

Poolesville Code  
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**PART II**

**CODE**

**Chapter I**

**GENERAL PROVISIONS**

**Sec. 1.1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated "Poolesville Code," and may be so cited.

**Charter reference** - Authority to provide for codification of ordinances, § 82.12(14).

**State law references** - Adoption of ordinances, Anno. Code of Md., Art.25, § 3(r); effective date of ordinances, Anno. Code of Md., Art. 25, § 4.

**Sec. 1.2. Rules of construction and definitions.**

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the Commissioners. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Generally.* All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Commissioners of Poolesville may be fully carried out.

*Commissioners.* Whenever the term "the Commissioners" appears in this Code it shall be construed to mean the Commissioners of Poolesville, Maryland.

*Clerk to the Commissioners.* Whenever the term "Clerk" in reference to the Clerk to the Commissioners shall appear in this Code, it shall mean the Clerk to the Commissioners of Poolesville.

*Code.* Except where otherwise specifically provided, the words "this Code" shall mean the Poolesville Code.

*Computation of time.* In computing any period of time prescribed or allowed by law for the doing of any act, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday or a legal holiday, in which event, the period runs until the end of the next day, which is neither a Saturday, nor a Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday.

*County.* The words "County" or "the County" mean Montgomery County, in the State of Maryland.

*Town officials, officers and employees.* Whenever reference is made to officials, boards, commissions, departments, et cetera, by title only, i.e., "administrative assistant," "Planning Commission," or any other such designation, such reference shall be deemed to be officials, boards, etc., of Poolesville, and powers and authority granted to them shall be deemed to be grants of such powers and authority to their respective duly designated subordinates.

*Gender.* A word importing the masculine gender only shall extend and be applied to females, and to firms, partnerships and corporations, as well as to males.

*Joint authority.* All words giving joint authority to three (3) or more persons or officers, give such authority to a majority of such persons or officers, unless it is otherwise declared.

*Month.* A calendar month.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

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

*Oath* includes affirmation.

*Or, and.* The word "or" may be read as "and" and the word "and" as "or," where the sense requires it.

*Owner.* The word "owner" shall include not only the owner of the whole, but any part owner, joint owner, tenant in common, or joint tenant of the whole or a part of property.

*Person.* The word "person" shall extend and be applied to firms, partnerships, corporations, associations, organizations, trustees, agents and bodies politic, or any combination thereof, as well as to

natural persons.

*Personal property* includes every species of property except real property, as defined herein.

*Preceding, following.* The words "preceding" and "following" mean next before and next after, respectively.

*Property.* The word "property" includes real and personal property.

*Real property* includes land, tenements and hereditaments.

*Shall.* The word "shall" is mandatory.

*Sidewalk.* That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

*Signature or subscription.* Includes a mark when the person cannot write if his name is written near the mark and witnessed by a person who writes his own name as a witness.

*State.* The words "the State" or "this State" shall mean the State of Maryland.

*Street.* The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the Town, and shall embrace all parts thereof within the designated right-of-way. In those instances where the public records are silent, the term shall embrace all of the area between the off-street edge of the sidewalk or walkway on each side of the street, including the grass plots or other divisional areas lying between the sidewalk or walkway and street.

*Town.* The word "Town" shall mean the Town of Poolesville, Maryland.

Written or in *writing* shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year.* A calendar year.

**Sec. 1.3. Certain ordinances and resolutions not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- A. Any ordinance or resolution promising or guaranteeing the payment of money for the Town or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness;
- B. Any appropriation ordinance or resolution providing for the levy of taxes or for an annual budget;

- C. Any ordinance or resolution annexing territory to the Town or excluding territory as a part of the Town;
- D. Any ordinance or resolution granting any franchise, permit or other right;
- E. Any ordinance or resolution approving, authorizing or otherwise relating to any contract, agreement, lease, deed or other instrument;
- F. The Zoning Ordinance of the Town and amendments thereto;
- G. Any ordinance or resolution adopting a preliminary plan or development plan;
- H. Any ordinance or resolution adopted after November 17, 1980;
- I. Any temporary or special ordinance or resolution; and all such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

**Sec. 1.4. Code does not affect prior offenses etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

**Sec. 1.5. Code continuation of previous enactments.**

The provisions appearing in this Code, so far as they are substantially the same as those of the ordinances, rules and regulations existing at the time of the adoption of this Code shall be construed as a continuation thereof and not as new enactments.

**Sec. 1.6. Catchlines of sections.**

The catchlines of sections of this Code printed in boldface type, italics or otherwise, are intended as mere catchwords to indicate the contents of the sections, and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**Sec. 1.7. Effect of repeal of ordinances.**

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit,

prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

**Sec. 1.8. Severability of parts of Code.**

It is hereby declared to be the intention of the Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Sec. 1.9. Amendment to Code; effect of new ordinances; amendatory language.**

All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from said Code by omission from reprinted pages.

Amendments to any of the provisions of this Code should be made by amending such provision by specific reference to the section of this Code in substantially the following language: "That section \_\_\_\_\_ of the Code is hereby amended to read as follows: ... (Set out new provisions in full) . . ."

When the Commissioners desire to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which the Commissioners desire to incorporate into the Code, a section in substantially the following language should be made a part of the ordinance: "Section \_\_\_\_\_. It is the intention of the Commissioners and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code, and the sections of this ordinance may be renumbered to accomplish such intention."

All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section or chapter number, as the case may be.

**Sec. 1.10. Supplementation of Code.**

A. By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Commissioners. A supplement to the Code shall include all substantive permanent and general parts of ordinances during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current

through the date of the adoption of the latest ordinance included in the supplement.

- B. In preparing a supplement to this Code, all portions of the Code, which have been repealed, shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example the codifier may:
  - 1. Organize the ordinance material into appropriate subdivisions;
  - 2. Provide appropriate catch lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch lines, headings and titles;
  - 3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - 4. Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this division," etc., as the case may be, or to "sections\_\_\_ to\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

Make other non-substantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1.11. General penalty; continuing violations.**

Wherever in this Code, or in any ordinance or resolution of the Town, any act is prohibited or is declared to be a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be a misdemeanor, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance, rule or regulation shall be punished by a fine of not more than one hundred dollars (\$100.00) or confinement in jail for not more than ninety (90) days, or both. Except as otherwise provided, each day any violation of this Code, or any such ordinance or resolution continues shall constitute a separate offense.

In addition to the fine or penalty hereinabove provided, any

condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the Town, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

**State law reference** - Authority to provide for ordinance violations, Anno. Code of Md., Art. 23A, § 3.

**Sec. 1.12. Notice of violation procedure.**

- A. Whenever in any ordinance, resolution, rule or regulation of the Town of Poolesville any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such ordinance, resolution, rule or regulation the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provisions of any ordinance, resolution, rule or regulation may be evidenced by the issuance of a notice of violation as an alternative to arrest or the obtaining of a warrant, for such violation. A police officer of Montgomery County or the Maryland State Police or an authorized code enforcement official of the Town of Poolesville or Montgomery County witnessing a violation shall be authorized to issue such notice of violation to any person when that alternative will best meet the needs of justice and expediency under the circumstances, providing that the person shall be personally served by such officer or code enforcement official and further that the person consents voluntarily in writing to accept such notice and to appear in court as provided herein.
- B. The notice of violation shall contain and specify:
  - 1. The violation with which said person is charged.
  - 2. The hour, date and location of the district court for the county in which such person is summoned to appear.
  - 3. A place in which the person may endorse the notice by signing his name and address, indicating his receipt thereof and willingness to appear.
- C. If a person does not willingly consent to the issuance of the notice of violation the officer or code enforcement official shall:
  - 1. If the person who has witnessed the violation is a police officer, proceed to arrest the person.
  - 2. If the person is not a police officer, proceed to obtain a warrant from a committing magistrate or other authorized magistrate or judge of a court of competent jurisdiction in the manner provided by law.
- D. It shall be a misdemeanor for a person not to appear in the court on the hour and date stated in the notice after endorsement of the notice and assent to court appearance, and upon conviction by a court the violator shall be punished by a

fine not to exceed one hundred dollars (\$100.00).

- E. The notice of violation may be personally issued to both residents and nonresidents, when found within the Town's geographical boundaries.
- F. The person serving the notice shall make proof of his service to the court promptly and, in any event, within the time during which the person served must respond to the notice. Failure to make proof of service to the court, however, shall not affect the validity of the notice. (Ord. No. 77, § 1, 3-5-84)

**Sec. 1.13. Municipal infractions.**

- A. A municipal infraction is any violation of any provision of the Code of Ordinances of the Town of Poolesville, hereinafter referred to as "this Code" which violation has been specifically declared by the Commissioners of Poolesville to be a municipal infraction.
- B. For purposes of this Code, a municipal infraction is a civil offense and a finding of guilt thereof is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.
- C. The Commissioners of Poolesville shall by ordinance declare which violations shall constitute municipal infractions and shall set specific fines which may be imposed for said infractions.
- D. The fines set by the Commissioners of Poolesville for municipal infractions shall be in specific amounts not to exceed one hundred dollars (\$100.00) for each initial violation and two hundred dollars (\$200.00) for each repeat violation. Unless otherwise provided, each day a violation continues shall constitute a separate and repeat violation.
- E. Authorized code enforcement officials may deliver a citation to any person alleged to be committing, or to have committed, a municipal infraction. A copy of the citation shall be retained by the Town and shall bear the certification of the issuing official attesting to the truth of the matter set forth in the citation.
- F. The citation shall contain the following information:
  - 1. The name and address of the person charged.
  - 2. The nature of the municipal infraction.
  - 3. The location and time that the municipal infraction occurred or was observed.
  - 4. The amount of the fine assessed for the municipal infraction.
  - 5. The manner, location, and time in which the fine may be

paid to the Town.

6. The right of the recipient of the citation to elect to stand trial for the municipal infraction.
- G. Payment of the fine imposed by a citation for a municipal infraction shall be made at the Poolesville Town Hall, Poolesville, Maryland, within twenty (20) calendar days from receipt of the citation, unless a timely election to stand trial is made.
- H. A person receiving a citation for a municipal infraction may elect to stand trial for the offense by notifying the Town of said person's intention to stand trial for the municipal infraction. The notice shall be given in writing at least five (5) days prior to the date of payment as set forth in the citation.
- I. Upon receipt of a timely notice of intention to stand trial, the Town shall forward to the district court having venue a copy of the notice from the person who received the citation indicating the intention to stand trial. Upon receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date.
- J. If a person receiving a citation for a municipal infraction fails to pay the fine imposed for the infraction by the date of payment set forth on the citation and fails to timely file a notice of intention to stand trial for the offense, a formal notice of the municipal infraction shall be sent to the offender's last known address. If the citation has not been satisfied within fifteen (15) days from the date of the notice, the offender shall be liable for an additional fine not to exceed twice the original fine.
- K. If after thirty-five (35) days from its issuance the citation has not been satisfied, the Town may request adjudication of the case through the district court. The district court shall thereupon promptly schedule the case for trial and summons the defendant (the offender) to appear. The defendant's failure to respond to the summons shall be contempt of court.
- L. Court proceedings for a municipal infraction shall be governed by the provisions of Article 23A, Section 3 of the Annotated Code of Maryland, as amended, relating to municipal infractions; said provisions being hereby incorporated by reference as if fully set forth herein.
- M. Any person found by the district court to have committed a municipal infraction shall be required to pay the fine imposed by the citation including any additional fine imposed by subsection J. hereof. Such person shall also be liable for the cost of the court proceedings.

- N. Whenever any defendant has been found guilty of a municipal infraction and willfully fails to pay the fine imposed by the court, that willful failure may be treated as a criminal contempt of court.
- O. All fines, penalties, or forfeitures collected by the district court for municipal infractions shall be remitted to the Town.
- P. Where a municipal infraction citation for a violation of this code is issued by an official of the Montgomery County Government the procedures for issuance, process, trial and collection of fines regarding any such citation shall be those outlined in Chapter 1, Section 1-18 of the Montgomery County Code, 1972, as amended.
- Q. In any case where a provision of this section conflicts with a mandatory provision of Article 23A, Section 3 of the Annotated Code of Maryland, as amended, the provisions of article 23A shall prevail and shall be incorporated herein as if expressly set forth. (Ord. No. 77, § 2, 3-5-84)

CHAPTER 1.5

MUNICIPAL-COUNTY RELATIONS\*

Art. I. Applicability of County Legislation within the Town,  
§1.5-1-1.5-3

Art. II. Town-County Agreements and Enforcement of Town Laws, §1.5-4

ARTICLE 1. APPLICABILITY OF COUNTY LEGISLATION WITHIN THE TOWN

Sec.1.5-1. Exemption from Montgomery County legislation and regulations within the Town.

Except as provided in sections 1.5-2 and 1.5-3, the Town of Poolesville is hereby declared exempt from any and all legislation and regulations heretofore or hereafter enacted by Montgomery County, Maryland, relating to any subject or matter upon which the Commissioners of Poolesville, as a municipal corporation, has heretofore or is hereafter granted legislative authority to act by either public general law or the Charter of the Commissioners of Poolesville. (Ord. No. 82, § 1, 11-19-84)

Sec. 1.5-2. Exceptions to general exemption.

The following chapters of the Montgomery County Code, 1972, as amended, or portions thereof and applicable regulations enacted by Montgomery County are exceptions to the general exemption specified in section 1.5-1 and shall be applicable within the Town of Poolesville until such time as the Commissioners of Poolesville shall duly exempt the Town from their application:

- A. Chapter 3A-Alarms
- B. Chapter 5-Animal Control (except those provisions added by Chapter 5 of the Laws of Montgomery County, 1984 as amended requiring the licensing of cats)
- C. Chapter 8-Buildings
- D. Chapter 8A-Cable Communications
- E. Chapter 11-Consumer Protection
- F. Chapter 17-Electricity
- G. Chapter 19-Erosion and Sediment Control
- H. Chapter 21-Fire and Rescue Services
- I. Chapter 22-Fire Safety Code

- J. Chapter 26-Housing and Building Maintenance Standards
- K. Chapter 31B-Noise Control
- L. Chapter 39-Rat Control
- M. Chapter 44A-Secondhand Personal Property
- N. Chapter 48-Solid Waste
- O. Chapter 49-Streets and Roads (except those provisions relating to rural roads).
- P. Chapter 55-Unsafe Buildings
- Q. Chapter 58-Weeds

(Ord. No. 82, § 1, 11-19-84; Ord. No. 109, § 1, 4-15-91; Ord. No. 133, § 1, 6-26-95; Ord. No. 140, 7-6-98)

**\*Editor's note** -- Ord. No. 82, § 1, adopted Nov. 19, 1984, provided for the addition of Ch. 1.5, §§ 1.5-1-1.5-4, to read as herein set out.

**Sec. 1.5-3. Other applicable County laws.**

Notwithstanding the specific exceptions to the general exemption from the application and effect of County legislation and regulations set forth in Section 1.5-2, County laws and regulations shall apply where:

- A. The general assembly, by express provision of public general law, so provides;
- B. A law or regulation is enacted by Montgomery County, Maryland, involving County revenue or taxation pursuant to the provisions of Article 81, Annotated Code of Maryland, 1957, as amended; and
- C. A law or regulation is enacted by the Montgomery County Council sitting as a Board of Health for Montgomery County.  
(Ord. No. 82, § 1, 11-19-84)

**ARTICLE II. TOWN-COUNTY AGREEMENTS AND  
ENFORCEMENT OF TOWN LAWS**

**Sec. 1.5-4. Authority to enter into agreements with County,  
enforcement thereof.**

- A. Nothing contained in this chapter shall limit or otherwise affect the authority of the Commissioners of Poolesville, whether exercised previously or in the future, to request the enforcement of Town legislation in whole or in part by Montgomery County and to enter into agreements providing for the same.
- B. Nothing contained in this chapter shall repeal or impair any agreement or authorization previously executed between the Commissioners of Poolesville and County, until and unless done so by consent of the Commissioners of Poolesville.
- C. Nothing contained in this chapter shall repeal any Town Ordinance, which specifically adopted or incorporated by reference any County legislation, unless and until so repealed by act of the Commissioners of Poolesville.
- D. Nothing contained in this chapter shall limit or otherwise affect the authority of the Commissioners of Poolesville to adopt by reference any law or regulation of Montgomery County as its own law or regulation. (Ord. No. 82, § 1, 11-19-84)

## Chapter 2

### ADMINISTRATION\*

- Art. I. In General, §§ 2.1-2.6**
- Art. II. Officers and Employees, §§ 2.7-2.21**
  - Div. 1. Generally, §§ 2.7-2.10
  - Div. 2. Town Administrator, §§ 2.11-2.15
  - Div. 3. Department of Parks and Streets, §§ 2.16-2.21
- Art. III. Ethics Provisions, §§ 2.22-2.30**

#### ARTICLE I. IN GENERAL

##### Sec. 2.1. Condemnation of property.

The Commissioners shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within or without the corporate limits of the Town for any public purpose. Any activity, project or improvement authorized by the provisions of the Charter of the Town or by any State law applicable to the Town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in the Annotated Code of the Public General Laws of Maryland and Subtitle U of the Maryland Rules of Procedure, provided, however, that the exercise of the power of condemnation shall require the affirmative vote of four (4) of the Commissioners in public session. (Ord. No. 58, § 1, 12-3-79)

**State law references** - Authority to acquire property by condemnation, Anno. Code of Md., Art. 23A, § 2(24); eminent domain procedures, Anno. Code of Md., Real Property Article, § 12-101.

##### Secs. 2.2-2.6. Reserved.

**\*Cross references** - Civil defense, Ch. 5; Licenses, Permits and Miscellaneous Business regulations, Ch. 11; Motor Vehicles and Traffic, Ch. 12; Taxation, Ch. 15.

##### Sec. 2.2. Notice of foreclosure required.

A. In addition to all other requirements concerning real property foreclosure under State law, whenever an order to docket or a complaint to foreclose a mortgage or deed of trust is filed on residential property located within the Town of Poolesville, the person authorized to make the sale shall notify the Town of Poolesville as follows:

1. The notice must be delivered to the Town of Poolesville within five (5) days after the order to docket or complaint to foreclose a mortgage or deed of trust is filed in court;

The notice shall be addressed to the Town Manager and

delivered to Poolesville Town Hall, 19721 Beall Street,  
P.O. Box 158, Poolesville, Maryland 20837;

The notice shall include:

- a. The street address of the residential property subject to the foreclosure action;
- b. The names and addresses, if known, of all owners of the residential property subject to the foreclosure action; and
- c. The name, address, and telephone number of the person authorized to make the sale.  
(Ord. No. 179, 1-4-10)

**ARTICLE II. OFFICERS AND EMPLOYEES\***

**DIVISION 1. GENERALLY**

**Secs. 2.7-2.10. Reserved.**

**DIVISION 2. TOWN MANAGER**

**Sec. 2.11. Creation of office.**

There is hereby created the office of Town Manager.  
(Ord.No. 155, 6-17-02)

**Sec. 2.12. Appointment.**

The President of the Commissioners shall appoint a Town Manager with the approval of three (3) of the other Commissioners. The Town Manager shall be a professionally qualified administrator who shall be the chief executive officer of the Commissioners in administering the general operation of Town government and shall be directly responsible to the Commissioners for the conduct of such operations. At the time of his appointment, the Town Manager need not be a resident of the Town or the State, but during his tenure of office he shall be subject to those residency requirements as shall appear in his contract of employment. (Ord. No. 155, 6-17-02)

**Sec. 2.13. Removal.**

The Town Manager may be removed from office by the President of the Commissioners with the approval of three (3) of the other Commissioners. (Ord. No. 155, 6-17-02)

**\*Editor's note** - Ord. No. 65, § 1, adopted March 1, 1982, repealed Ord. No. 52, adopted Aug. 15, 1977, which ordinance, formerly codified as Ch. 2, Art. II, Div. 2, §§ 2-16-2-21, was relative to financial disclosure. Div. 1 of Art. II contained no substantive provisions. Ord. No. 106, adopted 10-1-90 re-designated the "Town Administrator" as the "Town Manager" and amended the residency requirement.

**Charter reference** -Commissioners, §§ 82.3-82.5.

**Sec. 2.14. Powers and duties.**

The Town Manager shall be responsible to the President of the Commissioners and to the Commissioners for the proper administration of all affairs of the Town, and to that end he shall have the power and shall be required to:

- A. Recommend classification, changes in classification, filling of vacancies, promotions, demotions, suspensions, dismissals, pay changes, advance leave or any change in status of Town employees.
- B. The Town Manager shall have supervision over the personnel

records of all employees of the Town.

- C. The Town Manager shall have supervision over all records of pertinent data such as salary, salary changes, leave (both annual and sick or whatever is involved), hospitalization and retirement, hours worked, overtime, work performance and whatever is necessary to make up the weekly payroll. He is responsible for the payroll.
- D. The President of the Commissioners, with the cooperation of the Town Manager, shall prepare the annual budget, to be submitted by the President of the Commissioners for adoption.
- E. The Town Manager shall be responsible for the disbursement of all moneys, subject to the approval of the President of the Commissioners and shall have control over all expenditures to assure that budget appropriations are not exceeded.
- F. The Town Manager shall supervise all the employees of the Town.
- G. The Town Manager shall answer all complaints, service calls, etc., and refer them to the proper Board, Commission, or to the President of the Commissioners for action as required.
- H. The Town Manager shall recommend to the Commissioners, in writing from time to time, for adoption, such measures as he may deem necessary or expedient.
- I. The Town Manager, under the direction of the President of the Commissioners, shall see that all laws and ordinances are duly enforced.
- J. The Town Manager shall perform such other duties as may be required of him by the President of the Commissioners and by the Commissioners. He may also delegate to other Town employees any matters assigned to him by ordinance or resolution of the Commissioners, unless such ordinance or resolution specifies such matter may not be delegated.

**Sec. 2.15. Compensation.**

The Town Manager shall be a contract employee/officer and receive such compensation as the President of the Commissioners shall determine with the approval of three (3) of the other Commissioners. (Ord. No. 155, 6-17-02)

**DIVISION 3. DEPARTMENT OF PARKS AND STREETS\***

**Sec. 2.16. Created.**

There is hereby created a Department of Parks and Streets under the immediate direction of a Supervisor of Parks and Streets. (Ord. No. 107, § 1, 10-1-90)

**Sec. 2.17. Supervisor of Parks and Streets-Appointment.**

- A. The President of the Commissioners shall appoint a Supervisor of Parks and Streets with the approval of three (3) of the other Commissioners.
- B. The Supervisor of Parks and Streets shall recommend to the President of the Commissioners the appointment, removal and compensation of all employees in the department. (Ord. No. 107, § 1, 10-1-90)

**Sec. 2.18. Same-Removal.**

The Supervisor of Parks and Streets may be removed from office by the President of the Commissioners with the approval of three (3) of the other Commissioners. (Ord. No. 107, § 1, 10-1-90)

**Sec. 2.19. Same-Compensation.**

The Supervisor of Parks and Streets shall receive such compensation as the President of the Commissioners shall determine with the approval of three (3) of the other Commissioners. (Ord. No. 107, § 1, 10-1-90)

**Sec. 2.20. Functions and responsibilities of Department of Parks and Streets.**

The Department of Parks and Streets shall have the following functions and responsibilities in addition to others assigned by ordinance of the President of the Commissioners:

- A. Control and supervision over and maintenance of all Town streets including snow removal, repair of road surfaces, storm drain cleaning, street lighting replacement, mowing of grass within road rights-of-way and installation and care of trees and plant.
- B. Control and supervision over and maintenance of all Town parks including mowing, seeding, sodding, installation and care of plants and trees, installation and maintenance of all park equipment and signs.
- C. Maintenance of all Town vehicles, equipment and the Town maintenance building and preparation of recommendations to the Commissioners for the purchase of Town vehicles, equipment and supplies.

- D. Preparation of recommendations to the Commissioners on the type and quality of recreational equipment to be purchased by the Town.
- E. Inventory and update of a list of needed Town trees and plants and maintenance of a Town nursery of trees and plants. (Ord. No. 107, § 1, 10-1-90)

**\*Cross references** - Parks and recreation, Ch. 13.3; streets, sidewalks and public places, Ch. 14.

**Sec. 2.21. Reserved.**

### ARTICLE III. ETHICS PROVISIONS

#### Sec. 2.22. Applicability.

The provisions of this article shall apply to all officials, employees and appointees to boards, commissions and committees of the Town unless otherwise specified.

#### Sec. 2.23. Ethics Commission.

- A. Membership; terms. There shall be a Town Ethics Commission, which shall be composed of three (3) members appointed by the Commissioners of Poolesville. The Ethics Commissioners shall be registered voters of the Town and shall not hold any other office in the Town government during their term of office. The term of office for each Commissioner appointed shall be five (5) years.
- B. Chairperson. The Commission shall elect a chairperson from among its members. The term of the chairperson shall be for one (1) year. The chairperson shall be eligible for re-election.
- C. Counsel. The Commission shall be advised by the Town Attorney except in instances where the potential for conflict of interest exists.
- D. Responsibilities and Authority. The Commission shall have the following responsibilities and authority:
  1. To devise, receive and maintain all forms required by this article;
  2. To provide published advisory opinions to persons subject to this article as to the applicability of the provisions of this article to them;
  3. To process and make determinations as to complaints filed by any person alleging violations of this article;
  4. To conduct a public information program regarding the purposes and application of this article;
  5. To grant exemptions and modifications to the conflict of interest and financial disclosure provisions set forth in Sections 2.24 and 2.25 as authorized by Section 2.27;
  6. To investigate any incident occurring after the effective date of this article within two (2) years prior to the time such incident is called to the Commission's attention where there is reasonable grounds to believe there may be a violation of this article.

7. To conduct hearings, issue summonses and subpoenas, and administer oaths and affirmations. Summonses and subpoenas may be served by certified mail, by private process server or by anyone who could lawfully serve said subpoenas and summonses in a judicial proceeding of a civil nature. Summonses and subpoenas shall be enforced by legal action in a court of competent jurisdiction, to compel the attendance of parties and witnesses and to require the production by them of books, papers, documents and other materials relevant to any case under consideration.
8. To adopt regulations and establish procedures to implement this article;
9. To conduct investigations relative to violations of this article;
10. To develop appropriate forms and instructions for the making of financial disclosure and other functions of the Commission, and to cause same to be timely distributed to those persons required to file same; and
11. To initiate complaints and/or investigations on its own motion where it has reason to believe the provisions of this Ordinance have been violated.
12. To certify to the State Ethics Commission on or before October 1 of each year that the Town is in compliance with the requirements of the State Government Article, Title 15, Subtitle 8 of the Annotated Code of Maryland.
13. To determine if changes to this Article are required to be in compliance with the requirements of the State Government Article, Title 15, Subtitle 8 of the Annotated Code of Maryland, and forward any recommended changes and amendments to the Board of Commissioners.
14. To adopt any other policies and procedures to assist in the Commission in the performance of its duties.

**Sec. 2-24. Conflict of interest.**

- A. All Town elected officials, officials appointed to Town boards and commissions, employees and committees are subject to this section.
- B. Participation prohibitions. Except as permitted by Commission regulation or opinion, individuals subject to this Section 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

individual, the individual or a qualified relative of the individual, 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 individual has a direct financial interest of which the individual may reasonably be expected to know;
  - b. A business entity for which the individual or qualified relative of the individual is an officer, director, trustee, partner or employee;
  - c. A business entity with which the individual or a qualified relative is negotiating employment or has any arrangement concerning prospective employment.
  - d. A business entity that is a party to an existing contract with the individual or qualified relative which could reasonably be expected to result in a conflict between the private interests of the individual and the official duties of the individual.
  - e. An entity doing business with the Town in which a direct financial interest is owned by another entity in which the individual has a direct financial interest, if the individual may be reasonably expected to know of both direct financial interests.
  - f. A business entity that the individual knows is a creditor or obligee of the individual or a qualified relative of the individual with respect to a thing of economic value; and as a creditor or obligee, is in a position to directly and substantially affect the interest of the individual or qualified relative of the individual.
  - g. In this subsection the term "qualified relative" means a spouse, parent, child, stepchild or sibling.
  - h. In this subsection the term, "business entity" means any for profit or not for profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm institute, trust, or foundation. It shall also include entities such as independent fire departments, rescue squads, homeowners associations, condominium associations, religious and civic organizations.

3. An individual who is disqualified from participating under paragraph (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 the body with less than a quorum capable of acting;
    - b. The disqualified individual is required by law to act; or
    - c. The disqualified individual 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.
- C. 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 individual may not:
    - a. Be employed by or have a financial interest in an entity subject to the authority of the individual or the Town agency, board or commission with which the individual is affiliated; or that is negotiating or has entered a contract with the agency, board or commission with which the individual is affiliated.
    - b. Hold any other employment relationship that would impair the impartiality or independence of judgment of the individual.
  2. This prohibition does not apply to:
    - a. An individual who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the Town's authority be represented in appointments to said 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 individual whose duties are ministerial, if the private employment or financial interest does not

create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the 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.

D. Post-employment limitations and restrictions.

1. A former elected official, appointee to a board or commission 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, appointee or employee significantly participated as an official, appointee or employee.
2. For a period of one (1) year following the termination of service to the Town, a former member of the Board of Commissioners may not assist or represent another party for compensation in a matter that is the subject of legislative or regulatory action by the Town.

E. Contingent Compensation. Except in a judicial or quasi-judicial proceeding, an individual may not assist or represent a party for contingent compensation in any matter before or involving the Town.

F. Use of Prestige of Office.

1. An individual may not intentionally use the prestige of office or public position for the private gain of that individual or the private gain of another.
2. The subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

G. Solicitation and acceptance of gifts.

1. An individual may not solicit any gift.
2. An individual may not directly solicit or facilitate the solicitation of a gift on behalf of another person, from an individual that is a regulated lobbyist.
3. An individual may not knowingly accept a gift, directly or indirectly, from a person that the individual knows or has the reason to know:

- a. Is doing business with or seeking to do business with the Town.
  - 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 individual.
  - c. Is engaged in an activity regulated or controlled by the Town.
  - d. Is a registered lobbyist with the Town.
4. Notwithstanding paragraph (3) of this subsection the individual 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 \$20.00 in cost or trivial items of informational value.
  - d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the individual at a meeting which is given in return for the participation of the individual in a panel or speaking engagement at the meeting.
  - e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to the elected official's office with the Town.
  - 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 individual by blood or marriage, or any other individual who is a member of the household of the individual.
  - h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the individual's

position with the Town.

5. Paragraph (4) of this subsection does not apply to gifts:
  - a. That would tend to impair the impartiality and the independence of judgment of the individual receiving the gift.
  - b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the individual.
  - c. Of significant value that the recipient individual believes or has reason to believe is designed to impair the impartiality and independence of judgment of the individual.
  
- H. Disclosure of Confidential Information. Other than in the discharge of official duties, an individual may not disclose or use confidential information, that the individual acquired by reason of the individual's position and that is not available to the public, for economic benefit of the individual or that of another person.
  
- I. All individuals subject to this Section shall not use any Town facilities, vehicles, equipment, materials, or personnel for private purposes or profit, or facilitate or permit such use by others, unless the use of such facilities, property, vehicles, equipment, materials or personnel is:
  1. generally available to the public; or
  2. authorized by a Town law or regulation; or
  3. use of Town telephones for reasonably necessary personal local calls, or for long distance calls in emergencies with permission of the Town Manager or his designee and reimbursement to the Town.
  
- J. All individuals subject to this Section shall not solicit business from any individual or organization having a decision before a Town Board or Commission; or
  
- K. All individuals subject to this Section shall not make representations to other governmental organizations that are portrayed as the position of the Town Government unless such positions have been approved in advance by a majority vote of the Board or Commission or unless such representations are a legitimate exercise of specific authorities identified in the Code of the Town of Poolesville. Nothing herein shall be construed as a limitation of the right of officials and employees to attend, participate and speak at public and/or private forums of their choice in the individual's private capacity.

L. An individual shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the individual or Town sufficiently in advance of the action to provide adequate disclosure to the public and Commission.

M. Participation in Procurement.

1. An individual or a person that employs an individual who assists the City 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 the procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for 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 City.

**Sec. 2.25. Financial disclosure.**

A. This section applies to all local elected officials, candidates for local elected office, and the following appointed officials and employees:

1. The Town Manager
2. All members of the Poolesville Planning Commission
3. All members of the Poolesville Board of Zoning Appeals
4. All members of the Ethics Commission
5. The Town Clerk/Treasurer
6. The Deputy Town Clerk
7. The Code Enforcement Officer

B. All individuals subject to the Section shall file a financial disclosure statement required by this Section with the Commission, on the form provided by the Commission, under oath or affirmation.

C. Deadlines for Filing Statements.

1. An incumbent local elected official, appointed officials and employees subject to this section shall file a financial disclosure statement annually no later than January 31 of each year, for the activity of the preceding calendar year.
2. An individual who is appointed to fill a vacancy in position subject to this Section shall file a financial disclosure statement for the activity of the preceding calendar year within thirty (30) days after appointment.

3. An individual who, other than by reason of death, leaves office for which a statement is required shall file a statement within sixty (60) days after leaving office covering the year immediately preceding the year in which the individual left office, unless such a statement has already been filed, and the portion of the current calendar year during which the individual held office.
- D. Candidates for Local Elected Office. Candidates for local elected office shall file a financial disclosure statement at the time that they file their certificate of candidacy and each year thereafter through the year of the election, pursuant to the deadlines established in this Section, or they are deemed to have withdrawn their candidacy. The Board of Elections may not accept any certificate of candidacy unless a financial disclosure statement has been filed in proper form.
- E. Public Record.
1. 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 the fees established by the Town.
  3. If an individual examines or copies a financial disclosure statement, the Commission shall record the name and address of the individual reviewing or copying the statement and the name of the person whose financial disclosure statement was examined or copied.
  4. Upon the request by the official whose financial disclosure statement was examined or copied, the Commission shall provide the official with a copy of the name and address of the person who reviewed the official's financial disclosure statement.
  5. The Commission shall retain financial disclosure statements for four years from the date of receipt, after which time the statements shall be destroyed.
- F. Content 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, both domestic and international.
    - b. For each interest in real property, the schedule shall include:
      - (1.) The nature of the property and the location by street address, mailing address, or legal

description of the property.

- (2.) The nature and extent of the interest held, including any conditions and encumbrances on the interest.
- (3.) The date when acquired, the manner in which the interest was acquired, and the identity of the person from whom the interest was acquired.
- (4.) The nature and amount of 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.
- (5.) 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.
- (6.) 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 entity does business with the Town.
- b. For each interest reported under this Section, the schedule shall include:
  - (1.) The name and address of the principal office of the entity.
  - (2.) The nature and amount of the interest held, including any conditions and encumbrances on the interest.
  - (3.) 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 if known the identity of the person to whom the interest was transferred.
  - (4.) The date the interest was acquired, the manner in which it was acquired and the identity of the person from whom the interest was acquired and the nature and amount of 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.

- c. An individual may satisfy the requirement to report the amount of the interest held under this Section by reporting instead of a dollar amount, the number of shares held or 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 interest reported under paragraph (2) of this Section.
- b. For each interest reported under this Section, the schedule shall include:
  - (1.) The name and address of the principal office of the business entity.
  - (2.) The nature and amount of the interest held, including any conditions to and encumbrances in the interest.
  - (3.) 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 if known the identity of the person to whom the interest was transferred.
  - (4.) The date the interest was acquired, the manner in which it was acquired and the identity of the person from whom the interest was acquired and the nature and amount of 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 \$20.00 in value or a series of gifts totaling \$100.00 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:
  - (1.) A description of the nature and value of the gift.
  - (2.) 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 Section, the schedule shall include:
    - (1.) The name and address of the principal office of the business entity.
    - (2.) The title and nature of the office, directorship or salaried employment held and the date it commenced.
    - (3.) 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 by the individual or by a member of the individual's immediate family if the individual was involved in the transaction giving rise to the liability.
  - b. For each liability reported under this Section, the schedule shall include:
    - (1.) The identity of the person to whom the liability was owed and the date the liability was incurred.
    - (2.) The amount of the liability owed as of the end of the reporting period.
    - (3.) 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.

- (4.) The security given, if any, for the liability.
  7. Family Members Employed by Town. The statement filed under this Section shall include a schedule of 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 Town does not regulate, exercise authority over or contract with the place of employment or business entity of the minor child.
  9. Civic Organizations and Similar Entities. A statement filed under this Section shall include a schedule of the names and addresses of all entities, whether for-profit or not-for-profit, which are located in the Town, subject to regulation by the Town or doing business with the Town, which the individual or a member of the individual's immediate family was an officer, director, or holds a fiduciary relationship with that organization. By way of example and not of limitation, this shall include independent fire departments, rescue squads, homeowners associations, and condominium associations, religious and service organizations.
  10. Additional Information. 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 purposes of this Section, the following interests are considered to be the interests of the individual making the financial disclosure 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 fifteen (15%) percent 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 the individual held a reversionary interest or was beneficiary, or if the trust revocable was a settlor.
- H. Individuals subject to the provisions of this Section shall file supplemental financial disclosure statements with the Commission disclosing any interest or employment acquired after the end of the previous calendar year and before the due date of the next annual financial disclosure statement for the current year, where such an interest or employment may require disqualification under Section 2-24.
  - I. 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.

**Sec. 2.26. Lobbying disclosure.**

- A. Any person who personally appears before any Town official or employee with the intent to influence that person in performance of his official duties, and who, in connection with such intent expends or reasonably expects to expend in a given calendar year in excess of five hundred dollars (\$500.00) on food, entertainment or other gifts for such officials, shall be known as a Registered Lobbyist and shall file a registration statement for that calendar year with the Commission not later than January 15 of the calendar year or within five (5) days after first making these appearances.
- B. The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make these appearances. This registration statement shall be valid for a one calendar year period, and must be re-filed each year as necessary.
- C. Registrants under this Section shall file a report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date, and nature of any food, entertainment or other gift provided to a Town official or employee during the preceding calendar year. When a gift or series of gifts to a single official or employee exceed fifty dollars (\$50.00) in value, the official or employee shall also be identified.
- D. The registrations and reports filed pursuant to this Section shall be maintained by the Commission as public records available for public inspection and copying.

**Sec. 2.27. Exemptions and modifications.**

- A. The Commission may grant exemptions and modifications to the provisions of Sections 2.24 and 2.25 of this article to employees and appointed members of Boards, Commissions and Committees if it determines that application of those provisions would:
1. Constitute an unreasonable invasion of privacy;
  2. Significantly reduce the availability of qualified persons for public service; and
  3. Not be required to preserve the purpose of this article.

**Sec. 2.28. Complaints, Investigations, Hearings and Decisions**

A. Complaint.

1. Any person may file a confidential complaint with the Ethics Commission. A complaint shall be made under oath, in writing, and be signed by the complainant; however, this does not preclude the Ethics Commission from investigating unsigned or anonymous complaints in its discretion. It shall allege reasonable grounds to believe that a violation of this Article may have occurred within two (2) years prior to the filing of the complaint.
2. If the complaint fails to allege facts sufficient to state a violation of this Article, the Ethics Commission may dismiss the complaint. The Ethics Commission must provide the complainant with an explanation of its decision to dismiss the complaint and shall inform the subject of the complaint that the complaint was filed and dismissed, but shall not disclose the identity of the complainant.

B. Investigation.

1. The Ethics Commission shall investigate a complaint that meets the requirement of A.1 of this Section. The Ethics Commission may investigate any circumstances that come to its attention from any source, which may involve a violation of this Article. An investigation may include all reasonable sources of relevant information, including the subject of the complaint. In conducting its investigation, the Ethics Commission shall utilize its own membership and/or Town staff and private investigators as may be authorized by the Ethics Commission. The Ethics Commission's investigation and deliberations, including the name of the complainant, the subject of the complaint, and any witness, shall be confidential except as further provided in this Section. All persons involved in the investigation of any complaint shall be bound by the

confidentiality provisions of this Section.

2. The Ethics Commission shall prepare a written summary of the results of its investigation. It shall provide the subject of the complaint with a copy of its investigation summary but shall not include the identity of the complainant or any witness. If the Ethics Commission finds insufficient evidence to conclude, by a preponderance of the evidence, that a violation has occurred, it shall dismiss the complaint. If the Ethics Commission finds sufficient facts to conclude that a violation has occurred, it shall advise the subject of the complaint that he/she has a right to request, within thirty (30) days, a hearing before the Ethics Commission.

C. Hearing:

1. If a hearing is requested, the following procedures shall apply:
  - a. The subject of the complaint shall be provided with a copy of the Ethic Commission's investigation summary which identifies the complainant and all sources of information on which the Ethics Commission relies.
  - b. The Ethics Commission may rely on the facts stated in the investigation summary or may call witnesses and present other evidence at the hearing.
  - c. The subject of the complaint may request that subpoenas be issued by the Ethics Commission pursuant to Section 2-23.D. of this Code. The Ethics Commission shall issue subpoenas for any reasonably relevant witnesses and evidence.
  - d. The rules of evidence used in judicial hearings do not apply to hearings before the Ethics Commission. The Ethics Commission may admit and give appropriate weight to evidence, including hearsay that possesses probative value commonly accepted by reasonable and prudent persons.
  - e. A hearing is closed to the public. However, the Ethics Commission may, in its sole discretion, open the hearing to the public if the subject of the complaint so requests.
  - f. The Ethics Commission must make written findings based on the record made at the hearing. If after a hearing the Ethics Commission finds that no violation of this Article has occurred, the Ethics Commission must dismiss the complaint.

D. Decision.

If the Ethics Commission finds that a violation of this Article has occurred and no hearing is requested within thirty (30) days, the Ethics Commission may issue an appropriate order under this Article based on the results of its investigation. Unless the Ethics Commission dismisses the complaint without holding a hearing the order and investigation summary, except for the identity of the complainant and the witnesses, shall be public information.

**Section 2.29 Enforcement**

A. To enforce compliance with the provisions of this Article the Commission may:

1. Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely file a financial disclosure statement required under this Article.
2. Assess a late fee of \$10.00 per day up to a maximum of \$250.00 for failure to file a timely lobbyist registration or lobbyist report required under this Article.
3. Issue a cease and desist order against any person found to be in violation of this Article.

B. Upon finding a violation of any provision of this Article, the Commission may:

1. Issue an order of compliance directing the respondent to cease and desist from the violation.
2. Issue a reprimand.
3. Recommend to the appropriate authority other appropriate discipline of the violator, including censure or removal if such is authorized by law, termination, suspension or other personnel action, including suspension of salary or other compensation.
4. If the violation is to Section 2.26 of this Article the Commission may:
  - a. require the violator who is a registered lobbyist to file any additional reports or information that is reasonably related to the information that is required under Section 2.26.
  - b. Impose a fine not exceeding \$5,000 for each violation.
  - c. Suspend the registration of the individual registered

lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated Section 2.26 of this Article or has been convicted of a criminal offense arising from lobbying activities.

- C. Upon the request of the Commission, the Town may file a petition for injunctive or other relief in any court having proper venue for the purpose of requiring compliance with the provisions of this Article.
- D. A finding of a violation of this Article by the Commission shall be considered public information under the terms of the applicable State statute.

**Sec. 2.30. Appeals and reconsideration.**

A final decision of the Commission on a complaint or request for a waiver may be appealed to the circuit court under the applicable Maryland Rules of Procedure governing administrative appeals. An appeal does not stay the effect of the Commission's decision unless the court hearing the appeal orders a stay. (Ord. No. 187; 10-15-12)

Chapter 2.5  
RESERVED\*

**\*Editor's note** - Ord. No. 83, § 1, adopted Nov. 19, 1984, provided for the repeal of Ch. 2.5, Alarms, substantive sections thereof being §§ 2.5-1, 2.5-2, as derived from Ord. No. 70, § 1, adopted May 2, 1983, and Ord. No. 78, § 1, adopted Mar. 5, 1984.

Chapter 3

RESERVED\*

**\*Editor's note-** Chapter 3, § 3.1 adopting County regulations for the control of dogs, derived from Ord. No. 22, adopted May 17, 1971, was repealed by Ord. No. 83, § 1, adopted Nov. 19, 1984.

**Chapter 4**  
**BUILDINGS AND BUILDING REGULATIONS\***

**Art. I. In General, §§ 4.1-4.10**

**Art. II. Reserved, § 4.11**

**ARTICLE I. IN GENERAL**

**Sec. 4.1. Reserved.**

**Editor's note** - Ord. No. 83, § 1, adopted Nov. 19, 1984, repealed § 4-1 which provided for the adoption of a technical building code for the city and was derived from Ord. No. 9, adopted July 20, 1964.

**Sec. 4.2. Fencing requirements for swimming pools.**

A. Every outdoor body or container of water, commonly called a swimming pool, excluding portable structures eight (8) feet or less in diameter or length, either above or below ground, over eighteen (18) inches deep at any one point or having a capacity for a minimum depth of eighteen (18) inches, which has been dammed up, produced or made by human labor and skill and which is used or intended to be used for swimming, wading, diving or water play, shall be completely surrounded or the property upon which such pool is situated shall be completely surrounded by a fence or wall, approved by such person or persons as the Commissioners shall designate, not less than sixty (60) inches in height, except for fences serving such purpose in existence as of August 4, 1980, which shall not be less than forty-two (42) inches in height, which shall be securely anchored in the ground, and which shall be of such specification and construction as not to be easily climbed or penetrated. A gate or door affixed to the fence or wall required to be erected hereunder shall be equipped with an appropriate self-closing or self-latching device designed to prevent accidental or unauthorized entry situated on the pool side of such gate or door at a height of not less than thirty-six (36) inches from the ground. All fences and gates shall be maintained in good condition and all gates, doors and closures shall be closed, locked and/or latched when the pool is not in use.

**\*Charter reference** - Authority to regulate construction, § 82-12(4), (12), (33), (54).

**Cross references** - Civil defense, Ch. 5; fire prevention and protection, Ch. 7; grading and sediment control, Ch. 8; junk and junkyards, Ch. 10; storm water management, Ch. 13.6; streets, sidewalks and public places, Ch. 14; water, sewers and sewage disposal, Ch. 16; subdivision regulations, App. A; zoning regulations, App. B,

**State law reference** - Authority to adopt reasonable regulations concerning buildings and signs, including a building code and requirements for building permits, Anno.Code of Md., Art. 23A, § 2(5).

B. The President of the Commissioners may waive the requirements of this section for a sixty (60) inch high fence or wall around an above ground swimming pool or the property upon which such pool is located upon a finding that the design, construction or location of such above ground swimming pool is such as to provide the equivalent of a sixty (60) inch high fence or wall around the pool or the property upon which it is located. All openings in the barrier large enough to permit entry shall be equipped with self-closing gates or doors equipped with positive latching closure and locking mechanisms at a height of at least four (4) feet six (6) inches above the ground. (Ord. No. 60, § 1 (A), (B), 8-4-80)

**Sec. 4.3. Fees for permits, services, etc.**

The fees for all Town services, including, but not limited to master plan amendments, building permits, site development review applications, transcripts and copies shall be established by the Commissioners of Poolesville by resolution and shall be in sufficient amounts to cover all administrative costs incurred by the Town in providing such services. (Res. No. 4-1976, 1-19-76; Ord. No. 81, § 1)

**\*Editor's note** - The fees mentioned in § 4.3 are not set out at length herein, but the user is referred to Resolution No. 007-85, Fee Schedule, enacted July 1, 1985, Amended September 21, 1987, Amended October 5, 1987, Amended July 17, 1989, Amended March 19, 1990, Amended June 18, 1990 and Amended March 16, 1992 and on file in the office of the Town Clerk.

**Secs. 4.4-4.10. Reserved.**

ARTICLE II.  
RESERVED\*

Sec. 4.11. Reserved.

**\*Editor's note** - Formerly, Art. II, § 4.11 pertained to the adoption of County regulations relative to Unsafe Buildings as derived from Ord. No. 74, § 1, adopted Oct. 3, 1983. Such provisions were repealed by Ord. No. 83, § 1, adopted Nov. 19, 1983.

## Chapter 4.5

### CABLE COMMUNICATIONS

#### **Sec. 4.5-1. County regulations adopted.**

Chapter 8A, title "Cable Communications," of the Montgomery County Code, 1972, as amended, and the rules and regulations that have been lawfully adopted by Montgomery County, pursuant to the provisions of such chapter, are hereby adopted in their entirety by the Commissioners of Poolesville, Maryland. (Ord. No. 72, § 1, 5-16-83)

**Chapter 5  
CIVIL DEFENSE\***

<b>Art.</b>	<b>I.</b>	<b>In General, §§ 5.1-5.10</b>
<b>Art.</b>	<b>II.</b>	<b>Civil Emergencies, §§ 5.11-5.16</b>

**ARTICLE I. IN GENERAL**

**Secs. 5.1-5.10. Reserved.**

**ARTICLE II. CIVIL EMERGENCIES**

**Sec. 5.11. Definitions.**

As used in this article:

*Civil emergency* shall mean:

- A. A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute such force by three (3) or more persons acting together without authority of law.
  
- B. Any natural disaster or man-made calamity including, but not limited to, flood, wind, hail, snow storm, earthquake, conflagration, cyclone or explosion within the geographical limits of the Town resulting in the death or injury of any person, or damage to three (3) or more dwelling units or places of business; blockage of roads and streets so as to make communications within the Town dangerous or impossible; damage to or threat of failure of the Town's water and sewer system that threatens public health; isolation of the Town through damage to roads, bridges and communications that may be outside such geographical corporate limits which would impede communications, the transport of persons, goods or food and medical supplies; failure or destruction of electrical connections supplying power to more than one-third (1/3) of the dwellings or business units in the Town; the wreckage or destruction of any vehicle transporting potentially dangerous materials or gases, such examples being by way of illustration and not by way of limitation.

**\*Charter reference** - Authority to provide community services, § 82-12(15).

**Cross references** - Buildings and Building Regulations, Ch. 4; Fire Prevention and Protection, Ch. 7; Motor Vehicles and Traffic, Ch. 12; Offenses and Miscellaneous Provisions, Ch. 13; Streets, Sidewalks and Public Places, Ch. 14; Subdivision Regulations, App. A; Zoning Regulations, App. B.

**State law reference** - Authority to declare local states of emergency, Anno. Code of Md., Art. 16A, § 6D.

*Curfew* shall mean a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Town during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to a civil emergency. (Ord. No. 40, § 1(I), 10-20-75)

**Cross reference** - Rules of Construction and Definitions generally, § 1.2.

**Sec. 5.12. Proclamation of emergency.**

When in the judgment of the President of the Commissioners, after consultation with other Commissioners physically within the corporate limits of the Town, a civil emergency, as defined by this article, is deemed to exist, such person shall forthwith proclaim in writing the existence of the same. (Ord. No. 40, § 1(II), 10-20-75)

**Sec. 5.13. Imposition of curfew.**

After proclamation of a civil emergency by the President of the Commissioners, after consultation with other Commissioners physically within the corporate limits of the Town, the President may order a general curfew applicable to such geographical areas of the Town or to the Town as a whole, as such person deems advisable and applicable during such hours of the day or night as such person deems necessary in the interest of public health, safety and general welfare. (Ord. No. 40, § 1(III), 10-20-75)

**Sec. 5.14. Additional regulations.**

After proclamation of a civil emergency, the President of the Commissioners, after consultation with other Commissioners physically within the corporate limits of the Town, in the interest of public health, safety and general welfare, may:

- A. Order the closing of all retail liquor stores.
- B. Order the closing of all taverns.
- C. Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.
- D. Order the discontinuance of the sale of beer.
- E. Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquids or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

- F. Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of flammable liquids or combustible products.
- G. Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.
- H. Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.
- I. Obligate Town funds to pay for such services and materials as may be required.
- J. Employ such additional assistance as is necessary to protect and maintain the public health, safety and general welfare including, but not limited to, the preservation of public and private property.
- K. Issue and enforce such other orders as are eminently necessary for the preservation of order, protection of life and property and for cooperation with or services to other governmental agencies. (Ord. No. 40, § 1(IV), 10-20-75)

**Sec. 5.15. Emergency powers.**

During the period of a declared state of emergency, the President of the Commissioners, after consultation with other Commissioners physically within the corporate limits of the Town, shall have the power to invoke any or all of the following provisions:

- A. *Alcoholic beverages.* No person shall consume any alcoholic beverages in a public street or place, which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.
- B. *Weapons.* No person shall carry or possess any rock, bottle, club, brick or weapon, who uses or intends to use the same unlawfully against the person or property of another.
- C. *Incendiary missiles.* No person shall make, carry, possess or use any type of "Molotov Cocktail," gasoline or petroleum base fire bomb or other incendiary missile.
- D. *Restricted areas.* No person shall enter any area designated by the President of the Commissioners, after consultation with other Commissioners physically within the corporate limits of the Town, as a restricted area unless in the performance of official duties or with written permission from such person or such person's duly designated representative, or such person shall prove residence therein. (Ord. No. 40, § 1(V), 10-20-75)

**Sec. 5.16. Absence or incapacity of President.**

In the event that the President of the Commissioners is absent from the geographical corporate limits or is incapacitated to act under the provisions of this article, any Commissioner physically within the corporate limits of the Town, upon consultation with the other Commissioners physically within the corporate limits of the Town, shall be designated to exercise any of the powers herein granted until the President of the Commissioners is again present within the geographical corporate limits of the Town or such person's incapacity to act is removed. (Ord. No. 40, § 1(VI), 10-20-75)

## Chapter 5.5

### DEVELOPMENT IMPACT FEES\*

#### Sec. 5.5-1. Findings, intent and authority.

- A. The Town is responsible for and committed to the provision of Public facilities and services at levels necessary to serve all Ready developed areas and to cure any existing public service Deficiencies in these areas.
- B. Such facilities and services levels shall be provided by the Town Utilizing funds allocated via the capital budget and capital Improvements programming processes and relying upon the funding Sources indicated therein.
- C. New development and growth in the Town can add to and help Maintain the quality of life in the Town under a balanced growth Management program.
- D. New development and growth cause and impose increased demands on Town public facilities and services and may require the provision Of increased public facilities and services, including additional Or expanded public facilities, services, improvements and Equipment adequate to serve said new growth.
- E. The Town, in exercise of its governmental functions, must assure The availability of additional or expanded public facilities, Services, improvements, and equipment and desires to do so Without undue hardship on the existing capital budget.
- F. Planning and zoning projections indicate that new development Will continue and will place increasing demands on the Town to Provide necessary public facilities.
- G. The development potential and property values of properties in the designated development areas are strongly influenced by Town policy as expressed in the comprehensive plan and as implemented via the Town zoning ordinance and map.
- H. To the extent that new development in such designated developments places demands on the public facility infrastructure, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands.

**\*Editor's note** - Ord. No. 103, § 1, adopted Mar. 19, 1990, enacted provisions pertaining to impact fees designated as Ch. 5.5, §§ 5.5.1 - 5.5.11, herein set forth.

- I. The Town has determined that new development should assume a fair share of the capital costs of providing additional or expanded public facilities, services, improvements and equipment.
- J. The Town finds that requiring new development to pay its Proportionate fair share of the costs of providing additional or Expanded public facilities, services, improvements, and equipment Necessary due to new development promotes the health, safety and General welfare of the Town's residents.
- K. The Town finds that the imposition of an impact fee will ensure And coordinate the provision of adequate public facilities, services, improvements and equipment with new developments so That the public health, safety and welfare are enhanced, congestion is lessened, accessibility and use is improved and economic development is promoted.
- L. The amount of the impact fee to be imposed shall be determined by the cost of the additional public facilities needed to support such development, which public facilities shall be identified in a capital improvements program.
- M. The Town hereby finds and declares that an impact fee imposed upon new development in order to finance specified major public facilities is in the best interest of the general welfare of the Town and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair or proportionate share of the cost, promotes the purposes of the Town's comprehensive plan and its capital improvements budget, promotes consistency between adopted plans, zoning, subdivision and building regulations and deems it advisable to adopt this chapter as hereinafter set forth.
- N. This Chapter is intended to impose an impact fee at the time of building permit issuance, in an amount based upon the amount of nonresidential development or the number of residential dwelling units in order to finance public facilities, the demand for which is generated by new development. The Town is responsible for and will meet, through the use of general Town revenues, all capital improvement needs associated with existing development. Only needs created by new development in the designated development areas will be met by impact fees. Impact fees shall not exceed the cost of providing capital improvements for which the need is substantially attributable to those developments that pay the fees. The fees shall be spent on new or enlarged capital facilities improvements that substantially benefit those developments that pay the fees.
- O. Article XI-E of the Maryland Constitution, Article 23A the Annotated Code of Maryland and the Town's Charter authorize the Town to enact ordinances for the protection and promotion of  
  
public safety, health, welfare, comfort, convenience and

happiness including but not limited to matters relating to planning and zoning.

- P. The provisions of this chapter shall not be constructed to limit the power of the Town to adopt such chapter pursuant to any other source of local authority or to utilize any other methods or powers otherwise available for accomplishing purposes set forth herein, either in substitution of or in conjunction with this chapter. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-2. Definitions.**

As used in this chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

- A. *Building permit* shall mean the permit issued by the Montgomery County Department of Environmental Protection for new buildings and structures and additions pursuant to Section 11 of the Town Zoning Ordinance. The term building permit, as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the number of dwelling units resulting therefrom or in the gross floor area, in the case of nonresidential development.
- B. *Capital budget* means a separate budget dedicated to financing capital improvements.
- C. *Capital improvements* means public facilities that are treated as capitalized expenses according to generally accepted accounting principles and does not include costs associated with the operation, administration, maintenance, or replacement of capital improvements.
- D. *Capital improvements program* means the official adopted schedule of capital improvements to be undertaken, the expected year in which they will be undertaken, the time and cost of construction, and other necessary features.
- E. *Town* means the Town of Poolesville, a municipal corporation by the name of "The Commissioners of Poolesville."
- F. *Commissioners* means the duly constituted governing body of the Town of Poolesville, State of Maryland.
- G. *Comprehensive plan* means the Master Plan of the Town of Poolesville, Maryland.
- H. *Costs* means the monetary value of a capital project to include administrative, legal, planning, engineering and construction costs.

- I. *Development* shall mean any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.
- J. *Impact fee* shall mean any charge, fee or assessment levied as a condition of issuance of a building permit or development approval when any portion of the revenues collected is intended to fund any portion of the costs of capital improvements or any public facilities.
- K. *Capital improvements* shall mean any and/or all of the following, and including acquisition of land, construction, improvements, equipping, and installing of same and which facilities are identified in the capital improvements plan to be financed by the imposition of an impact fee:
  - 1. Parks and recreational facilities;
  - 2. Road systems;
  - 3. Sanitary sewers and wastewater treatment facilities;
  - 4. Water treatment and distribution facilities;
  - 5. Storm and flood control facilities;
  - 6. Police and fire facilities;
  - 7. Solid waste facilities;
  - 8. Other facilities the costs of which may be substantially attributed to new development.
- L. *Residential development* means any development approved by the Town for residential use.
- M. *Site* means the land on which development takes place.
- N. *Zoning districts* are those areas designated in the Zoning Ordinance as being reserved for specific land uses, subject to development and use regulations specified in the ordinance.
- O. *Zoning ordinance* means the official adopted zoning map and text regulating all the development and land use in the Town of Poolesville, State of Maryland. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5-5.3. Applicability of fee.**

This chapter shall be uniformly applicable to development that occurs within the boundaries of the Town. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5-5.4. Imposition of fee.**

- A. From and after the effective date of this chapter, when an application is filed with the Town for the approval of a site plan for a building or structure requiring the issuance of a building permit by the Montgomery County Department of Environmental Protection, an impact fee is hereby levied and imposed on the real property on which the building or structure is to be located. The Town shall not issue a Zoning Code Compliance Permit until such impact fee has been paid.
- B. Impact fees shall not exceed the cost of providing capital improvements for which the need is reasonably attributable to those developments that pay the fees. The fees shall be spent on new or enlarged capital improvements that reasonably benefit those developments that pay the fees.
- C. Impact fees that are assessed against new development shall be assessed in such a manner that any new development having the same impact on capital facilities shall be assessed the same impact fee. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-5. Calculation of fee.**

- A. The Town shall calculate the amount of the applicable impact due for each building permit by:
  - 1. Determining the applicable designated development area;
  - 2. Verifying the number and type of residential dwelling units and type of nonresidential development for which each building permit is sought;
  - 3. Determining the applicable per unit impact fee; and
  - 4. Multiplying the applicable per unit impact fee by
    - a. The appropriate number of residential dwelling units; or
    - b. The quantity of the appropriate parameter for nonresidential development.
- B. The impact fee schedule to be used in making the calculations specified in subsection A. is contained in the Town Fee Schedule established pursuant to Section 4.3 of the Town Code and is attached hereto as Appendix A. The impact fee schedule maybe modified from time to time by the Commissioners of Poolesville by resolution.
- C. If the development for which a building permit is sought contains

a mix of uses, the Town must separately calculate the impact fee due for each type of development.

**Editor's note** - The fee schedule referenced in §5.5-5.B is not set out at length in this Code, but is on file and available for inspection in the office of the Town Clerk.

- D. Prior to making an application for a building permit, an applicant may request a non-binding impact fee estimate from the Town, which shall base such estimate on the development potential of the particular site given the maximum intensity permitted by existing zoning and the applicable impact fee. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-6. Payment of impact fee.**

- A. The impact fee shall be paid by the owner to the Town prior to the issuance of a Zoning Code Compliance Permit. The amount of the impact fee assessment shall be set as of the date of application for the Zoning Code Compliance Permit. A building permit shall not be issued until any applicable impact fee has been paid.
- B. Unpaid impact fees are a lien against the real property upon which a building or structure is to be erected and shall be levied, collected and enforced in the same manner as are Town real property taxes and shall have the same priority and bear the same interest and penalties as Town real property taxes for lien purposes.
- C. The impact fee imposed by this chapter is separate from and in addition to any other fees which may be imposed by any Federal, State or County governmental agency.  
(Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-7. Reserved.**

**Sec. 5.5-8. Use of funds.**

- A. All impact fees collected under this Chapter shall be used solely or financing, in whole or in part, the capital costs of public facilities, services, improvements, and equipment required to accommodate and/or benefit growth, construction or development, with the purpose that new growth, construction and development pay a proportionate fair share of the costs and expenses.
- B. Nothing in this Chapter shall release, relieve or in any way decrease a developer's obligation for assuming sole responsibility for financing the construction of all on-site and off-site improvements that are determined and are required by the Town or other applicable governmental authority to be constructed

in accordance with approved plans, public works agreements and related documents.

Editor's note - **Ord. No. 125, § 1, adopted Feb. 22, 1994, repealed § 5.5-7. Prior to repeal, such section pertained to the administration of impact fees as derived from Ord. No. 103, § 1, adopted March 19, 1990.**

- C. Nothing in this Chapter shall release, relieve or in any way decrease a developer's obligation to the Town for full payment of any and all other required fees and assessments, mandatory conveyances of land, execution of documents and for meeting any and all other requirements that are specified in this Code.
- D. Nothing in this Chapter shall preclude the use of funds by the Town from other sources to supplement or augment any special capital benefit assessment fees collected under this Chapter. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-9. Bonding of excess facility projects.**

The Town may issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include impact fees and other Town revenues as may be allocated by the Commissioners of Poolesville. Impact fees paid pursuant to this chapter, however, shall be restricted to use solely and exclusively for financing directly, or as a pledge against bonds, revenue certificates, and other obligations of indebtedness for the cost of capital improvements as specified herein. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-10. Effect of impact fee on zoning and subdivision regulations.**

This Chapter shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the Zoning and Subdivision Regulations or the regulations of the Town, which shall be operative and remain in full force and effect without limitation with respect to all such development. (Ord. No. 103, § 1, 3-19-90)

**Sec. 5.5-11. Impact fee as additional and supplemental requirement.**

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of building permits. It is intended to be consistent with and to further the objectives and policies of the comprehensive plan, the capital improvements plan, and other Town policies, ordinances, and resolutions by which the Town

seeks to ensure the provision of public facilities in conjunction with the development of land. In no event shall a property owner be obligated to pay for capital improvements in an amount in excess of the amount calculated pursuant to this Chapter, but, provided that a property owner may be required to pay, pursuant to Town ordinances, regulations, or policies, for other capital improvements in addition to the impact fee for capital improvements as specified herein. (Ord. No. 103, § 1, 3-19-90)

**Chapter 6**  
**ELECTIONS**

**Art. I. In General, §§ 6.1-6.15**

**Art. II. Absentee Voting, §§ 6.16-6.22**

**ARTICLE I. IN GENERAL**

**Secs. 6.1-6.15. Reserved.**

**ARTICLE II. ABSENTEE VOTING**

**Sec. 6.16. Elections in which absentee voters may vote.**

The provisions set forth in this Article for absentee voting shall apply to municipal elections for all candidates, Charter amendments and other questions at any election held in any year.

**Sec. 6.17 Procedures for voting by absentee ballot.**

- A. Who may vote by absentee ballot; filing deadlines. Any qualified, registered voter of the Town who may **be** absent for any reason from the Town on any municipal election day or who, because of injury, illness, other disability or confinement in or restriction to any institution, death or serious illness in the immediate family or employment by the Montgomery County Board of Supervisors of Elections is unable to be physically present and voting at the polls on any municipal election day, or who is authorized to vote by absentee ballot by an applicable federal law, may vote as an absentee voter. Such voter shall make application for an absentee ballot. The application shall be filed in Town Hall not later than ten (10) days preceding any election. In computing the ten (10) day period, Saturdays, Sundays and legal holidays shall be excluded. Upon receipt of the application, the Poolesville Board of Supervisors of Elections ("Board") shall mail to the voter entitled thereto an absentee ballot, or the voter may pick up the absentee ballot in person or by an authorized agent.
- B. Emergency absentee ballots. After the tenth day preceding an election, excluding Saturdays, Sundays and legal holidays, and on the day of the election prior to the time the polls close, any person registered and otherwise qualified to vote may apply for an emergency absentee ballot for reasons stated in Subsection A of this Section if those reasons arose after the tenth day preceding the election.
- C. Form of application. The application shall be made under penalty of perjury but without formal oath, setting forth the reason for absentee voting. Printed forms of applications for absentee

ballots in accordance with the requirements of this article shall be prepared by the Board and shall be available to any voter upon request.

- D. Issuance of ballots; authorized agents. Upon receipt of the application, the Board if satisfied that the voter qualifies for absentee voting, shall issue to the voter, or the voter's duly authorized agent, an absentee ballot which shall be marked by the voter, placed in a sealed envelope, and returned to the Board. If the voter does not apply in person, the application shall designate a voter registered in the Town as agent for the purpose of delivering the absentee ballot to the voter, and the agent shall execute an affidavit under penalty of perjury that the ballot was delivered to the voter who submitted the application, was marked by the voter in the agent's presence, was placed in a sealed envelope in the agent's presence, and returned, under seal, to the Board by the agent. Any absentee ballot received by the Board after the time for closing of the polls will not be counted.
- E. Voter assistance. Any otherwise qualified voter, who, due to physical disability, is unable to mark his or her absentee ballot and sign the required oath, may be assisted in voting by any person selected by the voter. Any person rendering assistance pursuant to this subsection shall execute a certification to be included in the instructions provided to the absentee voter.
- F. Review of application; rejection. Upon receipt of an application, the Board's Chairperson or his/her designated person may make inquiries in reference thereto and may reject the application if the applicant does not meet the requirements of this Section. All investigations shall be concluded and determinations made as to all absentee ballot applications, except emergency absentee ballots, not later than five (5) business days before election day. The Chairperson shall notify the applicant of the reason for any rejection.
- G. Delivery of absentee ballots. If the applicant is a qualified voter and the application is in order, the Board or the Town Clerk shall, as soon as practicable, deliver to the voter or mail to the voter at an address designated by the voter, an absentee voter's ballot and an envelope therefore. Mailing shall be by certified mail return receipt requested. Postage for transmitting the ballot material to the voter shall be paid for by the Town and postage for the return of the ballot shall be paid by the voter. If the ballot is to be sent by mail, the determinations required in subsection A. shall be made in such time as will allow for sending and returning the ballot by regular mail, or airmail, depending on the mailing address, and including at least one business day for marking the ballots.

- H. Record-keeping. The Board shall keep a record of applications for all absentee voters' ballots as they are received, showing the date and time received, and names and residences of the applicants, and such record shall be available for examination by any registered voter.
- I. Absentee voting records to be kept separate. After approval of an application for an absentee ballot and the delivery or mailing to the applicant of an absentee ballot, the voter's record card shall be removed and placed in a separate binder marked "Registered Absentee Voters" and retained in Town Hall and shall show the date the absentee ballot was sent. No such voter shall vote or be allowed to vote in person at any polling place.
- J. Loss or destruction of absentee ballots. Not more than one absentee ballot shall be mailed to any voter unless the Board's Chairperson or his/her designated person has reasonable grounds to believe that the absentee ballot previously mailed has been lost, destroyed or spoiled.

**Sec. 6.18. Canvassing of ballots.**

- A. The Board shall not open or unfold any absentee ballot at any time prior to the closing of the polls and the beginning of the canvass of the absentee ballots.
- B. At any time after the closing of the polls and not later than the canvass of the votes cast at the regular voting places in the Town at any election, the Board shall meet and shall proceed to count, certify and canvass the absentee ballots contained in the ballot envelopes, received by them prior to the closing of the polls on election day. No ballot shall be rejected by the Board except by a majority vote.
- C. If the Board determines that the provisions for filling out and signing the oath or affirmation on the outside of the ballot envelope have been substantially complied with and that person signing the voter's oath or affirmation is entitled to vote under this Article and has not already voted therein on election day, the Board shall open the ballot envelope and remove the ballot therefrom and place it in a ballot box or boxes prepared for that purpose. When any ballot envelope is opened, the Board shall enter in the appropriate register the fact that the voter whose name appears thereon has voted, using the initials "A.B." to indicate the vote has been by absentee ballot. If there is more than one ballot in the ballot envelope, all shall be rejected. Absentee ballots may be marked by any kind of pencil or ink.

**Sec. 6.19 Invalid absentee ballots.**

- A. Any absentee ballot which has voted for a person who has ceased to be a candidate shall not be counted for such candidate, but such vote shall not invalidate the remainder of such ballot.
- B. If at or prior to the time of canvassing the ballots, the Board shall determine from proof or investigation that the absentee resident who marked a ballot had died before election day, such ballot shall not be counted. If the Board has not been able to determine that an absentee voter had died prior to election day, the vote shall be counted, and the fact that such absentee voter may be shown to have been deceased on election day shall not invalidate such ballot or election.
- C. If the Board receives from the same person prior to the closing of the polls on election day more than one absentee ballot, the Board shall count, certify and canvass only the absentee ballot contained in the ballot envelope which the voter first executed, and if two (2) or more of the ballot envelopes containing absentee ballots are dated the same or if both are undated, none of the ballots received from such person shall be counted.

**Sec. 6.20 Maintaining records.**

All absentee voter's applications, certifications, ballot envelopes and ballots shall be kept separate and apart from the ballots cast in the regular voting places and retained for six (6) months after the date of election at which they were cast, unless prior to that time, the Board shall be ordered by a court of competent jurisdiction, to keep the same for any longer period.

**Sec. 6.21 Form of ballots for absentee voters.**

- A. In sufficient time prior to any election, the Board shall have printed an adequate number of absentee ballots, the three (3) kinds of envelopes described in paragraph C of this Section and the instructions to absentee voters as hereinafter set forth.
- B. The ballots shall contain the words "Absentee Ballot" printed in large letters in a clear space at the top of each ballot. Underneath these words shall be printed the following warning:
- C. "Mark ballot by placing "X" or other such mark that clearly indicates the voter's choice in the proper blank after each candidate or question. Do not erase or make identifying mark." The Board shall prescribe the size, form and printed content of the absentee ballot material envelopes providing for a "covering envelope", a "ballot envelope" and a "return envelope".

**Sec. 6.22 Instructions to voters.**

The printed instruction for the casting of absentee ballots shall be prescribed by the Board. (Ord. No. 62 §7,9-15-80; Ord. No. 69 §1, 1-3-83;Ord. No. 169, 04-03-06)

## Chapter 6.25

### PETITIONS

#### Sec. 6.25-1. Applicability

- A. The provisions of this Chapter shall apply to all petitions filed pursuant to the Charter and Code of the Town of Poolesville and matters subject to petition contained in Article 23A of the Maryland Annotated Code.
- B. Nothing in this Chapter shall create, enlarge, alter or add any petition rights of the Citizens of Poolesville which are not otherwise authorized by the Charter and Code of the Town of Poolesville or applicable provisions of State law.

#### Sec. 6.25-2. Contents of Petitions

- A. A petition shall contain:
  - 1. An information page; and
  - 2. Signature pages containing not less than the total number of signatures required by law to be filed.
- B. Information Page. The information page shall contain:
  - 1. A description of the subject and purpose of the petition;
  - 2. Identification of the sponsor and, if the sponsor is an organization, of the individual designated to receive notices under this Chapter, and the address of the individual and organization.
  - 3. The number of signature pages comprising the petition and the total number of signatures contained in the petition.
  - 4. Any other information required by regulation of the Board of Supervisors of Elections.
- C. Signature Page. Each signature page shall contain:
  - 1. A description of the subject and purpose of the petition, conforming to the requirements of applicable law.
  - 2. If the petition seeks to challenge a charter amendment adopted by the Board of Commissioners, the resolution number which adopted the charter amendment and:

- a. A fair and accurate summary of the substantive provisions of the charter amendment; or
  - b. The full text of the charter amendment.
3. If the petition seeks to adopt a charter amendment, the description must comply with the applicable provisions of Article 23A of the Maryland Annotated Code.
  4. If the petition is filed pursuant to the provisions of Article 23A of the Maryland Annotated Code, it shall also comply with the applicable requirements stated therein.
  5. A statement, to which each signer (Petitioner) subscribes, that:
    - a. The signer supports the purpose of the petition process; and
    - b. Based on the signer's information and belief, the signer is a registered voter of the Town.
  6. A space for the signature of the Petitioner.
  7. A space for the Petitioner to print their name and address.
  8. A space for the Petitioner to write the date of signing.
  9. A space for the required affidavit made and executed by the circulator.
  10. Any other information required by regulation of the Board of Supervisors of Elections.
- D. A signature page shall satisfy the requirements of subsection C above before any signature is affixed to it and at all relevant times thereafter.
- E. All signature pages comprising the petition shall be assembled and filed as one instrument.

**Sec. 6.25-3. Form Petition.**

The format of the petition used by a sponsor shall be in the form adopted by the Board of Supervisors of Elections pursuant to the provisions of this Chapter.

**Sec. 6.25-4. Information provided by signers.**

- A. To sign a petition, an individual shall:
  - 1. Sign the individual's name as it appears on the Town's voter registration records. A minor variation in the signature of a Petitioner between the signature on the Petition and that on the Town's voter registration records shall not invalidate the signature.
  - 2. Include the following information, printed or typed, in the spaces provided:
    - a. the signer's name as it was signed;
    - b. the signer's address; and
    - c. the date of signing.
- B. Validation and counting. The signature of an individual shall be validated and counted if:
  - 1. The requirements of subsection A of this Section have been satisfied;
  - 2. The individual is a registered voter of the Town when the individual signed the Petition.
  - 3. The individual has not previously signed the same petition;
  - 4. The signature is attested to by an affidavit appearing on the page on which the signature appears,
  - 5. The date accompanying the signature is not later than the date of the affidavit on the page; and
  - 6. The signature was affixed within the requisite period of time, as specified by law.
- C. Removal of Signature and Additional Signatures
  - 1. A signature may be removed:
    - a. By the signer upon written application to the Board of Supervisors of Election, if the application is received prior to the filing of that signature;
    - or
    - b. Prior to the filing of that signature, by the circulator who attested to that signature or by the sponsor of the petition, if it is concluded that the signature does not satisfy the requirements of this Chapter.
  - 2. A signature removed pursuant to this Section may not be

included in the total number of signatures stated on the information page included in the petition.

3. Subsequent to the filing of a petition under this Chapter, but prior to the deadline for filing the petition, additional signatures may be added to the petition by filing an amended information page and additional signature pages conforming to the requirements of this Chapter.

**Sec. 6.25-5. Circulators; Affidavit of Circulator**

- A. Each signature page shall contain an affidavit made before a notary public by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.
- B. The affidavit shall contain the statement that:
  1. All identifying information given by the circulator is true and correct;
  2. Signatures were placed on the petition in the circulators presence;
  3. Based on the circulator's best knowledge and belief, each signature on the page is genuine and each signer is a registered voter of the Town.
- C. Any signature page which does not fulfill the requirements of this section shall be disallowed and all signatures thereon shall not be counted.
- D. A circulator must be at least 18 years old at the time any of the signatures covered by the affidavit are affixed.

**Sec. 6.25-6. Filing of Petitions.**

A petition shall be addressed to the Commissioners of Poolesville and shall be filed with the Town Clerk.

**Sec. 6.25-7. Determinations at Time of Filing.**

- A. Upon the filing of a petition, the Town Clerk shall review the petition to make a determination that the petition, as to matters other than the validity of signatures, is sufficient. This determination may be deferred to obtain a legal review of the Petition by the Town.
- B. Declaration of Deficiency. The Town Clerk shall declare that the petition is deficient if it is determined that:
  1. The petition was not timely filed;

2. The petition does not satisfy any requirements of law for the number of signatures.
  3. The requirements relating to the form of the petition have not been satisfied.
  4. The use of a petition for the subject matter of the petition is not authorized by law.
  5. The petition has failed to satisfy some other requirement established by law.
- C. Unless a Declaration of Deficiency is made, the Town Clerk shall make a determination that the petition, as to matters other than the validity of signatures, is sufficient, in which case the process of verification of signatures shall begin pursuant to the provisions of this Chapter.
- D. Notice of the determination made under this section shall be given to the President of the Commissioners of Poolesville and to the individual designated to receive notice on the information page of the petition.

**Sec. 6.25-8. Verification of Signatures**

- A. Upon the filing of a petition, unless it has been declared deficient under the terms of this Chapter, the Town Clerk shall proceed to verify the signatures and count the validated signatures contained in the petition. The purpose of signature verification is to ensure that the name of the individual who signed the petition is listed as a registered voter of the Town at the time the petition was signed.
- B. If it is determined that the Petitioner is not a registered voter of the Town at the time of the signing, that signature will be disallowed and not counted in the total of valid signatures contained in the petition.
- C. If the name of the Petitioner is not legible or if information required under this Chapter is not provided, that signature will be disallowed and not counted in the total of valid signatures contained in the petition.

**Sec. 6.25-9. Certification**

- A. At the conclusion of the verification and counting process the Town Clerk shall:
  - 1. Determine whether the validated signatures contained in the petition are sufficient to satisfy all requirements established by law relating to the number of signatures; and
  - 2. Determine whether the petition has satisfied all other requirements established by law for that petition.
- B. If the Town Clerk determines that a petition has satisfied all requirements established by law relating to that petition, the Town Clerk shall certify that the petition process has been completed and shall:
  - 1. Notify the President of the Commissioners of Poolesville and submit the petition and certification to the Commissioners of Poolesville for appropriate action required by law;
  - 2. Send notice of such certification to those designated to receive notice on the information page of the petition.
- C. If the Town Clerk determines that a petition has not satisfied all requirements established by law relating to that petition, the Town Clerk shall certify the petition as invalid and shall:
  - 1. Notify the President of the Commissioners of Poolesville of such invalidity;
  - 2. Send notice of such invalidity to those designated to receive notice on the information page of the petition.

**Sec. 6.25-10. Appeal and Review**

- A. A person aggrieved by a determination made as to the status of a Petition as a registered voter of the Town or compliance with the processes contained in this Chapter shall appeal to the Board of Supervisors of Elections within ten (10) days following the determination to which it is related. The Board of Supervisors of Elections shall hold a hearing on the matter and make a decision.
- B. A person aggrieved by a determination on matters outside the scope of this Chapter may appeal such determination as allowed by law.(Ord. No. 186, 10-17-11)

## Chapter 6.5

### FUEL AND HAZARDOUS LIQUID STORAGE TANKS

#### **Sec. 6.5-1. Underground Storage Tanks, standards established.**

In order to safeguard the quality of groundwater which is relied upon by the Town as a potable supply source, all new and replacement underground fuel and hazardous liquid storage tanks subject to the provisions of COMAR 26.10 will be installed in accordance with Federal and State of Maryland statutes and implementing regulations. All piping for tankage, where an oil operations permit is required in accordance with COMAR 26.20.01.07, will comply with all provisions of COMAR 26.10 and Federal regulations. (Ord. No. 115, § 1, 10-19-92)

#### **Sec.6.5-2. Assurance of compliance with Federal and State statutes.**

No underground storage tank described in Section 6.5-1 shall be installed in the Town until the owner provides assurance to the Town that the plans for such tank and its installation is in compliance with Federal and State statutes and implementing regulations. (Ord. No. 115, § 1, 10-19-92)

## Chapter 7

### FOREST CONSERVATION\*

Art. I. In General, §§ 7.1 - 7.20

Art. II. Forest Conservation Plan, §§ 7.21 - 7.30

#### ARTICLE I. IN GENERAL

##### Sec. 7.1. Purpose.

- A. The Commissioners have determined that to meet the requirements of Natural Resources Article, §§ 5-1601 - 5-1612, Annotated Code of Maryland, the provisions of this chapter must be enacted.
- B. The purpose of this chapter is to prohibit certain development projects from cutting or clearing certain forests within the community unless a forest conservation plan is in effect. (Ord. No. 122, § 1(7-1.1), 12-21-92)

##### Sec. 7.2. Definitions.

In this chapter the following terms have the meanings indicated.

*Afforestation* means:

- A. Establishment of a forest on an area from which forest cover has been absent for a long period of time;
- B. Planting of open areas which are not presently in forest cover;  
or
- C. Establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.

*Agricultural activity* means farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aqua culture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise.

*Agricultural and resource areas* means undeveloped areas zoned for densities of less than or equal to one dwelling unit per five (5) acres and corresponds to Poolesville Zoning Classification Rural Density Transfer Zone, Section 4.4 of Zoning Ordinance of the Town.

*Applicant* means a person who is applying for subdivision or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or forest conservation plan.

*Approved forest management plan* means a document:

- A. Approved by the Department of Natural Resources forester assigned to the County in which the property is located; and
- B. Which operates a protective agreement for forest conservation as described in the Natural Resources Article § 5-1607(e), (f), Annotated Code of Maryland.

*Caliper* means the diameter measured at two (2) inches above the root collar.

*Champion tree* means the largest tree of its species within the United States, the State, County, or Municipality,

*Champion tree of the State* means a tree which appears in the State Forest Conservation Manual list of State champion trees.

*Commercial and Central Business District uses* means manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas, and corresponds to Poolesville Zoning Classifications General Commercial, Special Commercial and Industrial, Sections 5, 5A and 6, respectively, of Zoning Ordinance of the Town. (Amended Ord. 122, 11-8-04)

*Commercial logging or timber harvesting operations* means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.

*Critical habitat area* means a critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall:

- A. Be likely to contribute to the long-term survival of the species;
- B. Be likely to be occupied by the species for the foreseeable future; and
- C. Constitute habitat of the species which is considered critical under Natural Resources Article, §§ 4-2A-04 and 10-2A-06, Annotated Code of Maryland.

*Critical habitat for endangered species* means a habitat occupied by an endangered species as determined or listed under Natural Resources Article, §§ 4-2A-04 and 10-2A-04, Annotated Code of Maryland.

\*Cross references - Administration, Ch. 2; Forest Conservation Ordinance; compliance required, App. A, § 25A, App. B, § 2A.

*Declaration of intent means:*

- A. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
  - 1. Is for certain activities exempted under this chapter or Natural Resources Article, §§ 5-103 and 5-1601 through 5-1612, Annotated Code of Maryland, and
  - 2. Does not conflict with the purposes of any other declaration of intent; and
- B. The document required under COMAR 08.19.01.05 or this Chapter.

*Development project.*

- A. Means the grading or construction activities occurring on a specific tract that is forty thousand (40,000) square feet or greater.
- B. Includes redevelopment.

*Development project completion means for the purposes of afforestation, reforestation, or payment into a fund:*

- A. The release of the development, if required;
- B. Acceptance of the project's streets, utilities, and public services by the Planning Commission; or
- C. Designation by the Planning Commission that:
  - 1. Development project has been completed, or
  - 2. Particular stage of a staged development project, including a planned unit development, has been completed.

*Forest:*

- A. Means a biological community dominated by trees and other woody plants covering a land area of ten thousand (10,000) square feet or greater.
- B. Includes:
  - 1. Areas that have at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having a two-inch or greater diameter at four and five tenths (4.5) feet above the ground and larger; and
  - 2. Areas that have been cut but not cleared.

C. Does not include orchards.

*Forest Bank:* An area of land on the date of application for a BEF was not in forest, or did not have a forest upon it, but following application, approval and certification hereunder is placed in forest, to be used all or in part as credit against afforestation and/or reforestation that may be required as the result of later action. (Amended 3-21-11)

*Forest Conservancy District Board* means the Forestry Board created for each State Forestry Conservancy District under Natural Resources Article, §§ 5-601 through 5-610, Annotated Code of Maryland.

*Forest conservation* means the retention of existing forest or the creation of new forest at the levels set by the Planning Commission.

*Forest Conservation and Management Agreement* means an agreement as stated in the Tax-Property Article, § 8-211, Annotated Code of Maryland.

*Forest Conservation Technical Manual* means the technical manual incorporated by reference, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.

*Forest conservation plan* means a plan approved pursuant to Natural Resources Article, §§ 5-1606 and 5-1607, Annotated Code of Maryland.

*Forest cover* means the area of a site meeting the definition of forest.

*Forest management plan* means a plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

*Forest stand delineation* means the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the State Forest Conservation Technical Manual.

*Growing season* means the period of consecutive frost-free days as stated in the current soil survey for this County published by the National Cooperative Soil Survey Program, 16 U.S.C. § 590(a)-(f).

*High density residential areas* means areas zoned for densities greater than one (1) dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the Poolesville Zoning Classification(s) Residential One-third (1/3) Acre, Residential One-Half (1/2) Acre, Residential Three-Quarter (3/4) Acre and Multiple-Residential, Section 3 of the Zoning Ordinance of the Town of Poolesville. (Amended Ord. 122, 1-8-04)

*Institutional development area* means schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries which are generally permitted or special exception uses in all zoning classifications established in the Zoning Ordinance of the Town.

*Intermittent stream* means a stream in which surface water is absent during apart of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

*Landscaping plan* means a plan:

- A. Drawn to scale, showing dimensions and details for reforesting an area at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or greater in size;
- B. Using native or indigenous plants when appropriate; and
- C. Which is made part of an approved Forest Conservation Plan.

*Lot* means a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources Article § 5-601, Annotated Code of Maryland and this chapter without an approved forest stand delineation and Forest Conservation Plan.

*Maintenance agreement* means the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, § 5-1605, Annotated Code of Maryland and this ordinance.

*Medium density residential areas* means areas zoned for densities greater than one (1) dwelling unit per five (5) acres and less than or equal to one (1) dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, (not presently included in Town Zoning Classification).

*Minor development project* means a project:

- A. On less than five (5) acres of land containing not more than four (4) lots per acre; or
- B. Substantively similar as defined by the Planning Commission.

*Mixed use development* means a single-relatively high density development project, usually commercial in nature, which includes two (2) or more types of uses (not presently included in Town Zoning Classifications).

*Natural regeneration* means the natural establishment of trees and other vegetation with at least four hundred (400) woody, free to grow seedlings per acre, which are capable of reaching a height of at least twenty (20) feet at maturity.

*Net tract area* means:

- A. Except in agriculture and resource areas the total area of a site, including both forested and non-forested areas, to the nearest 1/10 acre, reduced by the area where forest clearing restricted by another local ordinance or program is; and
- B. In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area found to be within the boundaries of the one-hundred-year flood plain. (Amended Ord. 122, 11-8-04)

*Non-tidal wetlands.*

- A. Means an area that is:
  - 1. Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
  - 2. Considered a non-tidal wetland in accordance with current practices of the State of Maryland, Department of Natural Resources, Non-tidal Wetlands Program.
- B. Does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.

*Offsite* means outside of the limits of the area encompassed by the tract.

*Onsite* means within the limits of the area encompassed by the tract, including an area classified as a one-hundred-year flood plain.

*One-hundred-year flood* means a flood which has a one (1) percent chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than four hundred (400) acres is excluded.

*One-hundred-year flood plain* means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying flood waters during a one-hundred-year frequency storm event, or a one-hundred-year flood.

*Perennial stream* means a stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

*Person* means the Federal government, the State, a County, Municipal Corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or other entity.

*Planned unit development* means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the Town with at least twenty (20) percent of the land permanently dedicated to open space (not presently included in Town Zoning Classification).

*Planning Commission* means the five individuals appointed by the Town Commissioners pursuant to Section 82-28 of the Poolesville Charter and charged with implementing this Chapter.

*Public utility* means any:

- A. Transmission line or electric generating station; or
- B. Water, sewer, electric, gas, telephone, and television cable service line.

*Reforestation or reforested:*

- A. Means the:
  - 1. Creation of a biological community dominated by trees and other woody plants containing at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having the potential of attaining a two-inch or greater diameter measured at four and five-tenths (4.5) feet above the ground, within seven (7) years; or
  - 2. Establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.
- B. Includes landscaping of areas under an approved landscaping plan establishing a forest at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or more of area.

*Regulated activity* means any of the following activities, when that activity occurs on a unit of land which is forty thousand (40,000)

square feet or greater:

- A. Subdivision;
- B. Grading;
- C. An activity that requires a sediment control permit; or
- D. Project plan of a local agency.

*Retention* means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the State Forest Conservation Technical Manual.

*Sediment control permit* means the authorization of an activity regulated under a sediment control plan as provided in the Environment Article, Title 4, Annotated Code of Maryland.

*Seedlings* means an unbranched woody plant, less than twenty-four (24) inches in height and having a diameter of less than one-half-inch measured at two (2) inches above the root collar.

*Selective clearing* means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved Forest Conservation Plan.

*Stream buffer* means all lands lying within fifty (50) feet, measured from the top of each normal bank of a perennial or intermittent stream.

*Subdivision* means any division of a unit of land into two (2) or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

*Timber harvesting:*

- A. Means a tree cutting operation affecting one (1) or more acres of forest or developed woodland within a one-year interval that disturbs five thousand (5,000) square feet or more of forest floor.
- B. Does not include grubbing and clearing of root mass.

*Tract* means property or unit of land subject to an application for a grading or sediment control permit subdivision approval, project plan approval, or areas subject to this subtitle.

*Tract for a planned unit development* means the entire property subject to a planned unit development.

*Tree* means a large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty (20)

feet at maturity.

*Variance:*

- A. Means from Natural Resources Article, §§ 5-1601 through 6-162, Annotated Code of Maryland or this Chapter.
- B. Does not mean a zoning variance.

*Watershed* means all land lying within an area described as a sub-basin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.

*Whip* means an unbranched woody plant greater than twenty-four (24) inches in height and having a diameter of less than one (1) inch measured at two (2) inches above the root collar. (Ord. No. 122, § 1(7.2.1 - 7.2.62), 12-21-92)

**Sec. 7.3. Application.**

A. Except as provided in Subsection B. of this section, this Chapter applies to:

- 1. A person making application for a subdivision, site plan, grading, or sediment control approval on units of land forty thousand (40,000) square feet or greater after the effective date of this chapter.
- 2. A public utility not exempt under Section B. 5 and 6 of this section.
- 3. A unit of county or municipal government, including a public utility or public works project making application for a subdivision, project plan, grading, or sediment control approval on areas forty thousand (40,000) square feet or greater.

B. This Chapter does not apply to:

- 1. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§ 8-1801 through 8-1816, Annotated Code of Maryland.
- 2. Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, that are completed:
  - a. Before July 1, 1991; or
  - b. After July 1, 1991 on property which:

- (1) Has not been the subject of application for a grading permit for development within five (5) years after the logging or harvesting operation, and
  - (2) Is the subject of a declaration of intent as provided for in Section 7.4 of this article, approved by the Planning Commission.
3. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing forty thousand (40,000) square feet or greater of forest within a one-year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Section 3.3 of this article which includes:
- a. A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five (5) years from the date of the declaration; and
  - b. A sketch map of the property which shows the area to be cleared.
4. The cutting or clearing of public utility rights-of-way licensed under Article 78, §§ 54A and 54B or 54-I, Annotated Code of Maryland or land for electric generating stations licensed under Article 78, §§ 54A and 54 B or 54-I, Annotated Code of Maryland, if:
- a. Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, § 5-1603(f), Annotated Code of Maryland; and
  - b. Cutting or clearing of the forest is conducted to minimize the loss of forest.
5. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Article 78, §§ 54A and 54B or § 54-I, Annotated Code of Maryland.
6. Except for a public utility subject to Subsection B.6. of this article, routine maintenance or emergency repairs of a public utility right-of-way if:
- a. The right-of-way existed before the effective date of this Chapter; or

- b. The right-of-way's initial construction was approved under this Chapter.
- 7. A residential construction activity conducted on an existing single lot of any size if the activity:
  - a. Does not result in the cumulative cutting, clearing, or grading of more than twenty thousand (20,000) square feet of forest; (Amended 02-01-10)
  - b. Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this Chapter; and
  - c. Is the subject of a declaration of intent filed with the Planning Commission, as provided for in Section 7.4 of this article, stating that the lot will not be the subject of a regulated activity within five (5) years of the cutting, clearing, or grading of forest. (Amended Ord. 122, 11-8-04)
- 8. An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity:
  - a. Does not result in the cutting, clearing, or grading of more than twenty thousand (20,000) square feet of forest; and (Amended 02-01-10)
  - b. Is the subject of a declaration of intent filed with the Planning Commission, as provided for in Section 7-4 of this article, which states that transfer of ownership may result in a loss of exemption.
- 9. Any person who has obtained final plat or equivalent approval, or has filed an application that satisfies this section, before January 1, 1993, is not required to file a Forest Conservation Plan with a subsequent application for sediment or grading plan approval for the tract to be developed according to the final plat or equivalent approval. An approved plan that contains the plan view of the projects, lot layout, storm water management details, and other information normally required during the phase of approval under the Town Subdivision Regulations known as "preliminary plan approval" will be considered the equivalent to final plat approval. An application for preliminary subdivision plan approval shall be deemed to be substantively complete if it contains all the information required by the Town Subdivision Regulations to enable the Planning Commission to approve a preliminary subdivision plan.

10. A real estate transfer to provide security, leasehold, or other legal or equitable interests, including a transfer of title, of a portion of a lot or parcel, if:
  - a. The transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
  - b. Both the grantor and grantee file a declaration of intent, as provided for in Section 7.4 of this article.(Ord. No. 122, § 1(7.3.1, 7.3.2), 12-21-92)

**Sec. 7.4. Declaration of intent.**

- A. The proposed activity is exempt under Natural Resources Article, §§ 5-103 and 5-1601 through 5-1612, Annotated Code of Maryland and this Ordinance.
- B. A person seeking an exemption under section 3.2 C, D, H, K, and N of this article shall file a declaration of intent with the Planning Commission.
- C. The existence of a declaration of intent does not preclude:
  1. An exempted activity on the property subject to a declaration of intent, if the activity:
    - a. Does not conflict with the purpose of any existing declaration of intent, and
    - b. Complies with the applicable requirements for an exempted activity;
  2. A regulated activity on the area covered by the declaration of intent, if the activity occurs within five (5) years of the effective date of the declaration of intent, in which case:
    - a. There shall be an immediate loss of exemption, or
    - b. There may be a noncompliance action taken by the Planning Commission, as appropriate, under this Chapter; or
  3. A regulated activity on that area of the property not covered under the declaration of intent if the requirements of this ordinance are satisfied.
- D. The Planning Commission may require a person failing to file a declaration of intent or found in noncompliance with a

declaration of intent to:

1. Meet the retention, afforestation and reforestation requirements established in Articles III-XIII of this Chapter;
  2. Pay a noncompliance fee of thirty (30) cents per square foot of forest cut or cleared under the declaration of intent;
  3. Be subject to other enforcement actions appropriate under Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland and this Chapter; or
  4. File a declaration of intent with the Planning Commission.
- E. In its determination of appropriate enforcement action, the Planning Commission may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this chapter.
- F. The declaration of intent is effective for five (5) years. (Ord. No. 122, § 1(7.3.3), 12-21-92)

**Sec. 7.5. General requirements.**

- A. A person making application after the effective date of January 1, 1993, for subdivision or site plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand (40,000) square feet or greater shall:
1. Submit to the Planning Commission a Forest Conservation Plan for the lot or parcel on which the development is located; and
  2. Use methods approved by the department, as provided in the State Forest Conservation Technical Manual, to protect retained forests and trees during construction.
- B. If a local agency or person using State funds makes application to conduct a regulated activity, the provisions of COMAR 08.19.04.01D through G apply.

NOTE: Poolesville is small enough that we will delineate all our forests ourselves and simply specify to developers where they are. The Town will provide to all developers a copy of the forest stand delineation. The delineation will be updated approximately every ten (10) years or as needed. (Ord. No. 122, § 1(7.4.1, 7.4.2), 12-21-92)

**Sec. 7-6. Variances.**

- A. *Procedure.* A person may request a variance from this Chapter or the requirements of Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland, if the person demonstrates that enforcement would result in unwarranted hardship to the person.
- B. *Variance.* An applicant for a variance shall:
1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
  2. Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
  3. Verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;
  4. Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;
  5. Verify that the request does not arise from a condition relating to land or building use, either permitted or non-conforming, on a neighboring property; and
  6. Verify that the granting of a variance will not adversely affect water quality.
- C. *Findings of Planning Commission.* The Planning Commission shall make findings that the applicant has met the requirements in Subsections A and B of this section before the Planning Commission may grant a variance.
- D. *Notice for variance.* Notice of a request for variance shall be given to the Department of Natural Resources within fifteen (15) days of receipt.
- E. *Appeal of approval of variance.* This chapter provides the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial or other original proceeding or appeal concerning an approval of a variance under Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland or this Chapter. (Ord. No. 122, § 1(7.14.1), 12-21-92)

**Sec. 7.7. Penalties; enforcement.**

A. *Noncompliance fees.*

1. A person found to be in noncompliance with this ordinance, regulations adopted under this ordinance, the Forest Conservation Plan, or the associated two-year maintenance agreement, shall be assessed by the Planning Commission the penalty of thirty (30) cents per square foot of the area found to be in noncompliance with required forest conservation.
2. Money collected under Subsection A.1. of this Section shall be deposited in the Forest Conservation Fund as required by Section 7.27 of this Chapter, and may be used by the Planning Commission for purposes related to implementing this Chapter.

B. *Violation.*

1. In addition to the provisions under Subsection A of this Section, a person who violates a provision of this ordinance or a regulation or order adopted or issued under this ordinance is liable for a penalty not to exceed one thousand dollars (\$1,000.00), which may be recovered in a civil action brought by the Planning Commission.
2. Each day a violation continues is a separate violation.

C. *Injunction.* The Planning Commission may seek an injunction requiring the person to cease violation of this ordinance and take corrective action to restore or reforest an area.

D. *Enforcement provisions.* The local program may adopt the enforcement provisions under COMAR 08.19.06.03. (Ord. No. 122, § 1(7.15.1), 12-21-92)

**Sec. 7.8. Annual report.**

On or before March 1 of each year, the Planning Commission shall submit to the Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee a report on: (Amended 02-01-10)

- A. The number, location, and type of projects subject to the provisions of this ordinance;
- B. The amount and location of acres cleared, conserved, and planted including any areas located in the one hundred (100) year floodplain, in connection with a development project; (Amended 02-01-10)

- C. The amount of reforestation and afforestation fees and non-compliance penalties collected and expended; and
- D. The costs of implementing the Forest Conservation Program. (Ord. No. 122, § 1(7.16.1), 12-21-92)
- E. Location and size of all forest mitigation banks approved during the past year with a description of the priority areas afforested or reforested by the bank; (Amended 02-01-10)
- F. Number of acres debited from each forest mitigation since the last annual report; and (Amended 02-01-10)
- G. Forest mitigation banks inspected since the last annual report. (Amended 02-01-10)
- H. Number, location, and types of violations and types of enforcement activities conducted; and (Amended 02-01-10)
- I. The size and location of all conserved and planted forest areas shall be submitted in an electronic geographic information system or computer aided design format if possible. If not possible, the location shall be given by Maryland State Plane Grid Coordinates and eight (8) digit subwatershed. (Amended 02-01-10)

**Sec. 7.9. Biennial review by the Department of Natural Resources**

The Planning Commission shall submit the necessary documentation to comply with COMAR 08.19.02.04.(Ord. No. 122, § 1(7.17.1), 12-21-92)

**Sec. 7.10. Appeals.**

Any decision of the Planning Commission rendered pursuant to this chapter may be appealed to the Circuit Court for Montgomery County in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure. (Ord. No. 122, § 1(7.18.1), 12-21-92)

**Sec. 7.11. Effective date and subsequent amendments.**

This Chapter is hereby enacted and becomes effective January 1, 1993. This Ordinance may be amended as required. All amendments to this chapter are subject to the approval of the Department of Natural Resources. (Ord. No. 122, § 1(7.19.1), 12-21-92)

**Secs. 7.12-7.20. Reserved.**

## ARTICLE II. FOREST CONSERVATION PLAN

### Sec. 7.21. Generally.

- A. In developing a Forest Conservation Plan, the applicant shall give priority to techniques for retaining existing forest on the site.
- B. If existing forest on the site subject to a Forest Conservation Plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Planning Commission:
  - 1. How techniques for forest retention have been exhausted;
  - 2. Why the priority forests and priority areas specified in National Resources Article, § 5-1607(c), Annotated Code of Maryland, cannot be left in an undisturbed condition;
  - 3. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article § 5-1607, Annotated Code of Maryland; and
  - 4. Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article § 5-1607, Annotated Code of Maryland.

The applicant shall demonstrate to the satisfaction of the Planning Commission that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the local forest conservation fund instead of afforestation or reforestation.

- D. Non-tidal wetlands. A regulated activity under the local program is subject to the following requirements:
  - 1. For the purposes of delineation, permitting, and mitigation, areas determined to be non-tidal wetlands under COMAR 08.05.04 shall be regulated under COMAR 08.05.04 and this ordinance, whichever is more stringent.
  - 2. For the purpose of calculating reforestation mitigation under this ordinance, a forested non-tidal wetland permitted to be cut or cleared and required to be mitigated under the COMAR 08.05.04 shall be shown on the forest conservation plan and subtracted on an acre for acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.

3. Non-tidal wetlands shall be considered to be priority areas for retention and replacement.
4. Forested non-tidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the non-tidal wetlands and to avoid delay in the approval process. (Ord. No. 122, § 1(7.6.1), 12-21-92)

**Sec. 7.22. Preliminary forest conservation plan.**

- A. A preliminary forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- B. A preliminary forest conservation plan shall;
  1. Be submitted with the preliminary plan of subdivision or proposed site plan;
  2. Include the approved forest stand delineation for the site;
  3. Include a table that lists the proposed values of the following, in square feet:
    - a. Net tract area,
    - b. Area of forest conservation required, and
    - c. Area of forest conservation that the applicant proposes to provide, including both onsite and offsite areas;
  4. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
  5. Include an explanation of how the provisions of Section 7-21 of this article have been met;
  6. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
  7. Include a proposed construction timetable showing the sequence of forest conservation procedures;
  8. Show the proposed limits of disturbance;
  9. Show proposed stockpile areas;

10. Incorporate a proposed two-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
  11. Information required in the Forest Conservation Technical Manual; and
  12. Other information the Planning Commission determines is necessary to implement this ordinance.
- C. The review of the preliminary forest conservation plan shall be concurrent with the review of the preliminary subdivision or site plan.
- D. During the different stages of the review process, the preliminary forest conservation plan may be modified. (Ord. No. 122, § 1(7.6.2), 12-21-92)

**Sec. 7.23. The final forest conservation plan.**

- A. A final forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- B. A final forest conservation plan shall:
1. Be submitted with the following:
    - a. A final subdivision plan,
    - b. A final site plan,
    - c. An application for a grading permit, or
    - d. An application for a sediment control permit;
  2. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
  3. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
  4. Incorporate a binding two-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:

- a. Watering, and
  - b. A reinforcement planting provision if survival rates fall below required standards, as provided in the State Forest Conservation Technical Manual;
5. Incorporate a long-term binding protection agreement as specified in COMAR 08.19.05.02 that:
- a. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and
  - b. Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
6. Include the substantive elements required under Section 7.22 B. 2 through 9, and 11 of this article, as finalized elements of the Forest Conservation Plan; and
7. Other information the Planning Commission determines is necessary to implement this ordinance
- C. Time for submittal.
- 1. Within forty-five (45) calendar days after receipt of the final Forest Conservation Plan, the department shall notify the applicant whether the Forest Conservation Plan is complete and approved.
  - 2. If the Planning Commission fails to notify the applicant within forty-five (45) calendar days, the plan shall be treated as complete and approved.
  - 3. The Planning Commission may require further information or extend the deadline for an additional fifteen (15) calendar days under extenuating circumstances.
  - 4. At the request of the applicant, the Planning Commission may extend the deadline under extenuating circumstances.
  - 5. The Planning Commission's review of a final Forest Conservation Plan shall be concurrent with the review of the final subdivision or project plan, grading permit applicant, or sediment control application associated with the project.
  - 6. The Planning Commission may revoke an approved Forest Conservation plan if it finds that:

- a. A provision of the plan has been violated;
  - b. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
  - c. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
7. The Planning Commission may issue a stop work order against a person who violates a provision of this Chapter or a regulation, order, approved Forest Conservation Plan, or maintenance agreement.
8. Before revoking approval of a Forest Conservation Plan, the Planning Commission shall notify the violator in writing and provide an opportunity for a hearing. (Ord. No. 122, § 1(7.6.3), 12-21-92)

**Sec. 7.24. Afforestation and retention.**

A. *Afforestation requirement.* A person making application after the effective date of this Chapter for subdivision or site plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand (40,000) square feet or greater, shall:

- 1. Conduct afforestation on the lot or parcel in accordance with the following:
  - a. A tract having less than twenty (20) percent of the net tract area in forest cover shall be afforested up to at least twenty (20) percent of the net tract area for the following land use categories:
    - (1) Agriculture and resource areas, and
    - (2) Medium density residential areas;
  - b. A tract with less than fifteen (15) percent of its net tract area in forest cover shall be afforested up to at least fifteen (15) percent of the net tract area for the following land use categories:
    - (1) Institutional development areas,
    - (2) High density residential areas,
    - (3) Mixed use and planned unit development areas, and

(4) Commercial and industrial use areas;

2. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Section 7.1. A. and B. of this article:
    - a. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
    - b. Forest cut or cleared below the required afforestation level shall be reforested or aforested at a two (2) to one (1) ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.
- B. *Retention.* The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Commission, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered: (Amended 02-01-10)
1. Trees, shrubs, and plants located in sensitive areas including the one-hundred-year flood plain, intermittent and perennial streams and their buffers, steep slopes, non-tidal wetlands, and critical habitats;
  2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
- C. The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, the satisfaction of the Planning Commission, the applicant qualifies for a variance in accordance with Section 7.2 of this Chapter 7:
1. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
    - a. The Federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531 through 1544 and in 50 CFR Part 17.
    - b. The Maryland Non-game and Endangered Species Conservation Act, Natural Resources Article, §§ 10-2A-01 through 10-2A-09, Annotated Code of Maryland; and
    - c. COMAR 08.03.08;
  2. Trees that:

- a. Are part of a historic site;
  - b. Are associated with a historic structure; or
  - c. Have been designated by the State or the department as a National, State, or County champion tree; and
3. Any tree having a diameter measured at four and five tenths (4.5) feet above the ground of:
- a. Thirty (30) inches or more; or
  - b. Seventy-five (75) percent or more of the diameter at four and five-tenths (4.5) feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources. (Ord. No. 122, § 1(7.7.1, 7.7.2), 12-21-92; Amended 02-01-10)

**Sec. 7.25. Reforestation.**

- A. *Forest conservation threshold.* There is a forest conservation threshold established for all land use categories, as provided in Subsection B of this section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for each acre removed above the threshold to a ratio of two (2) acres planted for each acre removed below the threshold.
- B. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or site plan, grading and sediment control activities, and implementation of the Forest Conservation Plan, the Forest Conservation Plan shall provide for reforestation, or payment into the Forest Conservation fund, according to the formula set forth in Subsections (b) and (c) of this Section and consistent with Section 7.21 of this article, and the following forest conservation thresholds for the applicable land use category:

<i>Category of Use</i>	<i>Threshold Percentage</i>
Resource areas	50
Agricultural	50
Medium density residential areas	25
Institutional development areas	20
High density residential areas	20
Mixed use and planned unit development areas	15
Commercial and industrial use areas	15

- C. *Calculations:*

1. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ration of 1/4 acre planted for each acre removed.
2. Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under paragraph 1. of this Subsection. The calculation of the credit shall be according to the criteria provided in the State Forest Conservation Technical Manual.
3. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at ratio of two (2) acres planted for each acre removed below the threshold and at a ratio of 1/4 acre planted for each acre removed above the threshold. (Ord. No. 122, § 1(7.8.1), 12-21-92)

**Sec. 7.26. Priorities and time requirements for afforestation and reforestation.**

- A. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Planning Commission, is as follows:
  1. Selective clearing and supplemental planting onsite;
  2. Onsite afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than one and five-tenths (1.5) inches diameter measured at four and five-tenths (4.5) feet above the ground;
  3. Onsite afforestation or reforestation, using whip and seedling stock;
  4. Landscaping of areas under an approved landscaping plan which establishes a forest that is at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or more of area;
  5. Offsite afforestation or reforestation, using transplanted or nursery stock that is greater than one and five-tenths (1.5) inches diameter measured at four and five-tenths (4.5) feet above the ground;
  6. Offsite afforestation or reforestation, using whip and seedling stock;

7. Natural regeneration onsite; and
  8. Natural regeneration offsite.
- B. A sequence other than the one described in Subsection A. of this Section may be used for a specific project, if necessary, to achieve the objectives of the Town land use plan or Town land use policies, or to take advantage of opportunities to consolidate forest conservation efforts.
- C. The following are considered a priority for afforestation and reforestation to:
1. Establish or enhance forest buffers adjacent to intermittent and perennial streams to widths of at least fifty (50) feet;
  2. Establish or enhance non-forested areas on one-hundred year flood plains, when appropriate;
  3. Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and where practical, forested corridors should be a minimum of three hundred (300) feet in width to facilitate wildlife movement;
  4. Establish or enhance forest buffers adjacent to critical habitats where appropriate;
  5. Establish plantings to stabilize slopes of twenty-five (25) percent or greater and slopes of fifteen (15) percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
  6. Establish buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;
  7. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
  8. Use native plant materials for afforestation or reforestation, when appropriate.
- D. A person required to conduct afforestation or reforestation under this article shall accomplish it within one (1) year or two (2) growing seasons, whichever is a greater time period, following development project completion (Ord. No. 122, § 1(7.9.1), 12-21-92)

**Sec. 7-27. Payment instead of afforestation and reforestation.**

- A. *Forest conservation fund.* There is established a Forest Conservation Fund in the Poolesville program.
- B. *Other methods of payment.* If a person subject to this Chapter demonstrates to the satisfaction of the Planning Commission that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money, at a rate of thirty (30) cents per square foot of the area of required planting, into the Poolesville Forest Conservation Fund, and adjusted for inflation as determined by the Commissioners annually by regulations after September 30, 2014. (Amended 02-01-10)
- C. *Payment due in ninety days.* Money contributed instead of afforestation or reforestation under this article shall be paid within ninety (90) calendar days after development project completion.
- D. *Money deposited in the Poolesville Forest Conservation Fund:*
  - 1. May be spent on the costs directly related to reforestation and afforestation, including the site identification, acquisition, preparation and maintenance of forest conservation areas;
  - 2. Shall be deposited in a separate Forest Conservation Fund; and
  - 3. May not revert to the General Fund.
- E. *Sites for afforestation or reforestation using fund money.* Except as provided in Subsection D.2. of this Section, the reforestation or afforestation requirement under this article shall occur in the watershed in which the project is located. (Ord. No. 122, § 1(7.10.1), 12-21-92; Amended 3-21-11)

**Sec. 7.28. Recommended tree species list.**

- A. Tree species used for afforestation or reforestation shall be native to the County, when appropriate, and selected from a list of approved species established by the Planning Commission.
- B. The Planning Commission shall adopt a list of tree species to be used for any required afforestation or reforestation and incorporate it into the Forest Conservation Technical Manual. (Ord No. 122, § 1(7.11.1), 12-21-92)

**Sec. 7-29. Financial security for afforestation and reforestation.**

- A. *Bonding.* A person required to conduct afforestation or reforestation under this article shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Planning Commission. The surety shall:
1. Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved Forest Conservation Plan;
  2. Be in an amount equal to the estimated cost, as determined by the Planning Commission, of afforestation and reforestation; and
  3. Be in a form and of a content approved by the Planning Commission.
- B. *Reduction of amount of bond.* After one (1) growing season, the person required to file a bond under Subsection A. of this Section may request reduction of the amount of the bond or other financial security by submitting a written request to the department with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.
- C. *Determination of reduction of bond.* The Planning Commission shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
1. The number of acres,
  2. The proposed method of afforestation or reforestation,
  3. The cost of planting materials or replacement materials,
  4. The cost of maintenance of the afforestation or reforestation project, and
  5. Other relevant factors.
- D. If, after two (2) growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the State Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
- E. A local forest conservation program may incorporate the financial security set forth in Section A. through D. of this Section or in COMAR 08.19.05.01B. (Ord. No. 122, § 1(7.12.1), 12-21-92)

**Sec. 7.30. Standards for protecting trees from construction activities.**

- A. *Standards adopted.* Poolesville shall adopt standards for the protection of trees from construction activity that are at least as effective as the standards provided in the State Forest Conservation Technical Manual.
- B. *Protection devices.* Before cutting, clearing, grading, or construction begins on a site for which a Forest Conservation Plan is required by this article, the applicant shall demonstrate to the Planning Commission that protective devices have been established. (Ord. No. 122, § 1(7.13.1), 12-21-92)

**Sec. 7.31. Forest Bank**

- A. Notwithstanding anything in this Chapter and any forest conservation regulations to the contrary, property which is or is not forested as of the date of application for a bank establishment plan (BEP) may be subject of an application for the establishment of a Forest Bank.
- B. A person who owns property which is or is not forested may submit an application to the Town for approval of a Forest Bank. The application shall include information that shows the ownership interest of the applicant, a location map and a site or property map illustrating existing site conditions (topography, soils, the existence of wetlands, floodplain or streams), and a map showing the site relative to surrounding physiography. At the time the application is submitted to the Town, the proposed Forest Bank shall be clearly marked in the field, pursuant to the requirements of the Forest Conservation Technical Manual, in order that it may be inspected.
- C. The Town shall review the application for a Forest Bank and shall determine, based upon the physiographic priorities established in the Forest Conservation Technical Manual, whether the location, size and other characteristics of the property are conducive to the successful establishment of a forest and to achieving the goals of this Chapter, including recommendations made by the Planning Commission. The Planning Commission may approve or deny the application based upon these considerations.
- D. After an area is approved as a Forest Bank, the applicant may submit a BEP and once the Town has approved that plan may proceed consistent with the BEP to establish a forest either by planting the area or by allowing the area to regenerate naturally.

- E. A Forest Bank may not be certified until:
1. A registered forester has provided assurance to the Town that the area allowed to naturally regenerate meets the definition of a forest pursuant to Town Code; or
  2. The maintenance period for an area to be planted has been completed with a survival rate consistent with the requirements of the Forest Conservation Technical Manual; or
  3. A suitable guaranty for an area to be planted has been provided pursuant to Town Code.
- F. Bank sites shall be certified by the Town prior to sale of bank credits.
- G. After a Forest Bank has been certified and surveyed, and has been protected by an easement or other long-term protective agreement, the bank may be used to meet the forestation requirements of the Town for sites elsewhere in the Town. When a bank credit is used for afforestation or reforestation, that portion shall be deducted from the total acreage of the bank. The maintenance of the Forest Bank is the responsibility of the Forest Bank owner. Any area within a Forest Bank that is not the subject of a long-term protective agreement may be withdrawn from bank status. The Town reserved the right to conduct biannual inspection of the Forest Bank.
- H. Acceptance and certification of a Forest Bank does not relieve the applicant or developer of any responsibility or requirement under any other law or statute and a suitable guaranty may be required for areas of Forest Bank that do not meet the definition of forest to assure actual establishment of the forest.
- I. Use of a Forest Bank may be approved on individual projects when higher priorities established in the Town Code are deemed impossible or impractical or when complying with these higher priorities would create an undue hardship.
- J. The Town will develop and maintain technical guidelines and specifications to be used in the establishment, review and acceptance of Forest Banks. These guidelines and specifications are included in the Town Code and Forest Conservation Technical Manual.
- K. Easement. An easement for long-term protection shall be provided for all Forest Bank areas. The easement shall be conveyed to the Town at the time of recordation of the plat or other approval, as applicable. Prior to acceptance by the Town of an easement, the Town may require that adequate fencing or other protective measures be implemented to prevent violations of the easement from occurring. (Amended 3-21-11)

## **Sec. 7.32. Town Trees**

### **Section 1. Definitions**

**Street trees:** "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on Town property, right-of-ways or easements on either side of all streets, avenues, or ways within the Town.

**Park Trees:** "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Town.

### **Section 2. Creation and Establishment of a Town Tree Board**

**There is hereby created and established a Town Tree Board for the Town of Poolesville, Maryland:**

The Commissioners of Poolesville shall appoint seven (7) residents of the Town to the Board of Parks, Recreation and Streets "Board". One such member shall be appointed by the Commissioners of Poolesville from among their number to serve in an ex officio capacity.

### **Section 3. Term**

The term of office of each member shall be four (4) years except the term of the member of the Board who is also a Commissioner of Poolesville which shall terminate upon the expiration of his or her term as a Commissioner of Poolesville. Members shall serve until their successors are appointed and have qualified. Appointments shall be made on or before April 1st of the year in which any appointment is made and terms of office shall begin as of that date.

### **Section 4. Compensation**

No member shall receive any compensation for his or her service.

### **Section 5, Duties and Responsibilities**

The Board shall act as an Advisory Board to the Commissioners of Poolesville and the Town Manager and it shall be the responsibility of the Board to study, investigate, council and develop and/or update annually, 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. Such plan will be presented annually to the Town Commission and upon their acceptance and approval shall constitute the official comprehensive Town tree plan for the Town of Poolesville, Maryland.

The Board, when requested by the Town Commission, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

**Section 6. Operation**

At the first scheduled meeting subsequent to April 1st of each year, the members of the Board shall elect from their number a person to serve as Chairperson and a second person to serve as Vice Chairperson who shall have the customary powers and privileges established under Roberts' Rules of Order.

The Board shall hold a public meeting at least once a month or more often, as it may deem necessary, or at the call of its Chairperson.

**Section 7. Street Tree Species**

The following list constitutes the official Street Tree species for specific areas within the Town. No species other than those included in this list may be planted as Street Trees without written permission of the Town Manager after consultation with the Board.

Small Sized Trees 25' - 35'	Medium Sized Trees 40' - 60'	Tall Sized Trees 65+
Sargent Cherry Japanese Tree Lilac Okame Cherry Golden Rain Tree Eastern Redbud Dogwood	October Glory Maple Little leaf Linden Red Sunset Maple Scholar Tree American Yellowwood Gingko Shumard Oak	Honey Locust Sugar Maple Willow Oak Red Maple Pin Oak Water Oak Grandiflora Shade Trees Buckeye Sweet Gum Elm* London Plane Tree Bur Oak White Oak Silver Linden Northern Red Oak Zelkova
<p><b>* Newer cultivars which are resistant to Dutch Elm disease</b></p>		

**Section 8. Spacing**

The spacing of Street Trees will be one street tree per 40 feet of road frontage or, at the discretion of the Board subject to the following requirements:

1. Trees to be planted shall be selected from the list of "acceptable trees" above.
2. All trees shall be at least one (1) inch in diameter and not less than eight (8) feet in height.
3. The species, location and method of planting of all trees shall be subject to review by the Board.

**Section 9. Distance from Street Corners and Fire Hydrants**

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than 10 feet of any fire hydrant.

**Section 10. Public Tree Care**

All street trees planted within the public right-of-way are managed by the Town of Poolesville, which are regulated under the State of Maryland Roadside Tree Care Laws.

The Town employs staff that are Maryland Certified Roadside Tree Experts and shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Board may recommend removal of any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

Residents nor professional arborist companies are not allowed to prune or remove any street tree without the permission of the Town of Poolesville.

**Section 11. Tree Topping**

It shall be unlawful as a normal practice for any person, firm, or Town department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Board.

**Section 12. Pruning, Corner Clearance**

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

**Section 13. Removal of Stumps**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

**Section 14. Interference with the Board**

It shall be unlawful for any person to prevent, delay or interfere with the Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, as authorized in this ordinance.

**Section 15. Review by Town Commission**

The Town Commission shall have the right to review the conduct, acts and decisions of the Board. Any person may appeal from any ruling or order of the Board to the Town Commission who may hear the matter and make final decision.

**Section 16. Penalty**

Any person violating any provision of this ordinance shall be subject to a municipal infraction citation and upon conviction thereof, payment of a civil penalty in accordance with The Poolesville Code, Chapter 1.13 as amended from time to time. (Ord. 206, 3-21-16)

Chapter 8

RESERVED\*

**\*Editor's note** - Chapter 8, § 8-1, which provided for the adoption of the County Ordinance regulating Grading and Sediment Control, was repealed by Ord. No. 83, § 1, adopted Nov. 19, 1984. Such Section was derived from Ord. No. 47, adopted May 17, 1976.

## Chapter 9

### HEALTH AND SANITATION\*

- Art. I. In General, §§ 9.1-9.15
- Art. II. Lot Clearing, §§ 9.16-9.30
- Art. III. Reserved, §§ 9-31-9-40
- Art. IV. Reserved, § 9-41

#### ARTICLE I. IN GENERAL

##### Sec. 9.1. Reserved.

**Editor's note** - Ord. No. 88, § 1, adopted Aug. 4, 1986, repealed § 9-1 which required fencing of silt collection and sedimentation ponds. Such Section had been derived from Res. No. 4-1985, adopted July 21, 1975.

##### Sec. 9.2. Prerequisites to acceptance of land used for storm water control.

The Commissioners of Poolesville may refuse to accept any land dedicated to the public use or to the Town which contains any parcels of land that may at any time have been used as a storm water control pond until appropriate fencing has been provided according to Section 4.2 of this Code when deemed necessary by the Commissioners to protect the public health, safety or welfare. (Res. No. 13-1975, 7-21-75; Ord. No. 88, § 2, 8-4-86)

##### Secs. 9.3-9.15. Reserved.

#### ARTICLE II. LOT CLEARING

##### Sec. 9.16. Unlawful accumulations; notice to remove.

It shall be unlawful for the owner, agent of an owner, or a person in charge of any tract of land to allow dried grass, weeds, other vegetable matter, brush, fallen timber, paper, cardboard, bottles, cans, other forms of trash or abandoned building materials, to accumulate thereon so as to become a public nuisance or to constitute a fire hazard. If, in the judgment of the Commissioners of the Town, its agents or employees, any such accumulation shall have become a public nuisance or shall constitute a fire hazard, they shall direct such a person to eliminate such public nuisance or fire hazard within ten (10) days. (Ord. No. 46, § A,4-17-76)

**\*Charter reference** - Authority to adopt Health Regulations, § 82-12(23),(31),(43),(54),(59),(62).

**Cross references** - Civil defense, Ch. 5; Fire Prevention and Protection, Ch. 7; Grading and Sediment Control, Ch. 8; Junk and Junkyards, Ch. 10; Water, Sewers and Sewage Disposal, Ch. 16.

**State law reference** - Health powers generally, Anno. Code of Md., Art. 23A, § 2(15).

**Sec. 9.17. Removal by Town; collection of costs.**

- A. After the expiration of ten (10) days and upon the failure of the owner, agent of the owner or person in charge of a tract described in Section 9.16 to remedy the condition as directed, the Commissioners of the Town, its agents or employees may lawfully enter upon such lot to remove such nuisances or fire hazard without liability for trespass to the real estate, the cost of such removal to be reimbursed to the Commissioners by the owner of such tract of land.
- B. Whenever it is necessary for the Commissioners of the Town, its agents or employees to eliminate a public nuisance or fire hazard as provided in paragraph A. of this section, the cost thereof shall constitute a debt to the owner of the land upon which a public nuisance or fire hazard existed, which may be placed upon the tax bill and be collected in the manner in which ordinary taxes are now, or hereafter may be, collected under the provisions of the general and local laws of the State, County and Town. In the alternative, the charge may be collected as a debt. (Ord. No. 46, § A, 4-17-76)

**Secs. 9.18-9.30. Reserved.**

**ARTICLE III. REFUSE AND RUBBISH**

**Sec. 9.31. Prohibited Disposal**

It shall be unlawful for any person to throw or dispose of any garbage, paper or other refuse or rubbish upon any street, sidewalk, vacant or occupied lot, public place or elsewhere in the Town except in receptacles provided for that purpose.

**Sec. 9.32. Premises to Be Kept Clean**

All occupants and owners of land within the Town are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse or rubbish except when stored as provided in this Article.

**Sec. 9.33. Storage**

- A. Each owner, occupant or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate shall provide and keep covered an adequate number of metal, durable rubber or durable plastic refuse containers. The refuse containers shall be strong, durable and rodent, bird and insect proof. Furthermore, except for containers which may be handled mechanically, the combined weight of any refuse container and its contents shall not exceed sixty (60) pounds. No refuse shall be placed in a refuse container until the refuse has been drained of all free liquids.
- B. No refuse shall be allowed to spill from such containers or remain on the surface or around the containers.

**9.34. Location of Containers.**

Containers shall be placed adjacent to and back from the curb, or adjacent to and back from the ditch or street line if there is no curb, at such times as shall be scheduled for the collection of refuse, therefrom, provided that containers shall not be placed at such locations for more than twelve (12) hours before the time of collection. Within twelve (12) hours after these containers have been emptied, they shall be removed by the owner away from the street line until the next scheduled collection.

**Sec. 9.35. Disturbing Containers**

No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or place refuse in, on, alongside or near a container belonging to another without the express permission of the owner or lessee thereof. This Section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

**Sec. 9.36. Collection and Disposal of Municipal Solid Waste**

- A. The Town shall provide for collection and disposal of municipal solid waste, including recyclable, for residential units within the Town.
- B. Industrial and commercial uses in the Town shall be required to provide their own solid waste collection and disposal. All of receptacles for such trash collection shall be covered at all times or stored in a covered area.
- C. Regular collection service shall not include bulk trash or yard waste.

**Sec. 9.37. Disposal of Hazardous Waste**

Any user producing hazardous waste shall be fully responsible, at its own expense, for its proper disposal as required by Local, State or Federal laws.

**Sec. 9.38. Waste Produced Outside Town Limits**

No waste produced or accumulated outside the corporate limits of the Town shall be deposited within the corporate limits of the Town.

**Sec. 9.39. Violations**

A violation of any provisions of this Section is declared to be a municipal infraction. The penalty for violation shall be Fifty (\$50.00) Dollars for each initial offence and One Hundred (\$100.00) Dollars for each subsequent offence.

(Ord. No. 204, 10-5-15)

**Secs. 9.40. Reserved.**

**\*Editor's note** - Ord. No.83,§, adopted Nov.19, 1984, repealed former §9-31 which provided for the adoption of County Rat Control regulations, derived from Ord. No. 74, § 1, adopted Oct. 3, 1983, and being the substantive provisions of Art. III.

**HEALTH AND SANITATION**  
**ARTICLE IV. RESERVED\***

**Sec. 9-41. Reserved**

**Editor's note** - Section 9.41, being the substantive provisions of Art. IV, was repealed by Ord. No. 83, § 1, adopted Nov. 19, 1984. Prior to repeal, such Section adopted the County regulations regarding weeds and was derived from Ord. No. 74, § 1, adopted Oct. 3, 1983.

## CHAPTER 9.5

### HOUSING AND BUILDING MAINTENANCE STANDARDS

#### **Sec. 9.5-1. Minimum Livability Code, adopted.**

- A. Regulations .01 through .16, COMAR 05.02.03, title "Minimum Livability Code" are hereby adopted in their entirety by the Commissioners of Poolesville, Maryland, as a Town Ordinance.
- B. The provisions of such ordinance shall be included and incorporated in the Code of Ordinances as an addition or amendment thereto to be [as if] renumbered Chapter 9.5, Housing and Building Maintenance Standards, to conform to the uniform numbering system of the Code. (Ord. No. 97, §§ 1, 2, 12-19-88)

**Editor's note** - Provisions of Ord. No. 97, §§ 1, 2, adopted Dec. 12, 1988, providing for the adoption of a Minimum Livability Code, have been included herein as § 9.5-1. Such regulations are not set out at length in this volume, but are on file and available for inspection in the Town offices.

## Chapter 10

### JUNK AND JUNKYARDS\*

#### Sec. 10.1. Definitions.

For the purposes of this Chapter, the following words and terms shall have the meanings respectively ascribed to them in this section:

*Junk dealer.* Any person who collects, dismantles, stores, buys or otherwise handles old paper, rags or other combustible materials, glass, old metal, old machinery or old motor vehicles for the purpose of salvage or sale; provided, that the term "junk dealer" shall not apply to any person who collects or stores such material solely for use in connection with manufacturing processes conducted by such person.

*Junkyard.* Each place of business where activities described in the definition of "junk dealer" in this section are conducted. (Ord. No. 4, § 1, 2-1-5)

**Cross reference** - Rules of construction and definitions generally, § 1-2.

#### Sec. 10.2. Licenses.

No junk dealer shall operate within the, Town without a license from the Department of Health. Such licenses shall be issued annually and shall expire on July thirtieth next following their issuance. The annual license fee for each license shall be one hundred dollars (\$100.00), and a separate license shall be required for each junkyard operated by a junk dealer. (Ord. No. 4, § 1, 2-1-58)

**Cross reference** - License, permits and miscellaneous business regulations, Ch. 11.

**\*Charter reference** - Authority to regulate businesses, § 82-12(35).

**Cross references** - Health and sanitation, Ch. 9; Taxation, Ch. 15; Subdivision Regulations, App. A; Zoning Regulations, App. B.

State law reference - Authority to regulate places that may cause unsanitary conditions, Anno. Code of Md., Art. 23A, § 2(15).

#### Sec. 10.3. Yard enclosures generally.

Every junkyard now in existence or hereafter established within the Town shall be screened by a substantial enclosure not less than six (6) feet in height, constructed of wood, cinder block, brick or a combination thereof. Such enclosure shall at all times be painted or otherwise maintained in a good, clean condition and be kept free from signs, posters, bills and all other advertising matter except advertising matter indicating the name of the junkyard. All junkyards in existence on February 1, 1958, shall be enclosed as provided above or by a six (6) foot woven wire fence. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.4. Junk not to be piled higher than fence, etc.**

No junk dealer shall permit any junk to be piled within his junkyard higher than the top of the fence or enclosure surrounding the same, and no junk or materials of any kind shall be kept outside the fence or enclosure. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.5. Gates and driveways.**

All means of ingress and egress to and from junkyards through the fence or enclosure required by this chapter shall have suitable gates or doors thereon which shall be closed at all times except during normal business hours. All driveways leading from the right-of-way line to the fence or enclosure shall be constructed of hard surface and properly graded and drained. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.6. Burning tires, etc., prohibited.**

No junk dealer shall permit or cause any burning of tires, batteries or other substances on his premise which cause obnoxious odors or excessive smoke. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.7. Drainage requirements.**

All junkyards shall be constructed, graded and drained so as to prevent the accumulation of water standing in puddles, depressions or ditches. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.8. Rodent and mosquito control.**

The Director of the Department of Health shall have authority, in accordance with applicable laws and regulations, to, require junk dealers to take preventive measures against rodents and mosquitoes. (Ord. No. 4, § 1, 2-1-58)

**Sec. 10.9. Inspection of premises by police, fire marshal, etc.**

All junk dealers shall permit police officers, the fire marshal and employees of the County Department of Environmental Protection and the Department of Health to inspect and examine their premises and stored materials at any reasonable time for the purpose of enforcing the provisions of this chapter. The County Department of Environmental Protection shall cause all junkyards to be inspected at least once a month. (Ord. No. 4, § 1, 2-1-58)

## Chapter 11

RESERVED\*

**\*Editor's Note** - Ord. No. 83, § 1, adopted Nov. 19, 1984, repealed §§ 11-11 and 11-21 which, being the substantive provisions of Art. II, provided for the adoption of the County Regulations relative to consumer protection and secondhand personal property. Such Sections were derived from Ord. No. 41, adopted Nov. 17, 1975, and Ord. No. 71, § 1, adopted May 2, 1983.

## CHAPTER 12

### MOTOR VEHICLES, TRAFFIC CONTROL AND HIGHWAYS

#### Sec. 12.1 Scope.

The provisions of this Article are intended to add to and supplement the provisions of Titles 11 through 27 of the Transportation Article of the Annotated Code of Maryland, Chapter 31, "Motor Vehicles and Traffic," of the Montgomery County Code.

#### Sec. 12.2 Applicability of Montgomery County Code.

The Town of Poolesville adopts Chapter 31 of the Montgomery County Code in it's entirely, both as currently enacted and as it may be modified in the future.

#### Sec.12.3 Definitions.

A. For the purposes of this Chapter, the following words and phrases shall have the meanings set forth below; all other terms are as defined by Maryland Vehicle Law.

1. *Abandoned vehicle*: Any vehicle that is inoperative or is otherwise left unattended on public or private property for more than forty-eight (48) hours without the consent of the owner or person in charge of the property, or a vehicle that has remained illegally parked on public property for a period of more than forty-eight (48) hours, or any impounded vehicle being held in the custody of the Town which is unclaimed after (60) days. Any vehicle not bearing current license plates shall be presumed to be abandoned.
2. *Bus*: Every motor vehicle except school buses designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
3. *Bus Stop*: That portion of a public roadway edge designated by sign as a bus stop and intended for the safe loading or unloading of bus passengers from any motor vehicle operated with the approval of the State of Maryland or the County on fixed routes and schedules.
4. *Code Enforcement Officer*: Any person duly designated by the Town Manager to enforce any of the provisions of this Ordinance.

5. *Commercial vehicle*: Any motor vehicle and any trailer or semi-trailer designed and used for carrying freight or merchandise and every motor vehicle used in any way in the furtherance of any commercial enterprise. Such term does not include a motor vehicle owned by the County or other governmental agency and used primarily for carrying passengers or materials or other vehicle of a capacity of one (1) ton or less.
  
6. *Fine*: A monetary sum imposed as a punishment for an offense or violation of this Chapter.
  
7. *Heavy Commercial Vehicle*: A motor vehicle or tandem axle trailer or semi-trailer designed for carrying freight or merchandise or used in furtherance of any commercial enterprise that has:
  - a. A gross vehicle weight (GVW) of more than 10,000 pounds;
  - b. A manufacturer's rated capacity or more than one (1) ton;
  - c. A length or more than twenty-one (21) feet measured from the extremes of the vehicle, including any object loaded on the vehicle; or
  - d. A height of more than eight (8) feet with properly inflated tires, measured from the ground to the highest part of the vehicle, including racks but not antennas.

A heavy commercial vehicle does not include a motor vehicle owned by the Town of Poolesville, a farm machine or vehicle used for agriculture. (Ord. No. 176, 10-05-09)
  
8. *Highway or street*: The entire width between the property lines of every way or thoroughfare of any kind used by the public for purposes of vehicular travel, whether actually dedicated to the public and accepted by the proper authorities or otherwise.
  
9. *Impound*: To take a vehicle or other property into the custody of the Town or its designee by seizing it and removing it to a place of safe storage and there holding it until all charges involving that vehicle or property are fully satisfied.
  
10. *Motor Vehicle*: Any vehicle which is motorized by which any person or property is or may be transported upon a highway.
  
11. *Off-street parking*: The parking of motor vehicles in designated areas, whether public or private, and not upon a public street or highway.

12. *On-street parking*: The parking of motor vehicles on a public street or highway.
13. *Park or parking*: The standing of a vehicle on a public highway or public parking facility whether occupied or attended, except when standing in obedience of traffic regulations, a police officer, traffic signs and signals or temporarily stopped for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
14. *Pedestrian*: Any person afoot.
15. *Penalty*:
  - a. A monetary sum imposed in addition to the fine as forfeiture by any person in case of non-fulfillment of said fine within the time period stipulated by any provision of this Chapter; or
  - b. Punishment in general, inclusive of all fines, penalties, costs and other charges for violation of the provisions and regulations of this chapter.
16. *Public parking facility*: Any parking lot, garage or other such facility owned or leased by and operated by the Town for the purpose of providing public off-street parking space for motor vehicles.
17. *Public service vehicle*: Any vehicle owned and operated by a Municipal, County, State or Federal agency and used in the furtherance of public service; and any vehicle funded or provided by the Federal, State or Municipal Government and used for emergency or rescue purposes.
18. *Recreational vehicle*: A duly licensed and registered vehicle, with or without motor power, which is intended for the leisure use of the operator or guests. For the purpose of this Chapter, the following are recreational vehicles:
  - a. Motor homes;
  - b. Travel trailers;
  - c. Camper or camping trailer, including truck insert or collapsible unit;
  - d. A trailer shall be defined by the provisions of this Section. (Ord. 184, 7-11-11)

19. *Roadway*: That portion of a street or highway or public thoroughfare between the regularly established curb lines or shoulders or that part improved and intended to be used for vehicular traffic.
20. *Sidewalk*: That portion of a street between the curb lines, or the lateral lines of a roadway and the adjacent property lines, intended for or used by pedestrians; or designated ways or pavements within a public parking facility intended for or used by pedestrians.
21. *Sign or official sign*: A sign posted by the authority of the Commissioners of Poolesville or their designated representative or other jurisdictional authority for the purpose of guiding, warning, regulating, limiting, or otherwise controlling the speed of movement or stopping, standing, and parking of motor vehicles upon the streets, roads, and highways within the Town or upon any public or private parking facility. Signs must conform in design, color, size, and placement to the standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways", and accompanied by a Traffic Order. Any handicap parking sign that conforms to the "Manual on Uniform Traffic Control Devices for Streets and Highways" is posted by authority of the Commissioners of Poolesville or their designated representative.
22. *Stand or standing*: The halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
23. *Stop or stopping*: When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.
24. *Street*: See *highway*.
25. *Traffic*: All vehicles, pedestrians, animals and any other conveyance of every description, using a highway for purposes of travel whether singly or together.
26. *Traffic-control devices*: All signs, signals, markings or other devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic, upon the streets, roads and highways within the Town or upon any public or private parking facility. Such traffic-control devices shall conform in design, color, size and placement to the

standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways."

27. *Traffic Order*: An order issued by the Commissioners of Poolesville or their designated representative for the purpose of traffic and parking control through the use of traffic control signs and devices. Such orders may include, without limitation, "stop", "speed limit", "parking", "through street" and other traffic control signs and devices on public streets, highways or other areas in the Town; some may designate certain roads as truck routes for use by all trucks of a specified weight and prohibit trucks of a specified weight on other roads; and may designate important streets and highways of the Town as snow emergency routes.
28. *Trailer*: "Trailer" means, a vehicle that:
  - a. Has no motive power and;
  - b. Is designed to carry people or property and to be towed by a motor vehicle. (Ord. 184, 7-11-11)
29. *Unregistered vehicle*: Any motor vehicle or trailer except those exempted from registration by State law, which is without registration plates, with expired registration plates or with fictitious registration plates attached thereto. (Ord. 184, 7-11-11)
30. *Vehicle*: Any appliance moved over a highway on wheels or traction tread, including streetcars, draft animals and beasts of burden, automobiles, motorcycles, motorbikes, motor propelled carts and wagons and every vehicle propelled by an internal combustion engine or any trailer. (Ord. 184, 7-11-11)

**Sec. 12.4. Authority to erect traffic signs.**

- A. Whenever, in the judgment of the Commissioners of Poolesville, it is necessary for the safety or control of vehicular or pedestrian traffic, they are authorized to provide, by resolution, for the erection of "stop," "speed limit", "no stopping", "no standing", "no parking" and other traffic-control signs and devices on public streets, highways or other areas in the Town.
- B. The maximum speed limit of twenty-five (25) miles per hour is hereby adopted for all Town administered and maintained roads, unless otherwise posted on specific roads as provided in the preceding subsection. Any person violating any rule, regulation

or ordinance adopted pursuant to this Chapter and related to the movement of vehicles may be guilty and punishable as provided for in applicable State, County and Town laws.

- C. No person or authority shall place or maintain any traffic control device upon any street or highway under the jurisdiction of the Town, except by permission of the Commissioners of Poolesville or the Town Manager.

**Sec. 12.5. Restriction of traffic, designation of truck routes, etc.**

- A. Whenever, it is necessary for the safety and control of vehicular or pedestrian traffic, the Commissioners of Poolesville are hereby authorized to issue traffic orders restricting and/or limiting the movement of automobiles or other vehicles on the streets and roads under the jurisdiction of the Town. The Commissioners of Poolesville are further authorized to designate certain roads as truck routes for use by all trucks of a specified weight and to prohibit trucks of a specified weight on other roads under the jurisdiction of the Town. The Commissioners of Poolesville shall provide for the erection of signs to give public notice of such traffic orders and any resolutions passed pursuant to this Section shall not be effective until such signs have been erected. The resolution adopted hereunder shall be recorded in a permanent file open to the public.
- B. Nothing contained in this section shall prohibit the use of Town streets or roads by emergency vehicles, delivery and service vehicles or other vehicles necessary for the protection of life and property.

**Sec. 12.6. Establishment of emergency or temporary no parking zones.**

- A. The Commissioners of Poolesville or their designee, are hereby authorized and empowered at any time to designate any streets and areas owned by the Town as emergency or temporary no parking zones or temporarily to prohibit vehicular and pedestrian traffic on such streets and areas, in the event of public events or emergencies such as fires, riots, accidents, or other events likely to attract large crowds, for the purposes of street maintenance or for other public purpose.
- B. When and in the event such streets and areas mentioned above are so designated, parking of vehicles and vehicular and pedestrian traffic in such streets and areas is prohibited; provided that any such designation shall be posted by temporary traffic control signs or devices as practical under the circumstances.

**Sec. 12.7. Snow and ice emergency traffic control.**

- A. The Commissioners of Poolesville are hereby authorized from time to time to designate, by resolution, important streets in the Town as snow emergency routes, which shall be marked by snow emergency route signs.
- B. Upon the declaration of a snow emergency by the Town Manager by press release and such other public notice, the following traffic and parking regulations shall be in effect and shall continue in effect until the end of the emergency as determined by the Town Manager. Such emergency may exist by reason of imminent or actual snow or ice conditions.
- C. During the periods of snow accumulation, the Town Manager is authorized to order that owners and/or operators of automobiles park or not park in certain places for reasons of public safety or to facilitate snow removal. The Town Manager may also order such restrictions on movements on automobiles as he deems necessary or helpful for reasons of public safety or to facilitate snow removal. He shall give such notice, if any, to such owners and/or operators as is reasonable under the circumstances.
- D. Any unattended, parked vehicle in violation of the provisions of this Section or on a snow emergency route in violation of this section may be impounded and removed by the Town or its designee, and all costs of towing, storage or impounding shall be charged to the owner of the vehicle. All such charges including any fine or penalty shall be paid to the Town or its designee before the owner may reclaim the vehicle.

**Sec. 12.8. Parking of unregistered motor vehicles or trailers.**

- A. It shall be unlawful to park or otherwise store any unregistered motor vehicle or trailer at any time upon the highways, roads, streets under the jurisdiction of the Town, or other public property in the Town.
- B. It shall be unlawful to park or otherwise store any unregistered motor vehicle or trailer outside a structure in all zones except for those businesses who are duly authorized and have received a use and occupancy permit to sell new or used vehicles or boats.
- C. It shall be unlawful to park or store any unregistered or inoperable vehicles or trailers in numbered or reserved parking spaces or in any spaces reserved for visitors in any multiple-family residential zone.
- D. It shall be unlawful to park or store outdoors any inoperable vehicle or any vehicle not bearing current license plates in any zone unless such vehicle is awaiting mechanical repairs at a duly

authorized vehicle repair facility; in such case, such mechanical repairs shall be completed within thirty (30) days of notice from the Town or its designee. The Town Manager is authorized to grant extensions to this time limit for good cause shown.

**Sec. 12.9. Threatening public safety and removal of visual obstructions.**

A. The Town or its designee may issue orders to owners or occupants of private property whose shrubs or other vegetative growth, fences or other visual barriers obstruct the view of vehicle such as to cause an unsafe condition to remove or otherwise abate the obstruction. Where such owner or occupant fails or refuses to abate the obstruction within the time given, the Town or its designee may enter upon the property and cause the obstruction to be abated and charge the owner or occupant the reasonable costs of such abatement. Such charges may be collected by the Town in the same manner as a tax, or by direct actions in a court of competent jurisdiction.

**Sec. 12.10. Driving over curbs, sidewalks or drainage structures.**

A. It shall be unlawful for any person to drive, or cause to be driven, any vehicle, including a motor vehicle, on or over any curb, sidewalk or drainage structure, except over driveways constructed for such purposes; provided, that this Section shall not apply in emergencies where suitable provision is made, by the laying of planking or otherwise, for the bridging of such curb, sidewalk or drainage structure in such a way that no damage will be done thereto.

**Sec. 12.11. Parking of commercial vehicles, recreational vehicle and buses**

A. A person must not park any recreational vehicle on any public roadway or right-of-way for more than eighteen (18) hours unless it is involuntarily parked because of mechanical failure or other emergency for forty-eight (48) hours or less. (Ord. 184, 7-11-11)

B. A person may park a heavy commercial vehicle or bus on a public roadway where both sides of the street abut a property zoned for a commercial or industrial use, unless parking is otherwise prohibited by an official sign or other law applicable to all motor vehicles. A person must not park a heavy commercial vehicle or bus on any public roadway unless it is:

1. a vehicle engaged in loading or unloading passengers, merchandise or materials;
2. a heavy commercial vehicle used by the owner or operator when engaged in work on the property abutting the street;

3. a bus that stops for a period of time, not to exceed thirty (30) minutes, to maintain a schedule at an authorized terminal stand for a bus route operating under a permit from the State Public Service Commission;
  4. a vehicle that is involuntarily parked because of mechanical failure or other emergency for forty-eight (48) hours or less; or
  5. a public contractor's vehicle.
- C. A person must not park a heavy commercial vehicle, or bus on residential property except occasional parking not to exceed three (3) consecutive days in relation to the resident's profession. (Ord. No. 176, 10-05-09).

**Sec. 12.12. Repairing or leaving vehicles on streets for repairs.**

It shall be unlawful for any person, business or corporation to perform service or repairs on a vehicle parked on a public street within the Town, or to store or park on any public street, any motor vehicle left in the custody of any business; provided however, that this Section shall not apply to emergency service or repairs; vehicle owners performing minor service or repairs on their respective vehicles otherwise legally parked and operative; or the accommodation for the immediate transfer, exchange or removal of a vehicle to or from a garage, repair shop, service or parking facility.

**Sec. 12.13. Parking Prohibited.**

- A. Park a vehicle or trailer with any of its tires resting off the pavement and in a storm water or drainage swale or ditch; or park a vehicle in any public right-of-way which creates ruts, gullies or the destruction of ground cover to cause erosion or tracking of mud, gravel and other materials onto the public roadway. Any damages to the ground cover caused by parking in violation of this Section shall be repaired by the responsible party. Failure to make such repairs shall subject the violator to fines pursuant to this Section for each day the property remains in its damage state. Further, if the violator does not take action to repair the property within thirty (30) days or as extended by the Town Manager due to extenuating circumstances, the Town may take all legal action necessary to repair the property, the cost of which shall be borne by the violator. (Ord. No. 185, 8-8-11)
- B. Park a vehicle or trailer in a parking space in the townhouse parking lots marked specifically for another resident without permission from the property owner or tenant.

**Sec. 12.14. Impounding illegally parked vehicles.**

- A. Any vehicle parked in violation of this chapter may be impounded by the Town or its designee. This action will be preceded by a warning notice of a Municipal Code Infraction citing the applicable code and the time limit that the owner has to alleviate the violation.
- B. In any case involving the impoundment of a vehicle pursuant to this Section, the cost of impoundment shall be charged to the owner of the vehicle in addition to all fines and penalties assessed pursuant to any violation of this Chapter. All such fines, penalties, costs and charges shall be paid before the owner may reclaim or secure the release of the vehicle.

**Sec. 12.15. Penalties, generally.**

- A. No vehicle shall be parked in violation of the provisions of this Chapter or Regulations issued there under, and the owner thereof shall be subject to the fines and penalties established under the provisions of this Chapter for such violation.
- B. Any violation of any provisions of this Chapter or Regulations promulgated hereunder shall be punished as a municipal infraction as set forth in Chapter 1, Section 1-13.
- C. Each day that a violation continues shall be deemed as a separate offense. (Ord. No. 141, 1-8-98)

**Sec. 12.16. Permits required for parades and other events.**

- A. It is unlawful for any individual or group to conduct a parade, bicycle or pedestrian race, or any other event that interferes with the normal use by the general public of streets, sidewalks or other public ways or property without having first obtained a permit from the Town of Pooleville as provided in this Section.
- B. An application for a permit required by this Section shall be made at least forty five (45) days before the event on forms provided by the Town and shall contain the following information:
  - 1. Name, address, telephone numbers and e-mail address of sponsoring individual or organization;
  - 2. Date of event;
  - 3. Event's start and stop times;
  - 4. Event's start and finish locations and sections of Town streets affected by the event;

5. Approximate number of participants;
  6. Approximate number of staff and event officials who will assist in managing the event, including any arrangements for police involvement;
  7. Amount and proof of insurance that will apply to any liability arising from the event, and the insurance agent's name and phone number(s);
  8. Detail of the event's route drawn on Town Map (provided as part of application form);
  9. Description of efforts in the planning for the event to minimize traffic disruptions within Poolestown;
  10. Acknowledgement that the permittee will be responsible for any damage caused by its agents to Town or private property.
  11. Such non-refundable Application Fee to the Town of Poolestown as may be adopted by Resolution from time to time. Subject to further Resolution of the Commissioners, the initial Application fee shall be Twenty-Five (\$25.00) Dollars.
  10. Prior to the issuance of a parade/race permit a security deposit in the amount of Two Hundred Fifty Dollars (\$250.00) will be required. This security deposit will be Returned, less charges, if applicable, listed in 12.16F, upon satisfactory inspection of the parade/race route by Town personnel or it will be used to offset the Town's cost to remove markings and/or signage. The Town Manager, at his/her discretion, may waive the requirement for a deposit if he/she is satisfied that the deposit is not necessary to guarantee compliance. The Town Manager may consider, among other relevant factors, past history of compliance and evidence of financial responsibility. (Resolution No. 007-05)
- C. A notice shall be published, and verification of such publication provided to the Town, in at least one newspaper of general circulation within the Town of Poolestown at least one week but no more than four weeks before the event, stating the event's date, start and finish times and locations, and sections of Town streets affected by the event.
- D. Permittees shall be responsible for obtaining, coordinating and paying for additional police support and/or safety monitors needed for the event. If the applicant is not able to afford the necessary police protection for the event, then the applicant shall file with the application for a permit an addendum in forma

pauperis delineating the circumstances to be considered by the Town.

- E. The Town Manager, with recommendations from the Parks and Streets Board, shall grant, grant with conditions, or deny the permit and notify the applicant within thirty (30) days of receipt. The Town Manager may consult with the Town Commissioners concerning the application. After issuance, the permit may be revoked at any time before or during the event based on information that the permit is not in public health, safety, or welfare. The permit is not transferable to any other sponsoring individual or organization and cannot be used for any different event.
  
- F. All route markers shall be removable or water-soluble. In no case shall permanent markings be placed on streets, sidewalks, street signs, utility poles or any other public property. No signs or other markings shall be placed on private property without owner's permission. All route markers and other signs shall be removed within twenty-four (24) hours after the event, and any such markers or signs, which are not so removed will be removed by the Town at a charge of fifty dollars (\$50.00) for each marker or sign. The permittee shall be required to pay for any damage caused by its agents or employees to Town or private property. (Ord. No. 141, 10-7-02) (Ord. No. 203, 6-15-15)

Chapter 13

OFFENSES AND MISCELLANEOUS  
PROVISIONS\*

- Art. I. In General, §§ 13.1 - 13.10  
Art. II. Reserved, § 13.11

ARTICLE I. IN GENERAL

Sec. 13.1. Loitering.

A. *Definitions.* As used in this Section:

*Loiter* means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or place open to the public and to engage in any conduct prohibited under this section. *Loiter* also means to collect, gather, congregate or be a member of a group or a crowd of people, who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this section.

*Place open to the public* means any place open to the public or any place to which the public is invited, and in, on or around any privately owned place of business, private parking lot or private institution, including places of worship, cemetery or any place of amusement and entertainment whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building.

*Public place* means any public street, road or highway alley, lane, sidewalk, crosswalk or other public way or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot.

**\*Cross reference** - General penalty for code violations, § 1.11.

- B. *Prohibited conduct.* It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in such manner:
1. To interfere, impede or hinder the free passage of pedestrian or vehicular traffic, or
  2. To interfere with, obstruct, harass, curse or threaten or do physical harm to another member or members of the public, or

3. That by words, acts or other conduct it is clear that there is a reasonable likelihood to result in a breach of the peace or disorderly conduct.

It shall be unlawful for any person to loiter as defined above at a public place or place open to the public and to fail to obey the direction of a uniformed police officer or the direction of a properly identified police officer not in uniform to move on, when not to obey such direction shall endanger the public peace.

- C. *Identification.* It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer or of a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification.
- D. *Lawful assembly.* Nothing herein shall be construed to prohibit orderly picketing or other lawful assembly.
- E. *Violations; penalties.* Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to punishment as provided in Section 1.11 of this Code. Any police officer witnessing a violation of this section may, as an alternative to making an arrest, issue to such violator a "Notice of Violation," which notice, in addition to such factors as shall be required by such form of notice as may be approved by the President of the Commissioners, shall specify the violation with which such violator is charged, and shall set forth the hour, date and location, that such violator is summoned to appear before the District Court for Montgomery County, Maryland, to answer such charge. No person shall be charged with a violation of this Section unless and until the arresting officer has first warned the person of the violation and such person has failed or refused to stop such violation. (Ord. No. 18, 1-5, 11-18-68)

**Secs. 13.2-13.10. Reserved.**

#### **ARTICLE 11. RESERVED\***

**Sec. 13.11. Reserved.**

**\*Editor's note** - Formerly, Art. 11, § 13-11, derived from Ord. No. 56, adopted Aug. 15, 1977, had provided for the adoption of the County Noise Control Ordinance. Such provisions were repealed by Ord. 56, adopted Aug. 15, 1977.

## Chapter 13.3

### PARKS AND RECREATION\*

#### Sec. 13.3-1. Rules and regulations for the use of Town Parks.

"Rules and Regulations for the Use of Town Parks" and amendments thereto shall be established by the Commissioners of Poolesville by resolution after receiving the recommendation of the Board of Parks, Recreation and Streets. The adopted rules and regulations shall be on file with the Town Clerk and shall be as fully enforceable as any ordinance of the Town as if it were incorporated and set forth herein. (Ord. No. 126, § 2, 12-19-94)

**Editor's note** - Ord. No. 126, § 1, adopted Dec. 19, 1994, repealed § 13.3-1 and enacted a new Section to read as herein set out. Prior to repeal, § 13.3-1 pertained to the adoption of rules and regulations as derived from Ord. No. 63, § 1, adopted Aug. 17, 1981.

#### Sec. 13.3-2. Enforcement.

- A. Any person committing a violation of the "Rules and Regulations for the Use of Town Parks" shall, upon adjudication by the District Court, be guilty of a municipal infraction, which shall be punishable by a fine of fifteen dollars (\$15.00). The second and each successive violation shall be punishable by a fine of thirty dollars (\$30.00). Each day that a violation occurs shall be a separate offense.
- B. Those officials authorized by the Commissioners may deliver a citation to any person whom they adjudge to be committing a municipal infraction. A copy of the citation shall be retained by the issuing authority and shall bear his certification attesting to the truth of the matter therein set forth. The citation shall also contain:
1. Name and address of the person charged;
  2. The name 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; and
  6. The person's right to elect to stand trial for the infraction. (Ord. 63, § 2, 8-17-81)

**\*Editor's note** - At the editor's discretion, §§ 1 and 2 of Ord. 63, adopted Aug. 17, 1981, have been included as herein set out in §§ 13.3-1 and 13.3-2. The adopted rules and regulations for the use of Town Parks are available for public inspection in the Town offices.

**Cross reference** - Department of Parks and Streets, § 2.16 et seq.

## Chapter 13.5

**RESERVED\***

**\*Editor's note** - Ord. 83, § 1, adopted Nov. 19, 1984, provided for the repeal of Ch. 13.5, § 13.5-1 containing the substantive provisions thereof. Such Section was derived from Ord. 74, § 1, adopted Oct. 3, 1983, and provided for the adoption of County regulations regarding solid waste.

**Chapter 13.6**

**RESERVED\***

**\*Editor's note** - Former Ch. 13.6, §§ 13.6-1-13.6-11, which pertained to storm water management as derived from Ord. 79, § 1, adopted Aug. 20, 1984, was repealed by Ord. 83, § 1, adopted Nov. 19, 1984.

## Chapter 14

### STREETS, SIDEWALKS AND PUBLIC PLACES\*

#### Sec. 14.1. Reserved.

**Editor's note** - Ord. No. 83, § 1, adopted Nov. 19, 1984, provided that § 14.1 be repealed. Such provisions had adopted the County ordinance relative to construction of roads, sidewalks, curbs and gutters, etc., and were derived from Ord. No. 7, adopted May 15, 1962.

#### Sec. 14.2. Improvements required in proposed commercial areas.

- A. In areas planned for commercial development, all properties shall be required to install curb and gutter and sidewalk at grades established by the Town. Property developers shall also be required to participate in a fair share of the storm drainage system serving and/or adjoining their property.
- B. These improvements shall be required at the time when application is made for building permits for new construction or at the time application is made for building and/or use permits to convert residential buildings to commercial use. (Res. No. 003-75, 4-21-75)

#### Sec. 14.3. Improvements required in proposed residential areas.

In areas planned for residential development where sidewalks are to be installed, such sidewalks shall be made of concrete in accordance with the applicable Montgomery County Design Standards and Specifications as required by Section 49-34 of the Montgomery County Code 1984, as amended. If such sidewalks are to be installed on the street side of a swale, curb and gutter shall be installed by the developer at grades established by the Town in accordance with the applicable Montgomery County Design Standards and Specifications as required by Section 49-34 of the Montgomery County Code, 1984, as amended. If sidewalks are to be installed on the side of the swale upon which building lots abut curb and gutter shall not be installed. (Ord. No. 117, § 1, 10-19-93)

**\*Cross references** - Department of Parks and Streets, § 2.16 et seq.; Motor Vehicles and Traffic, Ch. 12.

**State law reference** - Authority to establish street lines and grades and enforce compliance therewith when deemed necessary for proper construction and establishment or extension of a water, sewerage or drainage system, Anno. Code of Md., Art. 43, § 421.

**Sec. 14.4. Accumulation of snow and ice on sidewalks.**

- A. Owners, managers and tenants of all properties in Town shall be jointly and severally responsible for removing snow and ice to the extent necessary to provide safe pedestrian pathways along sidewalks and walkways abutting each property. Each such pathway shall be wide enough for safety pedestrian use.
- B. If an owner, manager or tenant is unable to remove ice or hard packed snow from the sidewalks, walkways or pathways as described in Subsection A hereof, then the owner, manager or tenant shall apply sand or salt so as to provide safety pedestrian use.
- C. Snow removal or sand or salt application shall be accomplished within twenty-four (24) hours from the time the precipitation ceases.
- D. The Town Manager is authorized, in his discretion, to issue orders modifying the time and conditions for clearing sidewalks and walkways taking into consideration the variable situations that may arise in connection with the fall of precipitation and its contemplated removal.
- E. If the owner or tenant residing in any single-family home is unable to remove snow and ice from the sidewalks and walkways abutting his or her property because of age or physical or mental infirmity, the Town, upon written notice from such owner or tenant of this fact, shall remove such snow and ice at Town expense.
- F. Any persons violating any of the provisions of this section shall, upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of fifty dollars (\$50.00) for the first violation and seventy-five dollars (\$75.00) for each successive violation as provided in Section 1-13 of the Poolesville Code. Each day a violation continues to exist shall constitute a separate offense.  
(Ord. No. 117, § 1, 10-19-92)

**Sec. 14.5. Road construction standards**

- A. Construction of new roads in Poolesville, subject to Poolesville jurisdiction, shall conform to State of Maryland and Montgomery County construction standards, as the case may be, except as modified herein. Primary, secondary and tertiary residential road construction standards are modified to require minimum pavement sections on compacted sub-grade composed as follows:

All typical pavement designs are based upon a minimum California Bearing Ratio (CBR) value of 7 at sub-grade surface elevation. If the CBR value is lower than 7, the developer's engineer shall submit to the Town a revised pavement section with all Town requested supporting data. The revised pavement section shall

comply with the typical pavement section minimum standards of quality. This data will be reviewed by the Town and accepted or rejected as the proposed section.

The developer has the right to submit to the Town an alternative pavement section for acceptance or rejection by the Town.

CBR samples shall be taken every five hundred (500) feet along the centerline of the roadway at sub-grade or where there is a change of material. The Town reserves the right to take comparison samples of the sub-grade material.

1. Primarily residential roads.  
Aggregate base - six (6) inches aggregate;  
Base course - four (4) inch bituminous concrete;  
Surface course - three (3) inches of bituminous concrete  
Placed in two (2) layers, one and one-half (1½) inches each.
2. Secondary residential roads.  
Aggregate base - six (6) inches aggregate;  
Base course - three (3) inch bituminous concrete;  
Surface course - two (2) inches of bituminous concrete  
placed in two (2) layers one (1) inches each.
3. Tertiary residential roads.  
Aggregate base - four (4) inches aggregate;  
Base course - three (3) inch bituminous concrete;  
Surface course - two (2) inches of bituminous concrete  
placed in two (2) layers, one (1) inches each. (Ordinance  
No. 177, adopted 10/05/09)

Chapter 15

TAXATION\*

Art. I. In General §§ 15.1-15.10

Art. II. Admissions and Amusement Tax §§ 15.11,15.12

ARTICLE I. IN GENERAL

Sec. 15.1-15.10 Reserved.

ARTICLE II. ADMISSIONS AND  
AMUSEMENT TAX†

Sec. 15.11. Definition.

As used in this article, the term "roof garden or other similar place" shall include any room in any hotel, restaurant, hall or other place where music or dancing privileges or other entertainment, except mechanical music, radio or television, alone, and where no dancing is permitted, are afforded the members, guests or patrons in connection with the serving or selling of food, refreshments or merchandise. (Res. No. 003-79, 7-2-79)

**Cross reference** - Rules of construction and definitions generally, § 1.2.

Sec. 15.12. Levied.

- A. Pursuant to the authority granted in Article 81, Section 402(b) of the Annotated Code of Maryland, the Commissioners hereby levy a tax at the rate of one-half (1/2) per centum of the gross receipts of every person derived from the amounts charged in the Town for:
1. Admission to any place, whether such admission be by single ticket, season ticket or subscription, including a cover charge for seats or tables at any roof garden, cabaret or other similar place where there is furnished a performance when payment of such amounts entitles the patron thereof to be present during any portion of such performance;
  2. Admission within an enclosure in addition to the initial charge for admission to such enclosure;

**\*Cross references** - Administration generally, Ch. 2; Licenses, Permits and Miscellaneous Business Regulation, Ch. 11.

**†State law reference** - Authority for tax, Anno. Code of Md., Art. 81, § 402.

3. The use of sporting or recreational facilities or equipment, including the rental of sporting or recreational equipment, and games of entertainment; and
  4. Refreshment, service or merchandise at any roof garden, cabaret or other similar place where there is furnished a performance.
- B. The Commissioners, pursuant to the authority granted in Article 81, Section 402(c) of the Annotated Code of Maryland, hereby levy an additional tax of five cents (\$0.05) for each person provided with an admission without charge or at reduced rates whenever a charge for admission is made to any other person not in excess of fifty cents (\$0.50); and a tax of ten cents (\$0.10) whenever a charge for admission to such other persons is in excess of fifty cents (\$0.50), but not in excess of one dollar (\$1.00); and a tax of fifteen cents (\$0.15) whenever a charge for admission to such other person is in excess of one dollar (\$1.00).
- C. The tax levied by this Section shall be collected by the comptroller. The comptroller is hereby authorized and directed to collect and pay over such tax as provided by Section 404 of Title 81 of the Annotated Code of Maryland. (Res. No. 003-79, 7-2-79)

## Chapter 15.5

### UNSAFE STRUCTURES

#### **Sec. 15.5-1. Purpose.**

It is the purpose of this Chapter to secure and protect the general public from conditions on any premises found to be dangerous or detrimental to human life, limb, health, property or safety or found to harbor illicit and/or illegal activities or to be a public nuisance as defined herein.

#### **Sec. 15.5-2. Scope and application.**

The provisions of this Chapter are remedial and shall apply to the condition of all premises and to the use, occupancy, structural condition, removal and demolition of all structures and appurtenances connected or attached thereto, irrespective of their date of construction, alteration, repair or installation.

#### **Sec. 15.5-3. Enforcement after notice.**

Except for emergency circumstances, this Chapter shall be enforced only after violations have first been brought to the attention of the owner of the premises by the issuance of a notice of violation and a reasonable time and full opportunity for voluntary compliance has been afforded to the owner.

#### **Sec. 15.5-4. Definitions.**

- A. Where terms are not defined under the provisions of this Article or under the provisions of any building, fire, health, plumbing or electrical code or ordinance enforceable in the Town of Poolesville, such terms shall have ascribed to them their ordinarily accepted meanings in the context utilized.
- B. For the purpose of this Chapter and unless otherwise expressly stated, the following words, phrases and their derivatives shall have the meanings set forth in this Section.

*County.* Montgomery County, Maryland.

*Dwellings.* When used in this Chapter without other qualifications, a structure used or designed, whether occupied or not, for residential purposes.

*Garbage.* Animal and vegetable waste including, but not limited to, waste resulting from the handling, preparation, cooking and consumption of foods which is or may be come in the immediate future dangerous or detrimental to human health, but excluding compost and other benign organic waste.

*Owner.* The person, firm, corporation, partnership, or other entity or person listed in the real property tax assessment records for Montgomery County, Maryland having a legal or equitable interest in the property in question including a duly authorized agent or attorney, a purchaser, devisee, lessee or fiduciary.

*Person.* A natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership, corporation or any other legal entity, its or their successors or assigns or the agent of any of the aforesaid.

*Premises.* A lot, plot or parcel of land, including the structures, dwellings and dwelling units thereon.

*Remove.* Taking away and off the premises including razing, as well as the removal of backfill of all excavation and openings in the earth as the result of demolition.

*Repair.* The replacement of existing construction or other work for the purpose of its improvement.

*Required.* Mandatory in the imperative sense.

*Rubbish.* All solid waste other than garbage.

*Structure.* An assembly of materials which is built or constructed and which is fastened, anchored or rests upon the ground.

*Town.* The Commissioners of Poolesville.

*Town Enforcement Officer.* The Town Manager or the duly appointed Town Code Enforcement Officer or other Town official charged with enforcement of the provisions of this chapter.

**Sec. 15.5-5. Declaration of public nuisance.**

- A. A premises or structure may be found and declared by the Town Officer to be a public nuisance if it:
1. Constitutes a fire hazard;
  2. Creates a condition that results in or potentially may result in damage to another property;
  3. Is structurally unsafe and unstable and is likely to partially or completely collapse;
  4. Constitutes a hazard to safety or health by reason of unsafe equipment, disrepair, dilapidation, obsolescence or abandonment;

5. Contributes to unsanitary or other conditions dangerous to the public health, including but not limited to: the housing of vagrants, drug dealers, criminals, or constituting an attractive nuisance for children; water contamination; vermin or rodent infestation; the accumulation of garbage, rubbish and human or animal feces; or undue exposure of persons to the elements;
6. Is a location for storage or accumulation of construction materials or equipment not in active use on the premises within a thirty (30) day period; or solid waste, including but not limited to vehicles, containers, tires, appliances, furniture and recreational equipment, that is in a state of disrepair or dysfunction, unless the item is awaiting removal or being repaired or renovated for the personal use of the owner or occupant and the repair, renovation or removal is completed within thirty (30) days.
7. Exists without a valid use and occupancy certificate for in excess of six (6) months or otherwise is in violation of any provision of the Building Code of the County, or any provision of the County Fire Code or ordinances of the Town, except that the owner of such building(s) may request an extension(s) of such six (6) month period from the Commissioners of Poolesville for undue hardship and/or other good cause shown.
8. Is not being maintained in a safe and sanitary condition as evidenced by the existence of the following conditions: missing or boarded windows or doors; collapsing or missing walls or roofs; seriously damaged or missing siding or gutters; a structurally faulty foundation; garbage, trash or abandoned motor situated on the premises; overgrown brush; overgrown grass or weeds of at least one foot in length.
9. Fails to meet the following requirements for maintenance of safe and sanitary dwellings:
  - a. Each foundation, floor, wall, ceiling, and roof must be weather-tight, watertight, rodent-proof, free from foreign matter, and capable of affording privacy.
  - b. Each window, exterior door, and hatchway must be weather-tight, watertight, and rodent-proof.
  - c. All exterior surfaces must be adequately protected from water seepage and against decay. All exterior surfaces must be free of flaking, peeling, or loose paint.
  - d. The owner must maintain the paved or gravel surface of each entry apron, driveway, sidewalk and walkway,

parking lot, and patio in good, serviceable and safe condition.

- e. Each lawn and other land covered by a structure must be free of erosion or gullyng. Shrubbery, trees, vines, hedges, and other vegetation, including dead trees and branches, must be maintained so they do not pose a danger to health or safety.

- B. It shall be unlawful to refuse or neglect or otherwise to fail to abate, by repair, improvement or removal, any condition declared to be a public nuisance pursuant to this Chapter.

**Sec. 15.5-6. Inspections.**

The Town Enforcement Officer shall make such inspections as are necessary to determine the existence of a public nuisance.

**Sec. 15.5-7. Entry for inspections.**

- A. The Town Enforcement Officer may enter any structure, dwelling or premises in the Town to perform any duty charged to him by this Chapter, provided that he shall give notice, in writing, of the day and time of the inspection to the owner, as shown by the tax assessment records, and occupant of the premises, which notice shall be mailed at least ten (10) days in advance of the inspection date to the last known address of both of the above, absent any emergency.
- B. If the occupant or the owner refuses or fails to allow an entry and inspection, the Town Enforcement Officer shall prepare a written application to the District Court of Montgomery County signed and sworn to by him setting forth the purpose of the entry and the address and location of the premises to be entered and the record owner thereof. Upon such application, if it appears to any Judge of the Circuit or District Court for Montgomery County that there is a *prima facie* violation of a provision of this Chapter, then such Judge may forthwith issue an *ex parte* order directed to the Town Enforcement Officer authorizing entry to such premises. Any such order shall be conditioned upon any entry made there under being made within thirty (30) days from the date of issuance thereof, and after the expiration of said thirty-day period, said order shall expire. The Town Enforcement Officer or his designee shall notify the owner of the existence of the order.
- C. Each occupant of a premise shall give the owner access to any part of such premises at all reasonable times upon reasonable notice for the purpose of making repairs or taking such action as necessary to effect compliance with the provisions of this Chapter or any lawful order issued pursuant to the provisions hereof.

**Sec. 15.5-8. Notices of Violation.**

- A. Except as to emergency circumstances, the Town Enforcement Officer, upon first determining that a violation of this Chapter exists, may issue a written notice of violation advising the owner of the property in violation of the following.
1. The nature of the violation(s).
  2. Repair and improvement necessary to abate the public nuisance.
  3. A reasonable time, to be determined by the Town Enforcement Officer, to achieve voluntary compliance.
  4. The date after which a notice to vacate and/or to repair or remove will be issued if voluntary compliance is not achieved, where applicable.
  5. An explanation of the owner's rights of appeal under the provisions of this Chapter.

Such notice shall also be prominently displayed on the exterior of the premises in question.

- B. A notice of violation need not be issued when conditions constitute an emergency and present an imminent or immediate threat of danger to human life or limb, health, property or the public safety; in such case, the Town Enforcement Officer may proceed directly to Court for an ex parte or other appropriate order of Court.
- C. Any person aggrieved by the issuance of a notice of violation may appeal same within ten (10) days of receipt thereof to the Poolesville Board of Appeals. Such appeal shall not stay further enforcement by the Town Enforcement Officer unless a stay shall be granted by the Board of Appeals for good cause shown. Failure to timely appeal a notice of violation shall constitute an unconditional waiver of the right to appeal the substance of the notice of violation and appeal of any notice to vacate, repair or remove.
- D. Any person aggrieved by the decision of the Board of Appeals may appeal such decision within thirty (30) days of the date thereof to any Court of competent jurisdiction under the Maryland Rules of Procedure Rule 7-201 et. seq. Such appeal shall not stay abatement or other enforcement action by the Town nor the requirement to vacate the premises and to refrain from trespassing thereupon except for the purpose of making the required repairs or of removing the public nuisance, unless a stay shall be granted by the Board of Appeals, the Court to which such appeal has been made or by the Town Enforcement Officer.

**Sec. 15.5-9. Notice to vacate, or to repair or remove.**

- A. The Town Enforcement officer shall issue a written notice to vacate and to repair or remove whenever:
  - 1. An emergency circumstance exists and presents an imminent or immediate threat of danger to human life or limb, health, property or the public safety; or
  - 2. Voluntary compliance with a notice of violation is not achieved within the time indicated.
- B. This notice may require the owner and occupants to vacate the premises within a stated time and shall require the owner, within thirty (30) days, either to complete specific repairs or improvements or to remove the public nuisance or any portion thereof, including the removal of all debris and the backfilling of all excavations and openings in the earth, or otherwise to comply with other applicable provisions of this Chapter. Upon evidence of a good-faith effort on the part of the owner to commence compliance with such notice, the Town Enforcement Officer may, in his sole discretion, grant a reasonable extension of time to complete compliance. This notice shall also advise the owner of the Town's right to perform this work, and the owner's right of appeal.

**Sec. 15.5-10. Posting of notice.**

- A. Upon issuance of a notice to vacate and to repair or remove, the Town Enforcement Officer shall cause to be posted, at each entrance of the premises declared to be a public nuisance, the following notice: "THESE PREMISES ARE UNSAFE AND HAVE BEEN DECLARED TO BE A PUBLIC NUISANCE; USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE TOWN OF POOLESVILLE. ENTRY BY UNAUTHORIZED PERSONS IS PROHIBITED AND WILL BE PROSECUTED."
- B. Such notice shall remain posted until the required repairs are made or removal is completed. It shall be unlawful for any person, firm or corporation or their agents or servants to remove such notice without written permission of the Town Enforcement Officers. Further, it shall be unlawful for any person to enter or trespass upon the premises except with the express written permission of the Town Enforcement Officer for the purpose of making the required repairs or of abating the public nuisance.

**Sec. 15.5-11. Service of notice.**

Whenever the Town Enforcement Officer shall issue a notice of violation or a notice to vacate and to repair or remove, he shall give such notice to the owner of record or agent and to the person occupying or otherwise in control of the premises, by return-receipt registered or certified mail or by personal service through the Sheriff of Montgomery County or through other legally accepted means.

Service on nonresidents and person who cannot be found shall be made by sending a copy of such notice to the owner of record by registered or certified mail to such owner's address as same appears on the tax assessment records, by publishing such notice twice in a newspaper of general circulation in the Town and/or by posting such notice on the property concerned in a conspicuous manner for ten (10) days. Effective service shall be deemed to have been made on the last day of such mailing, publication and posting to the owner and/or occupant of the notice of violation or the notice to vacate, repair or remove.

**Sec. 15.5-12. Abatement by Town at owner's expense.**

In the event that the owner or record fails to comply with a notice to vacate and/or to repair or remove within thirty (30) days of the effective service of the notice, or in the event that the premises has been posted as unsafe and there exists an emergency circumstance which presents an imminent or immediate threat of danger to human life or limb, health, property or public safety, the Town Enforcement Officer and others authorized by him may enter the premises concerned and cause the same to be repaired or removed and any dangerous conditions to be remedied, as the case may be, at the expense of the owner of record.

**Sec. 15.5-13. Collection of expenses.**

If the owner of record fails to repay the Town for expenses incurred under § 15.5-12 within thirty (30) days after written demand has been mailed to such owner's last known address, as same appears on the tax assessment records such expenses shall be charged to the property, shall constitute a lien thereon, shall be entered on the tax records kept by the Town Manager and shall be collectible with interest at the legal rate.

**Sec. 15.5-14. Violations and penalties.**

Any person who shall violate and/or fail to comply with any notice issued pursuant to this Chapter shall be subject to a municipal infraction citation and upon conviction thereof, payment of a civil penalty in accordance with The Poolesville Code Chapter 1.13 as amended from time to time, in the discretion of the Court. Each day that a violation continues after due notice of the penalty has been effectively served shall be deemed a separate offense. Such remedy shall not be exclusive of any other remedy existing in law or equity, including suits for injunctions, or other appropriate Court orders.

**Sec. 15.5-15. Enforcement.**

- A. In case any notice as provided in §15.5-9 or 15.5-10 is not promptly complied with, the Town Enforcement Officer may institute an appropriate action in a Court of competent jurisdiction:
1. Restrain, correct or remove the violation.
  2. Prevent the entry, trespass, occupation or use of the structure in violation of or not in compliance with the provisions of this Chapter.
  3. Order the payment of the civil penalty authorized by this Chapter, and/or
  4. Order such other relief as shall be just or equitable to secure and protect the general public from conditions on premises found to be dangerous or detrimental to human life, limb, health, property or safety.
- B. Costs of enforcement and correction of violations, including reasonable attorney's fees, may be charged to the owner, as well as any other person prosecuted under this section. Such costs, fees and penalties may be charged to the property and constitute a lien thereon, and may be collected as provided in §15.5-13. (Ord. No. 138, 10-13-98, Ord. No. 171, 09-21-09)

Chapter 16

WATER, SEWERS AND SEWAGE DISPOSAL\*

Art. I.	In General, 16.1-16.10
Art. II.	Sewers and Sewage Disposal, §§ 16.11-16.25
	Div. 1. Generally, 16.11-16.15
	Div. 2. Sewer Use Regulations, § § 16.16-16.25
Art. III.	Water, 1§ 16.26-16.50
	Div. 1. Generally, §§ 16.26-16.30
	Div. 2. Emergency Use Restrictions, §§ 16.31-16.50
Art. IV.	Rates and Charges, §§ 16.51-16.60
Art. V.	Plumbing and Gas Fitting, §§ 16.61-16.66

ARTICLE I. IN GENERAL

Sec. 16.1. Responsibility for repairs to sewer and water service lines.

Direct Town responsibility for repair, correction or replacement of any sewer or water service line or device shall be considered to stop at the property or curb box, whichever is closer, of any privately-owned property; responsibility for repairs or other work beyond that line shall be the responsibility and at the expense of the property owner or owners' association which may have jurisdiction. (Res. No. 10-1975, 7-21-75)

Sec. 16.2. Inspection of water and sewer connections.

The plumbing inspector must inspect the water and sewer connections between the house and the street and the builder shall be put on notice that he may not cover such connections until they have been approved by the Town inspector. (Res. No. 002-75, 4-21-75)

**\*Cross references** - Buildings and Building Regulations, Ch. 4; Civil Defense, Ch. 5; Fire Prevention and Protection, Ch. 7; Health and Sanitation, Ch. 9; Solid Waste, Ch. 13.5

**State law references** - Water and Sewerage generally, Anno. Code of Md., Art. 43, § 397 et seq.; authority to establish water and sewer systems, Art. 43, § 409; authority to make service charges for water and sewer service, Art. 43, §§ 416, 427A; authority to establish rules for systems generally, Art. 43, § 417.

Secs. 16.3-16.10. Reserved.

**ARTICLE II. SEWERS AND SEWAGE DISPOSAL**

**DIVISION 1. GENERALLY**

**Secs. 16.11-16.15. Reserved.**

**DIVISION 2. SEWER USE REGULATIONS\***

**Sec. 16.16. Purpose of article.**

It is the objective of the Commissioners to permit the discharge of sanitary sewage and industrial wastes into the Sewerage System of the Town, provided that such discharge does not damage the sewerage system, unduly restrict the capacity of the system to receive waste water, adversely affect the treatment process or in any other way constitute a detriment to the sewerage system including the sewers, pumping facilities, the wastewater treatment plant, or the receiving waters. It is declared to be the purpose of this article to specify:

- A. Those wastewaters, including industrial wastes, which will be accepted in the sewerage system of the Town.
- B. Types of wastes, which will be prohibited from discharge into the sewerage system of the Town.
- C. Conditions, including pretreatment, under which certain wastes will be accepted in the sewerage system of the Town, after review and upon approval of the Town engineer. (Ord. No. 76, § 1, 12-5-83)

**\*Editor's note** - Ord. No. 76, § 1, adopted Dec. 5, 1983, amended Ch. 16, Art. II, in its entirety to contain Div. 1, §§ 16.16-16.23, relative to sewer use, which provisions at the discretion of the editor, have been included under the title "Division 2". Sewer Use Regulations," in order to maintain Code format and reserve Div. I for general sewer regulations. Prior to amendment Art. II, § 16.16, relative to sewer connection procedures, derived from Res. No. 012-76 adopted June 2, 1976.

**Sec. 16.17. Definitions.**

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

*BOD* (denoting biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter, as determined in accordance with the latest issue of APHA "Standard Methods for the Examination of Water and Wastewater" or by a method acceptable to the State Department of Health and Mental Hygiene.

*Engineer:* The Town's engineer or duly authorized representative.

*Garbage:* Solid wastes from the domestic and commercial preparation, cooking and disposing of food, and from the handling, storage and sale of produce.

*Industrial wastes:* The liquid and solid wastes from industrial manufacturing processes, trade or business as distinct from sewage.

*Natural outlet:* Any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*pH:* The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*Polluted waters:* Waters which have been contaminated by the addition of sewage, industrial wastes or other harmful or objectionable materials in amounts in excess of that allowed by the governing regulatory agencies.

*Properly shredded garbage:* The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely in flowing water.

*Public sewer.* A sewer, which is controlled by the Town or its duly authorized representative.

*Sanitary sewer:* A pipe or conduit which carries wastewater and to which storm water, surface water and groundwater are not intentionally admitted.

*Screening:* The removal of solids by straining through twenty-mesh screens, or finer.

*Sewage:* The wastewaters from residences, business buildings, institutions and industrial establishments, except industrial wastes.

*Sewerage system:* All facilities for collecting, pumping, treating and disposing of wastewater together with such groundwater and storm water as may unintentionally be admitted.

*Sewer:* A pipe or conduit defined as a sanitary sewer.

*Slug:* Any discharge of significant quantities, in the opinion of the engineer, of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than fifteen (15) minutes, five (5) times the average twenty-four-hour concentration or flows during normal operation.

*Storm drain:* A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Suspended solids:* Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

*Town:* The Commissioners of Poolesville or their duly authorized representative.

*Wastewater:* Sewage and/or industrial wastes.

*Wastewater treatment plant:* Any management of devices and structures used for treating wastewater.

*Watercourse:* A channel in which a flow of water occurs, either continuously or intermittently. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.18. Sewer connections-Required.**

- A. Immediately after a sanitary sewer line, district or system of sewers has been finished and is ready to receive, collect, transmit and dispose of domestic sewage, the Commissioners shall notify, in writing, all owners of property within the metes and bounds thereof to connect, within six (6) months from the date of the notice, at their own cost and expense, their respective property lines with the sewer system, to carry off all sewage and waste, and to clean out and fill up their respective privy sinks, wells, cesspools and other drainage or sewerage receptacles, and to abandon the use of their existing arrangements of every sort for the disposal of sewage, drainage and industrial plant water. Exceptions to the foregoing connection requirement may be granted by the Commissioners as provided in Section 82.17 B. of the Charter of the Town. After the sewerage system is completed and has been taken over by the Commissioners, no person, including owners of industrial plants or other property, within or outside the Town limits, shall put, place or allow sewage or industrial waste to be put or placed into any of the bodies of water within the Town limits.
- B. Whenever any person shall occupy or shall be in actual possession or have charge, care or control of any property within the Town, as executor, administrator, trustee, guardian or other fiduciary, or as lessee, agent or in any other capacity, such person shall be deemed and taken to be the owner of such property and shall be bound to comply with all the provisions of this Chapter, as if such person were actually the owner of such property, and notice to any such person shall be as good and sufficient notice as if such person were actually the owner of such property.

- C. Property owners requiring connection to the sewer system shall make a written request for service to the Town. The request shall include pertinent data and fees as may be required by the Town for evaluation of the request and determination of service requirements. Upon approval of the request for service by the Town the property owner shall pay all pertinent fees and obtain all required permits. All new connections shall be designed and constructed in accordance with all applicable codes and requirements. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.19. Same-Performed by Town.**

If the owner of any property fails to comply with any of the terms and requirements of the notice to connect within the time therein stated, the Commissioners shall perform all the work required of the owner and supply all the materials needed at the expense of the owner; and upon the completion of the work, the cost, including the cost of the materials and all expenses incurred, may be recovered by the Commissioners by suit or otherwise. In the discretion of the Commissioners, no such owner or other person in default shall be permitted any use of the sewer connection until security adequate in the judgment of the Commissioners shall be given for the full payment and satisfaction of all costs and expenses incurred in any manner by them for the benefit of such owner or other person, under the provisions of this section. In addition, the owner who fails to comply with the terms and requirements of the notice shall, upon adjudication by the district court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00) in accordance with the procedures set forth in Section 16.35(e) and Section 3 of Article 23A of the 1957 Annotated Code of Maryland, as amended. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.20. Use of public sewers.**

- A. It shall be unlawful to discharge into any natural outlet within the Town, or in any area under the jurisdiction of the Town, any sewage, industrial wastes or other polluted waters.
- B. Where public sewers are provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cess-pool or other facility intended or used for the disposal of sewage unless permission for such a facility shall have been granted by the Commissioners under Section 82.17 B. of the Charter of the Town.
- C. The owners of all houses, buildings or properties that are equipped with toilet facilities and are situated within the Town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the Town are hereby required at their expense to connect to such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within six (6) months after date of official notice

to do so unless an exception to this connection requirement is granted by the Commissioners under Section 82.17 B. of the Charter of the Town. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.21. Discharge of certain materials-Prohibited.**

- A. No person shall discharge or cause to be discharged any storm water, groundwater, roof runoff, subsurface drainage, un-contaminated cooling water or unpolluted industrial process waters into any sanitary sewer, nor into any combined sewer when other points of discharge are available, unless approved by the engineer.
- B. Industrial cooling water or process waters free of contamination may be discharged, on approval of the engineer and the State Department of Health and Mental Hygiene, into a storm drain or natural outlet.
- C. No person shall discharge or cause to be discharged any of the following described waters, materials or wastes into any public sewer or storm drains:
  - 1. Any gasoline, benzene, naphtha, motor oil, fuel oil or other flammable or explosive liquids, solids, or gases.
  - 2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two-tenths mg/l as CN in the wastes as discharged into the public sewer.
  - 3. Solid or viscous substances capable of causing an obstruction to the flow in sewers or other interferences with the proper operation of the sewerage system, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, shells, tar, waxes, plastics, wood, ungrounded garbage, paunch manure, hair fleshings, entrails or paper products such as dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.22. Same-With approval of engineer.**

- A. No person shall discharge or cause to be discharged into the sewerage system the following described substances, materials, waters or wastes if, in the opinion of the engineer, such wastes can harm either the sewers, pumping facilities, wastewater treatment process or equipment or have an adverse effect on the receiving stream or can otherwise endanger life, limb, public

property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant and other pertinent factors. The wastes thus prohibited, except as may be approved by the engineer, are:

1. Any liquid or vapor having a temperature higher than one hundred (100) degrees Fahrenheit (sixty-five (65) degrees centigrade).
2. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or one-quarter pound per day or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero and sixty-five (65) degrees centigrade).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder or comminuter equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the engineer.
4. Any waters or wastes containing iron, chromium, copper, zinc or similar objectionable or toxic substances to such degree that any such material received in the wastewater at the treatment plant exceeds the limits established by the engineer for such materials. The allowable concentration of certain heavy metals for discharge into the Town sewerage system is as follows:

<i>Waste Water Characteristic</i>	<i>Maximum Allowable Concentration for Discharge in Town Sewerage System (ppm)</i>
Aluminum	1.0
Arsenic	1.0
Cadmium	1.0
Chromium (hexavalent)	1.0
Copper	1.0
Cyanide	0.2
Iron	5.0
Lead	1.0
Mercury	1.0
Nickel	1.0
Phenol	1.0
Zinc	5.0

5. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the engineer in compliance with applicable state and federal regulations.
  6. Acids or alkalies having pH values upon point of discharge into the public sewer lower than 5.5 or higher than 9.5 or which would in any way cause damage to sewers, structures, equipment or wastewater treatment process.
  7. Materials which exert or cause:
    - a. unusual volume or flow or concentration of wastes constituting slugs as defined herein.
    - b. Excessive discoloration.
  8. All industrial wastes that will not pass a twenty-mesh screen.
  9. Any wastewater that:
    - a. Has five-day biochemical oxygen demand greater than three hundred fifty (350) parts per million by weight.
    - b. Contains more than three hundred fifty (350) parts per million by weight of suspended solids.
    - c. Has a chlorine demand of more than twenty-five (25) parts per million by weight.
    - d. Has an average daily flow greater than three thousand (3,000) gallons.
    - e. Contains substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment effluent cannot meet the requirements of agencies having jurisdiction over discharge into the receiving waters.
- B. All persons who discharge or desire to discharge into the public sewers industrial wastes or wastewaters other than sanitary wastewater shall obtain authorization from the Town.
1. The industry shall furnish the Town with data covering the type of activity and the quantity and variations of flow and concentrations of constituents to be discharged including averages and peaks or slugs. After the engineer is satisfied with the accuracy and completeness of the

information provided, a determination shall be made as to whether regulation of discharge is required and what agreements, if any, are necessary.

2. Where the required data and information cannot be provided, the engineer may require installation of facilities for measuring flow and concentration of the discharge and will establish regulations, agreements and charges based upon the results of these measurements.
- C. If any waters or wastes are discharged, or are proposed to be discharged into the public sewers, and such waters contain the substances or possess the characteristics enumerated in subsection 1. of this section, and which are prohibited from discharge into the sewerage system because, in the judgment of the engineer, they may have a deleterious effect upon the sewerage system, treatment process or receiving waters, or which otherwise creates a hazard to life or constitutes a public nuisance, the owner may:
1. Discontinue the waste discharge or withdraw the request for treatment of the proposed wastes as the case may be.
  2. Comply with both of the following requirements in order to obtain the written approval of the engineer and thereby be permitted to discharge the particular wastewater to the public sewerage system.
    - a. Provide necessary and approved controls over the quantities and rates of discharge.
    - b. Submit a report before any method of handling or pretreatment is agreed upon, giving such information as the type of wastes, average and peak flows, timing of peaks, and concentrations of all critical constituents and of combined wastes.
- D. Before approving the discharge of industrial wastes or waste waters other than sanitary wastewater in the sewers, the engineer may require preliminary treatment, payment of the Town user rate where applicable, or flow-equalization under the following conditions:
1. If the engineer permits discharge into the sewer after preliminary treatment or equalization of waste flows, the design and installation of the requisite facilities and equipment shall be subject to the joint review and approval of the engineer, and the State Department of Health and Mental Hygiene, subject to the requirements of all applicable codes, ordinances and laws.

2. Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
  3. As part of such preliminary treatment, the engineer will require grease removal and screening of industrial wastes where applicable. Facilities for such pretreatment will be subject to the approval of the engineer.
- E. When required by the engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such approved meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the engineer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- F. All measurements, tests and analysis of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association or by a method acceptable to the State Department of Health and Mental Hygiene and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewerage system and to determine the existing hazards to life, limb and property. The particular analysis involved will determine whether twenty-four hour composites or grab samples should be taken. The pH is to be determined by periodic grab samples. When additional sampling and analysis beyond the normal are requested by a waste-water contributor, the contributor shall pay the Town's cost for performing such, unless such samples show appreciable difference from the previous sampling and analysis.
- G. When the wastewater treatment facilities have reached a point near maximum loading as determined and approved by the State and/or Town Engineer, the Town shall prohibit increased industrial discharge, either on the basis of flow or quantity of waste constituents, or both.
- H. The Town shall maintain records of flows and analysis of wastes, except as modified below, in the manner and frequency determined by the engineer and shall submit reports to the owner showing the character and volume of all wastes discharged into the sewer.
1. Where flow regulation, pretreatment or complete treatment facilities are necessary, records covering their operation and efficiency as heretofore described must be maintained by

the owner of such facilities and must be furnished to the Town in the manner and frequency determined by the engineer.

2. When, in the opinion of the engineer, the characteristics or quantity of an industrial waste are such that more frequent flow measurements and/or wastewater analysis will be required than would be performed by the Town, the owner shall maintain records of flows and analysis of wastes in the manner and frequency determined by the engineer and shall submit reports of such to the Town as directed by the engineer.

I. Authorization from the Town to discharge wastes into the sewerage system shall remain in effect for a period of one year, provided that during the period and in the opinion of the engineer, the wastewater constituents and characteristics have not changed to an extent that would adversely affect the treatment plan operation. An industry shall request in writing from the Town a renewal of authorization at yearly intervals and shall at these intervals provide the Town with an updated report describing the wastewater constituents and characteristics as previously described. (Ord. No. 76, § 1, 12-5-83)

**Sec. 16.23. Enforcement and penalties.**

- A. Any person found to be violating any provision of these regulations shall be served by the Town with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.
- B. Except as provided in Section 16.19 of this article, any person who shall continue any violation beyond the time limit provided for in paragraph A. above shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of these regulations shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation and such expense, loss or damage shall be collectible by the Town in a civil action in a court of competent jurisdiction. In addition to all other remedies provided by law the Town may institute injunction, mandamus or other appropriate civil proceedings to enjoin violations of this article. (Ord. No. 76, § 1, 12-5-83)

**Secs. 16.24,16.25. Reserved.**

**ARTICLE III. WATER**

**DIVISION 1. GENERALLY**

**Sec. 16.26. Unauthorized use prohibited.**

The use of any water resource of the Commissioners, a Municipal Corporation, or any tapping of the water supply system of the Commissioners, without written authorization of the Commissioners, shall be and is hereby made a misdemeanor. (Ord. No. 39, 7-21-75)

**Sec. 16.27. Certain discharges from swimming pools prohibited.**

No person shall discharge water or cause to be discharged from any swimming pool onto the private property of any other person. Such water, with the approval of the Town, may be discharged through a gutter or swale located in a dedicated public right-of-way into a storm drain or into a natural outlet as defined in Section 16.17 of this Code. Once such approval of the Town shall have been obtained, it shall not be necessary to obtain additional approvals for subsequent discharges into the same storm drain or natural outlet. (Ord. No. 105, § 1, 10-1-90)

**Sec. 16.28 Reserved.**

**Sec. 16.29. Prohibition of New Private Residential Wells and Septic Disposal Systems Where Town Hook-Ups Are Available; Waiver and Revocation Thereof:**

- A. The following prohibitions apply to all land uses within the Town of Pooleville:
1. Whenever a public water connection is provided for a property previously served by a well, the well shall be condemned, abandoned, and closed in accordance with all applicable laws.
  2. No new wells shall be constructed on any land located within the municipal boundaries of the Town of Pooleville except those designated by the Commissioners as public or municipal wells. Replacement of a failed residential well shall not be deemed to constitute a new well within the meaning of this Section.
  3. Whenever a public sewer connection is available for a property, all previously-existing sewerage devices and/or appliances on the property shall be connected to the public sewer system, and all septic systems, holding tanks, cesspools, privies, or other private means of sewage disposal on the property shall be condemned, abandoned, and closed in accordance with all applicable laws and left in a

sanitary condition and shall not be used thereafter for sewerage disposal. All downspouts, ramps, surface and subsurface drains shall be disconnected from such private sewage disposal systems, satisfactory to the Town Manager and the County Department of Health, or its successor, so that they do not discharge into the public sewer.

4. No new septic system, holding tank, cesspool or privy shall be constructed on a property located within the municipal boundaries of the Town of Poolesville. However, portable temporary privies or other means of temporary sewage disposal for use on construction projects, special events, and similar uses may be installed and used subject to permission of the Commissioners of Poolesville and the County Department of Health or its successor. Replacement of a failed septic system shall not be deemed to constitute a new septic system within the meaning of this Section.
- B. Any person affected by the foregoing provisions may seek a waiver thereof by filing an application in writing to the Commissioners accompanied by a filing/processing fee in the same amount as for a special exception or as adopted by the Commissioners from time to time. Thereafter, the Commissioners may waive the foregoing provisions, in whole or in part, for a designated period of time only, provided that there is good cause shown by the applicant and they find that such waiver will not operate to the detriment of the health, safety and welfare of any person or property. "Good cause shown" shall include, without limitations, hardship (including financial).
  - C. Any waiver granted in accordance with subsection (b)(1), next above, may be revoked, in whole or in part, with or without notice and the opportunity to be heard where health, safety and welfare issues so require due to exigent circumstances, in other circumstances, the Commissioners shall give the holder of the waiver and other affected persons reasonable notice and an opportunity to be heard regarding such revocation, The holder of the waiver shall be given reasonable and timely access to the pertinent records and personnel of the Town concerning such waiver and its proposed revocation.
  - D. Violation of any of the foregoing restrictions constitutes a municipal infraction punishable as proved in Section 1.13 of this Code by a fine of five hundred dollars (\$500.00) for the first month of violation of this Section and one thousand dollars (\$1000.00) for each week thereafter. (Ord. No. 159, 9-2-03)

**Sec. 16.30. Reserved.**

## DIVISION 2. EMERGENCY USE RESTRICTIONS

### Sec. 16.31. Purpose.

The Commissioners of Poolesville may have to declare that a water shortage emergency condition prevails within its municipal limits due to conditions arising from drought, extraordinary consumption or other extraordinary conditions. This division is intended to allocate equitably the water available to the Town during such emergency, to the end that sufficient water will be available for human consumption, sanitation, fire protection and such other use as the Commissioners may designate. (Ord. No. 51, § 1, 6-6-77; Ord. No. 61, § 1, 10-6-80)

### Sec. 16.32. Definitions.

As used in this division:

*Commercial use* is of water for commercial purposes other than sanitation, drinking, health, cooking, washing of produce, or other health or safety reasons.

*Customer* is any person using water supplied by the Town.

*Water* is water supplied by the Town.  
(Ord. No. 51, § 2, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Cross reference** - Rules of construction and definitions generally, § 1-2.

### Sec. 16.33. Applicability of division.

The provisions of this division shall apply to all customers using water, both in and outside the Town, regardless of whether any customer using water shall have a contract for water service with the Town. (Ord. No. 51, § 3, 6-6-77; Ord. No. 61, § 1, 10-6-80)

### Sec. 16.34. Public agency use.

Use of water by public agencies shall be restricted in accordance with this division unless water for a particular agency is required solely for health or sanitation purposes. (Ord. No. 51, § 4, 6-6-77; Ord. No. 61, § 1, 10-6-80)

### Sec. 16.35. Water shortage emergency condition.

- A. The President of the Commissioners or such other person as he shall designate in writing to act in his absence, upon the recommendation of the Town Engineer, may issue a written proclamation that a water shortage emergency condition prevails. Upon the issuance of such a proclamation and notification of the public in such manner and form as the President of the Commissioners or his designee may prescribe, the following

restrictions of this section shall be placed in full force and effect.

B. All commercial use, as defined above, shall cease.

C. Residential and all other uses shall be restricted as follows:

1. All lawn watering shall be prohibited.
2. Gardens, shrubs and other exterior items may be watered only by recycling and reusing water used inside the house for another purpose.
3. The washing of cars, bikes, walls, streets, driveways, parking lots and other exterior surfaces and items shall be prohibited.
4. Filling of pools shall be prohibited, including decorative pools, fountains and other outside water containing vessels.
5. The use of water-cooled air conditioning units shall be prohibited unless such units recycle one hundred (100) per cent of their cooling water.

D. Upon the designation of a water shortage emergency condition, any customer violating any of the restrictions shall be given a warning after the first such violation. Any person committing a second violation of the restrictions imposed pursuant to this division shall, upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00). The third and each successive violation shall be punishable by a fine of two hundred dollars (\$200.00) for each such offense. Each day that a violation occurs shall be a separate offense. Should a water shortage emergency condition be terminated and subsequently re-instituted, violations shall not be cumulative.

E. Those officials authorized by the Commissioners may deliver a citation to any person whom they adjudge to be committing a municipal infraction. A copy of the citation shall be retained by the issuing authority and shall bear his certification attesting to the truth of the matter therein set forth. The citation shall also contain:

1. Name and address of the person charged;
2. The name 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; and
  6. The person's right to elect to stand trial for the infraction.
- F. Determination of applicability. No fines can be imposed pursuant to this section unless a water shortage emergency condition has been in effect for twenty-four (24) hours. Warnings pursuant to this section may be issued at any time that a water shortage emergency condition prevails. (Ord. No. 51, § 5, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Sec. 16.36. Conservation.**

The Commissioners may adopt such water conservation principles as they may deem necessary which are in accordance with Principle No. 4 of the B.O.C.A. Basic Plumbing Code. (Ord. No. 51, § 6, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Sec. 16.37. Exceptions.**

The Commissioners, by simple resolution, may make exceptions to any provisions of this division. (Ord. No. 51, § 7, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Sec. 16.38. Enforcement.**

The Commissioners shall have the authority to enforce the provisions of this division by:

- A. The discontinuance of water service in the event of a violation hereof after notice to the customer.
- B. The prosecution and imposition of the fines provided for in this division. (Ord. No. 51, § 8, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Sec. 16.39. Notice of warning.**

All warnings provided for under this division shall be delivered to the premises where the violation occurs, stipulating what activity must be corrected, cured or abated immediately or within such specific time as the Town determines to be reasonable under the circumstance. (Ord. No. 51, § 9, 6-6-77; Ord. No. 61, § 1, 10-6-80).

**Sec. 16.40. When ordinance is effective.**

The provisions of this division shall be in full force and effect immediately upon a determination by the Commissioners that a water shortage emergency condition exists. Notification of the existence of such a determination shall be in such a manner and form as the

Commissioners may prescribe. (Ord. No. 51, § 10, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Sec. 16.41. Termination of water shortage emergency condition.**

The President of the Commissioners, upon the recommendation of the Town Engineer, may terminate a water shortage emergency condition by written proclamation. The public shall be notified of the termination of a water shortage emergency condition in such a manner and form as the President of the Commissioners may prescribe. (Ord. No. 51, § 11, 6-6-77; Ord. No. 61, § 1, 10-6-80)

**Secs. 16.42-16.50. Reserved.**

**ARTICLE IV. RATES AND CHARGES**

**Sec. 16.51. Establishment of Water and Sewer Rates, Billing Cycle**

The Commissioners of Poolesville may enact water and sewer rates and water-only and sewer-only rates from time to time by Resolution following notice thereof in a newspaper of general circulation in the Town of Poolesville, and by holding a public hearing thereon prior to enactment. They may also set the billing rate and cycle by Resolution in the same matter.

- A. Annual Increase. The water and sewer rates, water-only and sewer-only rate may be increase up to two (2) percent annually from the prior year's rate, without the passage of a specific resolution, notice and hearing as outlined above, however, this increase must be approved and specified as part of the annual budget process as outlined in the Town Charter. Any increase in excess of two (2) percent from the prior year's rate must comply with the terms of this Section.

(Res. No. 7-1975, 7-1-75; Res. No. 002-81, 3-16-8 1; Ord. No. 84, § 1, 3-18-85; Ord. No. 98, § 1, 3-27-89; Ord. No. 114, § 1, 6-15-92; Ord. No. 123, § 1, 1-24-94; Ord. No. 137, 4-20-98 Ord. No. 157, 3-3-03 , Ord. No. 192, 8-6-12).

**Sec. 16.52. Collection procedure.**

The following procedure is hereby established for the collection of unpaid water and sewer bills:

- A. All bills rendered for water and sewer service shall be due thirty (30) days from the date of mailing. Thereafter, interest shall accrue at the rate of one and one-half (1 1/2) percent per month.

- B. If any bill is not paid after sixty (60) days from the date of mailing, water and sewer service to the property being served may be disconnected after the mailing of written notice to the last known address of the owner of the property and to the occupant thereof stating that such water and sewer service will be discontinued if the bill is not paid immediately.
- C. All unpaid water and sewer bills and accrued interest thereon shall be a lien on the property served and shall be collectible in the same manner as Town taxes or by suit at law.
- D. Water and sewer service which has been disconnected under this Section shall be restored upon payment of the unpaid bill, any interest due and the cost incurred in discontinuing and restoring water and sewer service.

(Ord. No. 54, 8-15-77; Ord. No. 80, § 1, 8-20-84; Ord. No. 119, § 1, 12-21-92)

**Sec. 16.53. Water connection charge.**

The charge for each connection to the water mains of the Town for every lot or parcel of land which are improved by a building having one or more stories and a roof designed primarily for the shelter, support or enclosure of persons, animals or property of any kind constructed over and beyond the excavation and foundation work on April 5, 1976, shall be four hundred dollars (\$400.00) provided an application for water service is made within sixty (60) days from the date notice is given by the Town that the water main is complete and ready for the delivery of water. Any such property owner obtaining an exemption from the mandatory connection requirements imposed by Section 82.17 B. of the Charter of the Commissioners who would otherwise be entitled to water service for the four hundred dollar (\$400.00) connection charge shall notify the Commissioners in writing of this fact within the aforesaid sixty-day period which notification shall entitle such property owner to water service at any time thereafter for the four hundred dollar (\$400.00) connection charge. Any property owner requesting water service from the Town, pursuant to this Section, shall bear the cost of connecting all fixtures on a property to the connections provided by the Town to its water mains. Any property owner not desiring water service pursuant to this Section shall, within sixty (60) days after being notified that the water main is complete and ready for the delivery of water, sign a waiver rejecting the right to service pursuant to this section. Water service provided after the execution of any such waiver or failure to request such service within the aforesaid sixty-day period shall be provided at the then prevailing connection charge. Payment of connection charges imposed pursuant to this section may be made in a lump sum payment. The lump sum payment shall be due and payable within thirty (30) days from the date each connection is made to the Town's water mains. (Res. No. 010-80, 10-6-80; Res. No. 001-81, 2-2-81; Res. No. 006-87, 9-21-87)

**Secs. 16.54-16.60. Reserved.**

**ARTICLE V. PLUMBING AND GAS FITTING**

**Sec. 16.61. Regulations-Adopted.**

The Commissioners of Poolesville hereby adopts as the plumbing and gas fitting regulations of the Town all those regulations, as amended, as of the effective date of this article, which have been adopted by the Washington Suburban Sanitary Commission, under the authority of Chapter 122, Acts of 1918, General Assembly of Maryland, and subsequent amendments thereto, known and designated as "The Plumbing and Gas Fitting Regulations of the Washington Suburban Sanitary District" dated July 1980, with such amendments as are specified in this article. (Ord. No. 89, § 1, 8-18-86)

**Sec. 16.62. Same-Application**

Nothing in these regulations shall supersede the provisions of Article II, Sewers and sewage disposal, of this chapter and in the event of a conflict the provisions of such Article II shall prevail. (Ord. No. 84, § 1, 8-18-86)

**Sec. 16.63. Same-Certain terms defined.**

A. Commission. Whenever, in the regulations adopted by Section 16.61 the words "Commission" or "W.S.S.C." or any department, agency or section thereof are used, those words shall be deemed to mean the "Commissioners of Poolesville" or its duly authorized employees or agents. (Ord. No. 89, § 1, 8-18-86)

**Sec. 16.64. Amendments for plumbing and gas fitting regulations.**

The plumbing and gas fitting regulations adopted by Section 16-61 are hereby amended as follows:

**Chapter II. General Provisions.**

*Section 201.2* is amended by deleting the first paragraph thereof and inserting a new first paragraph to read as follows:

*Section 201.2.* Any person who violates any of the provisions of this article, shall upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00) for the first such violation and two hundred dollars (\$200.00) for each successive violation as provided in section 1-13 of the Poolesville Code. Each day a violation continues to exist shall constitute a separate offense.

*Section 215.1* is deleted in its entirety and a new Section 215.1 is inserted in lieu thereof to read as follows:

*Section 215. 1.* The Commissioners will furnish and a master plumber

will install at the expense of the property owner all residential water meters including the remote reading device. Water meters for commercial or industrial uses shall be furnished and installed with remote reading devices by the owner after approval of the water meter type by the Commissioners of Pooleville. All water meters will remain under the ownership of and will be maintained by the Commissioners of Pooleville.

*Sections 221 and 225 are hereby deleted in their entirety.*

**Chapter III. Registration Procedures.**

*Section 303.5, Examination, is hereby amended by adding a new sentence immediately after the last sentence thereof to read as follows:*

*Section 303.5 In lieu of an examination, the Commissioners of Pooleville may accept satisfactory written documentation that the applicant has passed the examination given by the Washington Suburban Sanitary Commission on the subjects specified herein.*

*Section 314.1, Misdemeanor, is deleted and a new section 314.1, Municipal infraction, is substituted in lieu thereof to read as follows:*

*Section 314.2. Municipal infraction. Any plumber or person license as a drain and sewer cleaner by the Commissioners of Pooleville who violates any of the rules and regulations adopted by the Commissioners as specified herein shall, upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00) for the first such violation and two hundred dollars (\$200.00) for each successive violation as provided in Section 1-13 of the Pooleville Code. Each day a violation continues to exist shall constitute a separate offense.*

**Chapter VI. Work on Private Property (Inside Building).**

*Section 628.1 is amended by adding a new paragraph immediately following the first paragraph to read as follows:*

*Section 628.1. Basement sump pumps shall be permanently piped out to grade through the basement walls. Foundation drains to sump pumps shall also be piped permanently out to grade. Connection of sump pumps to the house or building sanitary sewer is prohibited.*

**Chapter VIII. Materials.**

*Sections 803, Vitrified clay pipe (extra strength); 804, Plain concrete pipe (extra strength); 805, Asbestos-cement pipe; 806, Wrought iron and steel pipe and 810, Fiberglass pipe are deleted. (Ord. No. 89, § 1, 8-18-86)*

**Sec. 16.65. Amendments to gas fitting regulations.**

The gas fitting regulations adopted by section 16-61 are hereby amended as follows:

**Chapter II. General Provisions.**

*Section 204, Penalties and enforcement*, is amended by deleting paragraph (a) and substituting in lieu thereof a new paragraph (a) to read as follows:

*Section 204.*

- A. Any person who violates any of the regulations adopted by Section 16.61 shall, upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00) for the first such violation and two hundred dollars (\$200.00) for each successive violation as provided in Section 1.13 of the Pooleville Code. Each day a violation continues to exist shall constitute a separate offense.

**Chapter III. Registration Procedures.**

*Section 303.4, Examination*, is amended by adding a new paragraph immediately following the first paragraph to read as follows:

*Section 303.4.* In lieu of an examination, the Commissioners of Pooleville may accept satisfactory written documentation that the applicant has passed the examination given by the Washington Suburban Sanitary Commission on the subjects specified herein.

*Section 315.1, Misdemeanor* is hereby deleted and a new section 315.1, Municipal infractions, is substituted in lieu thereof to read as follows:

*Section 315.1. Municipal infraction* Any gas fitter licensed by the Commissioners of Pooleville who violates any of the rules and regulations adopted by the Commissioners as specified herein shall, upon adjudication by the District Court, be guilty of a municipal infraction which shall be punishable by a fine of one hundred dollars (\$100.00) for the first such violation and two hundred dollars (\$200.00) for each successive violation as provided in Section 1-13 of the Pooleville Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 89, § 1, 8-18-86)

**Sec. 16.66. Waiver.**

The Commissioners of Pooleville may, after receiving the advice of the Town Engineer, waive, suspend or amend, in whole or in part, the requirements of any of these plumbing and gas fitting regulations where such waiver, suspension or amendment is necessary to prevent undue hardship to any person and will not constitute a danger to public health, safety or welfare. (Ord. No. 89, § 1, 8-18-86)

## Chapter 17

### Specifications for Utility Construction Permit

#### Sec. 17.1 General Requirements.

- A. The "Town of Poolesville Specification for Utility Construction Permit" applies to all utility and service construction, reconstruction, or maintenance activities performed within public right-of-way or easements under the jurisdiction of the Town of Poolesville. The actual construction shall be done under the terms of the Montgomery County Road Code and Specifications and the current State of Maryland Standard Specifications for construction and materials.
- B. All work performed under the Utility Construction and Service Permit shall comply with the attached Specifications, Patch Standards and Work Zone Traffic Control Requirements as well as any Special Conditions identified on the permit. In the event the Town of Poolesville or the designated representative finds the original plans and/or approval conditions are inadequate or inappropriate for the proposed utility work, they may require revised plans and/or approval conditions to remedy the deficiency.
- C. Utility and Service Construction Permit fees shall be established by the Commissioners of Poolesville by amendment of Resolution 007-85 and shall be in sufficient amounts to cover all administrative and inspection costs incurred by the Town of Poolesville.
- D. The Town of Poolesville shall require a corporate or cash performance bond prior to the issuance of the permit. The bond shall be made payable to The Commissioners of Poolesville, in an amount not less than the estimated value of the restoration costs.
- E. The permittee shall submit to the Town **permit fees and 2 sets of prints** of its proposed construction plan for any work involving utility and/or service installations including new manholes and appurtenances, road service installations including new manholes and appurtenance, roads crossings, sidewalk crossings, street lights or new and relocated utility poles and the **Utility Construction and Service Permit Application in duplicate**. The application shall be returned to the permittee either approved or accompanied with comments for revision. These plans must be dimensioned, whether scaled or not, and include the following items (within the proposed limits of work).
1. Existing topographic and physical details
    - a. Paving - roadway, curb and gutter, driveways and sidewalks
    - b. Storm drain systems - inlets. Manholes, pipes and outfalls
    - c. Other utility company facilities - poles, fire hydrants, conduits and pipes
    - d. Trees and shrubs

2. Existing right-of-way and easements (including Public Utilities Easements)
3. Proposed utility and/or service construction

**Emergency repairs are exempt from these requirements.** Any permit application revisions must be resubmitted with previous Town comments and a brief written response explaining how those comments have been addresses.

- F. In accordance with the 1994 MSHA policy and MCDPS policy adopted January 1990, a moratorium of five (5) years prior to cutting pavement (i.e., sidewalks, paths, driveways, and roadways) is placed on newly constructed projects. A moratorium of three (3) years is places on overlay and/or reconstruction projects. The Town of Poolesville will, in writing, give notice of its intention to construct at least one (1) year prior to new construction or at least six (6) months prior to reconstruction. It is the intent of this section to make all reasonable efforts to anticipate future service requirements and repairs and have them installed or corrected prior to street construction or reconstruction projects. **Emergency utility repairs are exempt from this item.**
- G. In the event a pavement cut, or if damage occurs on newly constructed or refurbished roadways within the moratorium period acceptable.
- H. The permittee shall not use any Town property for overnight or temporary storage of materials or equipment without written consent of the Town. If materials and/or equipment must be stored within the Town streets or right-of-way, permission must be secured during the permit process.
- I. Utility companies or individuals must obtain a Roadside Tree permit from the Maryland Department of Natural Resources Forest Service (MD-DNR) prior to trimming, cutting or removing any roadside tree that grows all or in part within the public right-of-way. For more information on obtaining the appropriate Roadside Tree Permit, contact the MD-DNR Forester for Montgomery as specified under Section F, such cuts and or damage will require mill and overlay as directed by the Town.
- J. It shall be the responsibility of the permittee to utilize the Public Utility Easement (PUE) whenever it exists. All underground utilities and/or services (with the exception of water and sewer) need to be placed within the PUE. Mainline transmission and distribution facilities, i.e., manholes and conduit, may be exempt due to the limited space within the PUE. Site specific cases will be evaluated when new utilities are proposed within established neighborhoods.
- K. Permits for individual projects are non-transferable and shall expire six (6) months from the approval date of that project. The implementation date and continuance of projects under this permit may be altered at the discretion of the Town inspector in the event of conflict(s) with previously approved permits or emergency activities.

- L. Any water usage from a fire hydrant is to be metered by a Town of Poolesville hydrant meter. Water will be billed at the prevailing rate. Hydrant meters from other jurisdictions are not County at 301-854-6060.

**Sec. 17.2 Emergency repairs.**

- A. Emergency is defined as, "a condition exists that poses a clear and immediate danger to life or health, or of a significant loss of property, or requires immediate repair or replacement in order to restore service to a customer".
- B. Application for a permit must be filed in Town Hall by the following business day.
- C. All installation and restoration specifications listed in this Ordinance must be adhered too.

**Sec. 17.3 Specifications.**

- A. No construction shall begin until all permits have been approved.
- B. The Town Hall shall be notified at least forty-eight (48) hours prior to the start of work by calling 301-428-8927.
- C. The work, materials, plans and specifications shall be available at all times for inspection by the authorized Town of Poolesville officials.
- D. Traffic must be maintained through all phases of construction. Every precaution must be taken to safeguard vehicular and pedestrian traffic through the work area. The permittee must conform to the Uniform Traffic Control Devices Manual including but not limited to all aspects of the size, color and reflectivity of warning signs and pavement markings. Permanent patch contractors and final restoration crews shall also comply with traffic control measures.
- E. Roadway bores shall be at least thirty-six (36) inches under all bituminous concrete surfaces and at least eighteen (18) inches under all Portland-cement concrete surfaces. Pneumatic punching is acceptable; however, the Town of Poolesville may rescind this at any time if there is evidence of pavement damage as a result of the operation.
- F. Cable TV and telephone lines allowed in the right-of-way shall have a minimum cover of eighteen (18) inches.
- G. All excavations in the paved section of the roadway must be backfilled and capped with bituminous concrete cold mix or steel plated at the end of each work day and the roadway re-opened to its full cross-section. All steel plates must be one (1) inch thick steel. Steel plates must be large enough to allow a minimum of one (1) foot of bearing on all sides of the trench. Excavations in unpaved sections within the public space shall be either backfilled to grade or completely covered with lumber/plywood or completely encircled with approved construction

fencing at the end of each workday. Steel plates shall not remain in the roadway for over seven (7) days. The utility company shall be responsible for any damages or injuries, which may occur as a result of the plates being placed in the roadway.

H. It shall be the responsibility of the permittee to keep the adjacent and adjoining streets free of soil, dirt and other debris at all times during the construction. Failure to comply with these regulations shall be considered a violation of the County Code and the permittee will be subject to the penalty (ies) as indicated in Chapters 1, 19 and/or 49 of the Montgomery County Code.

I. Property owners must be notified prior to crossing existing entrances. Driveways must be maintained whenever possible. The Town Inspector shall be notified of damaged driveways. The following procedure shall apply:

1. Damaged asphalt driveways shall be saw cut beyond the damaged area and replaced with six (6) inches of hot mix asphalt upon properly compacted sub grade. Driveway restoration shall include removal and restoration of the surface asphalt pavement to the edge of the trench cut to the edge of the roadway.
2. Damaged curb, gutter and sidewalk shall be removed to the nearest construction joint. A saw-cut shall be made at the joint and an expansion joint established, unless the existing joint is an expansion joint.
3. Damaged concrete driveways shall be removed to the closest existing joint and replaced with seven (7) inches MSHA mix #2 concrete upon properly compacted sub grade.
4. The Town Inspector shall be notified prior to commencement and upon completion of the driveway repairs.
5. The above written restoration specifications are minimum standards. Restoration will be equivalent to or better than the specifications, and the Town will have the final determination whether an alternative restoration method is permitted.

J. Roadway patches:

1. Proper temporary patching shall be made upon the completion of backfilling. Permanent patches shall be completed within sixty (60) days of the completion of the repair or new installation. Should asphalt be unavailable due to winter shutdown, the allotted time period will be extended to include the shutdown period.
2. Bituminous surface course shall be placed between forty-eight (48) and seventy-two (72) hours after the base paving has been placed.
3. Wherever pavement is permitted to be cut, not over half of the pavement width shall be disturbed at one time; the first half shall be restored to a usable condition before the second half can be opened.

4. Excavation shall be confined as possible. Sub-base backfill shall be placed, trimmed, and compacted using a mechanical tamper or vibratory plate in maximum 6-inch lifts.
  5. A bituminous concrete base course shall be placed with an initial 4-inch compacted lift and an additional 2-inch compacted lift to match the pavement surface grade.
  6. Wherever a patch encroaches within three (3) feet of the edge of the roadway, the patch shall be extended to the edge of the pavement.
  7. The minimum width of a patch is three (3) feet unless approved in advance.
  8. Pavement cuts shall be made initially with pneumatic tools or saws, as specified in the permit defendant upon proximity to driveways and/or utility appurtenances. After the pavement backfilling has been completed, pavement edges shall be sawed to a minimum of four (4) inches prior to placing the pavement surface over the opening.
  9. Whenever two (2) patches are located within 100 feet of one another, mill and overlay will be required. Once a section or roadway has been milled and overlaid and a third pavement cut (within 100 feet of either of the previous patches) is made, this area will not be required to be milled and overlaid until a fourth cut within 100 feet of the third cut is made.
  10. The above written restoration specifications are minimum standards. Restoration will be equivalent to or better than the specifications, and the Town will have the final determination whether an alternative restoration method is permitted.
- K. Complete repair and restoration of the right-of-way must be made to any and all damages caused by **utility installations, repair and/or operations**.
- L. The Town assumes no responsibility for any suits or actions arising from the performance of work designated in the permit.
- M. It is the responsibility of each utility company to obtain and make available to the Town all necessary permits, including those required by Montgomery County and/or the Maryland State Highway Administration.
- N. Failure to comply with these specifications and the requirements herein will constitute a violation and may result in the issuance of a municipal citation and/or immediate revocation of the **UTILITY CONSTRUCTION PERMIT**.
1. Municipal infraction fines will be One Hundred Dollars (\$100.00) for each initial violation and Two Hundred Dollars (\$200.00) for each repeat violation. Each day a violation continues shall constitute a separate and repeat violation.

2. Permittee shall be liable for all reasonable costs including restoration, collection costs and attorney/court costs resulting from the permit revocation. (Ord.No. 161, No. 7-19-04)

## Chapter 18

### LANDLORD-TENANT RELATIONS

The Montgomery County Landlord-Tenant Relations Ordinance adopted and enforced by Montgomery County, Maryland, as Chapter 29 of the Montgomery County Code, as amended, shall be the official Landlord-Tenant Ordinance for the Town of Poolesville, Maryland, and such ordinance is hereby adopted by reference. The official of the Montgomery County shall be the administrator, inspector and/or enforcement official for the Town for this purpose.  
(Ord. No. 196:8-5-13)

CHAPTER 21

ARTICLE 1

BOARD OF PARKS, RECREATION AND STREETS

**Sec. 21.1. *Appointments.***

The Commissioners of Poolesville shall appoint a minimum of 5 residents and up to seven residents of the Town to the Board of Parks, Recreation and Streets who shall hold no other office in Town government. One such member shall be appointed by the Commissioners of Poolesville from among their number to serve in an ex officio capacity. The term of office of each member shall be four (4) years and shall commence on April 1. Members shall serve until their successors are appointed and have qualified. No member shall receive any compensation for his or her service.

**Sec. 21.2 *Duties***

Duties of the Board shall be to:

- A. Develop an overall long-range recreational plan for the Town of Poolesville in coordination with the Town Manager. Advise the Commissioners of Poolesville, Town Manager and the Planning Commission of the Town of Poolesville as to the acquisition, development, and maintenance of parks and recreational areas.
- B. Provide recommendations to the Commissioners with regard to certain functions of control of parks and recreational areas and facilities, such as, but not limited to, regulations for use and scheduling.
- C. Provide recommendations to the Town Manager and the Commissioners of Poolesville on recreational programs within the Town and in coordination with other governmental agencies.
- D. Consult with and offer suggestions to the Planning Commission of the Town of Poolesville as to the acquisition of parks and recreational land by the Commissioners of Poolesville and the suitability of proposed facilities for parks or recreational use.
- E. Act as an advisory Board to the Commissioners on all traffic concerns within the Town corporate limits. Such concerns shall include but are not limited to, placement of traffic signs along Town roads; coordination on road maintenance plans presented by the Town Manager and Engineer; identification, development and recommendation of methods and practices relating to enforcement of traffic laws within the Town; and programs relating to new or proposed streets in order to ensure vehicular and pedestrian safety.

- F. Coordinate with the Commissioners of Poolesville, the Town Manager and the Planning Commission concerning parks and recreational areas and provide advice and recommendations on subdivision plans presented to the Planning Commission and Commissioners as to the appropriateness of the landscaping of parks recreational areas and streetscapes.
- G. Act as the Tree Advisory Board for the Town of Poolesville and in this capacity advise the Town Manager and Commissioners concerning all trees, plants and shrubs located in the street right-of-ways, parks and public places and trees, plant and shrubs located on private property that constitute a hazard or threat to vehicular or pedestrian traffic.
- H. Make operating and capital budget recommendations to the Town Manager for the needed expenditures for parks, recreational facilities/programs, and programs relating to traffic safety, street maintenance and traffic enforcement.
- I. Act as an advisory board to the Commissioners of Poolesville and the Town Manager as to the expenditure of budgeted funds for parks and recreational activities.
- J. Act in an advisory capacity to the Town Manager regarding the beautification of the parks and streets and other Town property.
- K. Make recommendations to the Town Manager for the issuance of parks permits.
- L. Appoint from time-to-time subcommittees or task forces to accomplish tasks as assigned. These sub-organizations will be discontinued when the task is completed.

**Sec. 21.3. Chairperson.**

At the first scheduled meeting subsequent to April 1st of each year, the members of the Board of Parks, Recreation and Streets shall elect from their number a person to serve as Chairperson and a second person to serve as Vice Chairperson. The Chairperson or his or her designees shall serve as the ex-officio member of any sub-committee to task force established by the Board. The Chairperson shall be eligible for re-election.

**Sec. 21.4. Meetings.**

The Board of Parks, Recreation and Streets shall hold a public meeting at least once a month or more often, as it may deem necessary, or at the call of its Chairperson. The Board may by simple majority of the entire Board vote not to hold a meeting for a specific month. The reason(s) for not meeting shall be clearly stated prior to the vote. Nothing contained herein shall be construed to prevent the Board from holding closed sessions from which the public is excluded, in accordance with the safeguards provided by State Law.

## Sec. 24. Wellhead Protection

A. Definitions: As used in this Section, the following terms are defined as follows:

1. Aquifer: Any formation of soil, sand, rock, gravel, limestone, sandstone or other material, or any crevice from which underground water is or may be produced.
2. Best Management Practices: A conservation or pollution control practice that manages wastes, agricultural chemicals, or hazardous materials so as to minimize movement into surface or ground waters of the State.
3. Containment device: A device that is designed to contain an unauthorized release, retain it for cleanup, and prevent release materials from penetrating into the ground.
4. EPA: Refers to the United States Environmental Protection Agency.
5. EPA Stormwater NPDES Permit: A permit meeting the requirement of the National Pollutant Discharge Elimination System Permit Application Regulations for Stormwater Discharges issued by EPA on November 16, 1990.
6. Hazardous Material: Any substance that:
  - a. Conveys toxic, lethal, or other injurious effects or which sub lethal alterations to plant, animal or aquatic life; or
  - a. May be injurious to human beings.

Hazardous materials include any matter identified as a "hazardous waste" by the Environmental Protection Agency or a "controlled hazardous substance" by the Maryland Department of the Environment.
7. MDE: Refers to the Maryland Department of the Environment.
8. Nutrient/Manure Management Plan: A plan prepared by a certified management consultant to manage the amount, placement, timing and application of animal waste, fertilizer, sewage sludge, and other plant nutrients in order to prevent pollution and to maintain productivity of the soil.
9. On-Site Floor Drains: Drains which are not connected to municipal sewer or stormwater systems and discharge directly to the ground or a septic system.

10. Owner: A property owner or his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and any other person having vested or contingent interest in the property in question.
11. Person: Any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, government agency, political subdivision, public officer, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.
12. Pesticide/Defoliant: Any substance intended for:
  - a. Preventing, destroying, repelling, or mitigating any pest;
  - b. Use as a plant regulator, defoliant, or desiccant; or
  - c. Use as a spray adjuvant such as a wetting agent or adhesive.
13. Rules and regulations of MDE: Official publications of MDE including but not limited to COMAR regulations, with standards and requirements for protection of groundwater resources.
14. Special Exception Use: A use, which involves any of the following as a principal activity:
  - a. The manufacture, storage, use, transport, or disposal of hazardous materials;
  - b. Use of hazardous materials in quantities greater than those associated with normal household use;
  - c. Open burning or dumping of waste materials;
  - d. Garage/Service station;
  - e. Storage facilities;
  - f. Manure piles, animal waste pits, and private sewage sludge storage facilities;
  - g. Bulk storage and mixing of pesticides and fertilizers;
  - h. Underground injection wells
15. Underground Injection Well: An underground storage tank including but not limited to, all connected piping, underground ancillary equipment, and containment system, if any.

16. Wellhead Protection District: All the land within the boundaries of the Town of Poolesville and that land overlying the aquifer, which contributes water to a public water supply well under the permitted withdrawal rate (average annual) and average annual recharge conditions that can be anticipated based on historical data. It is bounded and may be influenced by the groundwater divides, which result from pumping the well, and by contact of the aquifer with less permeable geologic boundaries. In all cases, the Wellhead Protection District shall extend up gradient to its point of intersection with prevailing hydro geological boundaries (a groundwater flow divide, a contact with geologic formations, or a recharge boundary), or be limited by time of travel. The Wellhead Protection District has been reviewed and approved by MDE.

The Wellhead Protection Zone is based on a one-year time of travel, fixed radius or other assessment of an area most closely connected to the water supply.

B. Applicability

1. This Ordinance applies to all land uses and activities within the area delineated as the Wellhead Protection District (WPD) in Town. The WPD consists of a single zone and shall be an "overlay zone of district" to the Zoning Districts established within the Town. MDE has indicated its approval of this area under Sec. 1428 of the Safe Drinking Water Act.
2. This Ordinance is supplementary to other laws and regulations. Where this Ordinance or any portion thereof imposes a greater restriction than is imposed by other regulations or provisions of the Zoning Ordinance or the Code of the Town, as may be amended from time to time, the provisions of this Ordinance shall control and take precedence.

C. Permitted Uses Within the WPD. All uses permitted in the underlying zoning districts, provided they can meet the Performance Standards as outlined for the Wellhead Protection District.

D. Special Exceptions. All special exceptions allowed in underlying zoning districts may be approved by the Board of Zoning Appeals, provided they meet the performance standards outlined for the Wellhead Protection District.

Activities that are defined as special exceptions in Section 8.A will not be allowed within the WPD unless the property owner can show that the use will not harm the groundwater and is able to meet the conditions described in this Chapter.

1. The landowner or representative shall submit to the Board of Zoning

Appeals an application for a special exception use. The application shall include, where applicable:

- a. A list of hazardous materials, which are to be stored, handled, used or produced in the activity being proposed.
  - b. A description of the quantities and containers for the storage, handling use, or production of hazardous materials by the proposed activity.
  - c. A site plan illustrating the location of all points of potential discharge to ground water including dry wells, infiltration ponds, septic tanks and drain fields.
  - d. Documentation of approval by MDE of any waste treatment or disposal system or any wastewater treatment system over 5,000 gallons per day (gpd) capacity.
  - e. A description and estimate for the average and maximum number of poultry, livestock or domestic animals that will be yarded or housed within the WPD. Evidence that a nutrient management plan for nitrogen has been completed for all animal wastes to be generated by this activity. This plan must incorporate adequate waste holding facilities and show any application sites within the WPD.
  - f. Plans showing secondary containment for all underground and above ground tanks and lines containing hazardous material.
  - g. A description of the best management practices, which will be followed during the construction of the facility to ensure that hazardous materials are not released to the ground water.
  - h. An emergency plan indicating the procedures which will be followed in the event of a hazardous material spill to control and collect the spilled material to prevent any substance from reaching the ground water.
  - i. The Board of Zoning Appeals or the Planning Commission may require that the applicant perform a hydrologic assessment of the site to determine if the net ground water recharge after site development is not less than the amount recharged prior to site development.
2. The Board of Zoning Appeals shall obtain advise from all appropriate local agencies and Town staff and/or contractors to assess whether the WPD will be protected from contaminants which pose an adverse effect on the health effects on the ground water. In making its determination, the Board of Zoning Appeals shall give

consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to drinking water quality which would result if the control measures failed. The Board of Zoning Appeals shall then issue a written decision, which shall include findings of fact, conclusions and orders, if any. In order for the area to be approved, it must be shown that the use:

- a. Will protect the water supply from contaminants used on the property, which pose an adverse effect on the health or comfort of persons;
- b. Will not cause the ground water quality on the property to violate drinking water standards promulgated by MDE and the EPA; and
- c. Will maintain recharge of water to the aquifer consistent with rates prior to development.

A request may not be approved until all comments provided by local agencies have been addressed by the application to the satisfaction of the Board of Zoning Appeals.

3. The Board of Zoning Appeals may deny the Special Exception if it is determined that the use would not meet the requirements outlined above. The Board of Zoning Appeals' decision shall be provided to the applicant and all other interested parties.

E. Special Exception Performance Standards

All activities that are designated in 8.A as Special Exceptions within the WPD shall meet the following design and operation guidelines.

1. Containment of hazardous materials. Leak-proof trays under containers, floor curbing, or other contaminant systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to contain any hazardous material at the location and prevent escape to the environment. These requirements shall apply to all areas, and to aboveground and underground storage areas. Because State and Federal Governments already regulate hazardous materials, nothing in this Ordinance shall be applied in a way to allow a person to avoid complying with State and Federal requirements.

2. All underground tanks and piping systems shall meet the requirements of COMAR 26.20.05.03.C 1-4; as amended from time to time, for secondary containment, double all tanks, liners, vaults and underground piping.
3. Dry cleaning establishments shall not discharge to the ground or subsurface any wastewater that was in contact with the organic solvents used in the dry cleaning process. As specified above, secondary containment is required for areas where dry cleaning solvent is stored, used and transferred.
4. Infiltration of stormwater runoff that has come in contact with the pavement surfaces shall not be permitted at gasoline service stations. Waste from service stations' work areas is not permitted to be discharged to the ground or subsurface.
5. All sewage sludge and animal waste holding facilities shall be constructed so as to not allow waste material to leach into the ground water. All in ground facilities shall use low permeability liners constructed to meet one of the standards specified below:
  - a. One foot clay with a permeability less than  $10^{-7}$ cm/sec, or
  - b. Two feet of clay with a permeability less than  $10^{-6}$  cm/sec or
  - c. Two feet of compacted soil with permeability less than  $10^{-5}$  cm/sec, and/or a manmade line, 30 ml thick, and permeability less than  $10^{-7}$  cm/sec.
6. Agricultural operations with yarding areas shall follow nutrient management plans for nitrogen. Waste application rates for all sites within the WPD are to be designed not to exceed crop requirements and therefore minimize nitrate management plans.
7. All de-icing chemicals (salt, cinders, or sand mixes) must be stored under roof and protected from precipitation by a permanent cover. Runoff from mixing and loading areas may not be discharged to the subsurface.
8. All facilities with bulk storage of pesticides must show evidence of compliance with Maryland Department of Agriculture requirements.
9. All tanks storing fertilizers must have a secondary containment of at least 110% of the largest tank within the contained area. All dry fertilizer storage must be under a permanent cover and

protected from rainfall.

10. All underground pipelines carrying hazardous material shall be equipped with operable secondary release detection equipment and be protected against corrosion.
11. All excess hazardous materials from the construction of any facility shall not be released into the environment and shall be removed from the property, unless such materials are incorporated into a contained hazardous materials storage area.
12. All facilities practicing stormwater management shall obtain a Montgomery County permit and follow specifications for quantity and quality control.
13. The facility owner and/or operator shall report any spill of a hazardous material by telephone to the Town, with two (2) hours of discovery of the spill. Clean up shall commence immediately upon discovery of the spill. A written report detailing the steps taken to contain and clean up the spill and preventing a recurrence shall be submitted to the Town within five (5) working days of the spill.
14. The Commissioners, Planning Commission, or the Board of Zoning Appeals may require that ground monitoring wells be installed at the expense of the facility owner and/or operator in accordance with an approved ground monitoring plan. The permittee shall be responsible for developing an approved ground water monitoring system. A State-Certified Laboratory shall analyze samples and the results reported to the Town.
15. The Board of Zoning Appeals shall be notified in writing prior to the expansion, alteration, or modification of any activity that is subject to a Special Exception. Approval by the Board of Zoning Appeals is required before the activity subject to a Special Exception can begin. The owner and/or operator shall submit an explanation of the change in activity and the information as required by this Ordinance.

F. Exemptions

The following activities and land uses are exempt from the provisions of this Ordinance provided that they meet the criteria for exemptions set out below:

1. Transit: The transportation of any hazardous or toxic materials through the WPD provided that the transportation meets all Federal, State and other local regulations.

2. Building Permits: All residential building permits that do not involve a change of an existing use.
3. Application of Pesticides: The application of liquid fertilizer, herbicides, and/or pesticides in residential, recreation, agriculture, pest control and aquatic weed control activities provided that:
  - a. The application is in strict conformity with the use requirement as set forth in the substance's EPA registries; and
  - b. Chemicals are used according to their labeling and according to pertinent Federal and State laws; and
  - c. When applied by an applicator required to be certified by the Maryland Department of Agriculture, the application of liquid fertilizer, herbicides and/or pesticides shall be noted in the records of the applicator. These records shall include but are not limited to the date and amount of these substances applied at each location and said records shall be available for inspection by the Town and/or its representatives.
  - d. Construction Activities: Construction activities for road and utility maintenance and/or repair that follow the Best Management Practices.
  - e. Underground Oil Storage: The underground storage of oil(s) used for heating fuel shall be exempt from the provisions of this Ordinance if the tank used for storage is located within an enclosed structure (i.e., secondary containment or any currently approvable containment technology) sufficient to contain leakage of oil from the underground storage tank and to provide routine access for visual inspection (e.g. cement-floored basement) and sheltered to prevent the intrusion of precipitation. Any tank used for underground storage of oil that is out of service for more than one year shall be removed. Liquid residue shall be removed and all connecting pipes securely capped or plugged.
  - f. Aboveground Oil Storage: The aboveground storage of oil(s) used for heating fuel shall be exempt from the provisions of this Ordinance provided that the tank used for storage is:
    - (1) Located on an impervious pad or container of sufficient volume to capture and contain spills and leakage of oil

from entering the environment;

- (2) Sheltered to prevent the intrusion of precipitation and;
- (3) Located in a manner that allows for routine visual inspection.

Aboveground storage of oil shall be located as far away from the public water supply wells as is reasonably possible.

- G. Non-conforming Uses: Any land uses, structures, and/or activities lawfully in existence within the WPD prior to the effective date of this Ordinance, may continue to exist on the land upon which it is located subject to meeting existing Federal, State and local regulations, and also providing that there is no change of use or structures. Changes in the title or right to possession shall not affect continuation of an existing use as long as the use is not suspended or abandoned for a period of six (6) months or more. In the event that a non-conforming use poses, or may pose, a direct hazard to the public water supply, the Commissioners and/or Town Manager may take lawful action to abate the hazard.
- H. Variances: Variances to the provisions of this Ordinance may be granted by the Board of Zoning Appeals, following a public hearing with no less than thirty (30) days notice, provided that a strict interpretation of the Ordinance creates a hardship and/or deprives such property enjoyed by other similarly situated property within the WPD. Applications for variances must be submitted to the Board of Zoning Appeals.
- I. Administration and Enforcement:
1. Subdivision and Land Development Review: All subdivision proposals and other proposed new development plans within the WPD shall be reviewed by the Planning Commission for compliance with the provisions of this Ordinance. It shall be the responsibility of the Planning Commission to approve, disapprove, or approve with modifications the proposed subdivision or development plan.
  2. Notice of Violation: Whenever it is determined that there is a violation of this Ordinance, a Notice of Violation may be issued. The Notice of Violation shall:
    - a. Specify the violation or violating in writing.
    - b. Specify the length of time to correct the violation.
    - c. Clearly state any penalties associated with the subject

violation.

- d. Provide a description of any rights of appeal.
3. Penalties: All costs incurred by the Commissioners of Poolesville, including engineering and attorney's fees for enforcing this Ordinance shall be paid by the owner and/or operator who violated the provisions of this Ordinance. In addition, a penalty of up to \$1,000 may be levied for any violation of this Ordinance by a Municipal Infraction Citation. Each day that a violation is found shall be a separate offense. Nothing herein shall prevent the Commissioners from exercising any other legal remedy available.
  4. Stop Work Orders: The Town Manager and/or Code Enforcement Officer of the designee of either is authorized to issue cease and deist orders whenever it becomes aware of violations of this Ordinance. Where circumstances require, he may request enforcement by Court Order. (Ord. 165, 12-11-06)  
Moved from Zoning Code-Appendix B Ordinance 199 - 3-24-14

## Chapter 30

### PLANNING COMMISSION

#### **Sec. 30.1. *Creation;jurisdiction.***

There is hereby created a Planning Commission of the Town of Poolesville. Its territorial jurisdiction shall extend throughout the corporate limits of the Town of Poolesville.

#### **Sec. 30.2. *Membership; Terms of Office.***

The Commissioners of Poolesville shall appoint five (5) persons to the Planning Commission including one of their number to serve in an ex-officio capacity. The term of office of each member of the Planning Commission shall be five (5) years. Members shall serve until their successors are appointed and have qualified. Appointments shall be made on or before April 1st of each year in which any appointment is made and terms of office shall begin as of that date. Any vacancy occurring prior to the expiration of the term for which a member of the Commission is appointed shall be filled in a like manner for the remainder of the unexpired term for which his predecessor was appointed. After a public hearing, any member of the Planning Commission may be removed from office by the affirmative vote of three (3) of the Commissioners of Poolesville upon a finding of inefficiency, neglect of duty or malfeasance in office. All members are eligible for reappointment.

#### **Sec. 30.3. *Duties.***

The Planning Commission shall have the duties and powers specifically provided for in Article 66B of the Maryland Annotated Code and any other powers implicitly delegated therein now or as said Article may hereafter be amended.

#### **Sec. 30.4. *Appeals.***

Any person aggrieved by a decision of the Planning Commission approving or denying a subdivision plan or plat may appeal such decision to the Circuit Court for Montgomery County.

#### **Sec. 30.5. *Meetings.***

The Planning Commission shall meet as required by State law. Nothing contained herein shall be construed to prevent the Planning Commission from holding a closed sessions from which the public is excluded, in accordance with the safeguards provided by State law.  
(Ord. 188; 6-5-12)

