffiti and have scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property defaced with graffiti to remain defaced for a period of fifteen (15) days after notice of same.

C. *Graffiti-Attracting Surface as a Nuisance.* The existence of any surface on a parcel of land which has been defaced with graffiti after removal more than five (5) times in

twelve (12) months is a public and private nuisance and may be abated by minor modifications thereto or to the immediate area surrounding same according to the provisions and procedures herein contained as follows: said surface or surfaces shall be required to be retrofitted at the cost of the property owner of said lot, not to exceed a total cost of one thousand dollars (\$1,000.00), or at the cost of the Town at the Town's option, which such features or qualities as may be established by the Town as necessary to reduce the attractiveness of the surface for graffiti or as necessary to permit more convenient or efficient removal thereof.

D. *Removal Procedures.* The Town shall follow the following procedure to remove graffiti:

(1) *Right of Entry on Private Property.*

(a) *Securing Owner Consent.* Prior to entering upon private property or property owned by a public entity other than the Town, for the purpose of removal of graffiti, the Town shall attempt to secure the consent of the responsible party and a release of the Town from liability for private or public property or liability damage.

(b) *Failure to Obtain Owner Consent.* If a responsible party fails to remove the offending graffiti within the time herein specified, or if the Town shall have requested consent to remove or paint over the offending graffiti and the responsible party shall have refused consent for entry on terms acceptable to the Town and consistent with the terms of this section, the Town shall commence abatement and cost recovery proceedings for the removal of the graffiti, including the provisions of Chapter 4 as to public nuisances, as well as the provisions of article 6 of this Chapter.

(2) *Town Expenses.* For graffiti located in the Town on public or privately owned property viewable from a public or quasipublic place, the town may use public funds for the removal of same, or for the painting or repairing of same, to avoid an aesthetic disfigurement to the neighborhood or community.

Section 12-27. Punishment Provision: Police Diversions Program; Community Service with Minimum Hours and Parental Involvement.

In lieu of, or as part of, requesting prosecution of a minor, or in lieu of prosecuting a violation of this chapter as a crime against an adult, the police chief shall be authorized to offer said minor or adult an option to perform such community service as the police chief deems appropriate, but which community service shall, if offered at all, contain the following minimum elements:

(1) The minor shall perform at least thirty (30) hours of community service.

(2) At least one of the custodial parents, or if none, guardians, shall be in attendance at least fifty (50) percent of the period of assigned community service.

(3) The entire period of community service shall be performed under the supervision of a community service provider approved by the chief of police.

(4) Reasonable effort shall be made to assign the subject minor or adult to a type of community service that is reasonable expected to have the most rehabilitative effect on the minor or adult. To the extent that the offense giving rise to the offer of community service constitutes a violation of this chapter, a reasonable effort shall be made by the chief of police to assign the minor to community service which constitutes in significant part the removal of graffiti.

Section 12-28. Parental Involvement; Civil Liability.

Any parent or other legal guardian who consents to, permits or otherwise knowingly allows his or her child under the age of eighteen (18) to possess a graffiti implement shall be personally liable for any and all costs to any person incurred in connection with the removal of graffiti caused by said child, or by said graffiti implement, and for all attorneys' fees and court costs incurred in connection with the civil prosecution of any claim for damages.

Section 12-29. Severability.

If any section, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council declares that it would have adopted each section, subsection, sentence, clause, phrase or portion therefor irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Article 6. Violations

Section 12-30. Violations.

A. *Penalties.* Unless otherwise specified, any violation of this Chapter shall be a Municipal Infraction. The penalty for such violation shall be a \$50.00 fine for an initial offense and \$100.00 for each repeat offense. Each day any violation continues shall be a separate offense.

B. It shall be a misdemeanor to violate 12-25 (a) of this Chapter punishable by a \$1,000.00 fine and/or 30 days in prison.

C. *Abatement.* Any person or entity causing or allowing any of the conditions outlined above in Article 3 Property, Article 4 Buildings, and Article 5 Graffiti, on property owned or occupied by the person or entity shall be notified by the Town that they are in violation and that they must remove or correct such violation within ten (10) days after the date of the notice and that upon failure to remove or correct such violation, it shall be corrected or removed

by the Town and the cost thereof be charged to him, her or them, unless cause to the contrary be shown by filing objections in writing with the Town Clerk on or before the expiration of the ten (10) day notice period. Thereafter the Commission or its designee shall hear the objections and promptly decide the matter. This decision shall be final. In the event any person or entity fails to abide by the decision, or if the violation was not corrected or removed pursuant to the notice with no written objections being filed, or are filed and overruled, the Town may cause the violation to be removed and may incur the necessary expense in so doing, and shall place a charge against the proper person or persons for such cost and proceed to collect same by entering same on the tax records as a tax upon such real estate, or by such if deemed necessary, or both. This above procedure shall be in addition to any citation or a municipal infraction.

D. *Cease and Desist Orders:*

(1) It shall be unlawful for any person(s) or entity to conduct any work or construction with regards to meeting the minimum standards or requirements set forth in this Chapter, or do any act for which a permit is required by Prince George's County or the Town, without first obtaining a permit from the Town issued by the Clerk thereof. Whenever any person(s) or entity is found to be engaging in any such work without the proper permits, the town may order the person(s) or entity to cease and desist all or part of the business or work until the violation is corrected. An oral cease and desist order shall be followed by a written cease and desist order within twenty-four (24) hours (excluding Saturday, Sunday or holidays).

(2) It shall be unlawful to carry on any business or work in violation of a cease and desist order except as necessary to prevent injury to persons or property. A violation of a cease and desist order shall be considered a municipal infraction, distinct from the violation that cause the cease and desist order and the fine for such shall be \$500.00. Each day that work continues shall be a separate offense.

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