

Town of University Park

Town Code



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CHAPTER 1

GENERAL PROVISIONS

Section 1-101. Designation of Code and continuation of provisions.

The ordinances embraced in this and the following chapters shall constitute and be designated as the Code of the Town of University Park. Those provisions appearing in this Code so far as they are the same as those of preceding Codes and ordinances shall be continuations of those Codes and ordinances and not as new enactments.

Section 1-102. Ordinances repealed and their effect.

All ordinances not contained in this Code are hereby repealed from and after the effective date of this Code. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor shall it affect any suit, prosecution, or proceeding pending at the time of repeal for an offense committed under the ordinances repealed.

Section 1-103. Definitions.

In the construction of the Code, the following words and definitions shall apply:

- (a) Council-- The Common Council of the Town of University Park, Maryland.
- (b) County-- Prince George's County, Maryland.
- (c) Owner-- (applied to a building or land). Any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
- (d) Person-- A corporation, company, firm, partnership, association, governmental agency, or society as well as a natural person.
- (e) Public ways-- Any street, alley, curb, gutter, sidewalk, or bridge in the Town.
- (f) Sidewalk-- Any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of

pedestrians.

- (g) State-- The State of Maryland.
- (h) Street-- The entire width between abutting property lines including the sidewalk or footpath unless otherwise specified, such as public avenues boulevards, highways, roads, alleys, lanes, viaducts, and bridges, and the approaches to them.
- (i) Tenant-- Any person who occupies the whole or part of a building or land.
- (j) Town-- The Town of University Park, Maryland.

Section 1-104. Construction: Gender, Singular, and Plural.

Every word in this Code importing the masculine gender shall extend to and be applied to females as well as males. Every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing. Every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

Section 1-105. General penalty.

Every act or omission which, by ordinance, is made a misdemeanor under this Code, unless otherwise provided, shall be punishable upon conviction before any judge of the district court or circuit court for the County within which the offense was committed. The fine shall not exceed one hundred dollars (\$100.00) or imprisonment for ninety (90) days in the County jail, or both, in the discretion of the court or trial magistrate.

- (a) The aggrieved party shall have the right of appeal as is provided under the general laws of the State.
- (b) Each day that any violation of an ordinance continues constitutes a separate offense.

Section 1-105 (A). Enforcement.

The Mayor and Common Council may authorize the Town Attorney or any other person to take necessary and appropriate legal action to prevent or abate violations of the Code of ordinances of the Town of University Park or nuisances, as defined by common law, Section 81-15 of the Town of University Park. Such action shall be in addition to any penalty imposed by the provisions of the Code of Ordinances of the Town of University Park for such violations or nuisances.

Section 1-106. Municipal Infractions.

- (a) A violation of any provisions of this Code shall be considered a municipal infraction unless declared to be a felony or misdemeanor by law or ordinance. A municipal infraction is a civil offense.
- (b) A police officer employed by the Town of University Park, deputy sheriff of the Prince George's County Sheriff's Department, or other officials authorized to act as enforcement officers, may serve a citation on any person whom they believe is committing, or has committed a municipal infraction or on the basis of an affidavit submitted to an appropriate official of the Town, citing the facts of the alleged infraction. A copy of the citation shall be retained by the enforcement office. The citation shall contain:
1. Name and address of the person charged;
 2. the nature of the infraction;
 3. the location and time that the infraction occurred;
 4. the amount of the infraction fine assessed;
 5. the manner, location and time in which the fine may be paid to the municipality;
 6. the person's right to elect to stand trial for the infraction; and
 7. the effect of failing to pay the assessed fine or demand a trial within the prescribed time; and
 8. the enforcement officer's certification
 - (a) attesting to the truth of the matters set forth in the citation; or
 - (b) that the citation is based on an affidavit.
- (c) The citation shall be served on the defendant;
1. in accordance with Rule 3-121 of the Maryland Rules; or
 2. for real property-related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Rule 3-121 (a) of the Maryland Rules have not succeeded by :

- (b) regular mail to the defendant's last known address;
 - (c) posting of the citation at the property where the infraction has occurred or is occurring, and, if located within the municipality in which the infraction has occurred or is occurring, at the residence or place of business of the defendant.
- (d) A fine not to exceed one thousand dollars may be imposed for each municipal infraction. The fine is payable by the person charged in the citation to the Town within twenty (20) calendar days of service the citation. Unless otherwise provided in this Code for specific violations or by the Mayor and Common Council by resolution, the fine for an initial infraction shall be twenty-five dollars (\$25.00). The fine for each repeated violation of any Code provision shall be double the fine for the initial infraction, not to exceed one thousand dollars.
- (e) If a citation is served without a summons, a person charged in the citation for a municipal infraction may elect to stand trial for the infraction by notifying the Town in writing of the person's intent to stand trial. The written notice shall be given at least five (5) days prior to the date of payment as set forth in the citation. Upon receipt of the written notice of the intent to stand trial, the Town shall forward to the District Court having venue a copy of the citation and the written notice. Upon receipt of the citation and the written notice, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for violations of municipal infractions shall be remitted to the Town.
- (f) If a person charged in a citation fails to pay the fine by date of payment set forth on the citation and fails to deliver to the Town the written notice of intent to stand trial, the person is liable for the assessed fine. The Town may double the fine to an amount not to exceed \$1,000.00 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit. The District Court shall promptly schedule the case for trial and summons the defendant

to appear. If the defendant fails to respond to such summons the Town may request entry of judgment against the defendant in favor of the Town in the amount then due if proper demand for judgment on affidavit is made.

- (g) An enforcement officer may also serve a summons with a citation that requires the person to appear in District Court on a specified date and time. The summons shall specify that the person is not required to appear in District Court if the fine is paid as provided in the citation. The enforcement officer shall coordinate the selection of court dates with the appropriate District Court official. If the defendant fails to pay the fine as provided in the summons, the Town may double the fine to an amount not to exceed \$1,000.00 and request the Court to enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.
- (h) If any person shall be found by the District Court to have committed a municipal infraction:
 1. the Town may request the District Court to order the person to pay the fine, including any doubling of the fine, not to exceed the limits under paragraph (d) of this subsection;
 2. the person shall be liable for the costs of the proceedings in the District Court; and
 3. the Town may request the court to order the person to abate the infraction or enter an order permitting the Town to abate any such infraction at the person's expense; and
 4. the fines imposed shall constitute a judgement in favor of the Town; and
 5. if the fine remains unpaid for 30 days following the date of its entry, the Town may enforce the judgement in the same manner and to the same extent as other civil judgments for money unless the court has suspended or deferred the payment of the fine.
- (i) If the Town abates an infraction pursuant to an order of the District Court, the Town shall present the defendant with a bill for the cost of abatement by:
 1. regular mail to the defendant's last known address; or

2. any other means that are reasonably calculated to bring the bill to the defendant's attention.
 3. If the defendant does not pay the bill within thirty (30) days after presentment, the Town may move the District Court to enter a judgment against the defendant for the cost of the abatement.
- (j) Each day that any violation of any provision of this Code continues shall be a separate offense subject to additional infraction citations.
- (k) The Town may designate the attorney to prosecute any municipal infraction in the same manner as the State's Attorney of any county. (Amended effective 2/12/95)

Section 1-107. Misdemeanor for failure to give identification when requested by a police officer.

It is a misdemeanor for an individual to refuse to identify himself or herself when requested by a police officer seeking to issue a citation. Where a person refuses to provide identification as set forth in this Section,, a violation of any Section of this Code which the police officer is seeking to enforce will be treated as a misdemeanor rather than an infraction. (Effective April 8, 1984)

Section 1-108. Severability.

If any Section or part of a Section of this Code is held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of the Code, nor the context of its parts, except to the extent that the Section or part held invalid may be inseparably connected in meaning and effect with the Section or part of Section to which such holdings apply.

CHAPTER 2

ADMINISTRATION

Article 1

General AdministrationSection 2-101. Petitions and request of the Council.

Any petition or request presented to the Council may be acted upon without referral to committee, or may be referred to a committee in the discretion of the Council.

Section 2-102. Annual financial statement.

The Council shall annually prepare and file among the records of the Town a statement of the financial condition of the Town. The statement shall include the amount of all monies available to the Council for expenditure during the fiscal year, the amount expended, the object of each expenditure, and all financial liabilities and credits of the Town. The Treasurer shall make the annual financial statement available to the public upon written request.

Section 2-103. Standing committees.

Each year by the first regular Council meeting in June, the Council shall appoint members of the Council to one or more of the standing committees, with a designated chair for each committee. The standing committees are as follows: Police, Traffic and Public Safety; Policy, Rules and Municipal Structure; and Public Facilities and Services. Should a position on any such committee become vacant for any reason, the Council shall appoint a Council member to such position within thirty (30) days of such vacancy. The Council, or the Mayor, with the consent of the Council, may establish such special and additional committees as appropriate. Appointments to such committees shall be governed by this section. (Revised, effective 11/7/90, 7/1/94, 4/7/97)

Section 2-104. Execution of contracts.

All contracts approved by the Council shall be signed by the Mayor. The Treasurer shall

witness the signing of the contract, affix to it the Town Seal, and execute it.

Section 2-105. Duties of the Treasurer.

- (a) General. The Treasurer shall have general supervisory and administrative authority under the Mayor, unless otherwise assigned. He shall be responsible for keeping the personnel records and work reports of all Town employees.
- (b) Purchasing. The Treasurer shall oversee all purchase orders. Except in situations where good cause has been demonstrated to the Council, the Treasurer shall make any single purchase or expenditure of more than ten thousand dollars (\$10,000.00) by means of sealed bids. Such bids shall be opened publicly after public notice at such time and place as the Treasurer shall determine. Whenever the State of Maryland, or any department thereof, or any Prince George's County, or the Metropolitan Washington Council of Governments or individual member government, or other local government in Maryland, has conducted a competitive bid process that is consistent with that adopted by the Town, and has awarded a contract that authorizes local governments to purchase the bid item at the bid price, the Treasurer may purchase the bid item at the bid price from the successful bidder, subject to the prior approval of the Mayor. (revised effective 7/7/03)
- (c) Payment of bills. Upon orders from the Council, the Treasurer shall pay all bills against the Council when presented with a voucher signed by the chairman of the appropriate committee.
- (d) Permits and licenses. The Treasurer shall issue all permits and licenses required by the ordinances of the Town, unless assigned to a committee. He shall issue such permits and licenses only after the application has been approved by Council or one of its committees when such approval is necessary. The Treasurer shall be responsible for providing the necessary materials to issue the permits and licenses required by the Town. The materials shall be paid for out of funds provided for the Treasurer's office.
- (e) Annual report. The Treasurer shall prepare for the Council an annual report. It shall include all monies received, disbursed, expended, and on hand during the fiscal year,

up to and including the thirtieth of June, and all accounts receivable and payable as of that date. (Effective October 10, 1977)

Section 2-106. Employee Benefit Plans.

- (a) The Common Council may elect to adopt a mandatory retirement and/or savings plan in which all salaried employees of the Town of University Park shall participate. The Town may participate in the State of Maryland Employees' System on such terms and conditions as state law may require. The Council may adopt the terms and conditions of any such retirement, pension, or savings plan, including designation of trustees, by resolution. The said trustees shall have that discretion required by law in administering any such plans. (Effective May 14, 1986, revised 1/4/98; amended 06/07/09)
- (b) The Common Council shall adopt a health benefit/hospitalization plan in which all salaried employees of the Town may participate. (Effective Oct. 9, 1990)

Section 2-107. Homestead Property Tax Credit.

- (a) Pursuant to Section 9-105 (e) of the Tax-Property Article of the Annotated Code of Maryland, the Homestead Property Tax Credit percentage for the Town of University Park, effective for the taxable year beginning July 1, 1991, and subsequent tax years, shall be 110%.
- (b) The Homestead Property Tax Credit Program shall be implemented and administered in accordance with the provisions of State law and rules and regulations established by the State Department of Assessments and Taxation. (Effective Feb. 17, 1991)

Section 2-108. Line Item Control of Budget.

- (a) No person, without prior approval of the Mayor and Common Council, shall expend or authorize the expenditure of Town funds in an amount, or for a purpose, other than that which has been authorized in the approved Fiscal Year Budget in a line item pursuant to which the expenditure is made. Said line item expenditures may be exceeded by up to three hundred

dollars (\$300.00) at the discretion of the Mayor for necessary and unexpected expenses.

- (b) No person shall transfer any Town funds from one line item to another without the approval of the Mayor and Common Council.
- (c) No person under any circumstances shall obligate non-budgetary funds of the Town without the prior approval of the Mayor and Common Council. (Effective November 7, 1993)

Section 2-109. Inventory of Town Property.

The Town Treasurer or designee shall keep and maintain an inventory of all capital Town property. The inventory shall be updated from time to time, but no less than once every three months. A copy of said inventory shall be provided to each Common Councilmember when requested, and at least annually. (Effective March 22, 1994)

Section 2-110. Disposal of Surplus Town Property.

- (a) Authority for disposal. The property of the Town shall be reviewed on a periodic basis to determine if any such property is surplus, obsolete, or unsuitable for a public purpose. A listing of any property determined to be surplus, obsolete, or unsuitable shall be provided by the Mayor to the Common Council, which may authorize its disposal.
- (b) Method of disposal. Once authorized, the mayor may dispose of said property by trade in or exchange for other needed goods, or, after notice in a newspaper of general circulation in the area, by a sealed bid process or public auction. If the value of the property to be sold at one time is less than One Thousand Dollars (\$1,000.00), then bids may be solicited by any or all of the following methods: direct mail request to prospective buyers; telephone; and advertisement by publication in the Town newsletter, on the Town bulletin board, and/or on the public access channel. Sales of property under this sub-Section shall be based, whenever possible, upon at least three (3) competitive bids. (Effective May 8, 1994)

Section 2-111. Employee probationary period.

Except as otherwise provided herein, all employees of the Town shall serve a probationary period of no less than six months and no greater than twenty-four (24) months. (Effective July 11, 1994)

Section 2-112. Injury While Working.

If an employee is injured while acting within the scope and course of his/her employment with the Town, and the employee is found by a competent medical authority approved by the Mayor to be physically unable to work, the employee shall receive reimbursement from the Town during the employee's convalescence for a period up to, but not exceeding, thirty (30) calendar days. In the case of a full-time employee, the reimbursement shall be the difference between the employee's salary and any insurance benefits to which the employee is entitled as a result of the injury. In the case of a part-time employee, the reimbursement shall be the difference between the part-time employee's average weekly wage for the thirteen week period immediately preceding the injury, and any insurance benefits to which the employee is entitled as a result of the injury. No sick or annual leave shall be charged to the employee during the aforementioned convalescent period. (Effective 7/11/94)

Section 2-113. Employee Drug and Alcohol Testing.

The Common Council shall adopt those regulations necessary to comply with the Omnibus Transportation Employee Testing Act of 1991, as amended, and the regulations promulgated thereunder by the Department of Transportation with respect to drug and alcohol testing of commercial driver's license employees.

Section 2-114. Use of Town Seal, Name or Logo.

No person other than those authorized by the Mayor and Council may affix the official seal of the Town to any paper or document. No person or entity may use the Town name, seal or logo, or any replica thereof, for the purpose of conveying, or in a manner reasonably calculated to convey, the false impression that such person or entity is a department, agency or instrumentality of the Town, or is authorized to represent or act for or on behalf of the Town. (Effective January 8, 2005)

Section 2-115. Compensation of the Mayor.

- (a) A Mayor elected or appointed to a term commencing in or after May, 2012 shall receive as compensation \$15,000.00 per year, payable as salary on a monthly basis.
- (b) The Mayor may decline the compensation set by this paragraph.

Article 2

Police Personnel

Section 2-201. Definitions.

For the purpose of this Article the term "police officer" shall mean a person who is employed by the Town of University Park as a police officer. The term "full-time police officer" shall mean a police officer who is paid at an annual rate for full time (forty (40) hours per average seven-day week) police work. The term "Part-time police officer" shall mean a police officer who is paid at an hourly rate for part-time (less than forty (40) hours per average seven-day week) police work. (Effective February 19, 1978)

Section 2-202. Qualifications for employment.

To be eligible for appointment as a full-time police officer or a part-time police officer an applicant must:

- (a) Be a citizen of the United States;
- (b) be at least twenty-one (21) years of age;
- (c) be of good moral character;
- (e) have satisfactorily completed the Police Minimum Standards Course or its equivalent for a position as a full-time officer, or be eligible to enroll in the police minimum standards course or its equivalent for a position as a part-time police officer; and
- (f) submit the names and addresses of three (3) references who have personal knowledge of the applicant's moral character, experience, and competence for employment as a police officer.

Section 2-203. Personnel actions.

All personnel actions involving full-time and part-time police officers, including all hiring, promotions, salary increases, terminations, dismissals, demotions, reductions in pay, and all suspensions shall be decided by the Chief of Police, or his designee, subject to the Law Enforcement Officer's Bill of Rights, and except as otherwise provided by law. All police officers shall serve a probation period equal to twenty-four (24) months' active duty. (Revised effective January 23, 1994 and July 11, 1994)

Section 2-204. Hours of duty.

The hours of active duty of all police personnel shall be established in writing by the Chief of Police and shall be nondiscriminatory. Police officers shall be on call and available for duty at all times, unless they are certified by a competent medical authority approved by the Chief of Police to be physically unable to work or have been excused by the Chief of Police or his designee. (Revised, effective January 23, 1994)

Section 2-205. Procedures for Regulating Employment Benefits and Size of Force, General Operating Rules.

Resolutions shall be adopted by the Mayor and Council establishing the functions, duties, pay, leave, other employment benefits, and the number of officer positions for the police department. By resolution, the Council may amend the Police Department General Operating Rules and Regulations. Any amendments of the General Operating Rules and Regulations instituted by the Chief of Police pursuant to Section 2-207 shall be forwarded by the Chief to the Council for approval. In the event that the Council fails to take action as to any amendment of the General Operating Rules within thirty (30) days of receipt, the amendment shall be deemed approved. (Revised, effective January 23, 1994, February 17, 2002).

Section 2-206. Injury when on active duty.

If a police officer is injured while acting within the scope of his employment, and the officer is found by a competent medical authority approved by the Chief of Police to be physically unable to work, the officer shall continue to receive reimbursement from the Town during the officer's convalescence for a period up to, but not exceeding, thirty (30) calendar days. In the case of a full-time police officer, the reimbursement shall be the difference between the officer's salary and any insurance benefits received by the officer as a result of the injury. No

sick or annual leave shall be charged to the officer during the aforementioned convalescent period. In the case of a part-time police officer, the reimbursement shall be the difference between the part-time police officer's average weekly wage for the thirteen-week period immediately preceding the injury, and any insurance benefits received by the officer as a result of the injury. (Revised, effective January 23, 1994)

Section 2-207. Chief of Police: Duties and powers.

The Chief of Police shall be appointed by the Mayor with the approval of the Common Council. The Chief shall be responsible for the day-to-day operations of the Police Department, including personnel matters, staffing, administration, and institution of General Operating Rules, and such related duties as may be assigned to the Chief by the Mayor or the Council. The Chief shall issue such written rules and regulations as may be needed to maintain the effective and efficient performance of the Police Department. The Chief shall issue such oral orders or instructions as may be needed to implement the written rules and regulations, and maintain an effective administration. The Chief is authorized to effect disciplinary action, including summary punishment and emergency suspension, subject to the Law Enforcement Officer's Bill of Rights and other applicable law. (Revised, effective January 23, 1994)

Section 2-208. Citations: Authority to issue.

All full-time and part-time police officers are authorized to issue State, County, and Town citations for violations of State laws and County and Town ordinances occurring within the jurisdictional limits of the Town, and to issue written warnings for violations of Town ordinances occurring within the jurisdictional limits of the Town. No citation or warning may be rescinded by Town officials, Town employees, or Town police officers. Copies of all citations and warnings shall be retained by the Chief of Police for audit purposes for a minimum period of three (3) years after the date of issuance.

CHAPTER 3
ANIMAL AND FOWL

Section 3-101. Prohibited animals.

- (a) No person shall keep or permit to be kept on private or public property without first obtaining permission from the Council:
1. any chickens, turkeys, geese, guineas, ducks, or pigeons,
 2. any goats, cattle, horses, or swine,
 3. any reptile, bird, or wild animal.
- (b) No person shall keep any animal in such place or condition as to become a nuisance either because of noise, odor, number or contagious disease. (Effective October 10, 1977)

Section 3-102. Control of dogs.

- (a) Any person owning, keeping or having custody of a dog within the Town limits shall secure and be in control of such animal by means of a leash or lead, not exceeding eight (8) feet in length, except when such animal is on the premises owned or occupied by said person. The Town police or such person who shall be employed or designated by the Mayor and Common Council may apprehend any dog not controlled or secured as provided in this Sub-Section and turn it over to the proper County authorities.
- (b) No person owning, keeping or having custody of a dog, except a seeing eye dog, shall allow or permit excrement of such dog to remain on any property within the Town limits other than that owned and/or occupied by said person. (Effective March 4, 1985)

Section 3-103. Animal Care.

No person shall keep any animal without sufficient food or water, sanitary surroundings or protection

from the weather. It shall be unlawful for anyone to abandon, beat, abuse, or injure an animal, or to permit animals to fight, or to permit an animal to attack a person. (Effective October 10, 1977)

Section 3-104. Confinement of female dogs in heat.

Every female dog or cat while in heat shall be kept confined in a building or enclosure so that she will not be in contact with another dog or cat (except for intentional breeding) or create a nuisance. (Effective October 10, 1977)

Section 3-105. Confinement of animals.

- (a) The Town Police or such person who may be employed or designated by the Mayor and Common Council shall apprehend and have confined for observation any animal which bites a person. The confinement shall be at the owner's or keeper's expense at his choice or animal shelters or veterinary hospitals for a period of ten (10) consecutive days. (Effective December 12, 1977)
- (b) Any dangerous or vicious animal or an animal with a history of biting people shall be confined within a building or secure enclosure. When removed from confinement, such animal shall be muzzled at all times.

Section 3-106. Animal burial prohibited.

No person shall deposit or bury the body of any dead animal within the Town.

Section 3-107. Penalty.

A violation of any provision of this Chapter shall constitute an infraction. A violation of Sections 3-101, 3-103, 3-104, 3-105 and 3-106 shall result in a penalty of \$200.00. A dog at large without its owner, in violation of Section 3-102, shall subject the owner to a penalty of two hundred dollars (\$200.00). (Revised April 9, 1991)

CHAPTER 4

BUILDING AND CONSTRUCTION

Article 1

Building CodeSection 4-101. Appointment of Building Inspector, Application of Building Code.

- (a) The Mayor, with the advice and consent of the common Council, shall select and appoint a building inspector for the Town, who shall, unless otherwise decided, be the Town Engineer.
- (b) The rules and regulations for the construction of buildings known as the "Building Code of Prince George's County, Maryland", 1983 edition, as amended, including references therein to the basic building Code, ninth edition, 1984, and cumulative supplements thereto, is hereby adopted as the building Code for the Town of University Park for the control of buildings, structures and grading; and is hereby established and made a part hereof and will be followed and complied with by all builders, contractors, individuals and the building inspector, where said provisions are not in conflict with or different from the specific provisions of this chapter or the building restrictions which are incorporated in applicable deeds of conveyance and/or restrictive covenants. The adoption of this provision shall include incorporation by reference of future amendments to the Prince George's County building Code and the basic building Code. (Revised, effective December 12, 1989)

Section 4-102. Definitions.

As used in this Chapter, the following terms mean;

- (a) Fence - Any structure, wall, barrier, or partition erected for the purpose or with the effect of enclosing a piece of land, dividing a piece of land into distinct portions, separating two (2) contiguous estates, or stopping and/or creating an obstacle to

pedestrian crossings, or consisting of a section or sections of any type or fencing material, including chain, railing, arbor, or trellis, or any other type of similar structure constructed or set in place and made of any material such as bricks, blocks, stones, wood, iron, wire, plastics, concrete or any other building or construction material. Fence does not include underground, invisible animal restraint barriers.

- (b) Front yard - all that area between an existing or proposed street, alley or roadway, and the front building restriction line extending from side to side on the property. If the main building on the lot is not contiguous with the front building restriction line, then the front yard is that area between an existing or proposed street, alley or roadway and a line running parallel to the existing or proposed street, alley or roadway across the front of the main building and running the full width of the lot.
- (c) Minor construction - the construction of (i) patios; (ii) pre-fabricated sheds; (iii) enclosures of existing porches or patios; (iv) curb cuts; (v) additions to existing structures extending enclosed floor space by 100 square feet or less; and (vi) sidewalks, steps, driveways or new paving.
- (d) Rear lot line - the lot line generally opposite or parallel to the front street, except in a through lot. If a rear lot line is less than ten (10) feet long, or the lot comes to a point at the rear, said rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the chord of the arc of said front street line.
- (e) Rear yard - all that area between the rear lot line and a line drawn across the rear of the house or main building on the lot, running the full width of the lot.
- (f) Side yard - all that area which is not part of the front yard or rear yard, and which is behind the building restriction line.
- (g) Building restriction line - the setback line established by the Prince George's County Zoning Code for the R-55 Zone, by plat, or by covenant or agreement, whichever is applicable, beyond which no part of a main building or other structure may extend. (Revised effective 2/28/98)

Section 4-103. Permit required.

No person shall construct or erect any building, structural addition, fence, swimming pool, or other

improvement; or move or demolish any sound structure or improvement, without a valid building permit issued by the Clerk-Treasurer or his designee. A permit is not required for the demolition or removal of fences or collapsed structures, or for decorative or preventative maintenance. No construction shall proceed without a validly issued permit being prominently displayed for inspection at the site of construction. (Revised, effective 2/6/83)

Section 4-104. Permit Applications.

- (a) Applications for Building Permits. All applications for building permits shall be made to the Office of the Mayor and shall be accompanied by a non-refundable filing fee of Ten Dollars (\$10.00) and the plans and specifications for the work to be done. The plans and specifications shall be accompanied by a survey and a plat of the lot with the location and plan of the structure or structures indicated thereon together with an approved, valid County permit. All applicants shall include the name of the owner, lot and block number, kind of structure, number of stories, structure dimensions, lot coverage and location on the lot, projected use, estimated value of the work to be done, and zoning approval. Whenever any work for which a permit is required under this article has been started prior to obtaining a permit, a special review shall be made before the permit is considered and a special review fee of \$100.00 shall be due and payable, in addition to any other fee noted herein, at the time of filing the application for the required permit. Upon approval by the Town of the application, the applicant shall pay to the Town Treasurer an additional permit fee which shall be calculated by multiplying the permit fee computed by the County pursuant to Section 4-252, by a multiplier of .1. The permit fee and any special review fees shall be paid in full prior to the issuance of the permit. (Revised, effective December 12, 1989; revised May 12, 2003)
- (b) Exceptional requirements. Any plan for the construction of a new building shall demonstrate that the sewer construction or disposal system has been approved by the Washington Suburban Sanitary Commission. Any plans for the demolition or removal of a building shall show that Town and County police and fire departments have approved the plans.

- (c) Procedures. To be eligible for consideration, permit applications must be submitted to the Office of the Mayor at least five calendar days prior to the date of the meeting at which consideration of the permit is requested. Permit applications will be considered by the Council at the public meeting. Each completed application shall be considered by the Council which shall grant or deny a permit. The granting of a permit shall certify to the County that the Town has approved the proposed activity. All application fees are non-refundable and all plans and specifications submitted to the Office of the Mayor shall be kept on file for public inspection, as required by State Law .

Section 4-105. Criteria for the Construction of Buildings.

- (a) Building and Construction: General prohibitions.
1. No person or persons shall erect any structure, or make any alterations, repairs or additions to any existing structure, and no permit shall issue therefore, unless said structure alterations, repairs and/or additions conform to the building restrictions set forth in this chapter and restrictions which are or may be incorporated in applicable deeds of conveyance and restrictive covenants.
 2. All houses in the Town shall be built and used for residence purposes exclusively, except accessory buildings for use in connection with such residences, and no trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon any premises, except as provided in the Prince George's County zoning Code, as amended and applicable Town zoning rules and regulations.
 3. No permit shall be issued for the construction of any dwelling unless it shall be located to conform to the requirements and covenants of any applicable deeds of conveyance and/or restrictive covenants.
 4. No permit shall be issued for construction of any improvement which may reasonably be expected to injure any tree of any size on an abutting or nearby property or to violate any other Town ordinance concerning trees.
 5. Air conditioners, heat pumps and accessories shall not be constructed within

seven (7) feet of any side lot line or rear lot line nor in the front yard of any property. (Revised, effective December 12, 1989)

(b) Residences:

1. A permit for a proposed residential structure shall not be issued unless the plans indicate that the value of the proposed residential structure, exclusive of the land, shall equal or exceed two hundred thousand dollars (\$200,000).
2. A proposed residential structure shall be a minimum of 3,500 square feet in size, including the basement.
3. Brick, natural stone, stucco, clapboard, or a compatible mix of such materials must compose a minimum of 75% of the exterior of the proposed residential structure, exclusive of the doors and windows.
4. Construction of exposed metal chimneys is prohibited. (Revised, effective December 12, 1989)

(c) Detached Garages:

1. No person or persons shall erect any detached garage, or make any alterations or additions to any existing garage within the Town, so that the structure exceeds one story, or 15 feet in height at its highest point, or exceeds twenty four feet by twenty four feet in width and depth.
2. No garage shall exceed 75% of the exterior dimensions of the residence it serves.
3. Any detached garage must be made of materials substantially similar to those of the house it serves. (Revised, effective December 12, 1989)

(d) Other Outbuildings:

1. No outbuilding or other accessory building, or alteration or addition to such existing outbuilding, may be constructed of metal.
2. Any outbuilding larger than 100 square feet must meet the requirements for detached garages. (Revised, effective December 12, 1989)

Section 4-106. Bond required.

The Mayor and Council may require an applicant to post a bond. The bond shall be in the amount set by the Mayor and Council by resolution and shall cover the potential costs of repairing or cleaning public ways damaged or littered during the construction or removal of a building. When the work is completed, the Treasurer shall return to the permit holder the bond less the amount of any expenses incurred by the Town from cleaning or repairing.

Section 4-107. Amendments.

Any change in a project for which a building permit has been issued shall be submitted to the Office of the Mayor as an amendment to the plans and specifications of the project. No work on the change shall commence until the Council has approved the amendment. The Mayor shall issue a stop-work order against any person violating this Section.

Section 4-108. Site inspection.

- (a) Right of inspection. The Mayor and Building Inspector appointed by the Council shall have the right to inspect any activity for which a building permit has been issued and/or requested. This right of inspection shall be exercised only during reasonable hours of the day and shall extend through the duration of the activity. (Revised December 12, 1989)
- (b) Penalties. The Council shall revoke and/or refuse to issue, the permit of any person or his agent who impedes or refuses an inspection, or who deviates from the plans or specifications unless amended. (Revised, effective December 12, 1989)

Section 4-109. Construction site requirements.

Persons engaged in activities regulated by building permits may occupy street space with building materials with the consent of and for the time period allotted by the Council. Each contractor or owner occupying a public way with building materials shall exhibit two (2) red lights at each end of the obstruction and red lights not more than ten (10) feet apart so as to clearly show a passage in the public way. No dirt or rubbish shall be stored on any public way at any time. (Revised, effective November 17, 1982)

Section 4-110. Limitations on fences.

- (a) No fence or wall or combination thereof within the Town shall:
1. Exceed four (4) feet in height from existing finished grade, unless it surrounds a swimming pool, as defined in the Prince George's County Zoning Code.
 2. Be erected or maintained in the front yard, except as provided in paragraph (c) of this section .
 3. Impede or interfere with the natural flow of surface water from adjoining property.
 4. Be constructed so as to encroach into the public right of way.
 5. Be constructed in whole or in part of barbed wire.
- (b) A fence, wall, or fence/wall combination may be erected or maintained in the side or rear yard of the property, but shall not be erected beyond the front building restriction line for any existing or proposed street, alley or roadway that borders the property, except as provided in paragraph (c) of this section and as follows:
1. If the main building on the lot extends beyond the front building restriction line for a bordering street, then a side yard fence may be constructed along a parallel line from the rear corner of building to the rear of the lot.
 2. If there are no houses facing the street on that side of the block on which a side or rear yard fence is to be built, then it may be constructed to the side or rear lot line.
- (c) Retaining walls built to retain or support the lateral pressure of earth or water or other superimposed load shall be designed and constructed of approved masonry, reinforced concrete, steel sheet piling, or other approved materials within the allowable stresses of acceptable engineering practices. Retaining walls may be constructed where necessary in the front, side, or rear yard, but shall not extend more than one (1) foot above finished grade.
1. Retaining walls shall be designed to resist the pressure of the retained material, including both dead and live load surcharges, to which they may be subjected, and to ensure stability against overturning, sliding, excessive foundation

pressure, and water uplift.

2. Unless drainage is provided, the hydrostatic head of water pressure shall be assumed equal to the height of the wall.
 3. All masonry retaining walls other than reinforced concrete walls shall be protected with an approved coping.
- (d) Any protective railings, fences, or barriers required by this Building Code which do not conform to this Section due to location, dimensions, materials, or open percentage, must be considered as a special exception by the Common Council pursuant to section 4-115 of this Article.
- (e) Notwithstanding any other provision of this Section, the Common Council shall not authorize the construction of any fence, wall, or combination, which will adversely affect the public health, safety, welfare or comfort.
- (f) This Section shall apply to all new fences, walls, or combinations constructed, reconstructed, or replaced on or after the effective date of this Section and to any fence, wall, or combination which encroaches on the public right of way. This section shall not apply to the reconstruction or replacement, with similar dimensions, placement and materials, of any fence, wall or combination in existence or properly permitted before the effective date of this Section, or for which a special exception has previously been granted by the Council, regardless of when it was first constructed.
- (g) Notwithstanding any other provision of this Section, no fence, wall or combination may be reconstructed or replaced with barbed wire.
- (h) Notwithstanding any other provision of this Section, chicken wire may not be utilized to construct, reconstruct, or replace any fence which runs along or is within four (4) feet of any existing or proposed street, road, alley or public right of way, or immediately adjacent to any property line of an adjoining lot owned by another.
- (i) Trellises and arbors up to six feet in height may be installed in any area in which a fence may be constructed under this Section. Trellises and arbors between six (6) and (8) feet in height may be installed in any area in which a fence may be constructed under this section, subject to the restrictions of Section 27-420 of the Prince George's

County Zoning Code, prohibiting construction in required yards. Trellises and arbors may not obscure visibility from adjoining properties. (Amended effective 2/28/98)

Section 4-111. Limitation on Construction of Swimming Pools, Hot Tubs and Other Water Receptacles.

(a) Swimming Pools. Every swimming pool constructed in the Town shall:

1. Have a water level below ground level;
2. Have a filtering system that has been approved by Prince George's County;
3. Provide complete drainage by gravity or a pump;
4. Be completely enclosed by a fence not less than six feet high, which shall be maintained free of any vegetation, or natural or man-made fibers and which shall not obscure visibility adjoining properties without the approval of the Council.
5. Be set back at least ten (10) feet from both side property lines and at least twenty (20) feet from the rear property line. Such measurement shall be made from the inside wall of the swimming pool. No swimming pool apron, deck or diving board shall be placed within ten (10) feet of any side or rear lot line. No swimming pool pumps, filters or other pool accessories shall be constructed or installed within seven (7) feet of any side or rear lot lines. (Revised, effective December 12, 1989)
6. Be equipped with self-latching latches on all gates, which shall be placed in such a way as to be inaccessible to small children and said gates shall also be equipped with approved locking devices which shall be locked when the pool is unattended.
7. Shall be constructed only on owner-occupied property.
8. Lighting. Lights used to illuminate any swimming pool shall be so arranged and shaded as to reflect light away from adjoining premises, and shall be maintained and operated in such a manner as not to be a nuisance or an annoyance to any neighboring properties. In no event shall any such lights be

on after 11:00 P.M. on any night. Lights and electric outlets and conduits installed under or near the pool surface or within the surrounding deck area shall not be over twelve (12) volts and in all other respects shall comply with the electrical Code of the County. (Revised, effective 12/12/89)

9. Noise. All pools shall be maintained and operated so that they do not cause nuisances or annoyances to neighboring property owners or any residents of the Town; no person shall make, continue, or cause to be made or continued at any swimming pool, any loud, unnecessary or unusual noise; or any noise which annoys, distorts, injures or endangers the comfort, repose, health, peace or safety of others. Any diving board included as part of a swimming pool shall be so constructed, fastened or snubbed as to eliminate unnecessary noise in its use. (Revised, effective December 12, 1989)

(b) Hot Tubs, Jacuzzis and other similar water receptacles - every outdoor hot tub, Jacuzzi or other similar water receptacle with a depth of more than twenty-four inches or equipped with a water circulating system constructed in the Town shall:

1. Have a filtering system approved by Prince George's County;
2. Provide complete drainage by gravity or pump;
3. Be equipped with an approved device to completely cover such receptacle when not in use, which shall be locked with approved locking mechanisms when the receptacle is unattended;
4. Be placed at the rear of the residential structure and in any event in such a way as to avoid disturbing adjoining properties. (Effective March 31, 1988)

Section 4-112. Signs or advertisements.

No sign or advertisement connected with any business enterprise shall be erected or maintained in the Town. Signs advertising the sale or rent of the property on which they are located are exempt from this provision.

Section 4-113. Permit expiration.

A Town permit under which no work is commenced within six months after the date of issuance, shall

expire and become null and void unless, prior to expiration, the permit is extended for a period not to exceed an additional six (6) months by the Council.

Section 4-114. Developmental nonconformities.

Any part or aspect of a structure which no longer meets the requirements and specifications set forth in this building Code, which is part of a residence or a structure attached to a residence, may be replaced or repaired. A developmental nonconformity which is detached from a residence may not be replaced. No developmental nonconformity may be expanded. An air conditioner or heat pump which is a developmental nonconformity may not be replaced. (Revised, effective December 12, 1989)

Section 4-115. Special Exceptions.

The Common Council may consider an application for a special exception based upon a particular case or situation, and may approve the application provided that there is a showing of hardship, unique topography, unusual circumstances or safety considerations that warrant an exception. Special exceptions shall be granted by the Council only if it finds that such exception:

- (a) will not adversely affect the public health, safety, welfare or interest, nor the reasonable use of adjoining properties;
- (b) will not violate any covenants applicable to the property;
- (c) can be granted without substantial impairment of the purpose and intent of the Town building regulations;
- (d) will not interfere with or obstruct the visibility of motorists or cyclists; and
- (e) will not unduly impede the enforcement of any other applicable law. (Revised, effective December 12, 1989, February 28, 1998)

Section 4-116. Penalty.

A failure to comply with the provisions of this Article shall constitute an infraction. Any violation of Sections 4-103 through 4-114 of this chapter shall be subject to a penalty of two-hundred dollars (\$200.00). A continuing failure to obtain a building permit required by this Article after a citation has issued shall be subject to Section 106(j) of this Code. However, no additional citation shall be issued after a permit application has been

filed and is pending before the Mayor and Common Council and no further construction has occurred since the issuance of the initial citation. (Revised April 9, 1991)

Section 4-117. Rules and Regulations.

The Council shall pass such rules and regulations as are consistent with the purpose, intent and enforcement of this Article. (Revised, effective 12/12/89)

Article 2

Erosion and Sediment Control

Section 4-201. Applicability.

The provisions of this ordinance shall apply to any construction activity, public or private and including work performed by the Town of University park, which involves the clearing, grading, or movement of earth within any dedicated public street right-of-way in the Town of University Park. The provisions of this ordinance shall not apply to normal street repairs or small construction projects in which the amount of disturbed area lying within a public street right-of-way is less than five thousand (5,000) square feet, and/or one hundred (100) cubic yards.

Section 4-202. Standards.

For the purpose of this ordinance, the soil conservation standards currently in effect in Prince George's County, regulating similar clearing, grading, and construction operations within the County generally, are hereby made effective within the Town of University Park to regulate construction within any public street right-of-way.

Section 4-203. Erosion and sediment control plans.

Any person, partnership, governmental agency, firm, or corporation, to whom a Town permit may be issued for construction within a public right-of-way, shall submit as a part of their permit application, two copies of an erosion and sediment control plan which has been approved by the Prince George's Soil Conservation District. The permit issued for said construction shall specify that the work must conform in all respects to the approved erosion and sediment control plan. In the case of construction projects undertaken by the Town of University Park, no work

shall commence until an erosion and sediment control plan has been approved by the Prince George's Soil Conservation District, and the work shall conform to that plan.

Section 4-204. Inspection.

All construction projects for which an erosion and sediment control plan is required shall be inspected periodically by the Town engineer to determine compliance with the plan. The Town engineer shall immediately notify the permittee in writing of any exceptions to the approved plan noted in his inspection and shall specify a reasonable number of days in which the work must be corrected to conform to the plan. A final inspection shall be made and a report of same referred to the Prince George's Soil Conservation District. In addition to any other permit fees and charges, the Town may charge an additional fee, in an amount sufficient to cover the cost inspections by the Town Engineer.

Section 4-205. Violations.

Upon failure to take the directed corrective action within the time specified by the Town Engineer, the permittee shall be deemed to be in violation of this ordinance. Each day a violation continues uncorrected shall be deemed a separate offense. In addition, the Mayor may authorize the Town Counsel or other legal counsel to seek injunction of other appropriate relief to correct such violations.

Section 4-206. Penalties.

Any person, partnership, firm or corporation violating the provisions of this ordinance, upon conviction of such violation, shall be subject to a penalty of two hundred dollars (\$200.00) Imprisonment in default of fine shall not exceed twenty-five days and shall be regulated by the provisions of Section 4 of Article 38 of the Annotated Code of Maryland. (Revised April 9, 1991)

Article 3

Drainage.Section 4-301. Drainage Control.

- (a) No person shall construct, install, erect or establish any device, structure, or system for the removal of surface or subsurface water from any property within University Park without a permit issued by the Town. Applications for drainage permits shall be made to the Chairman of the Building Specifications Committee with a non-refundable filing fee of \$1.00 and plans for the work to be done and referred to the Town engineer for review. The Town engineer may approve the application upon a finding that the proposed drainage system or structure shall not result in an alteration of the natural drainage patterns in a manner adversely affecting Town property or adjacent properties. Notwithstanding anything contained herein, a permit will not be required of any person establishing a drainage system which connects an established storm drain system maintained and operated by a public or governmental agency. (Effective June 10, 1985)
- (b) Upon written request addressed to the Mayor, the Town Engineer may require any person or property owner to remove or modify any established device, drainage system or structure for the removal of surface or subsurface water from any property with University Park, at the expense of the owner of the property upon which the system or structure is located, upon a finding that the continued maintenance of the system or structure is changing the natural flow of water from said property in a manner adversely affecting Town property or adjacent properties. (Effective June 11, 1986)

Section 4-302. Penalties and Enforcement.

Any violation of this Article, including a failure to comply with an order of the Town engineer, shall constitute an infraction subject to a penalty of two hundred dollars (\$200.00) and further shall be subject to injunction and other appropriate legal remedies requiring removal of the structure, device or system at the expense of the person installing or authorizing the installation of the system and/or the owner of the property. (Revised

April 9, 1991)

* On September 17, 1984, the Town adopted CB-52-1984 of Prince George's County, Maryland as the Town's Stormwater Management Ordinance and delegated the authority for administration and enforcement to Prince George's County. The text of CB-52-1984 is attached to this Code of Ordinances as Appendix A and is made a part hereof (Resolution 84-10; September 17, 1984).

CHAPTER 5

PARKS AND RECREATION

Section 5-101. Hours.

Parks are open for general use between the hours 6:00 AM and two hours after dark. No person shall enter or use the parks between 11:30 PM and 5:30 AM. Tennis courts are open during daylight hours.

Section 5-102. Rules and regulations for park usage.

Use and permitting of the Town park, defined as Town owned or operated recreational facilities, in their entirety, including but not limited to the Tot Lot, tennis courts, sports field(s), picnic areas, pathways and bridges, and general park areas within the Town limits, shall be governed by rules and regulations adopted by resolution of the Mayor and Council pursuant to this section. (Effective October 10, 2005)

Section 5-103. Tennis courts.

- (a) Permit. Only Town residents with permits may make use of the tennis courts. Permits are available to Town residents from the Treasurer for a fee of twenty-five cents (\$.25) and are valid for one year from the date of issuance.
- (b) Court usage. The tennis courts may be used only for the purpose of playing tennis. Skating, ice skating, skateboarding, bicycling and other such activities are prohibited. Permit holders may bring no more than three (3) guests and such guests must play on the same court with the permit holder. Permit holders shall not wait longer than one hour for singles players and one and one half hours for doubles players in order to get a court. Children under the age of 14 and unaccompanied by an adult shall not play longer than thirty (30) minutes when anyone is waiting for a court. (Revised, effective June 2, 1994)

Section 5-104. Picnicking and use of Tot Lot.

The park may be used for picnicking. The Tot Lot shall not be permitted for exclusive use. The Tot Lot

equipment and play area may be used only by children of the appropriate size and age for whom the area was designed. (Effective October 10, 2005)

Section 5-105. Prohibitions on park usage.

Regarding personal conduct in using the parks and facilities, no person shall:

- (a) engage in sports or games, or use play equipment, not authorized by the Town, or engage in activities that involve excessive noise or loud or offensive music. Dunking booths, pony rides, and other amusements involving animals, are prohibited.
- (b) Collect admission fees, exchange money for tickets, practice, carry on, conduct or solicit for any business or profession, or sell or offer for sale any Article or merchandise for personal gain, or otherwise solicit or collect funds or contributions without the approval of the Council,
- (c) permit an animal owned or controlled by him to excrete waste in the park, except with immediate clean up, removal, and proper disposal of animal waste,
- (d) drive, operate, park or leave standing, any motorized vehicle, except a Town employee in the discharge of his duties,
- (e) damage, deface, move, or remove any public property,
- (f) sell, possess or consume alcoholic beverages.
- (g) Bring or use barbeque or other types of grills or cooking facilities other than those provided by the Town. No fires may be lit except in Town-provided barbeques, without prior permission of the Town and no fires may be left unattended,
- (h) engage in a prohibited use of a Town park facility during any time when it has been declared as unsuitable for use and
- (i) bring in live bands except as allowed by permit. (Effective October 10, 2005)

Section 5-106. Police in the Town park.

All State, County, and Town police officers have the right to enter the Town park at any time for official purposes. They may arrest and/or remove from the Town park any person violating any State, County, or Town law, or take other appropriate action. (Effective October 10, 2005)

Section 5-107. Penalties.

A failure to comply with the provisions of this chapter shall constitute a municipal infraction and will subject the offender to a penalty of two hundred dollars (\$200.00) per violation. In addition, a violation of this chapter, or any rules and regulations adopted pursuant to this chapter, may cause the revocation or suspension of any permit for use of the Town park. (Revised April 9, 1991, October 10, 2005)

CHAPTER 6

PEACE AND ORDER

Article 1

ConductSection 6-101. Disorderly conduct.

No person shall appear and act in a drunk or disorderly manner on public ways, public property, or at any public gathering. In addition, no person shall engage in:

- (a) the willful obstruction or hindrance of the free passage of persons on public ways,
- (b) profane cursing or swearing to a police officer while in the actual performance of his duties or so as to disturb the public,
- (c) the generation of any loud or unnecessary noises so as to cause annoyances or disturbances to others living or located nearby,
- (d) the possession or drinking of alcoholic beverages on Town property or in any vehicle on Town property, and
- (e) the refusal to move on and disperse when so ordered by a police officer.

Section 6-102. Disorderly house.

No person shall keep or maintain a disorderly house within the Town, or knowingly let or lease a house or unit within it that will be kept in a disorderly manner.

Section 6-103. Immoral conduct.

No person shall expose his private parts, or indulge in or portray sexual activity or intercourse, on any public property, in a vehicle on public property, or on private property so as to be viewed by passerby.

Section 6-104. Assemblages.

- (a) General. No group of persons shall assemble or congregate with others in any public place
 1. to impede the travel and free passage of pedestrians or vehicles, or
 2. with intent to, or so as to, create a breach of the peace.
- (b) Special circumstances. On occasions of fires, accidents, wrecks, parades, or whenever large numbers of people collect on public ways, no person shall interfere with ropes or equipment, break through any barricade, or pass across any established police or fire line, unless authorized by the officer in charge. This provision shall not apply to police, firemen, or other authorized persons. The officer empowered to establish and maintain police or fire lines shall be the senior police officer or senior fire officer, whoever is appropriate.

Section 6-105. Use of firearms.

No person, except a duly authorized police officer, shall discharge within the Town a firearm or any other weapon utilizing an air or gas pressure propulsion, except where lawful in the defense of his person or property.

Section 6-106. Destructive behavior.

No person shall intentionally break, damage, carry away, or mutilate property of the Town or its residents. No person shall throw, or cause to be thrown any object against a person or property with the intent to injure, deface, render inoperative, or intimidate.

Section 6-107. Minors loitering.

No person under the age of eighteen (18) years shall loiter or congregate on a public way between the hours of 10:00 PM and 6:00 AM unless accompanied by an adult.

Section 6-108. Rewards.

The Mayor and Common Council of University Park may, upon recommendation of the Chief of Police, offer and pay a reward not to exceed fifty dollars (\$50.00) to any person providing information leading to the detection and apprehension of any person vandalizing or criminally destroying any real or personal property of the

Town of University Park. Members of the University Park Police Department or other police departments providing such information shall not be eligible for payments under this Section.

Article 2.

Vending

Section 6-201. Vending.

- (a) Licenses. No person shall sell or transfer for profit within the Town any goods or services without first obtaining a license.
1. Application. All applications for vending permits shall be filed with the Town Clerk and shall be accompanied by a non-refundable annual filing fee to be set by the Town Council from time to time by resolution. All applicants shall include name(s) and address(es) and telephone number(s) of vendor(s) and a description of the goods or services to be sold. The applicant shall provide proof of any State or County required licenser. (Revised effective October 1, 2009)
 2. Issuance. The approved license shall be signed and shall be valid for a period of one year from the date of issuance, unless revoked.
 3. Revocation. In addition to any of the penalties authorized by this chapter, a vending license may be revoked upon a finding that information provided in the license application is not true and complete, and/or that the vendor, its agents and/or employees have not complied with the terms of the license and/or the laws and ordinances of the Town.
- (b) Conduct. Licensed vendors may sell goods, and/ or services, except alcoholic beverages, on foot or from a vehicle, but no vendor shall sell goods from a stand. Vendors selling from vehicles shall not park or stop their vehicles for

more than thirty (30) minutes on the same block during a single day. Vendors may sell or exchange goods or services only during daylight hours every day except Sunday.

- (c) License. Not an endorsement - The issuance by the Town of a vending license shall not be considered in any way an endorsement by the Town of any goods and/or services. (Revised, effective February 19, 1990)

Article 3.

Penalty

Section 6-301. Penalty.

A failure to comply with the provisions of this Chapter shall constitute an infraction, except with regard to Section 6-105, a violation of which shall constitute a misdemeanor. A violation of Sections 6-102 or 6-106 shall be subject to a penalty of two hundred dollars (\$200.00). (Revised April 9, 1991)

CHAPTER 7

PUBLIC HEALTH AND SANITATION

Section 7-101. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated. Where terms are not defined they shall have their ordinarily accepted meanings such as the context may imply.

- (a) Garbage. Any animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (b) Litter. Garbage and trash as defined herein, and all other waste material which creates or tends to create a danger to public health, safety, welfare or property, to the extent and in the manner that an unimproved lot, tract or parcel of land is, or may reasonably become, infested or inhabited by rodents, vermin or wild animals, or may reasonably be expected to cause disease or adversely affects and impairs the economic welfare or status of adjacent property or the neighborhood, or may reasonably be expected to constitute a present or potential fire hazard.
- (c) Person. Responsible party- any person, corporation, association, partnership, firm, syndicate, joint venture or organization of any kind holding title to any unimproved land or lot in the Town, lessees, tenants and principal occupants of any land or lot in the Town or agents of persons holding titles of such lands or lots, having care, custody, control or management of the land or lot, and fiduciaries holding title to or having care, custody control or management of land or lots in the Town.
- (d) Trash. All solid waste consisting of both combustible waste (including, but not limited to, paper, cardboard, wood, cloth, bedding material, dead animals or vegetable matter, offal, yard and lawn clippings not located in an established compost pile, and dead trees and limbs) and non-combustible waste (including, but not limited to, metals, glass crockery, tin cans, junked household appliances, abandoned or wrecked motor vehicles, junk, ashes, soil, filth, cinder, and any

building and construction wastes).

- (e) Unimproved property. Real property which is not presently improved, although it may have been improved at one time.
- (f) Weeds. grass, weeds, brush, and any noxious growth excluding trees, ornamental shrubbery, plants, flowers, garden vegetables properly tended, cultivated crops, or undisturbed woodland, not otherwise in violation. (Revised, effective January 16, 1991)

Section 7-102. Disposition of trash.

- (a) Regarding the handling of trash of all types, no person shall:
 - (1) Deposit trash on any Town property, except in conjunction with Town trash collection,
 - (2) Deposit trash on private property without the consent of the owner,
 - (3) Deposit trash, leaves, or any material so as to block the flow of water, or
 - (4) Burn trash or leaves, provided that the burning of normal fireplace fuels in an exterior fireplace is excluded from this provision.
- (b) All perishable trash and trash subject to rapid decay shall be stored in a container which has a close fitting lid and is free of leaks.
- (c) Trash and Recycling containers must be placed at the curb for collection by the Town. Exemption from this requirement due to illness, infirmity or other valid basis may be requested by application to the Public Works Director. An exemption denial may be appealed to the Mayor. Any such container shall be removed from the curb by the owner/resident within 24 hours of trash/recycling collection. When not placed at the curb for collection, trash and recycling containers shall be stored behind the front building line of each property.
- (d) Trash and other debris shall be stored and placed for collection pursuant to the rules and regulations adopted by the Mayor and Council to enforce this chapter.
(Amended June 7, 2009)

Section 7-103. Health and safety hazards.

No person shall use or maintain any property in the Town so as to create or maintain:

- (a) A health hazard by accumulating perishable materials or providing inadequate or inoperative waste removal systems,
- (b) a health hazard by accrual of stagnant water or not providing for proper runoff before water becomes stagnant,
- (c) a fire hazard by the accumulation of combustible materials,
- (d) A public nuisance by the obstruction of free passage on public ways. Such obstructions include but are not limited to weeds, grass, bushes, other plants, and trees.

Section 7-104. Noise.

- (a) Restrictions. Except for the purpose of necessary property maintenance during the hours of 7:00 a.m. to 8:00 p.m. from Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday and Sunday, it shall be unlawful:
 - 1. For any owner or occupant of real property located within the Town, or any guest of such person, to make or generate, or continue to make or generate, or allow to be made or generated, any loud or raucous sound so as to cause unreasonable annoyances or disturbances to others living or located nearby. No owner or occupant of real property located in the Town, nor any guest of such person, shall use, operate, or permit to be played, used or operated and radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons using such machine or device or who are voluntary listeners thereto. The generation of loud or raucous sound, or operation of any such machine or device, in such manner as to be plainly audible beyond the property line of the property from which the sound is generated shall be prima facie evidence of a violation of this Section.
- (b) In the case of real property which is not occupied by its owner, it shall be unlawful for the owner of such property to permit occupants and guests to violate the provisions of this

section, provided, however, that the owner of such property shall not be deemed to have violated this subsection unless:

1. Such owner or the agent of the owner shall have received notice or other information, from any source, that the occupant or guest of such property is alleged to have engaged in conduct which violates this section on one or more prior occasions, without regard to whether such conduct has resulted in the issuance of a municipal citation; or
 2. Such owner or the agent of the owner has failed to take action reasonably calculated under the circumstances to prevent a violation of this section from occurring or recurring.
- (c) State Standards. Nothing herein shall be construed as promulgating a standard less stringent than the environmental noise standards and sound-level limits adopted under title 3 of the health-environmental Article of the Annotated Code of Maryland, as amended from time to time.
- (d) Notification of State. In accordance with Title 3 of the Health-Environmental Article of the Annotated Code of Maryland, the Town shall send to the Maryland Department of Health and Mental Hygiene a copy of each noise control ordinance, rule or regulation that it adopts and identify on each zoning map, comprehensive plan or other appropriate document the sound-level limits that are adopted.
- (e) Enforcement. A violation of this section shall constitute a municipal infraction. In the event that more than one owner and/or more than one occupant or guest of the real property is alleged to have violated the provisions of this chapter, a municipal infraction shall be issued to each alleged violator. A notice of violation of this Section may include the requirement that the violation be fully abated immediately. The Town is hereby authorized to seek court action to abate any noise nuisance, in lieu of or in addition to any other enforcement remedies set out in this chapter.
- (f) Rental Housing License. In addition to any other penalty provided in this code, the rental license for a property may be subject to revocation or non-renewal if three or more violations of this chapter occur within any twelve-month period. (Effective September 1, 1987, Amended December 10, 2000)

Section 7-105. Maintenance of Unimproved Property.

- (a) The provisions herein apply to any unimproved real property located within the Town of University Park. A violation of the provisions of this section shall constitute a public nuisance. (Revised July 11, 2004)
- (b) It shall be the duty of every person as owner, occupant, lessee or agent in charge of unimproved property located in the Town to keep all weeds cut to a height of not over twelve inches.
- (c) It shall be the duty of every person as owner, occupant, lessee of agent in charge of unimproved property located in the Town to prevent litter from accumulating, either temporarily or permanently, on such land. This provision shall not apply to those persons who store litter in private receptacles for collection. (Effective January 16, 1991)

Section 7-106. Violations.

- (a) Notice. Upon receipt of a complaint charging a public nuisance violation the Mayor or a designated property Code officer, shall make an investigation of the complaint. If the complaint is justified, a notice shall be issued to the owner or other person responsible for the maintenance of the property to remove or properly dispose of the litter or weeds, or both, from the subject property. One copy of the notice shall be prominently affixed to the property and the other shall be served in person or by registered mail. If mailed, notice shall be deemed complete and sufficient if addressed to the owner or other responsible person at the last known address or the address shown on the real property tax records maintained by the Town. The notice of violation shall specify the complaint(s) and provide ten days to comply with a notice served in person, and ten days from date of mailing to comply with a notice served by registered mail. (Revised July 11, 2004)
- (b) Appeal and hearing. The responsible party shall have ten days from personal service or from mailing of the notice by registered mail, to note an appeal of the

notice of violation. Any notice of violation appealed by the responsible party shall result in a hearing before the Common Council within thirty (30) days. The responsible party of the property found in violation may show cause why the property is not in violation or an extension of time is necessary to remedy the violation. The findings of a majority of the Common Council present, if constituting a quorum, shall be conclusive.

- (c) Compliance. If the responsible party does not comply with the notice of violation, and/or the findings of the Council after an appeal, within the time limitations set forth for such compliance, then the Town is empowered to effect the correction of the violations. The responsible party shall be notified in the same manner as set out in paragraph A of the charges incurred by the Town for these corrections, and shall have thirty days to pay said charges. All costs not repaid by the responsible party shall be included as part of the tax assessment and payable as a tax levy. Such assessment shall be in addition to other fines applicable under this chapter, and shall be collected in the same manner as other Town taxes. In addition, the Town Attorney shall be authorized to pursue compliance with this chapter by way of injunctive relief in a court of competent jurisdiction.
- (d) Emergencies. The time limitations set out herein for compliance with violation notices may be shortened by the Council if it determines that an emergency exists. (Effective January 16, 1991, Amended December 10, 2000)

Section 7-107. Dumpsters and other storage receptacles.

Permit required. No dumpster or other receptacle for the storage or transport of construction or other debris, or for the storage of household or other items, greater in size than two cubic yards, shall be placed on residential property without a permit issued by the Town. Permits shall expire not later than thirty (30) days after issuance, and shall be subject to such further conditions as the Town may require. A permit may be extended for up to an additional sixty (60) days in any twelve month period by the mayor,

upon good cause shown. Any further extension within the same period may be authorized only by the town council upon a showing of exceptional circumstance.

Section 7-108. Penalty.

A violation of this chapter shall constitute a municipal infraction. A failure to comply with Section 7-105 or Section 7-107 of this chapter, shall constitute an infraction for which a fine of four hundred dollars (\$400.00) may be imposed. The fine for an initial infraction issued pursuant to the remainder of this chapter shall be two hundred dollars (\$200.00). Every day that a violation continues after due notice has been given shall be deemed a separate offense. (Revised, September 18, 1991, July 11, 2004)

CHAPTER 8

PUBLIC WAYS

Section 8-101. Obstruction of public ways.

No person shall create or maintain any obstruction on any public way. In addition, this prohibition shall include but is not limited to:

- (a) placement of earth, ashes, gravel, or other nonperishable material on a public way without the consent of the Chairman of the Street Maintenance Committee, or in his absence the Mayor,
- (b) placement, erection, or maintenance of any building on a public way, and,
- (c) installation of any gate so that it swings on or over a public way.

Section 8-102. Defacing or damaging of public ways.

No person shall deface, paint, mark, damage, or alter any public way in the Town without the prior consent of the Chairman of the Street Maintenance or in his absence the Mayor. Painting house number on curbs is specifically excluded from this provision. Depositing any oil product on public ways or property is prohibited without exception.

Section 8-103. Plants and trees along public ways.

No person shall plant along or near any curb line:

- (a) any shrub, hedge, or thicket, or
- (b) any tree not approved by the Chairman of the Public Utilities Committee, or in his absence the Mayor.

Section 8-104. Street lights.

No person shall extinguish, damage, deface, or obstruct the light from any street, warning, or traffic light or reflector placed upon or illuminating any public way or public property.

Section 8-105. Public gatherings.

No person shall use the public streets or rights-of-way within the Town of University Park for the purpose of holding a public gathering including, but not limited to, picnics, "block parties", or community meetings, without first obtaining a permit from the Mayor and Common Council or their designee authorizing such use. A permit shall issue under the following circumstances:

- (a) The person or persons seeking such permit shall file an application with the clerk-treasurer stating the name and address of the applicant, the purpose for which such permit is sought, the days and hours for which the permit is desired, the name and address of the person, persons, corporation, or association sponsoring the activity, if any, an estimate of the number of participants, and the public streets or rights-of-way or parts thereof to be utilized for such activity and any further information that the Mayor and Common Council shall require in order to render a fair determination as to whether the permit should issue.
- (b) The Mayor shall issue the permit upon a finding that the proposed activity or use will not unreasonably interfere with the flow of traffic within the Town of University Park and will not interfere with or detract from the public health, safety and welfare of other residents of the Town and is not likely to incite violence, crime or disorderly conduct and that the proposed activity will not entail unusual, extraordinary or burdensome expense on police operations by the Mayor and Common Council of University Park.
- (c) The Mayor and Common Council are authorized to establish reasonable fees to be paid upon the filing of the application and further may establish a schedule of additional fees to allay the costs to the Town of providing facilities and services for such activities.
- (d) The Chief of Police shall have the authority to revoke a permit upon the finding of violation of any rule, ordinance or that the continuation of such activities will constitute a threat to the public health, safety, or welfare of inhabitants of the Town.
- (e) The person or persons to whom a permit is issued shall be liable for any loss, damage, or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued. (Effective February 19, 1980)

Section 8-106 Use of Public Property

No dumpster or other receptacle for the storage or transport of construction or other debris, or storage container for the storage of household or other items, shall be installed or placed on any streets, alleys, rights of way or other public property, including sidewalks or driveway aprons, without a permit issued by the Town. Permits for storage containers shall expire not later than two weeks after issuance. Permits for dumpsters or similar receptacles shall expire not later than 60 days after issuance. Such permits shall be subject to further such conditions as the Mayor may require. The Town shall have the right, upon five days' notice to the property owner, to remove any improperly installed or placed dumpster, storage container, or other like receptacle. In addition to any other remedy set out in this section, any such receptacle removed by the Town may be disposed of after 30 days' notice to any known property owner. The property owner shall be charged for such removal and disposal work and services, and the explanation: Town may collect payment therefore in the same manner as Town taxes. (Effective March 20, 2007)

Section 8-107 Penalty.

A failure to comply with the provisions of this chapter shall constitute an infraction. Any violation of Sections 8-101, 8-102, 8-103, 8-104 and/or 8-106 shall be subject to a penalty of two hundred dollars (\$200.00). (Revised April 9, 1991, March 20, 2007)

CHAPTER 9

TRAFFIC AND VEHICLES

Article 1.

Traffic.Section 9-101. Police orders.

No person operating or in charge of a vehicle shall disobey the order of a police officer when that officer is acting in his official capacity.

Section 9-102. Traffic signs.

No person operating or in charge of any vehicle shall disobey the instructions displayed upon any official traffic sign or device on any roadway in the Town, unless directed to do so by a police officer. These signs and devices shall include the regulation of speed, stopping, parking, and direction of traffic, the prohibition of trucks, and the closing of roadways.

Section 9-103. Speed limits.

No person shall operate a motor vehicle over any public

- (a) roadway in excess of twenty-five (25) miles per hour, unless otherwise posted, or
- (b) driveway, alley, or parking area in excess of five (5) miles per hour.

Section 9-104. Parking.

(a) Prohibitions.

- (1) Stopping, standing, or parking. Except under the direction of a police officer, no person shall stop, stand, or park his vehicle:
 - (i) on any approach to a bridge or viaduct, or on any bridge, viaduct, crosswalk, sidewalk, or the area between the curb and adjacent property lines.

- (ii) along any curb painted yellow and marked "No Parking" or in front of any official sign closing a roadway.
 - (iii) within three (3) feet of a stopped vehicle, or the entrance to a private driveway.
 - (iv) within fifteen (15) feet of a fire hydrant or designated bus stop
 - (v) within thirty (30) feet of a "stop" sign on the approach side of the street, or marker officially designating an arterial highway, or any sign prohibiting parking during an emergency, unless the sign states otherwise.
 - (vi) within thirty (30) feet of any vehicle-activated traffic control device, or any other electric traffic control signal.
 - (vii) within fifteen (15) feet of the curb line of an intersecting street or, if no curb exists, where it would extend except on those streets intersecting U.S. Route 1, East-West Highway, Adelphi Road, or Queens Chapel Road where the prohibition shall apply within thirty-five (35) feet of the curb line of those streets.
 - (viii) upon any Town roadway in such manner as to obstruct passage along that roadway or entrance onto it from a private drive so as to prevent the passage of vehicles along it.
 - (ix) within any intersection.
 - (x) within any parking space or area painted with a handicap symbol and signed "Handicap Parking", unless that vehicle prominently displays a handicap parking sticker issued by the appropriate authority. (Effective, February 12, 1991)
2. Parking. No person shall park his vehicle at any time in the specified places on the following streets:
- (i) U.S. Route 1 -- west side within the Town boundaries.
 - (ii) Adelphi Road -- east side from the park to Beechwood Road.

- (iii) Van Buren Street -- north side from Queens Chapel Road to U.S. Route 1, and from Beechwood Road to College Heights Drive.
- (iv) Underwood Street -- north side from U.S. Route 1 to Queens Chapel Road.
- (v) Beechwood Road -- north side from U.S. Route 1 to Pineway. (Revised February 21, 1993)
- (vi) Tennyson Road -- south side from Adelphi road to 40th Avenue and the entire park turnaround.
- (vii) Tuckerman Street -- south side from Queens Chapel Road to U.S. Route 1
- (viii) Sheridan Street -- south side from Queens Chapel Road to U.S. Route 1
- (ix) Pineway -- north side from Queens Chapel Road to Beechwood Road and south side within one hundred feet from intersections with Queens Chapel Road and U.S. Route 1, and at the Northern intersection with U.S. Route 1, the north side of Pineway within seventy three feet (73') of its intersection with U.S. Route 1, and south side of Pineway within seventy five feet (75') of its intersection with U.S. Route 1. (Effective May 25, 2006)
- (x) Clagett Road -- east side from Queens Chapel Road to Clagett-Pineway. (Effective January 25, 1982)
- (xi) Oakridge Road -- east side from Beechwood Road to Pineway.
- (xii) 40th Avenue -- east side from Queens Chapel Road to Tennyson Road and the entire park turnaround.
- (xiii) 41st Avenue -- east side from Queens Chapel Road to Tennyson Road and the entire park turnaround.
- (xiv) 42nd Avenue -- both sides from Queens Chapel Road to Sheridan Street.

- (xv) 44th Avenue -- west side from Queens Chapel Road to Wells Parkway.
 - (xvi) Intersection of Beechwood Road, College Heights Drive, and 40th Avenue -- on the triangle park.
 - (xvii) Wells Parkway -- within its easterly turnaround proximate to the University Park Elementary School and on both sides from Adelphi Road to Calverton Drive, and on the South side from Chansory Lane to the intersection of Wells Parkway and Clagett Road. (Revised Nov. 7, 1990)
 - (xviii) On the west side of the public right-of-way of the alley running south and west from Pineway to Oakridge Road, and on the east side of the aforesaid right-of-way from a point beginning at the north end of lot 12 and proceeding south to the north lot line of lot 43, then proceeding west to Oakridge Road in Block A College Heights. (Effective, January 25, 1982)
 - (xix) Queens Chapel Road- within the turnaround located at the south end of the road, at its intersection with Adelphi road and East-West Highway, as signed. (Effective, October 14, 2002)
- (3) Exceptions - A temporary exception to the provisions of subparagraph (a)(2) to allow for short term events or circumstances may be granted by the police department if such exception will not adversely affect vehicular or pedestrian traffic. (Effective, May 15, 1990)
- (b) Limitations.
- (1) Limited Parking. No person shall park any vehicle for more than two (2) hours at any one place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, on any of the following streets: (Revised February 11, 2007)
- (i) Adelphi Road -- east side from Beechwood Road to Underwood Street and from Queen's Chapel Road to the Park Bridge.

- (ii) Forest Hill Drive -- both sides from Underwood Street to College Heights Drive.
- (iii) Van Buren Street -- both sides from 40th Avenue to Forest Hill Drive. (Effective October 10, 1977)
- (iv) Underwood Street -- both sides from Adelphi Road to 40th Avenue. (Effective October 10, 1977)
- (v) College Heights Drive -- Both sides from 40th Avenue to Wells Parkway. (Effective October 10, 1977)
- (vi) Beechwood Road -- both sides from Adelphi Road to Wells Parkway and the south side from Pineway to Route 1, Baltimore Boulevard. (Effective February 11, 2007, Amended February 22, 2009)
- (vii) 40th Avenue -- both sides from Calverton Drive to College Heights Drive and from the park turnaround to Tennyson Road and the west side from Tennyson Road to Queens Chapel Road.. (Amended May 9, 1999, November 24, 2005)
- (viii) 41st Avenue -- west side from Tennyson Road to Queens Chapel Road and both sides from Tennyson Road to the park turnaround and from College Heights Drive to Underwood Street. (Effective October 10, 1977, Amended May 9, 1999, November 24, 2005)
- (ix) Sheridan Street -- north side from 43rd Avenue to 42nd Avenue. (Effective December 12, 1977)
- (x) Queens Chapel Road -- both sides from Adelphi Road to 41st Avenue. (Effective December 26, 1993, November 24, 2005, February 11, 2007)
- (xi) Oakridge -- west side from Pineway to Beechwood Road. (Effective June 6, 2005, Amended February 11, 2007, February 22, 2009)
- (xii) Pineway -- South side from one hundred feet from intersection with

Queens Chapel Road and Route 1 to any point more than seventy five (75) feet from the northern intersection with Route 1 and north side from Beechwood Road to seventy five (75) feet from the northern intersection with Route 1. (Effective June 6, 2005, Amended February 22, 2009)

(xiii) Tennyson Road –The north side from Adelphi Road to 40th Avenue and both sides from 40th Avenue to 41st Avenue. (Effective November 24, 2005, February 11, 2007)

(xiv). Wells Parkway from Calverton Drive to Chansory Lane.

(xv). Calverton Drive, from Adelphi Road to Wells Parkway. (February 11, 2007)

(xvi) Clagett Pineway-Both sides from Pineway to Clagett Road. (Effective February 22, 2009)

(xvii) Holly Hill Road- Both sides from Oakridge to Pineway. (Effective February 22, 2009)

2. School parking.

I. No person shall park any vehicle from 7:00 A.M. to 7:00 P.M. on school days on any of the following streets

A. The east side of Adelphi Road from Van Buren Street to Calverton Drive.

B. both sides of Van Buren Street from Adelphi Road to 40th Avenue.

C. The east side of Adelphi Road between Calverton Drive and Wells Parkway; and between Underwood Street and Van Buren Street.

D. the west side of Underwood street from the stop sign at the entrance of the University Park Elementary school to 60 feet north.

E. No person shall park any vehicle on the northern side of Queens

Chapel Road, from its intersection with Underwood Street to the driveway of the University Park Elementary School Parking Lot, which area shall be utilized as a student loading zone, between the hours of 7:30 a.m. and 8:30 a.m., and 1:30 p.m. and 2:30 p.m., on school days only. (Revised 5/10/04, February 11, 2007)

(c) Parking Permits.

1. In order to provide certain persons with the opportunity to enjoy the use of their property, including the use of the public street to park their vehicles along the time-limited parking areas, and to provide for greater safety, the Mayor and Council authorize the Mayor and designated Town administrative personnel to issue permits for the parking of all properly registered operative vehicles owned or regularly operated by persons residing at the given address or owned or regularly operated by the owner of the property at the given address for an appropriate period of time as circumstances require within an area in which parking is limited by sub-Sections (b)(1), (2) (3) and (4) of this Section where said designee(s) determines that the applicant for such permits: (Revised 3-23-94, 7-30-01, February 11, 2007)

(i) resides on property abutting an area in which parking is limited by sub-Sections (b)(1), (2) (3), and (4) of this section, and

(ii) the parking of such vehicle, as permitted, does not adversely affect vehicular or pedestrian traffic. (Revised December 6, 1992, October 3, 1999)

2. The application for permit shall contain the name of the owner of the motor vehicle, residential address, and make of the motor vehicle, model, and serial number. Permits shall be issued without charge to the applicants. Details of the format, placement and effective dates of any permits issued under this section 9-104 shall be determined by the Mayor. (Revised December 6, 1992, February 11, 2007)

(d) Visitor Permits in Certain Areas

1. Each residence abutting that portion of a street on which parking is limited by this section is entitled to two (2) visitor parking permits, upon application by a resident accompanied by proof of residence.
 2. Visitor permits, shall be used on a temporary basis only by guests of eligible residents.
- (e) Emergency authority of the Mayor. Whenever emergencies require, the Mayor, or in his absence, the Chief of Police, may prohibit parking on portions of the Town roadways. Signs prohibiting such parking shall be prominently displayed in the affected areas. (Effective October 10, 1977, Amended October 3, 1999, February 11, 2007)

Section 9-105. Manner of parking.

No person driving a vehicle shall park it without first bringing the wheels of the curb side to within six inches of the curb, stopping the engine, locking the ignition, removing the key, and setting the brake. (Effective October 10, 1977)

Section 9-106. Restricted traffic flow.

- (a) No person shall operate a motor vehicle on Underwood Street between Forest Hill Drive and Adelphi Road except in a westbound direction, nor shall any person operate a motor vehicle on Underwood Street between Beechwood Road and the northern end of the circular driveway at the University Park Elementary School, except in a southbound direction. (Effective October 17, 1995)
- (b) No person operating a motor vehicle shall turn left onto Tennyson Street from its intersection with Adelphi Road between 6:30 a.m. and 9:30 a.m., Monday through Friday. (Revised November 30, 1992)
- (c) No person operating a motor vehicle shall enter onto Sheridan Street westbound from route 1, Baltimore Avenue, between the hours of 6:30 a.m. and 9:30 a.m., Monday through Friday. (revised January 11, 1993, February 11, 2007)
- (d) No person operating a motor vehicle shall enter onto Tuckerman Street westbound from Route 1, Baltimore Avenue, between the hours of 6:30 a.m. and 9:30 a.m., Monday through Friday. (Revised January 11, 1993)

- (e) No person operating a motor vehicle shall enter onto the southern extension of Wells Parkway westbound from Route 1, Baltimore Avenue, between the hours of 6:30 a.m. and 9:30 a.m., Monday through Friday. (Revised January 11, 1993, February 11, 2007)
- (f) No person operating a motor vehicle shall enter onto or exit from Queens Chapel Road at its Southern end, at the intersection with Route 410, East-West Highway, and Adelphi Road, except for emergency vehicles. (Effective November 30, 1992)
- (g) No person operating a motor vehicle shall enter onto Queens Chapel Road at its northern end, at the intersection with Route 1, Baltimore Avenue, at any time, except for emergency vehicles and school buses. Motor vehicles may exit from Queens Chapel Road at its northern end using the northeast lane of travel only. The southwest lane of travel on Queen's Chapel Road, between its intersection with Route 1 and its intersection with Clagett/44th Avenue, shall be for use of emergency vehicles and school buses only, and shall be marked with yellow stripes for this purpose. (Effective, November 7, 1992)
- (h) No person operating a motor vehicle shall exit Sheridan Street eastbound at its intersection with Route 1, Baltimore Avenue, except by making a right turn. (Effective February 11, 2007)
- (i) No person operating a motor vehicle shall enter onto 44th Avenue Northbound at its intersection with Sheridan Street, between the hours of 6:30 AM and 9:30 AM and 4:30 PM and 6:30 PM Monday through Friday. (Effective February 11, 2007)

Section 9-107. Commercial Truck Traffic.

- (a) No person shall operate any truck on the streets of University Park. This provision shall not apply to any recreational or van-type vehicle or pick-up truck with a 3/4 ton or less manufacturer's rated capacity without regard to the license tag designation of the vehicle, which is owned by residents of the Town of

University Park, is used primarily for personal transportation, and does not display commercial advertising on the body of or affixed to the vehicle. These provisions shall not apply to trucks used in connection with a service call or delivery to a resident of the Town of University Park. (Effective December 30, 1987)

Section 9-108. General prohibitions.

- (a) Hitchhiking. No person shall personally solicit a ride from any private vehicle traveling on Town roads.
- (b) Hitchriding. No person traveling on any motorcycle, bicycle, or other self-propelled vehicle shall attach himself or his vehicle to any other moving vehicle.
- (c) Bicycles. No person shall ride a bicycle on any sidewalk in the Town. This provision shall exclude light toy vehicles.
- (d) Sound trucks. No person operating a vehicle shall broadcast sound from that vehicle within the Town limits without the express approval of the Council.
- (e) Curbs and sidewalks. No person shall drive any vehicle over any curb or sidewalk, except on driveways, without securing a permit authorized by the Chairman of the Street Maintenance and Safety Committee, or in his absence, the Mayor. The Town may require the posting of a bond as a condition of permit approval to insure against damage to Town property. (Effective October 10, 1977)

Section 9-109. Speed Monitoring System.

- (a) The Town and its police department are authorized to operate a speed monitoring system to enforce the speed limit pursuant to §21-809, transportation article, annotated code of Maryland, as amended.
- (b) before activating an unmanned stationary speed monitoring system, the Town shall:
 1. Publish notice of the location of the speed monitoring system on its website and in a newspaper of general circulation in the town.
 2. Ensure that each sign that designates a school zone indicates that speed monitoring systems

are in use in school zones.

- (b) a speed monitoring system in a school zone may operate only Monday through Friday between 6:00 A.M. AND 8:00 P.M.
- (d) for a period of at least thirty (30) days after the first speed monitoring system is placed in the town, a violation recorded by any speed monitoring system may be enforced only by issuance of a warning.

4. The Town Council is hereby authorized to designate school speed enforcement zones consistent with this section by resolution.

Article 2.

Vehicles

Section 9-201. Parking and storage of vehicles.

No person shall park or store:

- (a) Any dismantled, inoperative or not validly licensed vehicle unless it is stored in an enclosed garage, (Effective June 11, 1986)
- (b) more than one (1) trailer on his property. The trailer shall not be parked on any street or alley or between the front building line and the adjoining public way,
- (c) any vehicle registered or licensed as a truck upon any public street or alley, except while loading or unloading passengers or freight or while actually in use in connection with a service call in the immediate area, unless the owner of such vehicle is a resident of University Park, and the Mayor and Council approve a permit for parking or storing such vehicle upon a finding that off-street parking facilities cannot be provided on the premises of the owner of such vehicle and that parking or storage of such vehicle does not adversely affect vehicular or pedestrian traffic. This provision shall not apply to any recreational or van-type vehicle or pick-up truck with a 3/4 ton or less manufacturer's rated capacity, without regard to the license tag designation of the vehicle, which is owned by residents of the Town of University Park, used primarily for personal

transportation and does not display any form of commercial advertising on the body of, or affixed to, the vehicle. The term "truck" shall be defined to include buses for transportation of twelve (12) or more persons and vehicles licensed as taxicabs.

Section 9-202. Trailers as dwelling units.

No person shall park, store, or use in the Town any trailer over thirty (30) feet long which was originally designed as a non-mobile dwelling unit or a commercial facility.

Section 9-203. Vehicle noise limitation.

- (a) Modification of mufflers. No person shall operate on any Town roadway a vehicle in which the noise abatement or control device has been modified to allow a greater volume of noise. (Effective June 5, 1983)
- (b) Limitations on vehicle type. All noise limitations shall be based on decibel levels at a distance of fifty (50) feet from the center line of travel of the vehicle. No person shall operate on any Town roadway an vehicle specified below which exceed the following noise levels:
 - 1. 86 decibels for a vehicle towing or capable of carrying eight thousand (8,000) pounds or more,
 - 2. 82 decibels for any motorcycle, or
 - 3. 76 decibels for all other vehicles.

Section 9-204. Removal and disposition of abandoned vehicles.

- (a) Abandoned vehicle. An abandoned vehicle is any motor vehicle, trailer, or semitrailor that is on:
 - 1. public property and is
 - [1.] A. left inoperable or unattended for seventy-two (72) hours or more,
 - [2.] B. illegally stopped or parked,
 - [3.] C. [void of license plates or valid license plates] not displaying currently

valid license plates registered to that vehicle, or

[4.] D. wrecked or disabled; or

2. private property for seventy two (72) hours or more and is
 - A. inoperable, in that one or more of its major mechanical components, including but not limited to engine, transmission, drive train, and wheels, is missing or not functional, unless such vehicle is kept in a wholly enclosed garage; or
 - B. not displaying currently valid license plates registered to that vehicle.
3. any partially dismantled, wrecked or junked motor vehicle may be presumed to have been abandoned.

(b) Removal. The Town police may remove or have removed from any Town property or roadway, and any private property, any vehicle which is abandoned.

The police officer responsible for the removal of the vehicle shall promptly notify its owner of the circumstances of the removal. All vehicles removed and taken into custody by the Town police shall be released only to the owner or to another jurisdiction with a valid warrant for it. No vehicle shall be released until all towing and custody charges have been paid. These charges shall be in addition to any fines or penalties resulting from the issuance of a municipal infraction or other citation.

(c) Notice. Before the Town shall remove and impound a vehicle pursuant to this section, it shall issue a notice to the vehicle owner, and if on private property, the property owner, stating the violation of the Town code and providing seven days for removal of the vehicle or correction of the violation.

(d) Impoundment of vehicles from public property without prior notice. A vehicle is subject to impoundment, without the notice required by subsection c, by the chief of police or his designee when it is on public property under the following circumstances:

1. when the vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic;
2. when the vehicle is parked where parking is prohibited during certain hours, on designated days or at all times, and where such vehicle is interfering with the proper and intended use of such zones;
3. when the vehicle poses an immediate danger to the public safety;
4. when the operator of the vehicle has been taken into custody and impoundment of the vehicle

is reasonably necessary to provide for the safekeeping of the vehicle;

5. when the vehicle is found parked in a reserved parking space such as a handicapped space or a space reserved for Town or County officials or law enforcement personnel; or
6. when the vehicle is abandoned.

Procedures for impounding a vehicle shall be as set forth in subsection E of this section.

(e) Disposition. Abandoned vehicles may be taken into custody and disposed of by the Town at the direction of the Chief of Police as follows, and substantially in conformance with the manner specified in sections 25-204 through 25-210 of the transportation article, annotated code of Maryland, as amended. The Town may use its own personnel and equipment, including towing equipment, or that of others, to remove, preserve and store abandoned vehicles.

1. The last known registered owner is presumed to be the owner of a vehicle at the time it is abandoned.
2. As soon as reasonably possible, and within 7 days of the Town impounding a vehicle, the Chief of Police or his designee shall notify the owner and any secured parties by certified mail that the vehicle is in custody. The notice shall be in compliance with MD Code Ann. Trans. Section 25-204 (B) and (C).
3. If the Chief of Police or his designee is unable to determine the identity of the owner or secured parties on the vehicle, he may provide notice of the impoundment by publication.
4. If a vehicle is not reclaimed within 3 weeks of the date of the notice of impoundment, the owner or secured party is deemed to have waived all of his right, title and interest in the vehicle and to have consented to its disposal and final disposition.
5. The charge for removal, conveyance or impoundment from private property shall be charged to the owner of the vehicle and/or the resident on whose property the vehicle was stored.

(f) Hearing. Within twenty-one (21) days of the date notice is mailed by the Town pursuant to subsection C concerning a vehicle located on private property, the owner or secured party of a vehicle may request a hearing before the Mayor and Council to determine whether

there was probable cause to require removal of, or to impound, the vehicle in question.

(Effective November 23, 2005)

Section 9-205. Auto repair.

No person shall repair or maintain any motor vehicle on any Town roadway, except in an emergency.

Section 9-206. Vehicles on Public Property.

- (a) No person shall stop, park or let stand any vehicle at the same location upon any street, alley, or other public property for 72 consecutive hours or more. Any vehicle left at the same location upon public property for 72 consecutive hours or more shall be considered unattended or abandoned;
- (b) No person shall stop, park, or let stand any vehicle upon any street, alley, or other public property which is stopped, parked or left standing illegally, is not displaying valid registration plates, or is displaying registration plates of another vehicle.

(Effective 2/12/95)

Article 3

General.

Section 9-301. Penalty.

A failure to comply with the provisions of this chapter shall constitute an infraction. Any violation of Sections 9-201 and/or 9-202 shall be subject to a penalty of two hundred dollars (\$200.00). All other violations of this Chapter shall be subject to a penalty of fifty dollars (\$50.00) for each violation. The infraction provision of this ordinance shall not apply to violations occurring within rights of way under the jurisdiction of the State of Maryland. (Revised, effective, April 9, 1991, Feb. 22, 2009)

CHAPTER 10

ZONING

Section 10-101. General.

The zoning ordinances applicable within the Town shall be those of the Maryland-National Capital Park and Planning Commission in effect within that portion of the Maryland-Washington Regional District within Prince George's County, Maryland, except where local authority or private covenants override.

CHAPTER 11

CABLE TELEVISION (CATV)

Section 11-101. Definitions and Word Usage.

a) Definitions and Usage - General

For the purposes of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

- (b) Access Channel-- Any channel on a cable system set aside by a franchisee for public, educational, or governmental use.
- (c) Affiliate-- Any person who owns or controls, is owned or controlled by, or is under common ownership or control with a franchisee.
- (d) Basic Service-- Any service tier that includes the retransmission of local television broadcast signals and/or public, educational, and governmental access signals.
- (e) Cable Act-- The Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended from time to time.
- (f) Cable Service-- (1) the one-way transmission to subscribers of video programming or other

programming services; and (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

- (g) Cable System or System-- A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within the Town, but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves subscribers without using any public rights-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable system if such facility is used in the transmission of video programming directly to subscribers; (4) an open video system that complies with 47 U.S.C. § 573; or (5) any facilities of any electric utility used solely for operating its electric utility system. A reference to a cable system refers to any part thereof, including, without limitation, converters. The foregoing definition of "cable system" shall not be deemed to circumscribe or limit the valid authority of the Town to regulate or franchise the activities of any other communications system or provider of communications services to the full extent permitted by law. Any franchise agreement shall define the services any franchisee is authorized to use the public rights-of-way to provide.
- (h) Channel-- A six Megahertz (MHz) frequency band, or equivalent capacity, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals or some combination of such signals.
- (i) Common Council/Council-- The governing body of the Town.
- (j) Community-- University Park, Maryland, and any agency, department, or agent thereof.

- (k) Converter-- An electronic device which may serve as an interface between a system and a subscriber's television receiver or other terminal equipment, and which may perform a variety of functions, including signal security, descrambling, electronic polling, frequency conversion and channel selection.
- (l) Customer-- Same as "Subscriber."
- (m) Educational Access Channel or Educational Channel-- Any channel on a cable system set aside by a franchisee for educational use.
- (n) FCC-- The Federal Communications Commission, its designee, or any successor governmental entity thereto.
- (o) Franchise-- A non-exclusive authorization granted pursuant to this Ordinance to construct, operate, and maintain a cable system along the public rights-of-way to provide cable service within all or a specified area of the Town. Any such authorization, in whatever form granted, shall not mean or include any general license or permit required for the privilege of transacting and carrying on a business within the Town as required by the ordinances and laws of the Town, or for attaching devices to poles or other structures, whether owned by the Town or a private entity, or for excavating or performing other work in or along public rights-of-way.
- (p) Franchise Agreement-- A contract entered into pursuant to this Ordinance between the Town and a franchisee that sets forth, subject to this Ordinance, the terms and conditions under which a franchise will be granted and exercised.
- (q) Franchise Area-- The area of the Town that a franchisee is authorized to serve by its franchise agreement.

- (r) Franchisee-- A natural person, partnership, domestic or foreign corporation, association, joint venture, or organization of any kind that has been granted a franchise by the Town.
- (s) Governmental Access Channel or Governmental Channel-- Any channel on a cable system set aside by a franchisee for government use.
- (t) Installation-- The connection of system services to subscribers' television receivers or other subscriber-owned or -provided terminal equipment.
- (u) Leased Access Channel or Commercial Access Channel-- Any channel on a cable system designated or dedicated for use by a person unaffiliated with the franchisee.
- (v) Mayor-- The chief administrative officer of the Town, or his designee.
- (w) Net Profit-- the amount remaining after deducting from gross revenues all of the actual, direct and indirect, expenses associated with operating the cable system, including the franchise fee, interest, depreciation, and Federal or State income taxes.
- (x) Normal Business Hours-- Those hours during which most similar businesses in the Community are open to serve customers, including some evening hours at least one night per week and/or some weekend hours.
- (y) Normal Operating Conditions-- Those service conditions that are within the control of a franchisee. Conditions that are not within the control of a franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather conditions. Conditions that are ordinarily within the control of a franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of a cable system.
- (z) OVS-- An open video system that complies with 47 U.S.C. § 653, as amended.
- (aa) Person-- An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the Town.
- (bb) Programmer-- Any person or entity that produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded traces or other storage media, to users or subscribers by means of a cable system.

- (cc) Public Access Channel-- Any channel on a cable system set aside by a franchisee for use by the general public, including groups and individuals, and which is available for such use on a non-discriminatory basis.
- (dd) Public Rights-of-Way-- The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property within the Town, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a cable system. No reference herein, or in any franchise agreement, to a "public Right-of-Way" shall be deemed to be a representation or guarantee by the Town that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a franchisee shall be deemed to gain only those rights to use as are properly in the Town and as the Town may have the undisputed right and power to give.
- (ee) Security Fund-- A performance bond, letter of credit, or cash deposit, or any or all of these, to the extent required by a franchise agreement.
- (ff) Service Interruption-- Loss of picture or sound on one or more cable channels, as described in FCC regulations as of December 1, 1998.
- (gg) Subscriber-- Any person who legally receives any service delivered over a cable system.
- (hh) Transfer-- Transfer shall mean any transaction in which: (1) any ownership or other right, title, or interest of more than ten percent in a publicly traded corporation controlling the Franchisee, its Cable System, or any person that is a Cable Operator of the Cable System (or in the Franchisee itself, if it is a publicly traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly; or (2) any ownership or other right, title, or interest cognizable under FCC regulations of fifty percent or more in an entity other than a publicly traded corporation controlling the Franchisee, its Cable System, or any person that is a Cable Operator of the Cable System (or the Franchisee itself, if it is a publicly traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly, to an entity that does not presently control such entity other than a publicly traded corporation; or (3) there is any transfer of control of a Franchisee; (4) the Franchisee is transferred to another entity; or (5) any change or substitution occurs in the managing general partners of a Franchisee, where applicable; or (6) a Franchisee, or its corporate parents at any level, enter into any

transaction that materially increases the debt that is to be borne by the System directly or indirectly, in a manner that creates a risk of an adverse effect on system rates or services; but Transfer shall not include transactions in which the Franchisee is reorganized within another corporation owned, owning, or commonly controlled with the Franchisee, if such transaction does not materially affect the ultimate control of the Franchisee or the sources and amounts of funds available to the Franchisee.

2. "Control" for purposes of this definition means the legal or practical ability to exert actual working control over the affairs of the Franchisee, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lesser ownership interest, or in any other manner.

- (ii) Town-- University Park, Maryland, and any agency, department, or agent thereof.
- (jj) User-- A person or organization using a channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a subscriber.

Section 11-102. Grant of Franchise.

- (a) Grant.
 1. The Town may grant one or more cable franchises, and each such franchise shall be awarded in accordance with and subject to the provisions of this Ordinance.
 2. Franchises shall be granted by action of the Council pursuant to applicable law.
 3. No person may construct or operate a cable system without a franchise granted by the Town. No person may be granted a franchise without having entered into a franchise agreement with the Town pursuant to this Ordinance.
- (b) Term of Franchise.

No franchise shall be granted for a period of more than fifteen (15) years, except that a franchisee may apply for renewal or extension pursuant to applicable law.
- (c) Franchise Characteristics
 1. A franchise authorizes use of public rights-of-way for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of

a cable system to provide cable service within a franchise area, but does not expressly or implicitly authorize a franchisee to provide service to, or install a cable system on, private property without owner consent (except for use of compatible easements pursuant to Section 621 of the Cable Act, 47 U.S.C. § 541(a)(2) and common law), or to use publicly or privately owned conduits without a separate agreement with the owners.

2. A franchise shall constitute both a right and an obligation to provide the cable services regulated by the provisions of this Ordinance and the franchise agreement.
3. A franchise is non-exclusive and will not explicitly or implicitly preclude the issuance of other franchises to operate cable systems within the Town; affect the Town's right to authorize use of public rights-of-way by other persons to operate cable systems or for other purposes as it determines appropriate; or affect the Town's right to itself construct, operate, or maintain a cable system, with or without a franchise.
4. All privileges prescribed by a franchise shall be subordinate to (without limitation) the Town's use and any prior lawful occupancy of the public rights-of-way
5. The Town reserves the right to reasonably designate where a franchisee's facilities are to be placed within the public rights-of-way and to resolve any disputes among users of the public rights-of-way.

(d) Franchisee Subject to Other Laws, Police Power

1. A franchisee shall at all times be subject to and shall comply with all applicable federal, state, and local laws. A franchisee shall at all times be subject to all lawful exercise of the police power of the Town, including all rights the Town may have under 47 U.S.C. § 552. Nothing in a franchise agreement shall be deemed to waive the requirements of the various codes and ordinances of the Town regarding permits, fees to be paid, or manner of construction.
2. No course of dealing between a franchisee and the Town, or any delay on the part of the Town in exercising any rights hereunder, or any acquiescence by the Town in the actions of a franchisee that are in contravention of such rights (except to the extent such rights are expressly waived by the Town) shall operate as a waiver of any such rights of the Town.

3. The Town may, from time to time, issue such reasonable rules and regulations concerning cable systems as are consistent with applicable law.

(e) Interpretation of Franchise Terms

1. The provisions of this Ordinance and any franchise agreement will be liberally construed in favor of the Town in order to effectuate their purposes and objectives and to promote the public interest.
2. Subject to federal law or regulation, a franchise agreement will be governed by and construed in accordance with the laws of the State of Maryland.

(f) Operation of a Cable System Without a Franchise

Any person who occupies the public rights-of-way of the Town for the purpose of operating or constructing a cable system or an OVS and who does not hold a valid franchise (or other authority allowing such entity to be in the public rights-of-way to provide video services) from the Town shall nonetheless, to the extent allowable by law, be subject to all provisions of this Ordinance, including but not limited to its provisions regarding construction and technical standards and franchise fees. Such person shall apply for a franchise within thirty (30) days of receipt of a written notice by the Town that a franchise agreement is required. The Town may, in its discretion, require such person to remove its property and restore the area to a condition satisfactory to the Town within a reasonable time period, as the Town shall determine; remove the property itself and restore the area to a satisfactory condition and charge the person the costs therefor; and/or take any other action it is entitled to take under applicable law, including filing for and seeking damages under trespass. In no event shall a franchise be created unless it is issued by action of the Town and subject to a written franchise agreement.

(g) Acts at Franchisee's Expense

Any act that a franchisee is or may be required to perform under this Ordinance, a franchise agreement, or applicable law, including but not limited to removal, replacement, or modification of the installation of any of its facilities and restoration to Town standards and specifications of any damage or disturbance caused to the public rights-of-way as a result of its operations or construction on its behalf, shall be performed at the franchisee's expense, unless expressly provided to the contrary in this Ordinance, the franchise agreement, or applicable law.

(h) Eminent Domain

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the Town's rights of eminent domain to the extent to which they may apply to any public utility or cable system.

Section 11-103. Franchise Applications.

(a) Application Required

1. A written application shall be filed with the Town for grant of an initial franchise or modification of a franchise agreement pursuant to 47 U.S.C. § 545.
2. To be acceptable for filing, a signed original of the application shall be submitted together with twelve (12) copies. The application must be accompanied by any required application filing fee, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of persons authorized to act on behalf of all applicants with respect to the application.
3. All applications accepted for filing shall be made available by the Town for public inspection.

(b) Application for Grant of an Initial Franchise

1. A person may apply for an initial franchise by submitting an application containing the information required in Section 4(c). Upon receipt of such an application, the Town may either (a) evaluate the application pursuant to Section 4(b)(3), conducting such investigations as it deems necessary; or (b) issue a Request for Proposals ("RFP"), after conducting, if necessary, a proceeding to identify the future cable-related needs and interests of the Community. Any such RFP shall be mailed to the person requesting its issuance and made available to any other interested party. The RFP may contain a proposed franchise agreement.
2. An applicant shall respond to a RFP by filing an application within the time directed by the town, providing the information and material set forth in Section 4(c). The procedures, instructions, and requirements set forth in the RFP shall be followed by each applicant. Any

applicant that has already filed materials pursuant to subsection 4(b)(1) herein need not refile the same materials with its RFP response, but must amplify its application to include any additional or different materials required by the RFP. The Town or its designee may seek additional information from any applicant and establish deadlines for the submission of such information.

3. In evaluating an application for a franchise, the Town shall consider, among other things, the following factors:
 - (A) The extent to which the applicant has substantially complied with the applicable law and the material terms of any existing cable franchise for the Town;
 - (B) Whether the quality of the applicant's service under any existing franchise in the Town, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served;
 - (C) Whether the applicant has the financial, technical, and legal qualifications to provide cable service;
 - (D) Whether the application satisfies any minimum requirements established by the Town and is otherwise reasonable to meet the future cable-related needs and interests of the Community, taking into account the cost of meeting such needs and interests;
 - (E) Whether, to the extent not considered under Section 4(b)(3)(D), the applicant will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support;
 - (F) Whether issuance of a franchise is warranted in the public interest considering the immediate and future effect on the public rights-of-way and private property that would be used by the cable system, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the public rights-of-way; the effect of granting a franchise on the ability of cable to meet the cable-related needs and interests of the

Community; and the comparative superiority or inferiority of competing applications.

(G) What effects a grant of the application may have on competition in the delivery of cable service in the Town.

4. If the Town finds that it is in the public interest to issue a franchise considering without limitation the factors set forth above, and subject to the applicant's entry into an appropriate franchise agreement, it shall issue a franchise. If the Town denies a franchise, it will issue a written decision explaining why the franchise was denied. Prior to deciding whether or not to issue a franchise, the Town may hold one or more public hearings or implement other procedures under which comments from the public on an application may be received. The Town also may grant or deny a request for a franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP. This Ordinance is not intended and shall not be interpreted to grant any party standing to challenge the denial of an application or the issuance of a franchise unless such standing is necessary to enforce a party's rights under its Franchise Agreement or applicable law.

(c) Contents of Application

An RFP for the grant of an initial franchise shall require, and any such application shall contain, at a minimum, the following information:

1. Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons with five (5) percent or more ownership interest in the applicant and its affiliates; the persons who control the applicant and its affiliates; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person.
2. A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel.

3. A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system, including but not limited to the following factors:
 - (A) The Town shall consider whether an applicant has had previous requests for a franchise denied by the Town or other franchising authorities.
 - (B) The applicant must have the necessary authority under Maryland law to operate a cable system.
 - (C) The applicant must have the necessary authority under federal law to hold the franchise and operate a cable system. An applicant must have, or show that it is qualified to obtain, any necessary federal franchises or waivers required to operate the system proposed.
 - (D) The Town shall consider whether, at any time during the ten (10) years preceding the submission of the application, the applicant was convicted of any act or omission of such character that the applicant cannot be relied upon to deal truthfully with the Town and the subscribers of the cable system, or to substantially comply with its lawful obligations under applicable law, including obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.
 - (E) The Town shall consider whether an applicant files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide.
 - (F) The Town shall consider whether any elected official of the Town holds a controlling interest in the applicant or an affiliate of the applicant.
4. A demonstration of financial qualifications to complete the construction and operation of the cable system proposed.

5. A description of any prior experience in cable system ownership, construction, and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or any interest therein.
6. Identification of the area of the Town to be served by the proposed cable system, including a description of the proposed franchise area's boundaries.
7. A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities.
8. Where applicable, a description of the construction of the proposed system, including an estimate of plant mileage and its location; the proposed construction schedule; and a description, where appropriate, of how services will be converted from existing facilities to new facilities.
9. A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the Community, including public, educational, and governmental access channel capacity, facilities, or financial support to meet the Community's needs and interests.
10. If necessary at the Town's discretion, pro forma financial projections for the proposed franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.
11. Any other information that may be reasonably necessary to demonstrate compliance with the requirements of this Ordinance.
12. Any additional information that the Town may reasonably request of the applicant that is relevant to the Town's consideration of the application.
13. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.
14. The Town may, at its discretion and upon request of an applicant, waive in writing the provision of any of the information required by this Section 4(c).

(d) Application for Grant of a Renewal Franchise

The renewal of any franchise to provide cable service shall be conducted in a manner consistent with Section 626 of the Cable Act, 47 U.S.C. § 546, as from time to time amended.

(e) Application for Modification of a Franchise

An application for modification of a franchise agreement shall include, at minimum, the following information:

1. The specific modification requested;
2. The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of financial pro formas;
3. A statement whether the modification is sought pursuant to Section 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;
4. Any other information that the applicant believes is necessary for the Town to make an informed determination on the application for modification; and
5. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with all federal and state law requirements.

(f) Public Hearings

An applicant shall be notified of any public hearings held in connection with the evaluation of its application and shall be given an opportunity to be heard. In addition, prior to the issuance of a franchise, the Town shall provide for the holding of a public hearing within the proposed franchise area, following reasonable notice to the public, at which every applicant and its applications shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard.

(g) Acceptance of Franchise.

Following approval by the Town, any franchise granted pursuant to this Ordinance, and the rights, privileges and authority granted by a franchise agreement, shall take effect and be in force from and after the first date on which both the franchisee and the Town have accepted and signed the franchise agreement.

Section 11-104. Filing Fees.

- (a) To be acceptable for filing, any application of the type listed below submitted after the effective date of this Ordinance shall be accompanied by a nonrefundable filing fee of \$5,000, payable to the Town, to cover costs incidental to the awarding or enforcement of the franchise, as appropriate:
1. Application for an initial franchise or for issuance of an RFP
 2. Application for renewal of a franchise
 3. Application for modification of a franchise agreement
 4. Application for approval of a transfer
- (b) To the extent consistent with applicable law:
1. the Town may require the franchisee, or, where applicable, a transferor or transferee, to reimburse the Town for its reasonable out-of-pocket expenses in considering the application, including consultants' fees;
 2. no payments made hereunder shall be considered a franchise fee, but fall within one or more of the exceptions in 47 U.S.C. § 542(g)(2).

Section 11-105. Provision of Cable Service

- (a) Availability of Cable Service.

A franchisee shall construct and operate its system so as to provide service to all parts of its franchise area having a density of at least twenty (20) residences per mile of system. In addition, all areas which reach such density at any time during the franchise term shall be provided service upon reaching the minimum density.

- (b) Line Extension Requirement.

Except as federal law may otherwise require, and subject to the minimum density requirement specified in Section 6(a), a franchisee shall, upon request: (i) extend its trunk and distribution system to any subscriber located within two hundred fifty feet of a main distribution cable located in the public rights-of-way at its standard installation charge, unless the franchisee demonstrates to the Town's satisfaction that extraordinary circumstances exist; and (ii) extend its trunk and distribution system to any potential subscriber outside the two hundred fifty foot limit, provided that the

franchisee may charge the potential subscriber for the cost of the actual length of the installed drop, or the shortest distance to the point where the franchisee would be required to extend its distribution system, whichever is shorter, except where the franchisee has demonstrated to the Town's satisfaction that extraordinary circumstances exist. In areas where the minimum density requirement is not met, or where extraordinary circumstances exist, a franchisee shall, upon request, extend its cable system to a potential subscriber, provided that the subscriber shall pay the additional extension costs.

(c) Cost Sharing.

1. "Additional extension costs" as used in subsection 6(b) herein shall mean a subscriber's pro rata share of: a franchisee's total construction costs at the actual density of affected potential subscribers, less the total construction costs that the franchisee would incur if it were extending its system to make service available to the same number of potential subscribers at a density of twenty (20) residences per mile.
2. "Total construction costs" are defined for purposes of this subsection 6(c) as the actual turnkey cost to construct the entire extension including electronics, pole make-ready charges, and labor, but not the cost of the house drop.

(d) Continuity of Service.

1. It is the right of all subscribers in the franchise area to receive all available services from a franchisee, as those services become available, as long as their financial and other obligations to the franchisee are satisfied.
2. A franchisee shall ensure that all subscribers receive continuous uninterrupted service. At the Town's request, a franchisee shall, as trustee for its successor in interest, operate its system for a temporary period (the "Transition Period") following the termination, sale, or Transfer of its franchise as necessary to maintain service to subscribers, and shall cooperate with the Town to assure an orderly transition from it to another franchisee.
3. During such Transition Period, a franchisee shall not sell any of the system assets, nor make any physical, material, administrative or operational change that would tend to reduce the quality of service to subscribers, decrease the system's income, or materially increase expenses without the express permission, in writing, of the Town.

4. The Town may seek legal and/or equitable relief to enforce the provisions of this Section.
5. The Transition Period shall be no longer than the reasonable period required to ensure that cable service will be available to subscribers, and shall not be longer than thirty-six (36) months, unless extended by the Town for good cause. During the Transition Period, a franchisee will continue to be obligated to comply with the terms and conditions of the agreement and applicable laws and regulations.
6. If a franchisee abandons its system during the franchise term, or fails to operate its system in accordance with the terms of its franchise agreement during any Transition Period, the Town, at its option, may operate the system, designate another entity to operate the system temporarily until the franchisee restores service under conditions acceptable to the Town or until the franchise is revoked and a new franchisee selected by the Town is providing service, or obtain an injunction requiring the franchisee to continue operations. If the Town is required to operate or designate another entity to operate the cable system, the franchisee shall reimburse the Town or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the cable system.
7. A franchisee shall forfeit its rights to notice and hearing, and the Council may by resolution declare its franchise immediately terminated, in addition to any other relief or remedies it may have under its franchise agreement, this Ordinance, or other applicable law, if:
 - (A) The franchisee fails to provide cable service in accordance with its franchise over a substantial portion of the franchise area for ninety-six (96) consecutive hours, unless the Town authorizes a longer interruption of service or the failure is due to *force majeure* as characterized in its franchise agreement; or
 - (B) The franchisee, for any period, willfully and without cause refuses to provide cable service in accordance with its franchise over a substantial portion of the franchise area.

Section 11-106. Design and Construction.

- (a) System Construction Schedule

Every franchise agreement shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the cable system.

(b) Construction Procedures

1. A franchisee shall construct, operate and maintain its cable system in strict compliance with all applicable laws, ordinances, rules and regulations, including but not limited to the National Electrical Safety Code and the National Fire Protection Association National Electrical Code, as such may be amended from time to time.
2. The system, and all parts thereof, shall be subject to the right of periodic inspection by the Town.
3. No construction, reconstruction, installation, or relocation of the system or any part thereof within the public rights-of-way shall be commenced until all applicable written permits have been obtained from the proper Town officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the permit as are necessary for the purpose of protecting any structures in the public rights-of-way and for the proper restoration of such public rights-of-way and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.
4. A franchisee shall, by a time specified by the Town, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the Town by reason of traffic conditions; public safety; public Right-of-Way construction; public Right-of Way maintenance or repair (including resurfacing or widening); change of public Right-of-Way grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility; public-Right-of-Way vacation; or for any other purpose where the convenience of the Town would be served thereby; provided, however, that a franchisee shall, in all such cases, have the privilege of abandoning any property in place, after obtaining permission from the Town.
5. If any removal, relaying, or relocation is required to accommodate the construction, operation, or repair of the facilities of another person that is authorized to use the public rights-of-way, a franchisee shall, after reasonable advance written notice, take action to

effect the necessary changes requested by the responsible entity. The Town may resolve disputes as to responsibility for costs associated with the removal, relaying, or relocation of facilities as among entities authorized to install facilities in the public rights-of-way if the parties are unable to do so themselves, and if the matter is not governed by a valid contract between the parties or a state or federal law or regulation.

6. In the event of an emergency, or where a cable system creates or is contributing to an imminent danger to health, safety, or property, the Town may remove, relay, or relocate any or all parts of that cable system without prior notice.
7. A franchisee shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same, and a franchisee shall have the authority to require such payment in advance, except in the case where the requesting person is the Town, in which case no such payment shall be required. A franchisee shall be given not less than seventy-two (72) hours' advance notice to arrange for such temporary wire changes.
8. A franchisee shall participate in any "Miss Utility" program active in its franchise area with regard to giving and receiving notice of the location of facilities and excavations.

(c) Restoration.

Any and all public rights-of-way, public property or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or construction of a cable system shall be repaired, replaced and restored, as appropriate, in substantially the same condition and in a good workmanlike, timely manner, in accordance with the standards for such work set by the Town. With respect to damage or disturbances to public rights-of-way or public property, all repairs and restoration shall be performed in accordance with applicable law, or any amendments thereto. All repairs, replacements and restoration shall be undertaken within no more than thirty (30) days after the damage is incurred, and shall be completed as soon as reasonably possible thereafter. A franchisee shall guarantee and maintain such restoration for at least one year against defective materials or workmanship.

(d) Use of Public Property

1. Should the grades or lines of the public rights-of-way that the franchisee is authorized by a franchise to use and occupy be changed at any time during the term of a franchise, the franchisee shall, if necessary, relocate or change its system so as to conform with the new grades or lines.
2. Any alteration to the water mains, sewerage or drainage system or to any Town, state or other public structures in the public rights-of-way required on account of the presence of a franchisee's system in the public rights-of-way shall be made at the sole cost and expense of the franchisee. During any work of constructing, operating or maintaining of a system, the franchisee shall also protect any and all existing structures belonging to the Town and any other person. All work performed by the franchisee shall be done in the manner prescribed by the Town or other officials having jurisdiction therein.

(e) Interference with Public Projects

Nothing in this Ordinance or any franchise agreement shall be in preference or hindrance to the right of the Town and any board, authority, commission or public service corporation to perform or carry on any public works or public improvements of any description, and should a franchisee's system in any way interfere with the construction, maintenance or repair of such public works or public improvements, the franchisee shall protect or relocate its system, or part thereof, as reasonably directed by any Town official, board, authority, commission or public service corporation.

Section 11-107. Channels and Facilities for Public, Educational and Governmental Use.

(a) Management of Channels

The Town may designate one (1) or more entities, including a non-profit access management corporation, to perform any or all of the following functions:

1. to manage any necessary scheduling or allocation of capacity on the Institutional Network; and/or
2. on the Town's behalf, to program any public, educational, or governmental access channel.

Educational and public access channels shall not be managed by the same entity, provided, however, that until such entities have been designated, the Town shall be responsible for these functions.

- (b) **Public Access Programming Rules:** For any public access channel, the entity managing such channel shall establish (i) rules that prohibit the presentation of any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office), lottery information, and obscene matter; (ii) rules requiring first-come, nondiscriminatory access; and (iii) rules permitting public inspection of the complete record of the names and addresses of all persons and groups requesting access time. Such a record shall be retained for a period of two (2) years.
- (c) **Use of Access Channels:** Governmental Access Channel(s) shall be for the noncommercial use of the Town and/or other governmental entities. Educational Access Channel(s) shall be for the noncommercial use of the educational community.

Section 11-108. Consumer Protection.

- (a) **General Provisions.**

This Section 9 sets forth customer service standards that a franchisee must satisfy. In addition, the franchisee shall at all times satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal, state, or local law or regulation, as the same may be amended from time to time.

1. Nothing in this Ordinance may be construed to prevent or prohibit:
 - (A) the Town and a franchisee from agreeing to customer service requirements that exceed the standards set forth in this ordinance;
 - (B) the Town from enforcing, through the end of a franchise term, pre-existing customer service requirements that exceed the standards set forth in this Ordinance and are contained in current franchise agreements;
 - (C) the Town from enacting or enforcing any customer service or consumer protection laws or regulations; or
 - (D) the Town from waiving, for good cause, requirements established in this Section 9.

2. Nothing in this Ordinance in any way relieves a franchisee of its obligation to comply with other applicable consumer protection laws and its franchise agreement.
- (b) Installations, Connections, and Other Franchisee Services.
1. Installation of Drops. A subscriber's preference as to the point of entry into a residence shall be observed whenever feasible. Runs in building interiors shall be as unobtrusive as possible. A franchisee shall use due care in the process of installation and shall repair any damage to a subscriber's property caused by said installation. Such restoration shall be undertaken within thirty (30) days after the damage is incurred and shall be completed as soon as reasonably possible thereafter.
 2. Location of Drops. In locations where a franchisee's system must be underground, drops must be placed underground as well. In all cases where new developments and subdivisions are to be constructed and to be served in whole or in part by underground power and telephone utilities, the owner or developer of such areas shall provide reasonable notice to the franchisee of the availability of trenches, backfill and specifications of all necessary substructures in order that the franchisee may install all necessary cable facilities. In no event shall such undergrounding be at any cost or expense to the Town.
 3. Time for Extension/Installation. Where a franchisee is required under Section 6 to provide service to a person that resides within two hundred fifty (250) feet from the franchisee's distribution system, the franchisee must provide such service within seven business days of the person's request. If the person resides more than one hundred twenty-five (125) feet from the franchisee's distribution system, the Town may waive this seven-day requirement upon a showing of good cause by the franchisee and provided the franchisee specifies the time period within which service will be provided. This standard shall be met 95% of the time, measured on a quarterly basis.
 4. Antennas and Antenna Switches. A franchisee shall adhere to FCC regulations regarding antenna switches. A franchisee shall not, as a condition to providing cable service, require

any subscriber or potential subscriber to remove any existing antenna structures for the receipt of over-the-air television signals.

5. Delinquent Accounts. A franchisee shall use its best efforts to collect on delinquent subscriber accounts before terminating service. In all cases, the franchisee shall provide the customer with at least ten (10) working days written notice prior to disconnection.

(c) Telephone and Office Availability.

1. Each franchisee shall maintain offices at convenient locations within Prince George's County, as specified in its franchise agreement, that shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.
2. Each franchisee will maintain at least one local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day, seven days a week. Trained representatives of a franchisee shall be available to respond to subscriber telephone inquiries during normal business hours.
3. Each franchisee shall be subject to the following standards, except that such franchisee shall not be subject to penalty as long as it meets such standards under normal operating conditions at least ninety (90) percent of the time, measured quarterly.
 - (A) Telephone answering time shall not exceed thirty (30) seconds, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds.
 - (B) A customer will receive a busy signal less than three percent (3%) of the time.
 - (C) When the business office is closed, an answering service where a person receives and records service complaints and inquiries shall be employed. Inquiries received after hours must be responded to by a trained representative of a franchisee on the next business day. To the extent possible, the after-hours answering service shall comply with the same telephone answer time standard set forth in this Section.

4. In any case, at all times a franchisee shall provide an answering machine so that callers will have the option to leave messages.
5. A franchisee must hire sufficient competent customer service representatives and repair technicians so that it can adequately respond to customer inquiries, complaints, and requests for service in its office, over the phone, and at a subscriber's residence; provide prompt and effective service to subscribers; and, as a rule, complete repairs within a subscriber's home upon a single visit.

(d) Scheduling and Completing Service.

Under normal operating conditions, each of the following standards shall be met by all franchisees at least 95% of the time, as measured on a quarterly basis:

1. Prompt Service. Excluding conditions beyond the control of the franchisee, repairs and maintenance for service interruptions must begin promptly and in no event later than twenty-four (24) hours after the subscriber reports the problem to the franchisee or its representative or the interruption or need for repairs otherwise becomes known to the franchisee. All such work must be completed within three (3) days from the date of the initial request, except installation requests, provided that a franchisee shall complete the work in the shortest time possible where, for reasons beyond the franchisee's control, the work could not be completed in those time periods even with the exercise of all due diligence; the failure of a franchisee to hire sufficient staff or to properly train its staff shall not justify a franchisee's failure to comply with this provision.
2. Service Times. Each franchisee shall perform service calls, installations, and disconnects at least during normal business hours. In addition, maintenance service capability enabling the prompt location and correction of major system malfunctions shall be available Monday through Friday from the end of normal business hours until 12:30 a.m., and from 8:00 a.m. until 12:30 a.m. on Saturdays, Sundays, and holidays.
3. Appointments. The appointment window for installations, service calls, and other installation activities will be either a specific time or, at maximum, a 2-hour time

- block during normal business hours, or such greater time as the Town may authorize. Where a subscriber cannot conveniently arrange for a service call or installation during normal business hours, a franchisee shall also schedule service and installation calls outside normal business hours for the express convenience of the subscriber.
4. Cancellations. A franchisee may not cancel an appointment with a subscriber after the close of business on the business day preceding the appointment. If a franchisee's representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted, and the appointment rescheduled, as necessary, at a time which is convenient for the subscriber.
 5. Emergency Maintenance. A franchisee shall keep an emergency system maintenance and repair staff, capable of responding to and repairing system malfunctions or interruptions, on a twenty-four (24) hour basis.
 6. Other Inquiries. Under normal operating conditions, billing inquiries and requests for service, repair, and maintenance not involving service interruptions must be acknowledged by a trained customer service representative within twenty-four (24) hours, or prior to the end of the next business day, whichever is earlier. A franchisee shall respond to all other inquiries within five (5) business days of the inquiry or complaint.
 7. If a subscriber experiences a missed appointment due to the fault of a franchisee, the franchisee shall credit the subscriber's account twenty (20) dollars for each missed appointment, or grant the subscriber such other equivalent remedy as the subscriber and franchisee may agree. This is in addition to any other penalties or liquidated damages.
 8. Upon subscriber request, each franchisee shall arrange for pickup and/or replacement of converters or other franchisee equipment at the subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer). At a subscriber's request, a franchisee shall make such pickup or replacement at the

same time as any disconnection or other related service call, so as to avoid an additional visit. If a franchisee charges a fee for such pickup or replacement, such fee shall be clearly disclosed at the time of the subscriber's request.

(e) Interruptions of Service

1. A franchisee shall, when practicable, schedule and conduct maintenance on its cable system so that interruption of service is minimized and occurs during periods of minimum subscriber use of the cable system. The franchisee shall provide reasonable prior notice to subscribers and the Town before interrupting service for planned maintenance or construction, except where such interruption is expected to be one hour or less in duration. Such notice shall be provided by methods reasonably calculated to give subscribers actual notice of the planned interruption.
2. A franchisee may intentionally interrupt service on the cable system after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and, except in emergency situations, only after publishing notice of service interruption at least twenty-four (24) hours in advance of the service interruption. Service may be intentionally interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance, and repair, without notification, any night except Friday, Saturday, or Sunday, or the night preceding a holiday.

(f) Notice to Subscribers.

1. Unless otherwise provided for herein, a franchisee shall provide the following materials to each subscriber at the time cable service is installed, at least annually thereafter, and at any time upon request. Copies of all such materials provided to subscribers shall also be provided to the Town.
 - (A) a written description of products and services offered, including a schedule of rates and charges, a list of channel positions, and a description of programming services, options, and conditions;
 - (B) a written description of the franchisee's installation and service maintenance policies, delinquent subscriber disconnect and reconnect procedures, and any other of its policies applicable to its subscribers;
 - (C) written instructions on how to use the cable service;

- (D) written instructions for placing a service call;
 - (E) a written description of the franchisee's billing and complaint procedures, including the address and telephone number of the Town office responsible for receiving subscriber complaints;
 - (F) a copy of the service contract, if any (at installation or on request, but need not be provided annually);
 - (G) notice regarding subscribers' privacy rights pursuant to 47 U.S.C. § 551;
 - (H) notice of the availability of universal remote controls and other compatible equipment (a list of which, specifying brands and models, shall be provided to any subscriber upon request).
2. Subscribers will be notified of any changes in rates, programming services or channel positions, and any significant changes in any other information required to be provided by this section, as soon as possible in writing, unless such notice is waived by operation of applicable law. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. Notwithstanding the above, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or franchising authority on the transaction between the operator and the subscriber.
 3. All franchisee promotional materials, announcements, and advertising of residential cable service to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a franchisee shall take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers before the order is accepted.
 4. Copies of all notices provided to subscribers under these customer service standards, as well as all promotional or special offers made to subscribers, and of any agreements used with subscribers, shall be filed promptly with the Town.

(g) Billing.

1. Bills shall be clear, concise, and understandable. Bills must be fully itemized with itemizations including, but not limited to, basic service, cable programming service, and premium service charges and all equipment charges. Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.
2. Refund checks to subscribers shall be issued promptly, but no later than the later of --
 - (A) the subscriber's next billing cycle, or thirty (30) days, following resolution of the refund request, whichever is earlier; or
 - (B) the return of all equipment supplied by the franchisee, if service is terminated.
3. Credits for service shall be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.
4. A franchisee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.
5. Late fees will not be assessed for payments after the due date until 45 days after the beginning of the service period for which the payment is to be rendered. In addition, subscribers will receive the benefit of any change in the late fee amount, and of any increases in the time allowed before assessment of late fees, that may result from litigation over late fees pending as of the effective date of this Ordinance.
6. A franchisee must notify the subscriber that he or she can remit payment in person at the franchisee's business office and inform the subscriber of the address of that office.
7. Subscribers shall not be charged a late fee or otherwise penalized for any failure by a franchisee, including failure to timely or correctly bill the subscriber, or failure to properly credit the subscriber for a payment timely made.
8. A subscriber who asks a franchisee for credit for an outage shall receive credit for the actual time period of the outage as a pro rata fraction of the monthly charges for any outage lasting between two and six hours, without reference to the time the subscriber contacts the franchisee. A subscriber shall receive credit for one full day's monthly charges for any outage of between six and twenty-four hours, whether or not the subscriber reports such an outages, if the franchisee becomes aware of such outages, either through reports by

subscribers or otherwise. Each franchisee shall place a message in subscribers' bills at least quarterly, explaining how to report an outage, how to obtain a credit, and under what conditions credits are available. A franchisee shall also establish a mechanism by which subscribers may reliably and immediately contact the franchisee by telephone and report an outage for credit purposes, either by ensuring that they can reliably and immediately reach a live person or by another method (for example, by leaving a voice message or entering the subscriber's telephone number). Upon receiving such reports, the franchisee shall promptly contact the subscriber to confirm that the report has been received, and apply the credit to the subscriber's bill unless the franchisee reasonably concludes that the subscriber's report is false.

9. Franchisee shall respond to all written billing complaints from subscribers within thirty (30) days.

(h) Disconnection/Downgrades.

1. A subscriber may terminate service at any time.
2. A franchisee shall promptly disconnect or downgrade any subscriber. No period of notice prior to voluntary termination or downgrade of service may be required of subscribers by any franchisee. So long as the subscriber returns, or permits the franchisee to retrieve, any equipment necessary to receive a service within five (5) business days of the disconnection, no charge may be imposed by any franchisee for any cable service delivered after the date of the disconnect request.
3. A subscriber may be asked, but not required, to disconnect a franchisee's equipment and return it to the business office.
4. Any funds due the subscriber shall be refunded on disconnected accounts after any customer premises equipment provided by the franchisee has been recovered by the franchisee. The refund must be made within thirty (30) days or by the end of the next billing cycle, whichever is earlier, from the date disconnection was requested (or, if later, the date on which any customer premises equipment provided by the franchisee is returned).
5. If a subscriber fails to pay a monthly subscriber fee or other fee or charge, a franchisee may disconnect the subscriber's service; however, such disconnection shall not be effected until

at least forty-five (45) days after the bill is due, plus at least ten (10) days' advance written notice to the subscriber in question of intent to disconnect, but in no event before the date when the franchisee would be entitled to charge a late fee. If the subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the franchisee shall not disconnect service. After disconnection, upon payment by the subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the franchisee shall promptly reinstate service.

6. A franchisee may immediately disconnect a subscriber if the subscriber is damaging or destroying the franchisee's cable system or equipment. After disconnection, the franchisee shall restore service after the subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and amounts owed the franchisee for damage to its cable system or equipment.
 7. A franchisee may also disconnect a subscriber that causes signal leakage in excess of federal limits. A franchisee may disconnect a subscriber without notice where signal leakage is detected originating from the subscriber's premises in excess of federal limits, provided that the franchisee shall immediately notify the subscriber of the problem and, once the problem is corrected, reconnect the subscriber.
 8. The disposition of cable home wiring in residential single-family homes shall be governed by FCC rules regarding cable home wiring as of December 1, 1998.
 9. A franchisee shall reconnect service to customers wishing restoration of service, provided such a customer shall first satisfy any previous obligations owed.
- (i) Changes in Service.
1. AT the time a franchisee alters the service it provides to a class of subscribers, it must provide each subscriber thirty (30) days' notice, explain the substance and full effect of the alteration, and provide the subscriber the right to opt to receive any combination of services thereafter offered by franchisee.
 2. No charge may be made for any service or product that the subscriber has not affirmatively indicated it wishes to receive.

(j) Parental Control Option.

A franchisee shall make available to any subscribers upon request the option of blocking the video or audio portion of any channel or channels of programming entering the subscriber's home. The control option described herein shall be made available to all subscribers requesting it when any cable service is provided, or reasonably soon thereafter.

(k) Enforcement.

1. A franchisee shall keep such records as are necessary to show compliance with these customer service standards and FCC customer service standards.
2. The Town shall have the right to observe and inspect a franchisee's customer service procedures.
3. Except as prohibited by federal law, a franchisee shall be subject to penalties, forfeitures and any other remedies or sanctions available under federal, state or local law, including without limitation this Ordinance and a franchisee's franchise with the Town, if it fails to comply with the standards herein.
4. A franchisee shall not be subject to penalties or liquidated damages as a result of any violations of these customer service standards that are due to *force majeure* as characterized in its franchise agreement.

(l) Anticompetitive Acts Prohibited.

1. No franchisee or OVS operator shall demand the exclusive right to provide cable service to a person or location as a condition of extending cable service or a cable system. This provision is not intended and shall not be interpreted a) to prohibit voluntary exclusive agreements to provide cable service; b) to create any private cause of action for any person; or c) to prohibit exclusive agreements permitted by federal law.
2. No franchisee or OVS operator shall engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor, as defined in federal law, from providing cable service or services similar to cable service in the Town. This provision does not apply to methods, acts or practices allowed by federal or state law. Any allegation that a franchisee has engaged in methods, acts or practices that would be prohibited by this

paragraph will be considered by the Town only after exhaustion of federal remedies. This paragraph is not intended to create a private cause of action.

Section 11-109. Rate Regulation.

- (a) General Authority: The Town reserves the right to regulate all rates and charges except to the extent it is prohibited from doing so by law.
- (b) The original franchise agreement will set forth the initial rates which Franchisee may charge its subscribers upon commencing services. Thereafter, these rates shall be changes when appropriate in accordance with the provisions of this Section.
- (c) A refundable converter deposit may be established as necessary to insure return of Franchisee's equipment placed in subscriber's premises.
- (d) The Town shall enforce the rate regulations promulgated by the FCC in 7 FCR 76.922, et seq., as amended from time to time, for the establishment of initial basic cable service and associated equipment rates and for basic cable service and associated equipment rate increases. The Franchisee shall submit all rate filings on the proper federal forms. All franchisee authority rate proceedings shall be consistent with the rules and regulations promulgated by the FCC.
- (e) Upon receipt of an appropriately filed request by the Franchisee for review of its existing rates for the basic service tier and associated equipment costs, or for a proposed increase in said rates and/or costs, the Town shall hold a public hearing within twenty-five (25) days. The said hearing shall provide the franchisee and all other interested parties a reasonable opportunity to be heard concerning the request.
- (f) Once a Franchisee has submitted for review its existing rates for the basic service tier and associated equipment costs, or a proposed increase in these rates, the Town must render a decision as to said existing or proposed rates within thirty days of receipt of the submission.
- (g) If the Town does not issue its decision within the thirty day period, then the existing rates will remain in effect, or the proposed rates will become effective, after thirty days from the date of submission, provided however, that if the franchising authority is unable to determine, based upon the material submitted by the Franchisee, that the existing or proposed rates are within the permitted basic service charge or actual cost of equipment, or if the Franchisee has submitted a cost-of-service

showing, the franchising authority may toll the said thirty day period for up to ninety (90) additional days in cases not involving cost-of-service determinations, and one hundred fifty (150) additional days in cases involving such determinations, for purposes of requesting and/or considering additional information or considering comments from additional parties. In order to toll the thirty day period, the franchising authority must issue a brief written order within thirty days of the Franchisee's submission.

- (h) If the Town has elected to toll the period for ninety or one hundred and fifty days, as appropriate, and has taken no action within that time, then existing rates will remain in effect, or proposed rates will go into effect at the end of the period, subject to refunds if the franchising authority subsequently disapproves any portion of the rates. In order to require refunds, the franchising authority must issue a written order at or before the end of the ninety or one hundred and fifty day period, directing the Franchisee to maintain an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.
- (i) The tolling periods set out in this Section may be extended by agreement of the parties.
- (j) The Franchisee may request that information submitted in the course of a rate proceeding not be made routinely available for inspection. The Franchisee must identify the information it claims to be confidential and the reasons therefor. If the request for confidentiality is denied, the Franchisee shall have five working days within which to seek review of the decision from the FCC.
- (k) The Franchisee shall make available to each potential subscriber a schedule of all applicable fees and charges for providing cable television service and must provide written notification of the availability of basic tier service to new subscribers at the time of installation. Said notification shall include the following information:
 - 1. That basic tier service is available;
 - 2. The cost per month for basic tier service;
 - 3. A list of all services included in the basic service tier.
- (l) The Franchisee shall provide written notice to subscribers and the franchise authority of any change in the price to be charged for the basic service tier or associated equipment, together with any proposed changes in programming services or channel positions, at least thirty (30) days before any proposed changes in programming services or channel positions, at least thirty (30) days before any

proposed change is effective. The notice should include the name and address of the franchising authority.

- (m) The Franchisee may, in its discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for periods not to exceed thirty (30) days for promotional purposes, where allowed by applicable federal law. The Franchisee shall not, with regard to fees, discriminate or grant any preference or advantage to any person; provided, however, that the Franchisee may offer reasonable discounts to senior citizens or other economically disadvantaged group discounts.
- (n) Upon completion of the rate proceeding, the franchise authority shall prepare a written decision only if it disapproves the Franchisee's request. When a written decision is issued, it shall be posted at the Town hall for twenty (20) days and copies thereof shall be available upon request. All determinations concerning subscriber fees shall be determined by the franchising authority in conformance with FCC regulations.
- (o) In addition to any other penalties contained in this Chapter, the franchising authority may:
 - 1. order the Franchisee to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with federal standards;
 - 2. prescribe a reasonable rate for the basic tier or associated equipment after it determines that a proposed or existing rate is unreasonable;
 - 3. order the Franchisee to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment, unless the Franchisee has submitted a cost-of-service showing which justifies the rate charged as reasonable. The franchise authority shall give the Franchisee notice and an opportunity to comment prior to ordering the Franchisee to refund previously paid rates. The Franchisee's liability for refunds is limited to a one-year period, except that if the Franchisee fails to comply with a valid rate order issued by a franchising authority, then it shall be liable for refunds commencing from the effective date of such order until such time as it complies with the order; and
 - 4. impose fines or monetary forfeitures, in accordance with this Chapter, when the Franchisee does not comply with a rate decision or refund order.

(p) Rates are to be nondiscriminatory.

1. Nondiscriminatory Rates. Subject to applicable law, a franchisee shall establish rates that are nondiscriminatory within the same general class of subscribers and which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit a franchisee from offering, by way of illustration and not limitation, (i) discounts to senior citizens or economically disadvantaged groups; (ii) discounts to commercial and multiple family dwelling subscribers billed on a bulk basis; (iii) promotional discounts; or (iv) reduced installation rates for subscribers who have multiple services.
2. Applicability. The provisions of this Section 10(b) shall apply to all rates, whether or not they are otherwise subject to rate regulation, except to the extent specifically prohibited by law.

Section 11-110. Franchise Fee.

(a) Finding.

The Town finds that public rights-of-way of the Town to be used by a franchisee for the operation of a cable system are valuable public property acquired and maintained by the Town. The Town further finds that the grant of a franchise to use public rights-of-way is a valuable property right without which a franchisee would be required to invest substantial capital.

(b) Payment of Franchise Fee.

Each franchisee shall pay a franchise fee of five percent (5%) of gross revenues.

(c) Method of Payment.

The franchisee shall file with the Town, within thirty (30) days after the expiration of each of the franchisee's fiscal quarters, a financial statement clearly showing the gross revenues received by the franchisee during the preceding quarter. The quarterly portion of the franchise fee shall be payable to the Town at the time such statement is filed.

(d) Not a Tax or in Lieu of Any Other Tax or Fee.

1. Payment of the franchise fee shall not be considered in the nature of a tax or in lieu of other taxes or fees of general applicability imposed by the Town.

2. The franchise fee is in addition to all other taxes and payments that a franchisee may be required to pay under its franchise agreement or any federal, state, or local law, and to any other tax, fee, or assessment imposed by utilities and cable operators for use of their services, facilities, or equipment, including any applicable amusement taxes, except to the extent that such fees, taxes, or assessments must be treated as a franchise fee under Section 642 of the Cable Act, 47 U.S.C. § 522.
3. No franchisee may designate the franchise fee as a tax in any communication to a subscriber.

(e) Late Payments.

In the event any franchise fee payment or recomputation amount is not made on or before the required date, the franchisee shall pay additional compensation and interest charges computed from such due date, at an annual rate equal to the commercial prime interest rate of the Town's primary depository bank during the period such unpaid amount is owed, in addition to any applicable penalties or liquidated damages.

(f) Audit.

1. The Town shall have the right to inspect records, to require a franchisee to provide copies of records at the Franchisee's expense, and to audit and to recompute any amounts determined to be payable, whether the records are held by the franchisee, an affiliate, or any other entity that collects or receives funds related to the franchisee's operation in the Town, including, by way of illustration and not limitation, any entity that sells advertising on the franchisee's behalf, for a period of five years from the date a payment was made or, if no payment was made, from the date the Town believes payment was owed, after which time all payments are final.
2. A franchisee shall be responsible for providing to the Town all records necessary to confirm the accurate payment of franchise fees, without regard to by whom they are held. Such records shall be made available pursuant to the requirements of this Ordinance. The franchisee shall maintain such records for the term of its franchise agreement, and any renewals or extensions thereof.
3. The Town's audit expenses shall be borne by the Town unless the audit discloses an underpayment of five percent (5%) or more of the amount due, in which case the costs of

the audit shall be borne by the franchisee as a cost incidental to the enforcement of the franchise. Any additional amounts due to the Town as a result of the audit shall be paid within thirty (30) days following written notice to the franchisee by the Town of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional revenue to be paid to the Town, such amount shall be subject to a 10 percent (10%) interest charge.

(g) No Accord or Satisfaction.

No acceptance of any payment by the Town shall be construed as a release or an accord and satisfaction of any claim the Town may have for further or additional sums due or for the performance of any other obligation of a franchisee, or as an acknowledgment that the amount paid is the correct amount due.

Section 11-111. Reports and Records.

(a) Open Books and Records.

1. The Town shall have the right to inspect records and to require a franchisee to provide copies of records at the franchisee's expense at any time during normal business hours at the Town cable system office for all books, receipts, maps, plans, contracts, service complaint logs, performance test results, records of requests for service, computer records, disks or other storage media and other like material which the Town deems appropriate in order to monitor compliance with the terms of this Ordinance, its franchise agreement, or applicable law. This includes not only the books and records of a franchisee, but any books and records the Town reasonably deems relevant held by an affiliate, a cable operator of the cable system, or any contractor, subcontractor or any person holding any form of management contract for the cable system. A franchisee is responsible for collecting the information and producing it at the location specified above, and by accepting its franchise it affirms that it can and will do so. A franchisee will be given reasonable advance written notice of any inspection request, which shall serve as notice that any or all of the above materials may be inspected.

2. A franchisee shall maintain financial records that allow analysis and review of its operations in each individual franchise area.
3. Access to a franchisee's records shall not be denied by such franchisee on the basis that said records contain "proprietary" information. Refusal to provide information required herein to the Town shall be grounds for revocation. All confidential information received by the Town shall remain confidential insofar as permitted by law.
4. A franchisee shall maintain a file of records open to public inspection in accordance with applicable FCC rules and regulations.
5. Each report filed by a franchisee pursuant to this Ordinance shall be certified by a corporate officer as accurate or complete.

(b) Communication with Regulatory Agencies.

1. If and to the extent requested by the Town, a franchisee shall file with the Town in a form acceptable to the Town all reports and materials submitted to the FCC, the Security and Exchange Commission, or any other federal or state regulatory commission or agency, including, but not limited to, any proof of performance tests and results, Equal Employment Opportunity reports, and all petitions, applications, and communications of all types regarding the cable system, or a group of cable systems of which the franchisee's cable system is a part, submitted by the franchisee, an affiliate, or any other person on the behalf of the franchisee.
2. Materials filed with the Town pursuant to Section 12(b)(1) shall be filed as follows: Materials submitted by the franchisee, an affiliate, or any other person on the behalf of a franchisee shall be filed with the Town at the time they are submitted to the receiving agency.

(c) Annual Report.

Unless this requirement is waived in whole or in part by the Town, by April 1 of each year for the previous calendar year, a franchisee shall submit a written report to the Town, in a form directed by the Town, which shall include:

1. a summary of the previous year's activities in development of the cable system, including but not limited to descriptions of services begun or dropped, the number of subscribers

- gained or lost for each category of service, the number of pay units sold, the amount collected annually from users of the system and the character and extent of the services rendered to such users, including leased access channel users;
2. a summary of complaints, identifying both the number and nature of the complaints received and an explanation of their dispositions, to the extent such records are kept by the franchisee. Where complaints involve recurrent system problems, the nature of each problem and the corrective measures taken shall be identified;
 3. A report showing the number of service calls received by type during the prior quarter, and the percentage of service calls compared to the subscriber base by type of complaint;
 4. A certification of compliance with applicable customer service standards. If a franchisee is in non-compliance with any standard during any calendar quarter, it shall include in its annual filing a statement specifying areas of non-compliance, the reason for the non-compliance and a remedial plan;
 5. A copy of the franchisee's rules and regulations applicable to subscribers of the cable system;
 6. An annual statement showing the yearly gross revenues, prepared and audited by a Certified Public Accountant acceptable to the Town;
 7. An annual financial report for the previous calendar year, audited and certified by an independent certified public accountant, including year-end balance sheet; income statement showing subscriber revenue from each category of service and every source of non-subscriber revenue, line item operating expenses, depreciation expense, interest expense, and taxes paid; statement of sources and applications of funds; capital expenditures; and depreciation schedule;
 8. An annual list of officers and members of the Board of Directors or similar controlling body of the franchisee and any affiliates;
 9. An organizational chart showing all corporations or partnerships with more than a five (5) percent ownership interest in the franchisee, and the nature of that ownership interest (limited partner, general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the

corporations or partnerships so identified and so on until the ultimate corporate and partnership interests are identified;

10. An annual report and SEC 10(k) filing for each entity identified in subsection 12(c)(8) of this Section that generates such documents;
11. A summary of the results of, and/or, at the franchisee's option, copies of the system's technical tests and measurements performed during the past year;
12. A detailed copy of updated maps depicting the location of all cable plant, showing areas served and locations of all trunk lines and feeder lines in the Town, and including changes in all such items for the period covered by the report;
13. a full schedule of all subscriber and other user rates, fees and charges;
14. such other information as the Town may direct.

(d) Semiannual Report.

Unless this requirement is waived in whole or in part by the Town, twice each year (by January 31 for the previous six months ending December 31 and by July 31 for the previous six months ending June 30) a franchisee shall submit written reports to the Town, in a form acceptable to the Town, which shall include a summary of the franchisee's Minority Business Plan and activities thereunder, pursuant to section 17(c) herein.

(e) Monthly Report.

Unless this requirement is waived in whole or in part by the Town, no later than 10 days after the end of each month, a franchisee shall submit a written report to the Town regarding the preceding month, in a form acceptable to the Town, which shall include:

1. the active system plant in miles, specifying aerial and underground mileage;
2. the new system segments built, in miles, if any, specifying aerial and underground mileage;
3. the number of subscribers and the penetration rate for each type of service and equipment offered;
4. the number of disconnects;
5. the number of outages, identifying separately: a) each outage; whether planned or unplanned; the time it occurred, its duration, when the franchisee responded and when the outage was corrected; the estimated area and a description of the subscribers affected; b) in

- addition, for each unplanned outage: its cause, the number of subscribers affected; and c) the total hours of outages as a percentage of total hours of cable system operation;
6. the number of cases in which installation was not provided within the time established in this Ordinance;
 7. the average telephone answering and hold times, and the number of instances in which those telephone answering and hold times exceeded the time limits established in this Ordinance;
 8. the percentage of customer calls that received a busy signal;
 9. the average and minimum number of customer service representatives on the franchisee's staff for telephone answering purposes;
 10. the number of times in which interruptions of service under Section 9.(e) was not in compliance with the times established in this Ordinance;
 11. the number of times scheduling and completing customer service did not occur in accordance with Section 9.(d)(3)

(f) Special Reports.

Unless this requirement is waived in whole or in part by the Town, the franchisee shall deliver the following special reports to the Town:

1. A franchisee shall submit quarterly construction reports to the Town after the franchise is awarded for any construction undertaken during the term of the franchise until such construction is complete, including any rebuild that may be specified in the franchise. The franchisee must submit to the Town as part of the quarterly construction report, or make available for inspection with notice of their availability as part of the quarterly construction report, updated as-built system design maps depicting construction completed in the previous quarter. The maps shall be developed on the basis of post-construction inspection by the franchisee and construction personnel to assess compliance with system design. Any departures from design must be indicated on the as-built maps, to assist the Town in assessing operator compliance with its obligations.
2. A franchisee must submit a copy of any notice of deficiency, forfeiture, or other document issued by any state or federal agency instituting any investigation or civil or criminal proceeding regarding the cable system, the franchisee, or any affiliate of the franchisee, to

the extent the same may affect or bear on operations in the Town. This material shall be submitted in accordance with the deadlines specified in Section 12(b)(2) herein.

3. The franchisee must submit a copy of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the franchisee or by any partnership or corporation that owns or controls the franchisee directly or indirectly. This material shall be submitted in accordance with the deadlines specified in Section 12(b)(2) herein.

(g) Additional Reports.

A franchisee shall provide such other information or reports as the Town may request for the purpose of enforcing any provision of the franchise agreement or this Ordinance.

(h) Records Required.

1. The franchisee shall at all times maintain:
 - (A) Records of all complaints received. The term "complaints" as used herein and throughout an agreement refers to complaints about any aspect of the cable system or the franchisee's operations, including, without limitation, complaints about employee courtesy. Complaints recorded may not be limited to complaints requiring an employee service call.
 - (B) A full and complete set of plans, records, and "as built" maps showing the exact location of all system equipment installed or in use in the Town, exclusive of subscriber service drops.
 - (C) A comprehensive record of all personnel transactions and utilization of contractors, subcontractors, vendors, and suppliers by race and sex.
 - (D) Records of outages, indicating date, duration, area, and the subscribers affected, type of outage, and cause.
 - (E) Records of service calls for repair and maintenance indicating the date and time service was required, the date of acknowledgement and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved.

- (F) Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service was extended.
 - (G) A public file showing its plan and timetable for construction of the cable system.
- (i) Performance Evaluation.
1. The Town may, at its discretion, hold performance evaluation sessions. All such evaluation sessions shall be open to the public. The franchisee may be required by the Town to notify subscribers of all such evaluation sessions by announcement on a designated local access channel on the system between the hours of 9:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session.
 2. Topics that may be discussed at any evaluation session may include, but are not limited to, system performance and construction, franchisee compliance with this Ordinance and its franchise agreement, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.
 3. During the evaluation process, the franchisee shall fully cooperate with the Town and shall provide such information and documents as the Town may need to reasonably perform its review, including information and documents that may be considered proprietary or confidential.
- (j) Voluminous Materials.
- If any books, records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then the franchisee may request that the inspection take place at some other location, provided that (1) the franchisee must make necessary arrangements for copying documents selected by the Town after review; and (2) the franchisee must pay all travel and additional copying expenses incurred by the Town in inspecting those documents or having those documents inspected by its designee.
- (k) Retention of Records; Relation to Privacy Rights.

The franchisee shall take all steps that may be required to ensure that it is able to provide the Town all information which must be provided or may be requested under this Ordinance or its franchise agreement, including by providing appropriate subscriber privacy notices. Nothing in this Section shall be read to require the franchisee to violate 47 U.S.C. § 551. Each franchisee shall be responsible for redacting any data that federal law prevents it from providing to the Town. The Town retains the right to question any such redaction and to challenge it in any forum having jurisdiction over such a challenge. Records shall be kept for at least five (5) years.

(l) **Waiver of Reporting Requirements.**

The Town may, at its discretion, waive in writing the requirement of any particular report specified in this Section 12.

Section 11-112. Insurance, Surety, and Indemnification.

(a) **Insurance Required.**

1. The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the entire length of the franchise period, at least the following liability insurance coverage insuring the Town and the franchisee: worker's compensation and employer liability insurance to meet all requirements of Maryland law and comprehensive general liability insurance with respect to the construction, operation, and maintenance of the cable system, and the conduct of the franchisee's business in the Town, in the following minimum amounts, but in any event no less than the liability limits specified by the Local Government Tort Claims Act:

- (A) \$500,000 for property damage resulting from any one accident; \$1,000,000 for property damage aggregate;
- (B) \$1,000,000 for personal bodily injury or death for one person; \$2,000,000 for bodily aggregate per single accident and occurrence;
- (C) A general comprehensive public liability policy indemnifying, defending and saving harmless the Town, its officers, boards, commissions, agents or employees, from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the franchisee under the franchise

herein granted or alleged to have been so caused or occurred, with a minimum liability of One Million Dollars (\$1,000,000) per personal injury or death of any one person and Two Million Dollars (\$2,000,000) for personal injury or death of two or more persons in any one occurrence;

- (D) \$2,000,000 for all other types of liability; and
- (E) automobile liability insurance for owned or leased vehicles in the minimum amount of \$2,000,000 for bodily injury and consequent death per occurrence, \$1,000,000 for bodily injury and consequent death to any one person, and \$500,000 for property damage per occurrence.

2. Such general liability insurance must include coverage for all of the following: all risks form, premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.
3. The Town may review these amounts no more than once a year and may require reasonable adjustments to them consistent with the public interest.

(b) Endorsements:

1. All insurance policies and certificates maintained pursuant to a franchise agreement shall contain the following endorsement:

It is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until thirty (30) days after receipt by the Town's Secretary or Clerk, by registered mail, of a written notice of such intention to cancel or not to renew.
2. All contractual liability insurance policies and certificates maintained pursuant to a franchise agreement shall include the provision of the following Hold Harmless clause:

The Company agrees to indemnify, save harmless and defend each municipality, its agents, servants, and employees, and each of them against and hold it and them harmless from any or all lawsuits, claims, demands,

liabilities, losses and expenses, including court costs and reasonable attorney's fees for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by this Agreement. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the negligence or other fault of the Town, its agents, servants, or employees or any other person indemnified hereunder.

(c) Qualifications of Sureties.

All insurance policies shall be with sureties qualified to do business in the State of Maryland, with an A-1 or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form acceptable to the Town.

(d) Policies Available for Review.

All insurance policies shall be available for review by the Town, and the franchisee shall keep on file with the Town certificates of insurance.

(e) Additional Insureds; Prior Notice of Policy Cancellation.

All general liability insurance policies shall name the Town, its officers, boards, commissions, commissioners, agents, and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Town. A franchisee shall not cancel any required insurance policy without submission of proof that it has obtained alternative insurance satisfactory to the Town which complies with its franchise agreement.

(f) Failure Constitutes Material Violation.

Failure to comply with the insurance requirements set forth in this Section shall constitute a material violation of a franchise.

(g) Indemnification.

1. A franchisee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Town, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages arising out of the construction, maintenance, or operation of its cable system; copyright infringements or a failure by the franchisee to secure consents from the owners, authorized distributors, or franchisees of programs to be delivered by the cable system; the conduct of the franchisee's business in the Town; or in any way arising out of the franchisee's enjoyment or exercise of the franchise, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Ordinance or its franchise agreement.
 2. Specifically, a franchisee shall fully indemnify, defend, and hold harmless the Town, and in its capacity as such, the officers, agents, and employees thereof, from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to 47 U.S.C. § 558, arising out of or alleged to arise out of the installation, construction, operation, or maintenance of the system, including but not limited to any claim against the franchisee for invasion of the right of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation. This indemnity does not apply to programming carried on any channel set aside for PEG use, or channels leased pursuant to 47 U.S.C. § 532, except that this indemnity shall apply to any actions taken by a franchisee pursuant to 47 U.S.C. § 531(e) or 47 U.S.C. § 532(c)(2) concerning the programming carried on PEG or leased access channels or an institutional network.
 3. The indemnity provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding, in addition to the reasonable value of any services rendered by the Town Attorney or Town staff or employees.
- (h) No Limit of Liability.

Neither the provisions of this Section nor any damages recovered by the Town shall be construed to limit the liability of the franchisee for damages under the franchise.

Section 11-113. Performance Guarantees and Penalties.

(a) Penalties.

1. For violation of provisions of this Ordinance or a franchise agreement entered into pursuant to this Ordinance, penalties shall be assessable against a franchisee and shall be chargeable to the franchisee's security fund in any amount up to the limits specified below, at the Town's discretion:
 - (A) For failure to submit any required plans indicating expected dates of installation of various parts of the system: \$400/day for each violation for each day the violation continues;
 - (B) For failure to commence operations in accordance with the requirements of the franchise agreement: \$1,000/day for each violation for each day the violation continues after a thirty-day cure period, if the franchisee has not undertaken substantial corrective action to cure the violation within that thirty-day period;
 - (C) For failure to substantially complete construction in accordance with a franchisee's franchise agreement: \$1,000/day for each violation for each day the violation continues after a thirty-day cure period, if the franchisee has not undertaken substantial corrective action to cure the violation within that thirty-day period;
 - (D) For transferring the franchise without approval: \$2,000/day for each violation for each day the violation continues;
 - (E) For failure to comply with requirements for public, educational, and governmental use of the system: \$1,000/day for each violation for each day the violation continues after a fourteen-day cure period, if the franchisee has not undertaken substantial corrective action to cure the violation within that fourteen-day period;
 - (F) For failure to supply information, reports, or filings lawfully required under the franchise agreement or applicable law or by the Town: \$500/day for each violation for each day the violation continues after a thirty-day cure period, which shall begin to run on the due date of any regularly scheduled report and on the date of a deadline reasonably set by the Town for any report or information request not regularly scheduled, unless the Franchisee shows that it was not in fact aware of the

requirement in question, in which case the thirty-day cure period shall begin to run upon written notice of such requirement by the Town to the franchisee;

- (G) For violation of customer service standards, or failure to file a compliance certification or noncompliance statement as required herein: \$200 per day or per event, as applicable;
 - (H) For failure to pay franchise fees or liquidated damages: \$100 per day, in addition to any monetary payment due under a franchise agreement or this Ordinance, for each violation for each day the violation continues after a seven-day cure period, if the franchisee has failed to make payment within that seven-day period, provided that these penalties shall be in addition to any late fees that may apply;
 - (I) For failure to file, obtain or maintain any required security fund in a timely fashion: \$200 per day;
 - (J) For failure to restore damaged property: \$200 per day, in addition to the cost of the restoration and any other penalties or fees as required elsewhere herein or in a franchise agreement, for each day the violation continues after a thirty-day cure period, if the franchisee has not undertaken substantial corrective action to cure the violation within that thirty-day period;
 - (K) For violation of technical standards established by the FCC: \$100 per day for each day the violation continues after a thirty-day cure period after the Town gives the Franchisee notice of such violation;
 - (L) For knowingly and intentionally signing a false report or statement: \$1,000 per report or document;.
 - (M) For any other violations of this Ordinance, a franchise agreement, or other applicable law: \$500/day for each violation for each day the violation continues.
2. The franchisee shall pay any penalty assessed in accordance with this Ordinance within fourteen (14) days after receipt of notice from the Town of such penalty.
 3. To the extent that penalties are applied to a franchisee under this Section 14(a), a franchisee shall not be subject to liquidated damages payable to the Town for the same violation.
 4. The Town may reduce or waive any of the above-listed penalties for good cause shown.

5. Pending litigation or any appeal to any regulatory body or court having jurisdiction over a franchisee shall not excuse the franchisee from the performance of its obligations under this Ordinance or its franchise agreement unless a stay is obtained or the franchisee is otherwise excused from performance by operation of law. Failure of the franchisee to perform such obligations because of pending litigation or petition, in the absence of a stay issued by a forum of competent jurisdiction, may result in forfeiture or revocation pursuant to the provisions of this Ordinance and/or its franchise agreement.
- (b) Termination On Account of Certain Assignments or Appointments.
1. Any franchise shall be deemed revoked one hundred twenty calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of a franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. Provided, however, that a franchise may be reinstated at the Town's sole discretion if, within that one hundred twenty-day period:
 - (A) Such assignment, receivership or trusteeship has been vacated; or
 - (B) Such assignee, receiver, or trustee has fully complied with the terms and conditions of this Ordinance and the applicable franchise agreement and has executed an agreement, approved by a court of competent jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this Ordinance and the applicable franchise agreement, and such other conditions as may be established or as are required by applicable law.
 2. Notwithstanding the foregoing, in the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of a franchisee, the Town may revoke the franchise, following a public hearing, by serving notice on the franchisee and the successful bidder, in which event the franchise and all rights and privileges of the franchise will be revoked and will terminate thirty calendar days after serving such notice, unless:
 - (A) The Town has approved the transfer of the franchise to the successful bidder; and
 - (B) The successful bidder has covenanted and agreed with the Town to assume and be bound by the terms and conditions of the franchise agreement and this Ordinance,

and such other conditions as may be established or as are required pursuant to this Ordinance or a franchise agreement.

(c) Remedies Cumulative.

All remedies under this Ordinance and the franchise agreement are cumulative unless otherwise expressly stated. The exercise of a remedy or the payment of liquidated damages or penalties shall not relieve a franchisee of its obligations to comply with its franchise or applicable law.

(d) Relation to Insurance and Indemnity Requirements.

Recovery by the Town of any amounts under insurance, the security fund, the performance bond, or letter of credit, or otherwise does not limit a franchisee's duty to indemnify the Town in any way; nor shall such recovery relieve a franchisee of its obligations under a franchise, limit the amounts owed to the Town, or in any respect prevent the Town from exercising any other right or remedy it may have.

Section 11-114. Transfers.

(a) Town Approval Required.

1. A franchise granted under this Ordinance shall be a privilege to be held in personal trust by the franchisee.
2. No transfer of a franchise, franchisee, or cable system, or of control over the same (including, but not limited to, transfer by forced or voluntary sale, merger, consolidation, receivership, or any other means) shall occur unless prior application is made by the franchisee to the Town and the Town's prior written consent is obtained, pursuant to this Ordinance and the franchise agreement, and only then upon such terms and conditions as the Town deems necessary and proper. Any such transfer without the prior written consent of the Town shall be considered to impair the Town's assurance of due performance. The granting of approval for a transfer in one instance shall not render unnecessary approval of any subsequent transfer.

(b) Approval Does Not Constitute Waiver.

Approval by the Town of a transfer does not constitute a waiver or release of any of the rights of the Town under this Ordinance or a franchise agreement, whether arising before or after the date of the transfer.

Section 11-115. Open Video Systems.

(a) Applicability of Ordinance.

1. This Ordinance shall apply to open video systems that comply with 47 U.S.C. § 573, to the extent permitted by applicable law, except that the following sections shall not apply: Section 11-102(a)-3(c) (regarding grant of franchise), Section 11-103 (franchise applications), Section 11-104 (filing fees), Section 11-105 (provision of service), Section 11-106(a) (construction schedule), Section 11-109 (rate regulation), Section 11-110(b)-(c) (regarding franchise fees), Section 11-112(f) (failure to comply with insurance requirements a material violation of franchise), Section 11-113(a)(1)(B)-14(a)(1)(C) and (a)(1)(H) (certain penalties), Section 11-113(b) (franchise termination due to bankruptcy).
2. In applying this Ordinance to an open video system, "franchisee" shall be taken to refer to the open video system operator, "cable system" to the open video system, and similar terms shall apply similarly.

(b) Fee In Lieu of Franchise Fee.

An open video system operator shall pay to the Town a fee in lieu of the franchise fee required in Section 11(b) of this Ordinance, pursuant to the procedures and conditions specified in section 11 and generally herein.

(c) Public, Educational, and Governmental Access Obligations.

An open video system operator shall be subject to obligations pertaining to public, educational, and governmental access pursuant to applicable law and to the requirements herein.

(d) Right-of-Way Usage.

An open video system operator shall be subject to all requirements of state and local law regarding authorization to use or occupy the public rights-of-way, except to the extent specifically prohibited by federal law. FCC approval of an open video system operator's certification pursuant to 47 U.S.C. § 573 shall not be taken to confer upon such operator any authority to use or occupy the public rights-of-way that such operator would not otherwise possess.

Section 11-116. Rights of Individuals Protected.

(a) Discriminatory Practices Prohibited.

1. A franchisee shall not deny service, deny access, or otherwise discriminate against subscribers, programmers, or residents of the Town on the basis of race, color, religion, national origin, sex, or age.
2. A franchisee shall not discriminate among persons or take any retaliatory action against a person because of that person's exercise of any right it may have under federal, state, or local law, nor may the franchisee require a person to waive such rights as a condition of taking service.
3. A franchisee shall not deny access or levy different rates and charges on any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.
4. Subject to applicable law and except to the extent the Town may waive such a requirement, a franchisee is prohibited from discriminating in its rates or charges or from granting undue preferences to any subscriber, potential subscriber, or group of subscribers or potential subscribers; provided, however, that a franchisee may offer temporary, bona fide promotional discounts in order to attract or maintain subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of subscribers throughout the Town; and a franchisee may offer discounts for the elderly, the handicapped, non-for-profit persons or organizations, or the economically disadvantaged, and other discounts in conformance with federal law, if such discounts are applied in a consistent and nondiscriminatory manner, and provided that a franchisee may provide such other bulk discounts as are permitted by the cable uniform rate structure provisions of federal law as they may exist from time to time. A franchisee shall comply at all times with all applicable federal, state, and Town laws, and all executive and administrative orders relating to non-discrimination.
5. Information Accessibility: Each document required to be maintained, filed or submitted under the provisions of this Ordinance or a franchise agreement, except those specifically designated as confidential by a franchisee, subject to the Town's review, pursuant to applicable law, is a public document, available for public inspection and copying at the requestor's expense, at the office of the franchisee or the Town during normal business hours.

(b) Equal Employment Opportunity.

A franchisee shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, religion, national origin, sex, or age. A franchisee shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, as the same may be from time to time amended.

(d) Subscriber Privacy.

1. A franchisee shall at all times protect the privacy rights of all subscribers, including but not limited to those rights secured by the provisions of Section 631 of the Cable Act, 47 U.S.C. § 551.
2. The franchisee shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining such subscriber's valid authorization. Neither the franchisee nor any other person shall initiate in any form the discovery of any information on or about an individual subscriber's premises without prior valid authorization from the subscriber potentially affected. This provision is not intended to prohibit the transmission of signals useful only for the control or measurement of system performance or for detection of theft of service.
3. The franchisee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from such subscriber's premises of two-way services utilizing aural, visual or digital signals without such subscriber's prior valid authorization.
4. The franchisee shall strictly observe and protect the rights of privacy and property rights of subscribers and users at all times. Individual subscriber preferences of any kind, viewing habits, political, social or economic philosophies, beliefs, creeds, religions or names, addresses or telephone numbers shall not be revealed to any person, governmental unit, police department or investigating agency unless upon the authority of a court of law, a valid search warrant or subpoena, or upon prior voluntary valid authorization of the subscriber or as may be permitted by operation of law.

5. The franchisee shall not tabulate any test results that would reveal the commercial product preferences or opinions of individual subscribers, members of their families or their invitees, licensees, or employees, nor permit the use of the system for such tabulation, without the subscriber's prior valid authorization.
6. A subscriber may at any time revoke any valid authorization to release information by delivering to the franchisee in writing, by mail or otherwise, the subscriber's decision to revoke the authorization. Any such revocation shall be effective upon receipt by the franchisee.
7. A franchisee shall not condition subscriber service on the subscriber's valid authorization or grant or denial of permission to collect, maintain or disclose personally identifiable information, except to the extent that such information is necessary for credit check or billing purposes.

Section 11-117. Theft of Service.

It shall be unlawful for any person to attach or affix or to cause to be attached or affixed any equipment or device that allows access or use of the cable system without lawful payment to the franchise for same.

Section 11-118. Miscellaneous Provisions.

- (a) Compliance with Laws.
 1. Each franchisee shall comply with all federal, state, and local laws and regulations heretofore and hereafter adopted or established during the entire term of its franchise.
- (b) No Recourse Against the Town.

Without limiting such immunities as the Town or other persons may have under applicable law, a franchisee shall have no recourse whatsoever against the Town or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this Ordinance or because of the enforcement of this Ordinance or the Town's exercise of its authority pursuant to this Ordinance, a franchise agreement, or other applicable law, unless the same shall be caused by criminal acts or by willful or gross negligence.
- (c) Rights and Remedies.

1. The rights and remedies reserved to the Town by this Ordinance are cumulative and shall be in addition to and not in derogation of any other rights and remedies which the Town may have with respect to the subject matter of this Ordinance.
2. The Town hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provision of this Ordinance or a franchise agreement.
3. Specific mention of the materiality of any of the provisions herein is not intended to be exclusive of any others for the purpose of determining whether any failure of compliance hereunder is material and substantial.
4. No franchisee shall be relieved of its obligation to comply with any of the provisions of this Ordinance or a franchise agreement by reason of any failure of the Town to enforce prompt compliance. Nor shall any inaction by the Town be deemed to waive or void any provision of this Ordinance or a franchise agreement.

(d) Amendments to this Ordinance.

Notwithstanding any other provision in this Ordinance or a franchise agreement, nothing in this Ordinance or a franchise agreement shall preclude the Town from exercising its police powers to enact, amend or supplement any law or regulation governing cable communications within the Town.

(e) Public Emergency.

In the event of a major public emergency or disaster as determined by the County Executive of Prince George's County, a franchisee shall immediately make the entire cable system, employees, and property, as may be necessary, available for use by the Town or other civil defense or governmental agency designated by the Town to operate the system for the term of such emergency or disaster for the emergency purposes. In the event of such use, a franchisee shall waive any claim that such use by the Town constitutes a use of eminent domain, provided that the Town shall return use of the entire system, employees, and property to the franchisee after the emergency or disaster has ended or has been dealt with.

(f) Connections to System; Use of Antennae.

1. Subscribers shall have the right to attach devices to a franchisee's system and the right to use their own remote control devices and converters and other similar equipment, consistent with FCC equipment compatibility rules and other applicable law, and a franchisee shall provide

information to consumers which will allow them to adjust such devices so that they may be used with the franchisee's system.

2. A franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield the cable system from any interference.

(g) Calculation of Time.

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this Ordinance or any franchise agreement, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

(h) Severability.

If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the Town and shall thereafter be binding on the franchisee and the Town.

CHAPTER 12
PUBLIC ETHICS

Section 12-101. Applicability.

The provisions of this chapter apply to the elected officials, appointees to Boards and Commissions and employees of University Park.

Section 12-102 Definitions.

For the purpose of this Chapter, the following words have the meanings indicated:

(a) "Business or Business Entity" shall include any corporation, partnership, sole proprietor (including private consultant), joint venture, unincorporated association or firm, institution, trust, foundation or other organization whether or not operated for profit, or other business entity regardless of form.

(b) "Doing Business with the Town" means:

1. Having or negotiating a contract with the Town that involves the commitment, either in a single or combination of transactions, of \$500 or more of Town controlled funds; or
2. Being regulated by or under the authority of the Town, or
3. Being a lobbyist as defined by subsection (g) of this section or as registered with the Town clerk as provided in section 12-107(a) of this chapter.

(c). "Financial Interest" means:

1. Ownership of any interest as the result of which the owner has received, within the past 3 years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year; or
2. Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a Town official or employee, or the spouse of an official or employee.

(d) "Gift" shall mean the transfer of anything of economic value regardless of the form without adequate and lawful consideration. "Gift" does not include a political campaign contribution regulated under the Elections Article, Annotated Code of Maryland, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

(e) "Immediate Family" shall mean spouse and dependent children.

(f) "Interest" means:

1. A legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.

2. For purposes of Section 12-105 of this chapter, "interest" includes any interest held at any time during the reporting period.

3. "Interest" does not include:

A. An interest held in the capacity of a personal agent, custodian, fiduciary, or personal representative, trustee, unless the holder has an equitable interest in the subject matter;

B. An interest in a time or demand deposit in a financial institution;

C. An interest in an insurance policy, endowment policy or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;

D. A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the internal revenue service to be a qualified trust under the internal revenue code; or

E. A college savings plan under the internal revenue code.

(g) "Lobbyist" shall mean any person, who personally appears before a Town official or employee with the intent to influence that person in performance of the official duties of the official or employee and who for that

purpose either reasonably expects to incur expenses of one hundred dollars (\$100) or more or receives five hundred dollars (\$500) or more as compensation for such activity or any person who reasonably expects to expend within any calendar year a cumulative total of one hundred dollars (\$100) or more on one (1) or more officials of the Town for meals, beverages, special events or gifts in connection with or with the purpose of influencing such officials in the performance of the Town's business or the enactment of legislation.

(h) "Officials" or "Official" shall mean an elected official, an employee of the Town, or a person appointed to or employed by the Town or any Town agency, board, Commission, or similar entity:

1. Whether or not paid in whole or in part with Town funds; and
2. Whether or not compensated.

Section 12-103. Ethics Commission.

There shall be a University Park Ethics Commission, which shall be composed of three members appointed by the Mayor with the advice and consent of the Common Council. Each member so appointed will serve a term of two years, except that one of the three members first appointed to the Commission shall serve a term of three years. Members of the Ethics Commission may continue to serve in the position after the expiration of the term until they are removed or a successor is appointed and qualifies. No Commission member shall be removed except for good cause. If a Commission member is unwilling or unable to complete his/her term, or has been removed, then the Mayor shall appoint another individual, with the advice and consent of the Common Council, to serve the remainder of the term. The Commission shall be advised by the Town attorney and shall have the following responsibilities:

- (a) To devise, receive and maintain all forms generated by this chapter;
- (b) To provide advisory opinions to persons subject to the chapter as to the applicability of the provisions of this chapter to them which shall be retained in the records of the Town;
- (c) To process and make determinations as to complaints filed by any person alleging violations of this chapter;
- (d) To conduct a public information program regarding the purposes and application of

this chapter;

- (e) To provide to the Town a copy of all records produced by the Commission, said records to be maintained in the Town office.
- (f) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the Town is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland for elected local officials.
- (g) The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Town Council for enactment.
- (h) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

Section 12-104. Conflicts of interest.

- (a) In this section, "qualified relative" means a spouse, parent, child, domestic partner or sibling.
- (b) All Town elected officials, officials appointed to Town boards and Commissions subject to this chapter and employees are subject to this section.
- (c) Participation prohibitions. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

1. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee, has an interest.

2. Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter, in which any of the following is a party:

A. A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

B. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

C. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment.

D. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

E. An entity, doing business with the Town, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

F. A business entity that:

(i) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(ii) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

3. A person who is disqualified from participating under paragraphs 1 or 2 of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

A. The disqualification leaves a body with less than a quorum capable of acting;

B. The disqualified official or employee is required by law to act; or

C. The disqualified official or employee is the only person authorized to act.

4. The prohibitions of paragraph 1 and 2 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(d) Employment and financial interest restrictions.

1. Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

A. Be employed by or have a financial interest in any entity:

(i) Subject to the authority of the official or employee or the Town agency, board, Commission with which the official or employee is affiliated; or

(ii) That is negotiating or has entered a contract with the agency, board, or Commission with which the official or employee is affiliated; or

B. Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

2. This prohibition does not apply to:

A. An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

B. Subject to other provisions of law, a member of a board or Commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

C. An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission;

D. Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed;

E. Decisions relating to the property tax rate, general Town fees or service charges or a comprehensive zoning ordinance or similar matter are not considered to have direct financial impact to the extent that a council member would be affected in common with the general public; or

F. Participation by council members in council action relating to, and voting on, the annual budget in its entirety. When one or more items in the annual budget would have a direct financial impact, as distinguished from the public generally, on a council member, his or her employer, family member or any business entity in which he or she has an interest, the council member must first file with the ethics Commission a sworn statement that describes the conflict. Council members may not propose, seek to remove, or participate in the council's discussion of any budget item that creates such a conflict.

(e) Post-employment limitations and restrictions.

1. A former official or employee may not assist or represent any party other than the Town for compensation in a case, contract, or other specific matter involving the Town if that matter is one in which the former official or employee significantly participated as an official or employee.

2. Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the Town council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(f) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the Town.

(g) Use of prestige of office.

1. An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

2. This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

(h) Solicitation and acceptance of gifts.

1. An official or employee may not solicit any gift.

2. An official or employee may not directly or indirectly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

3. An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

A. Is doing business with or seeking to do business with the Town office, agency, board or Commission with which the official or employee is affiliated;

B. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

C. Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

D. Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

4. Paragraph 5 of this subsection does not apply to a gift:

A. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

B. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

C. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

5. Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

A. Meals and beverages consumed in the presence of the donor or sponsoring entity;

B. Ceremonial gifts or awards that have insignificant monetary value;

C. Unsolicited gifts of nominal value that do not exceed \$ 20 in cost or trivial items of informational value;

D. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

E. Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political events, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

F. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature;

G. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee;

H. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is in not related in any way to the official's or employee's official position; or

(i) Disclosure of confidential information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(j) Participation in procurement.

1. An individual, or a person that employs an individual, who assists the Town in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

2. The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the Town.

Section 12-105. Financial disclosure by elected Town officials and candidates to be Town elected officials.

(a) This section applies to all Town elected officials and candidates to be Town elected officials.

(b) (1) Except as provided in subsection (c) of this section, a Town elected official or a candidate to be a Town elected official shall file the financial disclosure statement required under this section:

A. On a form provided by the Commission;

B. Under oath or affirmation; and

C. With the Commission

(2) Deadlines for filing statements.

A. An incumbent Town elected official shall file a financial disclosure statement annually no later than April 30th of each year for the preceding calendar year.

B. An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement for the reporting period, shall file a statement for the preceding calendar year and the portion of the current calendar year to date of filing prior to appointment.

C. (i) An individual who, other than by reasons of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.

(ii) The statement shall cover:

(A) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(B) The portion of the current calendar year during which the individual held the office.

(c) Candidates to be Town elected officials.

1. A candidate to be an elected Town official shall file a financial disclosure statement each year beginning with the year in which the petition of candidacy is filed through the year of the election.

2. A candidate to be an elected official shall file a statement required under this section:

A. In the year the petition of candidacy is filed, no later than the filing of the petition of candidacy. The reporting period shall be the calendar year immediately preceding the year in which the petition is filed, and the portion of the current calendar year to the date the petition is filed;

B. In the year of the election, if other than the year in which the petition of candidacy is filed, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

C. In all other years for which a statement is required, on or before April 30.

3. A candidate to be an elected Town official:

A. Shall file the statement required under §12-105(c)(2)(A) of this chapter with the Supervisors of Elections at the time of filing of the petition of candidacy and with the Commission prior to or at the time of filing the petition of candidacy; and

B. Shall file the statements required under §12-105(c)(2)(B) and (C) with the Commission.

4. If a candidate fails to file a statement required by this section after written notice is provided by the Supervisors of Elections at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

5. The Supervisors of Elections may not accept any certificate of candidacy unless a statement has been filed in proper form.

6. Within 30 days of the receipt of a statement required under this section, the Supervisors of Elections shall forward the statement to the Commission or the office designated by the Commission.

(d) Public record.

1. The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

2. Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

3. If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

A. The name and home address of the individual reviewing or copying the statement; and

B. The name of the person whose financial disclosure statement was examined or copied.

4. Upon request by the official, candidate or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

(e) Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(f) Contents of statement.

1. Interests in real property.

A. A statement filed under this section shall include a schedule of all interests in real property wherever located.

B. For each interest in real property, the schedule shall include:

(i) The nature of the property and the location by street address, mailing address, or legal description of the property;

(ii) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(iii) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(iv) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(v) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(vi) The identity of any other person with an interest in the property.

2. Interests in corporations and partnerships.

A. A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the Town.

B. For each interest reported under this paragraph, the schedule shall include:

- (i) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
- (ii) The nature and amount of the interest held, including any conditions and encumbrances on the interest;
- (iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred; and
- (iv) With respect to any interest acquired during the reporting period:
 - (A) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - (B) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
- (v) An individual may satisfy the requirement to report the amount of the interest held under item (f)(2) of this paragraph by reporting, instead of a dollar amount:
 - (A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or
 - (B) For an equity interest in a partnership, the percentage of equity interest held.

3. Interests in business entities doing business with the Town.

A. A statement filed under this section shall include a schedule of all interests in any business entity that does business with the Town, other than interests reported under paragraph (2) of this subsection.

B. For each interest reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and

(iv) With respect to any interest acquired during the reporting period:

A. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

B. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

4. Gifts.

A. A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town.

B. For each gift reported, the schedule shall include:

(i) A description of the nature and value of the gift; and

(ii) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

5. Employment with or interests in entities doing business with the Town.

A. A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the Town.

B. For each position reported under this paragraph, the schedule shall include:

(i) The name and address of the principal office of the business entity;

(ii) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(iii) The name of each Town agency with which the entity is involved.

6. Indebtedness to entities doing business with the Town.

A. A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the Town owed at any time during the reporting period:

(i) By the individual; or

(ii) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

B. For each liability reported under this paragraph, the schedule shall include:

(i) The identity of the person to whom the liability was owed and the date the liability was incurred;

(ii) The amount of the liability owed as of the end of the reporting period;

(iii) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(iv) The security given, if any, for the liability.

7. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.

8. Sources of earned income.

A. A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

B. A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

9. A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(g) For the purposes of §12- 105(f)(1), (2) and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

1. An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

2. An interest held by a business entity in which the individual held a 3% or greater interest at any time during the reporting period.

3. An interest held by a trust or an estate in which, at any time during the reporting period:

A. The individual held a reversionary interest or was a beneficiary, or

B. If a revocable trust, the individual was a settlor.

(h) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(i) The Town Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

SECTION 12-106 Financial Disclosure – Employees And Appointed Officials.

(a) this section only applies to the following appointed officials and employees:

1. Town Clerk
2. Town Treasurer
3. Chief of Police
4. Public Works director
5. All other employees
6. Members of all boards and commissions
7. Town attorney

(b) A statement filed under this section shall be filed with the Commission under oath or affirmation.

(c) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the town, including the name of the donor of the gift and the approximate retail value at the time of receipt.

(d) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(e) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in §12-105(d) and (e) of this chapter.

Section 12-107 Lobbying Disclosure

(a) All lobbyists shall file a registration statement with the Town Clerk on or before the latter of January 15 of the calendar year or within 5 days after first performing an act that requires registration in the calendar year.

(b) The registration statement referred to in subsection (a) above shall include complete identification of the registrant and any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances.

(c) In addition to the registration statement set forth above, all lobbyists shall file an annual report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to a town official(s). Where a gift or series of gifts to a single official exceed fifty dollars (\$50) in value, the official(s) shall also be identified.

(d) All registration statements and annual reports filed hereunder shall be retained by the Town Clerk for a period of at least three (3) years and shall be open for inspection and copying at the Town offices during regular business hours.

Section 12-108 Procedure

(a) Advisory opinions.

1. Any person subject to this chapter may request an advisory opinion from the Commission concerning the application of this chapter.

2. The Commission shall respond promptly to a request for an advisory opinion and shall provide interpretations of this chapter based on the facts provided or reasonably available to the Commission.
3. In accordance with all applicable state and town laws regarding public records, the Commission shall publish or otherwise make available to the public copies of the advisory opinions, with the identities of the subjects deleted. The name of the person requesting the advisory opinion and the names of all persons or business entities mentioned in the opinion shall be deemed confidential information and shall not be disclosed by the members of the Commission unless each person or business entity waives such confidentiality.

(b) Complaints

1. Any person may file a complaint with the Commission alleging a violation of any of the provisions of this chapter.
2. A complaint shall be in writing and under oath.
3. The Commission may refer a complaint to the town attorney, or other legal counsel if appropriate, for investigation and review.
4. The Commission may dismiss a complaint if, after receiving an investigative report, the Commission determines that there are insufficient facts upon which to base a determination of a violation.
5. If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing conducted in accordance with the applicable town rules of procedure.
6. A final determination of a violation resulting from the hearing shall include findings of fact and conclusions of law.
7. Upon finding of a violation, the Commission may take any enforcement action provided for in Section 12-109 of this chapter.

8. After a complaint is filed and until a final finding of a violation by the Commission, all actions regarding a complaint are confidential. A finding of a violation is public information.

Section 12-109 Enforcement.

(a) The Commission may issue a cease and desist order against any person found to be in violation of this chapter.

(b) Upon a finding of a violation of any provision of this chapter, the Commission may:

1. Issue an order of compliance directing the respondent to cease and desist from the violation;
2. Issue a reprimand; or
3. Recommend to the appropriate authority other appropriate discipline of the respondent, including

censure or removal if that discipline is authorized by law.

(c) If the Commission finds that a respondent has violated Section 12-107 of this chapter, the Commission may:

1. Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under section 12-107 of this chapter;
2. Impose a fine not exceeding \$1,000 for each violation; and
3. Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated section 12-107 of this chapter or has been convicted of a criminal offense arising from lobbying activities.

(d) Upon request by the Commission, the Town attorney may file a petition for injunctive or other relief in the Circuit Court of Prince George's County, or in any other court having proper venue, for the purpose of requiring compliance with the provisions of this chapter and for assessment of a fine not to exceed \$1,000.00.

(e) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

1. Is subject to termination or other disciplinary action; and
2. May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(f) A Town official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

CHAPTER 13

HOUSING

Article 1.

Residential Housing-Exterior Property and Structure.Section 13-101. Definitions.

In this Article, the following words have the meanings indicated. Where terms are not defined they shall have their ordinarily accepted meanings such as the context may imply. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter, the singular includes the plural and the plural the singular.

- (a) Condemn. To declare a structure or part thereof, premises or equipment unsafe or unfit for use or occupation.
- (b) Dwellings. A building or structure, or portion thereof, used for human occupancy, including garages and other appurtenances.
- (c) Exterior Property Areas. The open space on the premises and on adjoining property under the control of owners, operators or residents of such premises.
- (d) Extermination. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other pest elimination methods as allowed by law.
- (e) Garbage. The animal, mineral and vegetable waste resulting from the handling, preparing, cooking and serving of food exclusive of recognized industrial by-products and human and animal feces.
- (f) Infestation. The presence, within or around a dwelling, of insects, rodents, vermin or other pests.
- (g) Maintenance. Acts of repair and other acts to prevent a decline in the condition of grounds, structures, other appurtenances and equipment such that the condition does

not fall below the standards established by this Code and other applicable statutes, Codes and ordinances.

- (h) Occupant. Any person, over one (1) year of age (including the owner or operator and domestic service employees) living, sleeping, cooking or eating in, or having actual possession of, space within a dwelling or premises.
- (i) Owner. Any person who, alone or jointly or severally with others:
 1. Shall have legal and/or equitable title to any dwelling, dwelling unit, or rooming unit, with or without accompanying actual possession thereof; or
 2. Shall have charge, care, possession or control of any dwelling unit or rooming unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- (j) Person. Any individual, firm, corporation, association, partnership, limited partnership, trust or estate.
- (k) Premises. A lot, plot or parcel of land including the building or structures thereon.
- (l) Rubbish. All combustible and noncombustible waste materials, except garbage; and the term shall include but not be limited to the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin and aluminum cans, metals, mineral matter, glass crockery, and dust.
- (m) Yard. An open space surrounding a building. (Effective July 8, 1988)

Section 13-102. Scope.

Every portion of a building or premise used or intended to be used for residential purposes, and not governed by the provisions of Chapter 13 of the Code of Ordinances, Rental Housing Code, shall comply with the provisions of this Code as set out herein, irrespective of when such building shall have been constructed, altered or repaired. This Code shall be construed liberally and justly to insure the public health, safety and

welfare. (Effective July 8, 1988)

Section 13-103. Maintenance of exterior property areas.

All exterior property areas shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish, waste or garbage, or other offensive or dirty material.

- (a) All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.
- (b) All exterior property areas shall be properly maintained and no weeds, briars, brush and grass more than one (1) foot tall (other than garden and yard planting properly maintained by the owner or occupant) shall be allowed to accumulate or grow on any private property adjoining any of the streets, alleys or lanes and within two hundred (200) feet thereof in the Town of University Park.
- (c) The storage of wood and other materials not proscribed by this Article shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. Wood shall be stored at least eighteen inches above the ground.
- (d) All exterior property areas shall be kept free from infestation by rodents, vermin, insects and other pests where rodents, vermin, insects and other pests are found, they shall be promptly exterminated by the owner by acceptable processes which will not be injurious to the health of humans or other animals. After extermination, proper precautions shall be taken by the owner and occupant to prevent re-infestation.
- (e) Exterior property areas shall not be utilized for any period of time for the open storage of building materials, rubbish or refuse, bathroom or kitchen fixtures, glass, furniture, or similar items or materials, irrespective of age or condition.
- (f) Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.
- (g) Every occupant of a structure or part thereof shall store and dispose of all rubbish in a clean and sanitary manner by placing it in appropriate rubbish containers, which shall not exceed 35 gallons in size.
- (h) Every occupant of a structure or part thereof shall store and dispose of garbage or

other organic waste in a clean and sanitary manner by placing it in appropriate garbage disposal facilities or garbage storage containers, with covers, which shall not exceed 35 gallons in size.

- (i) It shall be the responsibility of any property owner, or other occupant, who shall possess animals on the same premises to keep said animals in a reasonably sanitary condition.
- (j) Continuing or repeated incidents of rodent infestation shall require the installation of rodent- and vermin-proof walls. The rodent- and vermin-proof walls shall be installed in accordance with the building Code.
- (k) All trees and shrubbery located on exterior property areas shall be maintained in such a way so as not to pose a danger to adjoining property.
- (l) Residents may maintain an area for compost if it is done in such a manner so as to avoid infestation by rodents or other pests, or noxious odors. (Effective July 8, 1988)

Section 13-104. Maintenance of exterior structure.

- (a) The exterior of any structure on a premises shall be maintained in good repair, and in a structurally sound and sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants and so as to protect the occupants from the adverse effects of the environment.
- (b) Every foundation, exterior wall, roof, and all other exterior surfaces shall be kept structurally sound, free of deterioration, maintained in a condition capable of safely bearing the dead and live loads imposed upon them in a workmanlike state of maintenance and repair, and shall be kept in such condition as to exclude rodents, other animals and birds.
- (c) All exterior surface materials, including wood, composition, or metal siding, shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.
- (d) Roof water shall not be discharged in a manner that creates a nuisance to owners or

occupants of adjacent premises, or that creates a public nuisance.

- (e) Grassy, yard and other unpaved areas shall not be used for the parking of motor vehicles. (Effective July 8, 1988)

Section 13-105. Enforcement authority.

- (a) It shall be the duty and responsibility of the Town to enforce the provisions of this Article as herein provided.
- (b) The Mayor and Council may waive applicability of this chapter for good cause shown.
- (c) Any Code official, officer or employee who acts in good faith and without malice in the discharge of duties of enforcement of this Article is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts or alleged failure to act. Further, the official shall not be held liable for any costs in any action, suit or proceeding that may be instituted by the official in the enforcement of this Article in any of these actions, the official or employee shall be defended or represented by the jurisdiction's attorney-at-law until the final termination of the proceedings. (effective July 8, 1988)

Section 13-106. Violations.

- (a) A violation of Section 13-103 (b) shall constitute a public nuisance, and shall be subject to the procedures and remedies set out in Section 7-106 of this code. In addition, failure to comply with any portion of this Article shall constitute a municipal infraction for which a penalty of \$200.00 shall be imposed. Every day that a violation continues after due notice has been given shall be deemed a separate offense. The Housing Officer is authorized to issue citations for violations of this Article. Any property owner who does not comply with this Article may be charged with any costs incurred by the Town to bring the property into compliance. Such costs may be included as part of the tax levy on the property and shall be payable as part of that levy, which remedy is in addition to any other legal remedy available to

the Town. (Revised 4/ 9/91,10/23/97, 7/11/04)

- (b) Whenever it has been determined that there has been or is a violation of the provisions of this Article, notice shall be given to any persons to be charged with the violation, which may include the owner of the property and/or the owner of an improperly parked vehicle. Notice shall be in writing, include a description of the real property and/or vehicle sufficient for identification, include a statement of the reason or reasons why it is being issued, and state the time in which conditions must be corrected. Service of this notice shall be as follows:
1. By delivery to the owner personally or to his agent; or
 2. By certified or registered mail addressed to the owner of the real property at the address provided to the Town by the owner for receipt of taxing information, and by certified or registered mail addressed to the owner of an improperly parked vehicle at the address provided to the Maryland Division of Motor Vehicles; or
 3. If the letter is returned with receipt showing non-delivery, by posting a copy of the notice in placard form in a conspicuous place on the premises to be affected by such notice; or
 4. As to an improperly parked vehicle, by leaving a copy of the notice on the front windshield of said vehicle. (Effective April 9, 1991)

Section 13-107. Validity.

- (a) If any Section, Sub-Section, paragraph, sentence, clause or phrase of this Article shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Article which shall continue in full force and effect, and to this end the provisions of this Article are hereby declared to be severable.
- (b) This Article shall not affect violations of any other ordinance, Code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, Codes or regulations in effect at the time the violation was

committed. (Effective July 8, 1988)

Section 13-108. Rules and regulations.

The Council shall pass such rules and regulations as are consistent with the purpose intent and enforcement of this Article. (Effective July 8, 1988)

Article 2.

Rental Housing Code.

Section 13-201. Definitions.

In this chapter, the following words have the meanings indicated. Where terms are not defined they shall have their ordinarily accepted meanings such as the context may imply. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter, the singular includes the plural and the plural the singular.

- (a) Basement-- Any portion of a building located wholly or partially underground having any portion or all of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (b) Building Code-- The basic building Code, latest edition, and current cumulative supplement officially adopted by Prince George's County and University Park for the regulations of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of premises, buildings and structures.
- (c) Central Heating--The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.
- (d) Condemn--To declare a structure of part thereof; premises or equipment unsafe or unfit for use or occupation.
- (e) Dwellings-- A building or structure, or portion thereof, used for human occupancy, including garages and other appurtenances.

- (f) Dwelling unit-- Any room or group of rooms located within a dwelling intended to provide a complete single habitable unit for one or more persons with facilities which are used or intended to be used for living, sleeping, cooking and eating.
- (g) Emergency-- An unforeseen occurrence or condition, or a rapid deterioration of circumstances, necessitating immediate action to avert imminent danger to life, liberty or property.
- (h) Exterior property areas-- The open space on the premises and on adjoining property under the control of owners or operators of such premises.
- (i) Extermination-- The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other pest elimination methods as allowed by law.
- (j) Garbage-- The animal, mineral and vegetable waste resulting from the handling, preparing, cooking and serving of food exclusive of recognized industrial by-products and human and animal feces.
- (k) Gross floor area-- The total area of all habitable space in a building or structure.
- (l) Habitable space-- A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces, workshops and other rooms used only occasionally. (Effective July 8, 1988)
- (m) Housing Code-- All rules and regulations contained herein or promulgated pursuant to authority hereunder.
- (n) Housing Officer-- That person appointed by the Mayor with consent of the Council to enforce the housing Code(s).
- (o) Infestation-- The presence, within or around a dwelling, of insects, rodents, vermin or other pests.
- (p) Maintenance-- Acts of repair and other acts to prevent a decline in the condition of grounds, structures, other appurtenances and equipment such that the condition does

not fall below the standards established by this Code and other applicable statutes, Codes and ordinances.

- (q) Multiple Dwelling-- Any dwelling containing two or more dwelling units.
- (r) Occupant-- Any person, over one (1) year of age (including the owner or operator and domestic service employees) living, sleeping, cooking or eating in or having actual possession of, space within a dwelling unit or rooming unit.
- (s) Operator-- An owner.
- (t) Ordinary minimum winter conditions. The temperature fifteen degrees Fahrenheit (15 F) above the lowest recorded temperature for the previous ten-year period.
- (u) Owner-- Any person who, alone or jointly or severally with others:
 1. Shall have legal and/or equitable title to any dwelling, dwelling unit, or rooming unit, with or without accompanying actual possession thereof; or
 2. Shall have charge, care, possession or control of any dwelling unit or rooming unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the state of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- (v) Person-- Any individual, firm, corporation, association, partnership, limited partnership, trust or estate.
- (w) Plumbing-- The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances within the scope of the plumbing Code including but not limited to all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, water heating facilities, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplies or fixtures, together with all connections to water, sewer or gas lines.
- (x) Plumbing Fixture-- A receptacle or device which is either permanently or temporarily

connected to the water distribution system of the premises and demands a water supply therefrom; or discharges used water, liquid borne waste materials or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises.

- (y) Premises-- A lot, plot or parcel of land including the building or structures thereon.
- (z) Rental dwelling-- A rented or leased room or group of rooms forming a single habitable dwelling or rooming unit occupied by one or more persons which is intended to be used by the occupants for living or sleeping.
- (aa) Renovation-- A building and its facilities made to conform to present day minimum standards of sanitation, fire and life safety.
- (bb) Residence building-- A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided except when classified as an institution under the building Code.
- (cc) Rooming unit-- Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.
- (dd) Rubbish-- All combustible and noncombustible waste materials, except garbage; and the term shall include but not be limited to the residue from the burning of wood, coal, coke and other combustible materials. paper rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin and aluminum cans, metals, mineral matter, glass crockery, and dust.
- (ee) Supplied-- Means paid for, furnished, or provided by or under the control of, the owner or operator.
- (ff) Temporary Housing-- Means any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.
- (gg) Ventilation-- The process of supplying and removing air by natural or mechanical

means to or from any space.

1. Mechanical -- ventilation by power driven devices.
 2. Natural -- Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks without wind driven devices.
- (hh) Workmanlike-- Whenever the words "workmanlike state of maintenance and repair" are used in this chapter, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner and in accordance with industry standards so as to secure the results intended by this Code.
- (ii) Yard-- An open space surrounding a building.

Section 13-202. Scope.

Every portion of a building or premise used or intended to be used for residential rental purposes, shall comply with the provisions of this Code as set out herein, irrespective of when such building shall have been constructed, altered or repaired. This Code shall be construed liberally and justly to insure the public health, safety and welfare.

Section 13-203. Rental property license and renewals.

- (a) Rental license-- It shall be unlawful for any person to rent or lease any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any single-family rental dwelling unit, multiple rental dwelling unit or rooming unit within the Town of University Park, without having first obtained a license or temporary certificate to do so as hereinafter provided.
- (b) License application for existing rental property-- Within sixty (60) days after the enactment of this Section, the legal owner of record shall make written application to the Town for a rental unit license upon such form or forms as the Town shall from time to time designate. For any other property proposed to be used as rental property, such application shall be made at least thirty (30) days prior to the effective date of

any lease. Said forms shall include the owner's address for service of any notices required under this chapter. Such application shall be submitted together with a non-refundable rental license fee. The amount of such fee is to be established by the Town Council

- (c) Temporary Certificates-- Upon receipt of a completed application for a license, the Mayor shall issue a non-transferable ~Temporary Certificate~ indication that a license has been duly applied for, and that a non-transferable license shall be issued or denied after the building, including interior portions thereof, and premises have been inspected for compliance with applicable provisions of the housing Code.
- (d) Inspections-- All Rental properties shall be subject to periodic inspection to determine if they are in conformance with the Code and shall be inspected at least once each year prior to renewal of the rental license. Permission for such inspections, without the necessity for obtaining any further permission or judicial warrant, is a condition of any license or temporary certificate. Failure to allow entry for such inspection or to require any tenant to allow entry for such inspection shall constitute sufficient reasons for the denial or revocation of the rental license or temporary certificate.
- (e) Revocation or denial of license-- A license may be revoked or denied by the Mayor if the owner, after ten (10) days notice from the Town, fails to eliminate or to initiate good faith efforts to eliminate violations of the housing Code. Revocation or denial of a license shall be in addition to and not in substitution for, such other penalties as may be provided for said violations elsewhere in this Code.
- (f) License renewal-- Licenses and temporary certificates issued hereunder shall expire one (1) year from the date of issuance and shall be renewable annually at the fees set by the Town Council. Application for renewals shall be made at least sixty (60) days prior to the expiration date. The license or certificate renewal fee shall be subject to a ten percent (10%) penalty per month, or any portion thereof, beyond the date due and payable.
- (g) Display of licenses-- Licenses and temporary certificates issued under this Section

shall be produced on the demand of a tenant or prospective tenant and shall be available at reasonable times for examination by the Housing Officer of the Town.

- (h) Change of address-- The owner shall promptly notify the Town of any change of address.
- (i) Prior to issuance or renewal of a license, the owner must provide proof of compliance with Section 6-801 et seq. of the Environment Article, Annotated Code of Maryland. (7/8/88 revised effective 11/10/97)

Section 13-204. Occupancy requirements.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements.

- (a) Minimum ceiling heights-- Habitable rooms shall have a clear ceiling height of not less than seven and one-third (7-1/3) feet, except that in attics or top half stories the ceiling height shall be not less than seven (7) feet nor less than one-third (1/3) of the area of such space when used for sleeping, study or similar activity. In calculating the floor area of such rooms only those portions of the floor area of the rooms having a clear ceiling height of five (5) feet or more maybe included.
- (b) Required space in dwelling or rooming units-- Every dwelling or rooming unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant, and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- (c) Required space in sleeping room-- Every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty square feet of floor area for each occupant thereof.
- (d) Each dwelling and rooming unit shall provide clothes closet space measuring at least six square feet, with a height of at least five feet, for each room used for sleeping. In

addition, one other clothes closet of like size shall be provided elsewhere in the dwelling or rooming unit.

- (e) Location of bath and second sleeping room-- No dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall the room arrangement be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
- (f) Occupancy of dwelling units below grade-- No dwelling unit partially below grade shall be used for living purposes unless:
 1. Floors and walls are watertight; and
 2. Total window area, total operable area and ceiling height are in accordance with this Code.

Section 13-205. Inspection of rental dwellings, dwelling units, Rooming units, and premises.

- (a) Generally-- the Housing Officer is hereby authorized to enforce the provisions of this Code and is directed to make inspections to determine the condition of rental dwellings, dwelling units, rooming units, and premises located within the Town of University Park, Maryland, in order that he may perform his duty of safeguarding the health safety and welfare of the occupants of dwellings and of the general public. For the purpose of making such inspections the Housing Officer is hereby authorized upon presentation of proper credentials to enter, examine, and survey at all reasonable times all non-owner occupied rental dwellings, dwelling units, rooming units, and premises or any such rental dwellings occupied by the owner and rented to more than one other person. The owner or occupant of every such rental dwelling, dwelling unit, and rooming unit, or the person in charge thereof, shall give the Housing Officer free access to such dwelling, dwelling unit or rooming unit and its premises, at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of any such rental dwelling or dwelling or rooming unit shall give the owner

thereof, or his agent or employee, access to any part of such dwelling or dwelling or rooming unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this ordinance.

- (b) Entry-- If any owner, occupant, or other person in charge of a structure subject to the provisions of this Code prevents, refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Code is sought, the Housing Officer (or other representatives of the administration) may seek, in a court of competent jurisdiction, an order that the owner, occupant or other person in charge cease and desist with such interference.
- (c) Alterations and Repairs--
1. The Housing Officer has the authority to require and approve any alterations or repairs necessary to bring a structure or premises into compliance with this Code. The determination of what may be necessary to bring the premises into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for in this Code.
 2. The Housing Officer shall have the authority to approve changes in alterations or repairs in the field when conditions are encountered which make the originally approved work impractical, if the changes in approved work can be readily determined to be in compliance with this Code and are requested by the property owner or his agent before the changes.
 3. The changes shall be specifically documented by the property owner or by his agent, describing the change in work and the reasons and justification for the change, and shall be filed with the permit for the project.

Section 13-206. Unfit rental premises.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any

premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which is not fit for human habitation or is otherwise in violation of this Section.

- (a) Dangerous structures and equipment. Any rental dwelling, premises or part thereof, which shall be found to be unsafe, unlawful or to have any of the following defects may be condemned as unfit for human habitation and shall be so designated and placarded by the Housing Officer. It shall not be re-occupied without approval from the Housing Officer. Unsafe equipment may be condemned, placarded and placed out of service pursuant to this Section.
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 sufficient illumination, ventilation, or sanitation facilities, a fire protection and warning system, or other essential equipment required by this Code adequate to protect the health or safety of the occupants or of the public.
 3. One which because of its general condition or location is unsanitary, or otherwise dangerous to the health or safety of the occupants or of the public.
 4. One which is occupied by more persons than permitted under this Code or applicable law.
 5. One in which the equipment is unsafe, including any boiler, heating equipment, cooking equipment, elevator, moving stairway, electrical wiring, or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found by the Code official to be a hazard to the life, health, property, or safety of the tenants of the premises of structure.
 6. One which is not in compliance with Title 6, Subtitle 8 of the Environmental Article, Annotated Code of Maryland, as amended
- (b) Posting of placard-- Any rental premises or portion thereof declared as unfit for

human habitation hereunder shall be posted at each entrance with a placard by the Housing Officer. It shall be unlawful for any person to enter such rental dwelling, premises or portion thereof after the date set forth in the placard to vacate except for the reason of making the required repairs or of demolishing said premises. The placard shall include the following:

1. Name of Town;
 2. The chapter and Section of the Code under which it is issued;
 3. An order that the dwelling or multi-family dwelling shall be vacated by a stated date, and must remain vacant until the order to vacate is withdrawn;
 4. The date that the placard is posted;
 5. A statement of the penalty for defacing removal of the placard;
 6. A statement saying "This building is unfit for human habitation and its use or occupancy has been prohibited by the Town of University Park" and the placard shall bear the signature of the Mayor.
- (c) Removal of placard or notice-- No person shall deface or remove the placard from any rental dwelling, premises or portion thereof which has been declared or placarded as unfit for human habitation except by authority in writing from the Housing Officer.
- (d) Vacating of declared buildings-- Any rental dwelling, premises or portion thereof declared as unfit for human habitation and so designated and placarded shall be vacated within a reasonable time as ordered by the Housing Officer, and it shall be unlawful for any owner or operator to let any person inhabit said rental dwelling, premises or portion thereof which has been declared and placarded by the Housing Officer after the date set forth in the placard. The Housing Officer shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.
- (e) Notice to owner-- Whenever the Housing Officer has condemned a rental dwelling, premises or any portions thereof, as unfit for human habitation, or has placed equipment out of service under Section 13-206, he shall give prior written notice to

the owner. Such notice to the owner shall:

1. Be in writing;
 2. Include a description of the real estate sufficient for identification;
 3. Include a statement of the reasons why it is being issued;
 4. State the date occupants must vacate the dwelling units if the defects have not been eliminated and the order to vacate withdrawn.
- (g) Service of notice-- Notice of violation shall be served as required by Section 13-209.
- (h) Service on occupant-- When a condemnation order is served on an occupant other than the owner or person responsible for such compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.
- (i) Sealing of unfit structure-- 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 board up is determined by the Housing Officer 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 unlawful entry, the Town of University Park shall take action to remove unsanitary or flammable waste material and to board up all windows and doors so as to prevent entrance. The cost of said action shall be lien on the property and collectible in the same manner as delinquent taxes.
- (j) Further action-- If, after proper notice hereunder, the owner fails to correct defects which have caused the rental dwelling, premises, or portion thereof to be unfit for human habitation, the Mayor and Council may request additional action from the appropriate state and or county authority.
- (k) Coordination of enforcement--
1. Whenever, in the opinion of the Housing Officer initiating an inspection under this Code, it is deemed necessary or desirable to have inspections by any other governmental official or agency, the Housing Officer shall make a

reasonable effort to arrange for the coordination of the inspections so as to minimize the number of visits by inspectors.

2. The Housing Officer shall confer with the other governmental official or agency for the purpose of eliminating conflicting orders before any are issued.
3. The Housing Officer may not, however, cause the delay of the issuance of any emergency orders by a governmental official or agency which the governmental official or agency determines must be issued. (Effective 7/8/88, revised effective 11/10/97)

Section 13-207. Emergencies.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling, premises or portions thereof, which does not comply with the following requirements.

- (a) Emergency action-- Whenever in the judgment of the Housing Officer an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, directing the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency.
- (b) Vacating rental dwellings and premises-- When in the opinion of the Housing Officer, there is a clear and present danger to the health or safety of the occupants, the Housing Officer is authorized and empowered to order and require the occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows: "This Building is unsafe and its use or occupancy has been prohibited by the Mayor", and it shall be unlawful for any person to enter such building structure except for the purpose of making the required repairs or of demolishing the same.
- (c) Temporary safeguards-- When, in the opinion of the Housing Officer, there exists grossly unsanitary conditions or an immediate danger of collapse or failure of a rental dwelling, premises or any part thereof which would endanger life, he shall cause the

necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been initiated.

- (d) Closing streets-- When necessary for the public safety, the Mayor may temporarily close sidewalks, streets, buildings, and prohibit the same from being used.
- (e) Emergency repairs-- For the purpose of this Section, the Mayor shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (f) Cost of emergency repairs-- In addition to any other remedy, costs incurred in the performance of emergency work shall be lien on the property and collected in the same manner as delinquent taxes.

Section 13-208. Transfer of ownership.

It shall be unlawful for the owner of any rental dwelling, dwelling unit or rooming unit, structure or premises who has received a compliance order or upon whom a notice of violation under this Code has been served to sell, transfer, mortgage, lease to another or otherwise dispose of, said dwelling or rooming units, structure or premises to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Housing Officer and shall furnish to the Housing Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the timely corrections or repairs required by such compliance order or notice of violation.

Section 13-209. Violations.

A violation of section 13-211 (c) shall constitute a public nuisance, and shall be subject to the procedures and remedies set out in section 7-106 of this code. The following provisions apply to this article:

(Revised 7/11/04)

- (a) Notice-- Whenever the Housing Officer determines that there has been or is a violation of the provisions of this Code, he shall give notice to the owner. 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; and
4. State the time to correct the conditions.

(b) Service of notice-- That a dwelling, premises, or equipment is in violation shall be as follows:

1. By delivery to the owner personally or to his agent; or
2. By certified or registered mail addressed to the owner at the address provided to the Town by the owner as required by this chapter with postage prepaid thereon with return receipt requested, or if said letter is returned with receipt showing non-delivery, then
3. By posting a copy of the notice in placard form in a conspicuous place on the premises affected by such notice .

(c) Penalty for Violations-- Failure to comply with a notice of violation of the provisions of Section 13-201, et seq. of this Article within the time period provided shall constitute a municipal infraction. Every person, firm or corporation who shall be issued such a municipal infraction shall be subject to a fine of not more than five hundred dollars (\$500.00) . Every day that a violation continues after due notice has been served in accordance with the terms and provisions hereof shall be deemed a separate offense. The Housing Officer is authorized to issue municipal infraction citations for violations of this Article (Effective July 8, 1988, amended 11/10/97)

Section 13-210. Right to appeal.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article, or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Town Council or its designated committee. (revised 7/11/04)

Section 13-211. Maintenance of exterior property areas.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements:

- (a) All exterior property areas shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish, waste or garbage, or other offensive or dirty material.
- (b) All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.
- (c) All exterior property areas shall be properly maintained and no weeds, briars, brush and grass more than one (1) foot tall (other than garden and yard planting properly maintained by the owner or occupant) shall be allowed to accumulate or grow on any private property adjoining any of the streets, alleys or lanes and within two hundred (200) feet thereof in the Town of University Park.
- (d) The storage of wood and other materials not proscribed by this Article shall be accomplished in a manner designed to avoid rodents, termites and other insect infestation. Wood shall be stored at least eighteen inches above the ground.
- (e) All exterior property areas shall be kept free from infestation by rodents, vermin, insects and other pests where rodents, vermin, insects and other pests are found, the shall be promptly exterminated by the owner by acceptable processes which will not be injurious to the health of humans or other animals. After extermination, proper precautions shall be taken by the owner and occupant to prevent reinfestation.
- (f) Exterior property areas shall not be utilized for any period of time for the open storage of building rubbish or refuse, construction materials or equipment, bathroom or kitchen fixtures, glass, furniture, appliances, automotive parts, or similar items or materials, irrespective of age or condition.
- (g) Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.
- (h) Every occupant of a structure or part thereof shall store and dispose of all rubbish in a clean and sanitary manner by placing it in appropriate rubbish containers.

- (i) Every occupant of a structure or part thereof shall store and dispose of garbage or other organic waste in a clean and sanitary manner by placing it in appropriate garbage disposal facilities or garbage storage containers.
- (j) It shall be the responsibility of any property owner, renter, lessee, or other occupant, who shall possess animals on the same premises to keep said animals in a reasonably sanitary condition.
- (k) Continuing or repeated incidents of rodent infestation as determined by the housing Code officer shall require the installation of rodent- and vermin-proof walls. The rodent- and vermin-proof walls shall be installed in accordance with the building Code.
- (l) All trees and shrubbery located on exterior property areas shall be maintained in such a way so as not to pose a danger to adjoining property. (Effective July 8, 1988)

Section 13-212. Maintenance of exterior structure.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements.

- (a) The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the health, safety or welfare of the occupants and so as to protect the occupants from the adverse effects of the environment.
- (b) All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained capable of safely bearing the dead and live loads imposed upon them.
- (c) Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.
- (d) All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained free from open cracks and breaks, so as not to be detrimental to public safety and welfare.

- (e) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including wood, composition, or metal siding, shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration.
- (f) The roof shall be structurally sound, tight, and not have defects which might admit rain. Roof drainage shall be adequate to prevent rain water from causing dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent premises, or that creates a public nuisance.
- (g) All cornices, entablature, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (h) All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipe, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment.
- (i) All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.
- (j) Every stair, porch, fire escape, balcony, and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and good repair. Every stair, porch and fire escape shall be maintained free of hazardous conditions such as snow, ice, mud and other debris. Every flight of stairs which is more than four risers high shall have a handrail on at least one side of the stair, and every open portion of a stair, fire escape, porch, landing or balcony which is more than 30 inches above the grade

below shall have guard rails. Every handrail and guard rail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

- (k) Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain and rodents as completely as possible, and to substantially exclude wind from entering the dwelling or structure.
- (l) Every window and exterior door shall be fitted reasonably in its frame and be weather tight. Weather-stripping shall be used to exclude wind or rain from entering the dwelling or structure and shall be kept in sound condition and good repair.
- (m) Every required window sash shall be fully supplied with approved glazing materials which are without open cracks and holes.
- (n) Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.
- (o) During the period from April 1 to December 1, every door and window or other outside opening used for ventilation purposes shall be supplied with approved tight fitting screens of not less than sixteen (16) mesh per inch material, in good working condition. Every hinged screen door shall have a self-closing device in good working order. Screen doors shall not be required for out swinging doors or other types of openings which make screening impractical, provided other approved means are employed, and for units above the 4th floor.
- (p) Every exterior door and its hardware shall be maintained in good condition. Door locks to provide security against unauthorized entry shall be required on all doors entering dwelling units and shall be in good repair and capable of tightly securing the door. All locks must be easily opened and closed without the use of a key from the interior. (Effective July 8, 1988)

Section 13-213. Internal structure.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling

and rooming units or portions thereof, which does not comply with the following requirements.

- (a) The interior of a structure and its equipment shall be maintained in good repair, structurally sound and in a sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants or visitors, and to protect the occupants from the environment.
- (b) The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads.
- (c) Floors, walls (including windows and doors), ceilings, and other interior surfaces shall be maintained in good, clean, sanitary and structurally sound condition, free of holes, cracks, loose plaster or wall paper, and flaking or scaling paint, and shall be substantially insect and rodent proof. Paint applied to the interior surfaces shall be lead free.
- (d) Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (e) In every building, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.
- (f) The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required by this Chapter.
- (g) Garbage or refuse shall not be allowed to accumulate or be stored in public halls or stairways.
- (h) Insect and rodent harborage: All structures shall be kept free from insect and rodent infestation, and where insects or rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

- (i) Every door available as an exit shall be capable of being opened easily from the inside without the use of a key.
- (j) All interior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.
- (k) Every flight of stairs which is more than four risers high shall have a handrail on at least one side of the stair, and every open portion of a stair, landing or balcony which is more than 30 inches above the floor or grade below shall have guard rails. Every handrail and guard rail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition. (Effective, July 8, 1988)

Section 13-214. Responsibilities of owners and occupiers of non-owner occupied rental property and owner occupied rental property rented to more than one other person.

Only the property owner shall be responsible for compliance with the provisions of the Code except as provided herein.

- (a) Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof, which that occupant occupies, controls, or uses in a clean and sanitary condition. Every owner of a dwelling containing two or more dwelling or rooming units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.
- (b) The occupant of a structure or part thereof shall keep the owner-supplied equipment and fixtures therein clean and sanitary, and shall be responsible for the exercise of reasonable care in their proper use and operation. The owner shall maintain the equipment and fixtures in good and proper operating condition.
- (c) The equipment and fixtures furnished by the occupant of a structure shall be properly installed, and shall be maintained in good working conditions, kept clean and sanitary, and free of defects, leaks or obstructions.

- (d) The owner of any premises shall be responsible for extermination within the structure prior to renting, leasing or selling the structure.
- (e) The tenant-occupant of any premises shall be responsible for the continued rodent-proof condition of the structure, and if the tenant-occupant fails to maintain the rodent-proof condition, the cost of extermination shall be the responsibility of the tenant-occupant.
- (f) The occupant of any premises containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in the structure or on the premises.
- (g) Every owner, agent or operator of two or more dwelling units or rooming units shall be responsible for the extermination of any insects, rodents or other pests in the public or shared areas of the structure and premises. When infestation is caused by failure of an occupant of a unit of the two or more dwelling units or rooming units to prevent such infestation in the area occupied, the occupant shall be responsible for such extermination.
- (h) For any dwelling containing two or more dwelling and/or rooming units, it shall be the responsibility of the owner to supply adequate rubbish containers and garbage disposal facilities and storage containers. In all other cases, it shall be the responsibility of the occupant to furnish such facilities or containers.
- (i) Every owner of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this ordinance or of any rule or regulation adopted pursuant thereto, except where the tenant has agreed to supply such services.
- (j) The tenant shall be responsible for the maintenance of equipment and fixtures furnished by the tenant. The equipment and fixtures shall be properly installed and shall be maintained in good working conditions, kept clean and sanitary, and free of defects, leaks or obstructions. (Effective, July 8, 1988)

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements.

- (a) Every owner of a dwelling or premises containing two or more dwelling and or rooming units shall provide one off-street parking space for each such unit which is rented to a non-family member. Any such parking space shall be subject to approval of the Council.
- (b) Any vehicle with four or more wheels or a self-propelled vehicle with three or more wheels entering any off-street parking space must do so via a dropped curb and a driveway entrance. Any vehicle otherwise traversing city property between the street and abutting private property to gain access to an off-street parking area may be cited for said violation and subject to the same penalties as prescribed for an infraction.
- (c) Grassy or yard areas shall not be used for the parking of motor vehicles.
- (d) Failure to comply with the provisions of Section 13-215 shall constitute an infraction. A violation of this Section by any person, firm, corporation or other entity shall be punishable by a fine of \$200.00 per offense. Each day that a violation continues after due notice has been served in accordance with the terms and provisions hereof shall be deemed a separate offense. This Sub-Section supersedes and replaces Section 13-209 as to this Section only.
- (e) Whenever it has been determined that there has been or is a violation of the provisions of this Section, notice shall be given to any persons to be charged with the violation, which may include the owner of the property and/or the owner of an improperly parked vehicle. Notice shall be in writing, include a description of the real property sufficient for identification, include a statement of the reason or reasons why it is being issued, and state the time in which conditions must be corrected. Service of this notice 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 suitable age and discretion who shall be informed of the content thereof; or

2. By certified or registered mail addressed to the owner of the real property at the address provided to the Town by the owner as required by this Chapter, and by certified or registered mail addressed to the owner of an improperly parked vehicle at the address provided to the Maryland Division of Motor Vehicles; or
3. As to an improperly parked vehicle, by leaving a copy of the notice on the front windshield of said vehicle. (Revised 5/22/88, 2/12/91, Effective 3/8/91)

Section 13-216. Plumbing facilities and fixture requirements.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements.

- (a) Plumbing facilities. The owner of the structure shall provide and maintain such plumbing facilities and fixtures in compliance with this Section.
 1. Every dwelling and/or rooming unit shall include its own plumbing facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.
 2. Every dwelling unit shall contain within its walls, and every room unit shall have direct access to a room separate from habitable spaces, which affords privacy and a water closet supplied with cold running water. A lavatory shall be placed in the same room as the water closet or located in another room, in close proximity to the door leading directly into the room in which said water closet is located. The lavatory shall be supplied with hot and cold running water.
 3. Every dwelling unit shall contain and every room unit shall be supplied with a room which affords privacy to a person in said room and which is equipped with a bathtub or shower supplied with hot and cold running water.
 4. Every dwelling unit shall contain and every rooming unit shall have direct

access to a kitchen sink apart from the lavatory required under Section 2 and such sink shall be supplied with hot and cold running water.

5. Alternative plumbing facilities and fixtures for use in dwelling or rooming units of rental housing may be allowed as approved on a case-by-case basis by the Town Council.
6. Toilet rooms and bathrooms shall be designed and arranged to provide privacy.
7. Toilet rooms and bathrooms shall not be used as a passageway to a hall or other space. A toilet room or bathroom in a dwelling unit shall be accessible room any sleeping room without passing through another sleeping room.

(b) Plumbing fixtures.

1. All plumbing fixtures shall be maintained in a safe and usable condition. All plumbing fixtures shall be of approved nonabsorbent material.
2. Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the applicable law.
3. All plumbing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rodents or produce dangerous or offensive gases or odors.
4. Plumbing fixtures shall be installed to permit easy access for cleaning both the fixture and the area about it.

(c) Water system.

1. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public water system or to an approved private water system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.
1. The water supply shall be maintained free from contamination and all water

inlets for plumbing fixtures shall be located above the overflow rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to an approved atmospheric type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

3. The water supply system shall be installed and maintained to provide at all times a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily.
4. Where hot water is provided, water heating facilities shall be installed in an approved manner, properly maintained, and properly connected with hot water lines to the fixtures required to be supplied with the hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility or other similar units, at a temperature of not less than 110 degrees F.
5. Alternative systems may be allowed as approved on a case-by-case basis by the Town Council.

(d) Sewage system.

1. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
2. Every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the applicable local building Code or local plumbing Code. (Revised and Effective May 22, 1988)

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements, except as otherwise provided, the owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements and the fire prevention Code.

(a) Means of egress.

1. A safe, continuous and unobstructed means of egress shall be provided for each dwelling unit and rooming unit from the interior of the premises to the exterior at a street, or to a yard, court, or passageway leading to a public open area at grade.
2. Every dwelling unit and/or rooming unit shall have access directly to the outside or to an exit access corridor that leads directly to the outside.
3. All doors in the required means of egress shall be readily openable from the inner side. Exits from dwelling units shall not lead through other such units, or through toilet rooms or bathrooms.
4. All required and all existing fire escapes shall be maintained in working condition and structurally sound.
5. Any exit signs shall be maintained illuminated and visible.
6. Every sleeping room located in a basement shall have at least one openable window or exterior door approved for emergency egress or rescue.

(b) Accumulations and storage.

1. Waste, refuse, or other materials shall not be allowed to accumulate in stairways, or passageways, doors, windows, fire escapes, or other means of egress.
2. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as waste paper, boxes and bags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.
3. A dwelling unit and/or rooming unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 100 degrees F. or lower, except as provided for in the applicable law.

(c) Fire resistance ratings.

1. Floors, walls, ceilings, and other elements and components required to develop a fire resistance rating (BOCA Code) shall be maintained so that the respective fire resistance rating of the enclosure, separation, or construction is preserved.

(d) Fire protection systems.

1. All fire protection systems and equipment shall be maintained in proper operating condition at all times.
2. Fire alarms and detecting systems shall be installed and maintained and be suitable for their respective purposes in all rental premises.
3. All rental residences shall be provided with a minimum of one approved single station smoke detector for each floor of the premises. If there is a sleeping area located on any such floor, the detector shall be placed therein. The detectors shall be installed in accordance with the manufacturer's requirements. When actuated, the smoke detector shall provide an alarm suitable to warn the occupants within each dwelling and/or rooming unit.
4. It is the occupant's responsibility to maintain smoke detectors in good working order, such as replacing batteries.
5. Fire suppression systems in units so equipped shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint, and not bent or damaged.
6. Hose stations in units so equipped shall be identified and accessible. The hose shall be in proper position, ready for operation, dry, and free of deterioration.
7. All portable fire extinguisher's in units so equipped shall be visible and accessible, and maintained in an efficient and safe operating condition.

(e) Fire doors.

1. All required fire resistance rated doors or smoke barriers shall be maintained in good working order including all hardware necessary for the proper operation thereof. The use of door stops, wedges and other unapproved hold-open devices is prohibited.

Section 13-218. Light and ventilation requirements.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements. The owner of the structure shall provide and maintain such light and ventilation conditions in compliance with these requirements.

(a) Light.

1. All spaces or rooms shall be provided sufficient light so as not to endanger health and safety. Every habitable space shall have at least one window facing directly to the outdoors or to a court except in a kitchen when artificial light may be provided in accordance with applicable law. A window shall be deemed not to face directly outdoors or onto a court whenever it is obstructed by a structure that extends to the ceiling level and is less than three feet from the window. The minimum total window area measured between stops, shall be 10% of the floor area of such room.
2. Every common hall and stairway in every building, other than one and two-family dwellings, shall be adequately lighted at all times with an illumination of at least a 60 watt standard incandescent light bulb or equivalent for each 200 square feet of floor area, provided that the spacing between lights shall not be greater than 30 feet. Every exterior stairway shall be illuminated with a minimum of one foot candle at floors, landings and treads.
3. All other spaces shall be provided with natural or artificial light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions, and the safe use of the space and the appliances, equipment and fixtures.

(b) Ventilation.

1. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health and safety. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilating system shall be maintained in operation during the occupancy of

any structure or portion thereof. When part of the air provided by a mechanical ventilation systems is reticulated, the portion or volume of air reticulated shall not be reticulated to a different residential space or occupancy of dissimilar use from which it is withdrawn. All habitable spaces shall have at least one easily openable window.

2. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable spaces, except that a window shall not be required in bathrooms or water closet compartments equipped with and approved mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or water closet compartment must be exhausted to the exterior and may not be reticulated to any space, including the space from which it is withdrawn.

- (c) Alternative devices. In place of the means for natural light and ventilation herein prescribe, alternative arrangement of windows, louvers, or other methods and devices that will provide the equivalent minimum performance requirements shall be permitted with complying with the applicable law.

Section 13 -219. Mechanical and electrical requirements.

No person shall rent or lease to another for occupancy any non-owner occupied premises, or any premises which is occupied by the owner and rented to more than one other person, including any dwelling and rooming units or portions thereof, which does not comply with the following requirements. The owner of each premises shall provide and maintain such mechanical and electrical facilities and equipment in compliance with these requirements.

- (a) Heating and refrigeration facilities.
 1. Every owner of any structure who rents, leases, or lets one or more dwelling units or rooming units on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65 degrees F. in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30

A.M. and 10:30 P.M. of each day and maintain a temperature of not less than 60 degrees F. during other hours. When, however, the exterior temperature falls below 0 degrees F. and the heating system is operating at its full capacity, a minimum room temperature of 60 degrees F. shall be maintained at all times.

The temperature shall be measured at a point 3 feet above the floor and 3 feet from exterior walls.

2. Every residential premises shall contain at least one cooking and baking facility for the purpose of preparing food and at least one refrigeration unit adequate for the temporary preservation of perishable foods. Such refrigeration unit shall be capable of maintaining an average temperature of below 45 degrees Fahrenheit. Hot plates, toaster ovens, microwave ovens and other portable heating devices do not constitute a cooking and baking facility for purposes of this Section.
3. All cooking and heating equipment, components, and accessories in every heating, cooking, and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All installations and repairs shall be made in accordance with the provisions of the local applicable building Code, or other laws or ordinances applicable thereto. Portable cooking equipment employing flame is prohibited, except for approved residential type food trays or salvers which are heated by a candle or alcohol lamp.
4. All mechanical equipment shall be properly installed and safely maintained in good working condition, and be capable of performing the function for which it was designed and intended.
5. All fuel-burning equipment shall be connected to an approved chimney, flue or vent per manufacturer's instructions.
6. All required clearances to combustible materials shall be maintained.
7. All safety controls for fuel-burning equipment shall be maintained in effective operation.

8. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided the fuel-burning equipment.
 9. Devices purporting to reduce gas consumption by attachment to a gas appliance, to the gas supply line thereto, or the vent outlet or vent piping wherefrom shall not be used unless labeled for such use and the installation is specifically approved.
 10. Fireplaces, and other construction and devices intended for use similar to a fireplace, shall be stable and structurally safe and connected to approved chimneys.
 11. When facilities for interior climate control (heating, cooling, and/or humidity) are integral functions of structures used as dwelling units or rooming units such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.
- (b) Electrical facilities.
1. Provided that there is electric service available, every premises or part thereof used for human occupancy shall be adequately and safely provided with an electrical system in compliance with the requirements of this Section. The provisions of this Section shall be considered absolute minimum requirements. The size of unit and the usage of appliances and equipment shall be used as a basis for determining the need for additional facilities in accordance with the electrical Code adopted by the local jurisdiction.
 2. Every habitable space in a dwelling unit shall contain at least two separate and remote receptacle outlets, one of which may be a ceiling or wall type electric light fixture. Every laundry area and bathroom shall contain at least one grounded type receptacle. Every bathroom shall contain at least two receptacles and every kitchen shall have three separate and remote outlets, one of which may be a ceiling or wall type electric light fixture.
 3. Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric lighting

fixture.

4. When the electrical system requires modification to correct inadequate service, the service shall be corrected to a minimum of 100 ampere, three wire service.
5. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner and in accordance with all applicable laws. All electrical equipment shall be of an approved type.
6. Where it is found, in the opinion of the Code official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code official shall require the defects to be corrected to eliminate the hazard. (Revised and Effective May 22, 1988)

Section 13-220. Enforcement authority.

- (a) It shall be the duty and responsibility of the Town to enforce the provisions of this Code as herein provided.
- (b) The Mayor and Council may waive applicability of the document to a unit of rental property on application of the property owner if:
 1. Adequate notice in a form and manner specified by the subdivision as afforded any tenant of the unit;
 2. The tenant is afforded in opportunity to comment on the application either in writing or in person; and
 3. The waiver would not threaten the health or safety of any tenant.
- (c) The Mayor and Council may waive applicability of the Code if the waiver is granted on the basis of the religious practices of the occupant of the unit of rental housing.
- (d) Any Code official, officer or employee who acts in good faith and without malice in the discharge of duties of enforcement of this Code is relieved of all personal liability for any damage that may occur to persons or property as a result of such acts or alleged failure to act. Further, the Code official shall not be held liable for any costs in any

action, suit or proceeding that may be instituted by the Code official in the enforcement of this Code. In any of these actions, the official or employee shall be defended or represented by the jurisdiction's attorney-at-law until the final termination of the proceedings.

- (e) A person may not be displaced by enforcement of this Code unless alternate housing is provided.

Section 13-221. Existing structures.

Alterations or repairs, other than increasing the height or area of a structure, may be made to any structure without requiring the existing structure to comply with all the requirements of a Code for new construction provided such work conforms to that required by this Code. Alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

Alterations or repairs to an existing structure which are nonstructural, and do not adversely affect any structural member or any part of the structure having a required fire resistance rating, may be made with the same materials of which the structure is constructed.

Section 13-222. Interpretation and waiver.

- (a) The department of economic and community development shall decide questions of interpretation of this Code, including questions relating to uniform, enforcement by political subdivisions and may authorize any waiver or exemption requested by a local political subdivision.
- (b) Upon written request of a local political subdivision, the department may waive or vary particular provisions of this Code to the extent that the waiver is not inconsistent with Article 41 Section 257(C), Annotated Code of Maryland if:
 1. Geographic differences or unique local conditions justify the waiver;
 2. The waiver would not threaten the health or safety of a tenant; and
 3. The application of the particular provision to the local political subdivision would be inequitable or contrary to the purposes of the act.

Section 13-223. Limitation upon number of occupants.

Notwithstanding any other provision of this Article, no person shall rent or lease any premises or dwelling unit to more than 5 unrelated persons, including any owner-occupier, and no such rented premises shall be occupied by more than 5 unrelated persons, including any owner-occupier.

Section 13-224. Validity.

- (a) If any Section, Sub-Section, paragraph, sentence, clause or phrase of this Code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Code which shall continue in full force and effect, and to this end the provisions of this Code are hereby declared to be severable.
- (b) This Code shall not affect violations of any other ordinance, Code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, Codes or regulations in effect at the time the violations was committed.

Section 13-225. Rules and regulations.

The Council shall pass such rules and regulations as are consistent with the purpose intent and enforcement of this Article.

CHAPTER 14

COLLECTION AND RECYCLING OF NEWSPAPERS

Section 14-101. Definitions.

Newspapers - includes paper of the type commonly referred to as newsprint, but does not include magazines, phone books, other paper goods or trash.

Section 14-102. Scope.

This Chapter applies to all persons who reside in the Town and receive, or are entitled to receive, solid waste disposal services from the Town of University Park.

Section 14-103. Method of collection and recycling.

The residents of each property shall ensure that all newspapers are placed at the curb according to guidelines published by the Town. No bag, box or bundle shall weigh more than twenty five pounds.

- (a) No persons shall place newspapers in any other receptacle that the Town collects unless the newspapers are soiled.
- (b) Newspapers packaged as set out herein shall be placed on the public right of way next to the curb after 8:00 P.M. on the day preceding collection.
- (c) Newspaper collection shall be at least once per week on a designated day. In the event a collection day falls on a legal holiday or snow day, collection shall be accomplished on the following designated day.

Section 14-104. Authorization to contract with a private contractor for recycling newspapers.

The Mayor is hereby authorized to contract with one or more private contractors to collect and dispose of newspapers for recycling, subject to the approval of the Town Council.

Section 14-105. Collection by unauthorized persons prohibited.

Once the newspapers have been placed at curbside for collection, no person other than the Town

representatives or the contractor hired by the Town may collect same. It shall be a violation of this ordinance for any person not authorized by the Town of University Park to collect or cause to be collected any of the said newspapers.

Section 14-106. Town not required to collect solid waste intermixed with unsoiled newspapers.

The Town of University Park is not required to collect solid waste from any property when the solid waste includes unsoiled newspapers, or when newspapers are not placed for collection as set out herein.

Section 14-107. Violations.

Any person who violates any provisions of Section 14-103, or any regulations promulgated thereunder, shall be guilty of a Municipal Infraction. Any person who violates Section 14-105, or any regulations promulgated thereunder, shall be guilty of a misdemeanor punishable upon conviction by a fine of not more than \$100.00 per violation. (Effective April 10, 1988).

CHAPTER 15

TOWN INVESTMENT POLICY

Section 15-101. Policy

It is the policy of the Town of University Park to invest a public fund in a manner designed:

- (a) To reasonably match the anticipated cash flow of the Town so that sufficient funds are available to pay obligations upon proper presentation for payment;
- (b) So that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;
- (c) With due regard for minimizing risk while maximizing return; and
- (d) To comply with all applicable State and local laws governing the investment of public funds.

Section 15-102. Scope.

This investment policy applies to all financial assets of the Town, and to all transactions involving said financial assets. This investment policy does not apply to retirement funds, or financial assets in the control of any set of trustees.

Section 15-103. Prudence.

- (a) An investment made pursuant to this Chapter shall be made with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. This "prudent person" standard of care requires that investments shall be made with judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. This standard shall be applied in the context of managing an

overall portfolio.

- (b) Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence and care shall be relieved of personal responsibility for the credit risk or market price changes of an individual security, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments. Investment officials shall adhere to the requirements of Chapter 12, "Public Ethics", of the Code of Ordinances of the Town of University Park.

Section 15-104. Objectives.

The primary objectives of the Town's investment activities are:

- (a) Safety - Safety of principal is the foremost objective of the investment program. Investments of the Town shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- (b) Liquidity - The Town's investment portfolio shall be structured to ensure the liquidity necessary to meet all reasonably anticipated obligations as they become due.
- (c) Compliance with Applicable Law - The Town's investment portfolio shall comply with applicable law.
- (d) Return on Investments - The Town shall seek to optimize the return on its investment within the constraints of this Chapter and other applicable law.

Section 15-105. Delegation of authority.

As set out in Article VII, Section 701, of the Charter of the Town of University Park, the Clerk-Treasurer shall have custody of all funds belonging to or under control of the Town, except as to funds under the control of any trustees. Town funds may be kept or invested in any manner authorized for municipalities by State law and approved by the Mayor and Common Council.

Section 15-106. Authorized investments and deposits.

All Town funds shall be kept or may be invested in any manner authorized by State law, including

those types of securities by authorized by Section 6-222 (a), State Finance and Procurement Article, and Article 95, Sections 22 - 22N, Annotated Code of Maryland, as amended, and approved by the Mayor and Common Council. Monies may not be borrowed for the sole purpose of investment. Town investments must comply with the standards set out in Section 6-222 (d) of the State Finance and Procurement Article.

Section 15-107. Collateralization.

All deposits (except funds invested with the Local Government Investment Pool), certificates of deposit, and repurchase agreements shall be secured by pledged collateral with a market value of 102% of principal plus accrued interest at all times. Collateral shall be in conformance with Section 22, Article 95, of the Annotated Code of Maryland, as amended. Collateral will be held by an independent third party. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to and retained by the Town. The right of collateral substitution is granted.

Section 15-108. Safekeeping and custody.

All security transactions, including collateral for repurchase agreements, entered into by the Town shall be conducted on a delivery-versus-payment basis. Securities will be held by a third party custodian designated by the Treasurer and evidenced by safekeeping receipts.

Section 15-109. Diversification.

Investments shall be diversified to reduce the risk of loss due to over concentration of assets in a specific maturity, issuer, or class of securities.

Section 15-110. Maturities.

To the extent possible, the Town will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Town will not directly invest in securities maturing more than two (2) years from date of purchase. However, the Town may collateralize its repurchase agreements using longer dated investments. (Effective November 21, 1995)

Section 15-111. Authorized financial dealers and institutions.

- (a) The Treasurer will maintain a list of financial dealers and institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness who are authorized to provide investment services in Maryland. No public deposit shall be made except in a qualified public depository as established by state law.
- (b) All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with any information he may request.
- (c) An annual review of the financial condition and registrations of qualified bidders will be conducted by the Treasurer.
- (d) A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the Town invests.

Section 15-112. Internal control.

At least once each year, an independent auditor shall review all Town investments to determine compliance with this investment Policy.

Section 15-113. Performance standards.

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and cash flow needs.

Section 15-114. Reporting.

As part of the monthly financial report to the Mayor and Common Council, the Treasurer shall include a market report on investment activity and returns. The report shall include a calculation of any income or loss from investments.

CHAPTER 16

TREE MAINTENANCE

Section 16-101. Scope.

All trees in the public domain, including those located in Town rights of way and parks and on Town property, are subject to the provisions of this chapter.

Section 16-102. Annual Town Tree Plan Required.

(a) It shall be the responsibility of the Mayor and Common Council, with the guidance and assistance of the special committee on trees, parks and environment, to develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas within the corporate limits of the Town. Such a plan will be presented annually to the Town Council and upon their acceptance and approval shall constitute the official comprehensive tree plan for the Town.

(b) The Town shall hire a professional arborist to consult on the health and status of Town trees, to recommend pruning, planting and removal of trees, and to assist the Town in the development and review of a Town tree plan, and perform such other tasks as directed by the Town. The Town Arborist shall be hired by and report to the Mayor.

Section 16-103. Committee on Trees, Parks, and Environment.

The Town Council does hereby establish a special committee on trees, parks, and environment, for the review of all matters concerning Town trees as defined in this chapter, and other responsibilities as determined by the Council. The committee, which is to be appointed by the Mayor with consent of the Council, will consist of council members and citizens of the Town with particular expertise or interest in trees, parks and environment. The committee is also authorized to sponsor educational activities that (1) increase public appreciation of the aesthetic, historical, and ecological value of trees on public and private land, and (2) encourage citizens of the Town to adopt installation, removal and maintenance practices that promote and protect healthy trees on private land.

Section 1-104. Tree Replacement.

The Town may offer reimbursement of up to three hundred dollars (\$300.00) toward the purchase price of any tree listed in the official Town shade tree list that is planted on private property, not to exceed a total of nine hundred dollars (\$900.00) in a five (5) year period to any individual household or property, upon such terms and conditions as the Town deems reasonable. Any reimbursements are subject to appropriation and available funding. Approved reimbursement will be made available after successful planting of said tree(s). (Revised and effective October 10, 2004)

Section 1-105. Public Trees.

No person shall remove or destroy, or cause the removal or destruction, of a tree, or undertake an action that will substantially impair the health or growth of a tree of any size or description located in the public right of way or on Town property unless authorized by the Mayor pursuant to state law and relevant Town right of way agreements or easements.

Section 1-106. Municipal Infractions

A violation of Section 15-105 shall constitute a municipal infraction, for which a fine of two hundred dollars (\$200.00) may be imposed for each violation. (July 7, 2004)