



# Town of Emmitsburg

Mayor Donald N. Briggs

**Board of Commissioners,**  
Timothy O'Donnell, *President*  
Clifford Sweeney, *Vice President*  
T.J. Burns, *Treasurer*  
Joseph Ritz III  
Frank Davis

**Town Manager**  
Cathy Willets

**Town Clerk**  
Madeline Shaw

**TOWN MEETING AGENDA PACKET  
TOWN OFFICE – 300A SOUTH SETON AVENUE  
MONDAY, AUGUST 2, 2021 – 7:30 P.M.**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. FUTURE MEETINGS**

*Parks and Recreation Committee Meeting: Tuesday, August 17, 2021 at 7:30 p.m. (Town Office)*

*Last Day to Register to Vote for Town Elections: Friday, August 27, 2021*

*Last Day to File as a Candidate for the Town Election: Friday, August 27, 2021 by 4:00 p.m.*

*Planning Commission Meeting: Monday, August 30, 2021 at 7:00 p.m. (Town Office & Zoom)*

*Town Council Meeting: Tuesday, September 7, 2021 at 7:30 p.m. (Town Office & Zoom)*

**4. MEETING ITEMS**

A. APPROVE MINUTES: JULY 12, 2021

B. POLICE REPORT

C. TOWN MANAGER'S REPORT

D. TOWN PLANNER'S REPORT

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS: NONE

I. CONSENT AGENDA: NONE

J. TREASURER'S REPORT

K. PLANNING COMMISSION REPORT

L. AGENDA ITEMS (DETAILS ATTACHED)

(1). Approval 2021 election judges for consideration.

(2). Proclamation declaring August 3, 2021 National Night Out in Emmitsburg.

(3). Approval of Resolution 21-05R to repeal the charter of the Town of Emmitsburg in its entirety and adopt a new charter.

(4). Hold public hearing and final vote on Ordinance 2021-12, which would amend Town Code Section 17.08.190.

(5). Approval of Policy P21-03 – Review Fee's for consideration.

(6). Approval of Ordinance 2021-09, comprehensive update to Title 6 – Animals, for consideration.

(7). Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration.

**POSTPONED**

(8). TENATIVE – Approval of Rutter's stream restoration deed easement with Town of Emmitsburg for consideration. **POSTPONED**

M. SET AGENDA FOR NEXT MEETING: SEPTEMBER 7, 2021

**5. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS**

**6. ADJOURN**

300A South Seton Avenue • Emmitsburg, Maryland 21727

Phone 301.600.6300 • Fax 301.600.6313 • info@emmitsburgmd.gov • www.emmitsburgmd.gov

**ZOOM MEETING ACCESS INFORMATION:**

Topic: August 2, 2021 Town Meeting

Time: Aug 2, 2021 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87353389164>

Meeting ID: 873 5338 9164

Passcode: 21727

One tap mobile

+13017158592,,87353389164#,,,,\*21727# US (Washington DC)

+13126266799,,87353389164#,,,,\*21727# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 873 5338 9164

Passcode: 21727

Find your local number: <https://us02web.zoom.us/j/87353389164>

The town meeting will begin at 7:30 p.m. If you would like to speak during public comment or an agenda item via zoom, you must sign-up to speak BEFORE 7:25 p.m. Sign-up to speak by emailing your name, address and topic you'd like to speak on to [mshaw@emmitsburgmd.gov](mailto:mshaw@emmitsburgmd.gov) or calling (301) 600-6300.

You can also watch the town meeting live on cable channel 99. A recording will be posted to YouTube after (@Town of Emmitsburg).

**A. APPROVE MINUTES: JULY 12, 2021**

**MINUTES  
JULY 12, 2021  
TOWN MEETING  
EMMITSBURG TOWN OFFICE**

**Present:** *Elected Officials* - Mayor Donald Briggs; Commissioners: Clifford Sweeney, Vice President; T.J. Burns, Treasurer, Joseph Ritz III; and Frank Davis. *Staff Present* - Cathy Willets, Town Manager; Madeline Shaw, Town Clerk; Amy Naill, Code Enforcement Officer; and Zachary Gulden, Town Planner. *Others Present* – Deputy Jason Ahalt. **Absent:** Commissioner O'Donnell with prior notice.

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**I. Call to Order**

Commissioners Burns, Davis, and Town Manager Ms. Willets joined the meeting via the Zoom teleconferencing platform. A quorum being present, Commissioner Clifford Sweeney, Vice President of the Board of Commissioners, called the July 12, 2021 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced. Mayor Briggs announced the Town Office is open to the public starting July 12, 2021 and face masks are required when inside the Emmitsburg Community Center.

**Approval of Minutes**

*Motion:* Commissioner Ritz III motioned to accept the June 21, 2021 town meeting minutes as presented; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

**Police Report:**

Deputy Jason Ahalt presented the police report from June 2021 (exhibit attached).

**Town Managers Report:**

Cathy Willets, Town Manager, presented the Town Manager's Report from May 2021 (exhibit in agenda packet).

**Town Planners Report:**

Zachary Gulden, Town Planner, presented the Town Planner's Report from May 2021 (exhibit in agenda packet).

**Commissioner Comments:**

- Commissioner Ritz III: He thanked the County Executive for allowing the town office to open to the public and town staff for decorating Emmitsburg for 4<sup>th</sup> of July.
- Commissioner Burns: He congratulated the new businesses in Town on their grand openings. He thanked the Vigilant Hose Company volunteers and suggested getting more sun shades for the pool.
- Commissioner Sweeney: He thanked everyone for helping to make a successful Heritage Day event.
- Commissioner Davis: He complimented the Vigilant Hose Company volunteers on their hard work.

**Mayor's Comments:**

Mayor Briggs attended numerous meetings in June 2021 (meetings listed in agenda packet). Mayor Briggs attended the MML Summer Conference in Ocean City and the ribbon cutting ceremony for the four new wayside exhibits as part of the future historic walking tour. He has also been welcoming new families to Town.

**Public Comments:**

None.

**Administrative Business:**

- (A). **Youth group use of the Emmitsburg trails:** Ms. Willets presented the item. On July 24, 2021 a youth organization will be having a trail ride event on the multi-user trails in the Emmitsburg watershed. Commissioner O'Donnell is absent but is requesting the Board approve parking in the grass near Rainbow Lake for the event. The Board gave unanimous consent.
- (B). **Update on the American Rescue Plan monies:** Ms. Willets presented the item. The American Rescue Plan will deliver funds to state and local governments to respond to the COVID-19 virus and provide jobs. The money may be used for public health expenditures, to replace lost public sector revenue, to provide pay for essential workers, and invest in water/sewer/broadband infrastructure. The federal government has further guidelines regarding allowed uses. Since the Town has a population under 50,000 people funding will be passed to the Town from the state. The town is estimating receiving approximately \$2.3 million; however, this has not been finalized. The Town will receive part of the pay in July 2021 and the remaining one year later. Town staff has already submitted a funding request in June 2021 and is actively working with a representative. All costs must be incurred by December 31, 2024 and all funds exhausted by 2026.

**Consent Agenda:**

None.

**Treasurer's Report:**

Commissioner Burns presented the Treasurer's Report for June 2021 (exhibit in agenda packet). The operating balance forward is \$5,563,066. The top 10 check amounts are listed in the agenda packet.

**Planning Commission Report:**

Commission Ritz III presented the report. The last Planning Commission meeting was held June 28, 2021 where Resolution 2021-01R amending Chapter 3 of the 2015 Comprehensive Plan was approved and forwarded to the Board of Commissioners for final approval. In addition, the Planning Commission members voted and changed the time of the commission meetings from 7:30 p.m. to 7:00 p.m. going forward.

**II. Agenda Items**

Agenda #6 - Zoning text amendment application, proposed Ordinance 2021-12, which would amend Town Code Section 17.08.190. The Board shall either: (1) Deny the application; or (2) Forward to the Planning Commission for recommendation & set public hearing for August 2, 2021: Mr. Gulden presented the agenda item. The text amendment was requested by Brian Reaver and Susan Reaver. The text amendment would allow for the conversion of a non-residential structure to a residential usage structure. Jeff Holtzinger, the Reaver's attorney, informed the Board of his client's request. The zoning code does not allow for a zoning variance; this text amendment would allow for a zoning variance to occur to allow a former restaurant to be divided into two apartments. *Motion:* Commissioner Ritz III motioned to forward Ordinance 2021-12 which would amend Town Code Section 17.08.190 to the Planning Commission and set a public hearing for August 2, 2021; second by Commissioner Davis. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

Agenda #1 - Approval of ordinance 2021-11, purchases, contracts and bid procedures, for consideration: Ms. Willets presented the item. Ordinance 2021-11 is being pursued as the current bid procedures in the town code are vague and the requirement to advertise projects in the newspaper have resulted in thousands of dollars spent a year in advertising. A summary of the proposed changes was given to include raising the thresholds for formal bidding to \$50,000, removing the requirement to advertise in the newspaper, and adding a requirement to use eMaryland Marketplace for projects over \$50,000. In addition, language was added to provide clearer guidelines on what a request for proposal packet must



include, timeline for submitting bids and when the bids must be submitted to the Board for approval. The Board discussed the timeline of bid opening and bid approval. The ordinance was modified to allow a longer time frame for bid submission (at least 14 days) and shorter timeline for bid opening (within 30 days). *Motion:* Commissioner Burns motioned to accept ordinance 2021-11 as modified; second by Commissioner Ritz III. Yeas – 3; Nays – 1 (Ritz III); Absent – 1. The motion passed.

Agenda #2 - Award ADA sidewalk curb ramp project contract for consideration: Mr. Gulden presented the item. The bid was initially advertised on April 21, 2021 with a due date of May 19, 2021; however, only one bid was received and the Community Development Block Grant that will be funding the project requires more than one bid. A second bid was re-advertised on June 1, 2021 with a due date of June 30, 2021. Two total bids were received and town staff recommends approving MIM Construction, Inc. for \$623,028.50. The project is anticipated to start August 1st. *Motion:* Commissioner Burns motioned to accept the bid from MIM Construction, Inc. for \$623,028.50; second by Commissioner Ritz III. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

Agenda #3 - Approval of Rutter’s and Emmitsburg East Industrial Park II deeds of easements and authorize the Mayor to sign the agreements on behalf of the Town for consideration: Mr. Gulden presented the agenda item. The deed of easement will allow town staff to enter onto the Rutter’s property to maintain the water and sewer lines. *Motion:* Commissioner Davis motioned to accept the Rutter’s easement as presented; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1. The motion passed. The deed of easement for Emmitsburg East Industrial Park II will allow for Rutter’s sewer lines to be run through the property to the Town’s wastewater treatment plant on Creamery Road. *Motion:* Commissioner Ritz III motioned to accept the Emmitsburg East Industrial Park II deed of easement; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

Agenda #4 - Award forestry stand 10 logging bid for consideration: Mr. Gulden presented the agenda item. The bid was advertised on June 1, 2021 with a due date of July 1, 2021. The Town received two bids. Town staff recommends approving Tipton’s Inc. for stand 10 logging with 90% of the funds being dedicated to the water fund and 10% to multi-user trail maintenance to repair any damage that may be caused to the trails during logging. There is also a \$5,000 bond requirement for the project. *Motion:* Commissioner Burns motioned to accept the Tipton’s, Inc. bid for \$75,110; second by Commissioner Davis. Yeas – 3; Nays – 1 (Ritz III); Absent – 1. The motion passed. A five-minute recess was taken at 9:40 p.m.

Agenda #5 - Hold public hearing and approval of Resolution 2021-01R, amendment to Chapter 3 of the 2015 Comprehensive Plan, for consideration: The town meeting reconvened at 9:45 p.m. *Motion:* Commissioner Ritz III motioned to open the public hearing; second by Commissioner Davis. Yeas – 4; Nays – 0; Absent – 1. The motion passed. The public hearing was declared open at 9:45 p.m. Mr. Gulden presented the agenda item. The public hearing was advertised in the Frederick News Post on July 1, 2021 and posted on the Town website and Facebook pages since March 2021. Town staff is requesting the Board approve Resolution 2021-01R and Exhibit A “Growth Areas and Zoning,” which is hereinto attached to the Resolution. The proposed amendments would add the following properties to the Town growth areas and change the zoning classification: property A (17443 Irishtown Rd.), property B (17439 Irishtown Rd.), property C (parcel 05-172233, no address currently assigned), property D (17381 N. Seton Ave.), property E (17319 N. Seton Ave.), property F (17307 N. Seton Ave.) and property G (17308 N. Seton Ave.). The Planning Commission met to review the resolution on March 29, 2021 and forwarded the resolution to Frederick County and the State planning agencies for review. Exhibit B includes the comments received from the State planning agencies received on May 27, 2021. The Planning Commission held a public hearing on June 28, 2021 where it was recommended to pass the resolution. The Planning Commission voted unanimously to keep the Frailey Farm collector road in the Plan, which is a recommendation to add a bypass road from West Main Street, through Community Park to South Seton Avenue. The Board members stated support of the annexation but the need for more

information regarding the collector road before the project is pursued. Public comment was invited. *Amy Boehman, South Gate Development* – Ms. Boehman lives in the South Gate Development and stated concern for the bypass road location due to potential noise, proximity to the Town’s park and the need for traffic studies first. Public comment closed at 10:10 p.m. *Motion:* Commissioner Ritz III motioned to closed the public hearing at 10:13 p.m.; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1. The motion passed. *Motion:* Commissioner Ritz III motioned to approve Resolution 2021-01R amendment to Chapter 3 of the 2015 Comprehensive Plan; second by Commissioner Davis. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

Agenda #7 - Renaming of ballfield #7 in Memorial Park for consideration: Commissioner Davis presented the item. Research revealed ballfield seven was named Richard McCullough Memorial Park in the 1960s. As a result, another way to honor Coach Phelan will be brought to the Board at a later date.

Agenda #8 - TENTATIVE – Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration:  
Agenda item postponed.

Agenda #9 - Approval of Resolution 21-6R, State of Maryland Capital Grants Project Water Clarifier grant submittal authorization, for consideration: Ms. Willets presented the agenda item. Senator Hough obtained a one-million-dollar capital projects grant through the State to fund the construction of a new water clarifier for the existing water treatment plant on Crystal Fountain Road. The Resolution is needed to show the Town’s support for the project and to authorize the Mayor and town manager to sign the application and grant agreement. *Motion:* Commissioner Ritz III motioned to approve Resolution 2021-06R as modified; second by Commissioner Davis. Yeas – 4; Nays – 0; Absent – 1. The motion passed.

### **Set Agenda Items for August 2, 2021 Town Meeting**

(#1.) Approval 2021 election judges for consideration; (#2.) Proclamation declaring August 3, 2021 National Night Out in Emmitsburg; (#3.) Approval of Resolution 21-05R to repeal the charter of the Town of Emmitsburg in its entirety and adopt a new charter. (#4.) Hold public hearing and final vote on Ordinance 2021-12, which would amend Town Code Section 17.08.190. (#5.) Approval of Policy P21-03 – Review Fee’s for consideration. (#6.) Approval of Ordinance 2021-09, comprehensive update to Title 6 – Animals, for consideration. (#7.) Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration. (#8.) TENTATIVE – Approval of Rutter’s stream restoration deed easement with Town of Emmitsburg for consideration.

The Board gave unanimous consent for the August 2, 2021 town meeting agenda.

### **III. Sign Approved Text Amendments and/or Resolutions**

#### **IV. Adjournment**

With no further business, Commissioner Ritz III motioned to adjourn the July 12, 2021 town meeting; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1. The meeting adjourned at 10:27 p.m.

Respectfully submitted,

Madeline Shaw, Town Clerk  
Minutes Approved On:

**B. POLICE REPORT:** Presentation by deputies at the meeting.

### C. TOWN MANAGER’S REPORT

**Town Manager’s Report  
June 2021  
Prepared by Cathy Willets**

Streets:

- Staff replaced and repaired some street signs around town.
- Staff conducted monthly street sweeping.
- Staff repaired and replaced some street lights.
- Staff conducted monthly storm drain inlet cleaning.
- Staff put together and installed the Kentucky Long Rifle Wayside sign by 121 East Main St.
- Staff trimmed and weed killed sidewalks, curbs, and tree wells on East & West Main St.
- Staff mowed weeds in gutters in all developments.
- Staff put up Farmers Market banner signs on East and West Main St.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff sanitized playground equipment twice a week. Will begin sanitizing bathrooms at same time.
- Staff mowed, trimmed and weed killed in parks.
- Contractor installed new vinyl fence around the Community Park Garden plots.
- Contractor completed the resurfacing project at the tennis and basketball courts.
- Staff made some repairs to men’s toilet in Memorial Park restroom building.
- Staff put up a rain barrel at the Community Garden Plots.
- Staff repaired toilet and benches at the pol.
- Staff trimmed some trees in Community Park.
- Staff prepared the parks for the Lion’s Club Heritage Day.

Water:

- Rainbow Lake is at the spillway level (16.6 feet) as of June 27<sup>th</sup>. (15.9’ as of 07/25/21)
- The roughing filters are being backwashed two times a day and the DE filters are being done once every other week.
- Well levels (optimum level was determined to be May 2011). Wells #1 & 2 have low usage this month as the demand remains low. Well #3 was brought on for one day due to a power outage and Well #4 was brought on for the month.
- UPDATE (07/27/21) – staff has noticed an increase in demand during the month of July. The lake is slowly dropping and wells are holding. Staff will continue to monitor to determine if Phase I restrictions need to be implemented.

	<u>May 2011</u>	<u>June</u>	<u>Change</u>
○ Well #1:	35’	35’	0’
○ Well #2:	8’	10’	-2’
○ Well #3:	12’	OFF	N/A
○ Well #4:	108’	128’	-20’
○ Well #5:	10’	OFF	N/A

- Water production and consumption. We produced an average of 236,241 GPD. We consumed an average of 222,101 GPD. The difference is "Backwash Water" ... (10.7%).

- 18.0% of this water came from wells.
- 5.5% of this water came from Mt. St. Mary's.
- 76.5% of this water came from Rainbow Lake.

We purchased 424,200 gallons of water from MSM this month.

Wastewater:

- We treated an average of 543,000 gpd (consumed 222,101 GPD) which means that 59.1% of the wastewater treated this month was "wild water".
- We had no spills of untreated sewage in the month of June. We did exceed the plant's design capacity two times in the month of June.
  - 06/11 2,049,000 gpd 06/12 861,000 gpd
- We received about 3.7" of precipitation this month (the average is 3.92"). We have a precipitation **DEFICIT of 3.8"** over the last six months. The average precipitation for the period from January 1 through June 30 is 22.1". We have received 18.3" for that period.

**Trash:** Trash pickup will remain Mondays in the month of August.

**Meetings Attended:**

- 06/01 Attended meeting with Town Planner, developer and owner Silo Hill motel
- 06/02 Conducted staff performance evaluation reviews
- 06/02 Conference call with HR consultant
- 06/03 Conducted staff performance evaluation reviews
- 06/07 Attended Town Meeting
- 06/07 Met with Mayor
- 06/08 Met with Mayor
- 06/14-15 Initial audit preparations
- 06/17 Attended webinar re: American Rescue Plan
- 06/21 Attended Town Meeting
- 06/21 Conference call with Town Accountant and auditors
- 06/24 Met with the Mayor and Commissioner Davis re: sign ordinance, deputies, etc.
- 06/24 Attended Capital Grants Training webinar
- 06/27-29 Attended MML Summer Conference

**Noteworthy:**

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in May.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff cleaned rain gutters out at Christ Community Church.
- Staff conducted quarterly water meter readings.
- Staff conducted water meter re-reads.
- Staff has been working on the sewer connections at 500 and 502 East Main St.
- Staff worked with contractor to provide water numbers for the engineering report for the two new proposed waterlines (DePaul and North Seton).
- At WTP, chlorine has been set-up to the SC1000 and is not being controlled by the device and regulator.
- LG Sonic was launched at beginning of June. Water clarity is very good so far.

**PARKING ENFORCEMENT REPORT  
JUNE 2021**

Overtime Parking	47
Restricted Parking Zone	13
Street Sweeping	
Parked in Crosswalk	
Parked on Sidewalk/Curb	
Parked by Fire Hydrant	
Parked Blocking Street	
Failure to Park between Lines	1
Left Side Parking	
48 Consecutive Hours	
Meter Money	\$ 915.71
Parking Permits	\$ 20.00
Meter Bag Rental	
Parking Ticket Money	\$ 255.00
<b>Total:</b>	<b>\$ 1,190.71</b>

## **D. TOWN PLANNER'S REPORT**

**Town Planner's Report  
June 2021  
Prepared by Zachary R. Gulden, MPA**

### **1. Board of Appeals (BOA):**

- Received and processed a variance application for 10201 Taneytown Pike (Rutter's).
- Prepared staff memo for variance application.

### **2. Board of Commissioners (BOC):**

- Attended the 6/7 & 6/21 BOC meetings and processed pre/post meeting materials.
- Prepared presentations for 6/7 & 6/21 BOC meeting items.
  - Proposed Ordinance 21-05;
  - Proposed Ordinance 21-06;
  - Impact fee & park fee in-lieu study;
  - Resolution 2021-02.
- Continued processing zoning text amendment application.

### **3. Grants:**

- Community Legacy grant management:
  - FY20 façade & restoration:
    - Processed a reimbursement request for 601 W Main St.
    - Processed a reimbursement request for 304 N Seton Ave.
  - FY21 façade & restoration:
    - Processed a reimbursement request for 120 E Main St.
  - FY22 façade & restoration:
    - Continued working on and submitted grant application.
- Chesapeake Bay Trust grant management:
  - Rain barrel program.
  - Silo Hill SWM basin retrofit design & permitting.
- Community Development Block Grant management:
  - Prepared a cost analysis for the first & second RFP bids.
  - Held a virtual second pre-bid meeting on 6/14 & completed meeting minutes.
  - Submitted a second Request for Wage Determination and Response to Request on 6/16.
  - Held a virtual bid opening meeting on 6/30.
  - Processed & reviewed bids.
  - Applied for a Frederick County grading permit & public improvement plan approval.

### **4. Municipal Separate Storm Sewer System (MS4):**

- Silo Hill SWM basin retrofit project management:
  - Met with contractor on 6/4 regarding Chesapeake Bay Trust grant award resubmittal.
  - Submitted a project update to the Chesapeake Bay Trust on 6/4.
- Tree planting project management.
- Assisted contractor with yearly outfall inspections.
- Updated MS4 permit based on MDE comments (Baseline Impervious Assessment & BMP Database).
- Worked on current year permit.

**5. Permits & Zoning:**

- Processed 10x zoning permit applications:
  - 1x temporary use/occupancy (Ripleigh's Creamery – 502 E Main St).
  - 1x deck.
  - 1x fence.
  - 1x pool.
  - 1x roof.
  - 1x paver patio.
  - 1x impervious asphalt parking lot.
  - 1x sign application (2 signs for same business).
  - 2x new single-family dwellings (Brookfield).
- Processed 23x backflow preventer permits.
- Processed 1x personal firewood permit.
- Mailed 2x high hazard backflow renewal reminder letters.
- Responded to incident reports.
- Prepared for court trial regarding ongoing code violation.
- Finalized Community Park shed building permit.

**6. Planning Commission (PC):**

- Rutter's, Irishtown Road (Brookfield Lots 1-19), Federal Stone, & Emmitsburg East Industrial Park II project management.
- Rutter's:
  - Finalized Public Works Agreement.
- Irishtown Road (Brookfield Lots 1-19):
  - Finalized the following documents:
    - Public Works Agreement;
    - Deed of Easement – Lots 1 & 2 temporary grading easement;
    - Deed of Easement – Lots 1 – 19 landscape easement; and
    - Deed of Easement – Purtell temporary grading & ROW easements.
- Met with Town Manager & developer on 6/1 regarding proposed 20-unit hotel & liquor store on Silo Hill Parkway.
- Reviewed the State of Maryland comments on the proposed comprehensive plan amendment & prepared PC Staff Memo.
- Attended the 6/28 virtual PC meeting and processed pre/post meeting materials.
- Created certified & attested Planning Commission report of proposed comprehensive plan amendment.

**7. Miscellaneous:**

- Forestry 6 & 10 project management.
- Created a new address for 201 Silo Hill Parkway.
- Completed the CDC's Community-Based Survey of Supports for Healthy Eating and Active Living (CBS HEAL).
- Updated the planning & zoning fee schedule document.
- Provided information to Town Clerk for Sustainable Maryland recertification.
- Assisted businesses with pool advertisement process.



**E. COMMISSIONER COMMENTS**

**F. MAYOR'S COMMENTS**

To be given at town meeting.

**G. PUBLIC COMMENTS**

**H. ADMINISTRATIVE BUSINESS**

NONE

**I. CONSENT AGENDA**

NONE

**J. TREASURER REPORT**

**Town of Emmitsburg  
CASH ACTIVITY as of July 27, 2021**

\$5,565,356	Cash Balance July 1, 2021
540,439	Deposits
<u>-263,341</u>	Withdrawals
\$5,842,454	Operating Balance Forward

**Top 10 Check Amounts:**

<u>Amount</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check Date</u>	<u>Check No.</u>
\$24,484	Comptroller of MD	4Q FY21 Bay Restoration Fee	07.07.21	42467
\$19,106	MD Dept of Budget & Mgmt	Jun 21 Health Insurance	06.30.21	42445
\$15,627	RK&K	Pump Station	07.14.21	42510
\$13,628	UGI Energy Services	May 21 Solar Field #1	07.07.21	42477
\$12,998	UGI Energy Services	May 21 Solar Field #2	07.07.21	42477
\$10,555	RSV Pools	Aug 21 Pool Management	07.21.21	42538
\$8,533	Sweeney	Community Legacy 304 North Seton Ave	07.07.21	42476
\$7,418	Republic Services	Jun 21 Refuse Services	07.14.21	42505
\$7,227	Kershner Environmental Technologies	Sonic Upgrade	07.21.21	42531
\$6,055	Resident	Day - Community Legacy 120 East Main	07.14.21	42506

*Check dates 06.30.21 to 07.27.21*

**K. PLANNING COMMISSION REPORT:** Presentation at the meeting.

**L. AGENDA ITEMS:**

**AGENDA ITEM# 1. Approval 2021 election judges for consideration:** Presentation at meeting by Mayor Briggs and staff.

**Election Judge Applications (In Order of Filing):**

<b>Applicant:</b>	<b>Experience:</b>	<b>Received:</b>
1. Tammy May	Prior Town elections.	June 2, 2021
2. Sharon Hane	Prior Town and County elections.	June 14, 2021
3. Dianne Walbrecker	Prior Town election.	July 8, 2021
4. Deborah Arnold	Alternate in 2020 Town election.	July 13, 2021
5. Charlotte Mazaleski	Prior Town elections.	July 15, 2020

**Mayor's 2021 Recommendation:**

- **Chief Judge:** Sharon Hane
- **Judge:** Tammy May
- **Judge:** Charlotte Mazaleski
- **Greeter:** Deborah Arnold
- **Alternate Judge/Greeter (On Call):** Dianne Walbrecker

**AGENDA ITEM# 2. Proclamation declaring August 3, 2021 National Night Out in Emmitsburg: Presentation at meeting by Mayor Briggs.**

# *Proclamation*



**NATIONAL NIGHT OUT  
TUESDAY, AUGUST 3, 2021  
E. EUGENE MYERS COMMUNITY PARK  
5:30 TO 7:30 P.M.**



WHEREAS, the National Association of Town Watch (NATW) sponsors a national community building campaign on the first Tuesday in August each year entitled “National Night Out”; and

WHEREAS, “National Night Out” has been an annual event in the Town of Emmitsburg for the past five years; and

WHEREAS, the National Night Out event provides an opportunity for neighbors in the Town of Emmitsburg to join over 38 million people in over 16,000 thousand communities from all 50 states, U.S. territories, Canadian cities, and military bases worldwide; and

WHEREAS, National Night Out is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie to make our neighborhoods safer, more caring places to live; and

WHEREAS, it is essential that all neighbors of the Town of Emmitsburg come together with police and work together to build a safer, more caring community.

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Council of the Town of Emmitsburg, Maryland do hereby proclaim Tuesday, August 3, 2021, “National Night Out” in Emmitsburg and do hereby call upon all citizens, neighbors, community agencies and businesses to join the Frederick County Sheriff’s Office and the National Association of Town Watch in support for National Night Out in E. Eugene Myers Community Park.

ADOPTED this 2nd day of August, 2021.

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Donald N. Briggs  
Mayor

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Timothy J. O’Donnell, President  
Board of Commissioners

- AGENDA ITEM# 3. Approval of Resolution 21-05R to repeal the charter of the Town of Emmitsburg in its entirety and adopt a new charter:** Presentation at meeting by town staff.

**Charter Amendment Procedures Per Town Attorney:**

1. Advertise public notice in paper at least 21 days before the town meeting.
2. Hold town meeting with public hearing. The Board can vote on the resolution at the same town meeting.
3. If resolution is approved, the Town must publish a fair summary of the proposed amendment in a paper of general circulation at least four times at weekly intervals within a 40-day period.
4. The Town must post an exact copy of the resolution at the Town office during that same **40-day period.**
5. During the **40-day period** during which the notice is posted and advertisements are being run, Town voters have the ability to petition for a referendum on the proposed amendment. The petition needs the signature of 20% of qualified Town voters to force a referendum.
6. If no referendum petition is brought within the 40-day period, the Charter amendment becomes effective on the **50<sup>th</sup> day from the date the Board adopted the resolution.**
7. Once the amendment becomes effective, the Town needs to send a copy to the State of Maryland's Department of Legislative Services.
8. The Town also has to keep a compilation of all Charter amendments for each year available at the Town office for inspection, and send the State Legislative Services a copy of each annual compilation before March each year for the prior year.

**FAIR SUMMARY ADVERTISEMENT (DRAFT)**

The Board of Commissioners of the Town of Emmitsburg has adopted a resolution to repeal the Charter of the Town of Emmitsburg in its entirety and adopt a new Charter in order to amend several provisions of the Charter. The purpose of these amendments is to: 1) make stylistic and grammatical changes; 2) correct misspellings and inconsistencies; 3) provide a more accurate description of the Town boundaries; 4) clarify the Town police limits; 5) reduce the length of the residency qualification of Commissioners and the Mayor; 6) clarify the specific enumerated powers of the Board of Commissioners; 7) correct inconsistencies in penalties for violations of Town ordinances; 8) amend provisions relating to the Mayor's veto power; 9) clarify the Town's tax year, budget year, and accounting year; 10) provide a date for when taxes are due and in arrears and allow the Town to assess interest and penalties by ordinance; 11) provide for the sale of tax delinquent property; 12) provide that the ownership of all fees collected by Town officers and employees acting in their official capacity belong to the Town; 13) provide for the audit of the Town's financial books; 14) clarify and amend the Town's authority to borrow money and issue and sell bonds; 15) increase the Town's short-term borrowing limit; and 16) provide that any ordinance in effect that conflicts with the Charter is repealed to the extent of the conflict.

A copy of the resolution and new Charter shall be posted at the office of the Town of Emmitsburg located at 300A South Seton Avenue, Emmitsburg, Maryland 21727 through September 11, 2021. The resolution and Charter shall take effect on September 21, 2021 unless a timely petition for referendum is presented to the Board on or before September 11, 2021.

## REDLINED CHARTER

Charter - Redlined Version

Page 1 of 21

### EMMITSBURG ARTICLE I Incorporation and General Government

#### Section 1. -Incorporation.

The citizens of the Town of Emmitsburg in Frederick County, Maryland, are hereby constituted a body corporate by the name of the Town of Emmitsburg and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and have all powers and privileges incident to or that may attach to a municipal corporation, including those powers and general provisions as set forth in Section 5-101 *et seq.* of the Local Government Article [23-A] of the Annotated Code of Maryland.

#### Section 2. - Boundaries.

Beginning at an iron pipe (1) south  $65^{\circ} 39' 37''$  east 403 feet to a pipe, thence (2) south  $64^{\circ} 39' 37''$  east 383.62 feet to a pipe, thence (3) by lands of Harry Swomley south  $65^{\circ} 46' 11''$  east 540.38 feet to an iron pipe, thence (4) by lands of Mrs. Regis Sanders, north  $21^{\circ} 43' 49''$  east 913.62 feet to a point on the southern boundary of State Route #97, thence (5) by the southern boundary of Route #97 north  $76^{\circ} 19' 20''$  west 506.14 feet to a point, thence (6) by lands of Emmit Gardens, south  $24^{\circ} 26' 11''$  west 6.42 feet to a point, thence (7) with Route #97 in a westerly direction along the northern boundary of Emmit Gardens 450 feet, more or less, to a point where the north boundary of Lot #27 (fronting on Meadow Lark Drive) intersects with a southerly extension of the west side of the Harney Road, thence (8) by a straight line north  $46^{\circ}$  east across Route #97 to the southwestern corner of the 13.692 acre tract of the "Three D, Inc.," thence with the west side of the Harney Road and the eastern boundary of the "Three D, Inc." tract, (9) north  $46^{\circ}$  east 551.87 feet to a point, thence (10) leaving said road north  $44^{\circ}$  west 248.90 feet, thence with a curve to the left having a radius of 1023.02 feet and an arc distance of 583.64 feet and a chord distance and bearing (11) north  $60^{\circ} 20' 39''$  west 575.76 feet to a point, thence (12) north  $76^{\circ} 41' 16''$  west 420 feet to a point on the west right of way line of U.S. Route #15, thence with U.S. Route #15, (13) north  $13^{\circ} 18' 44''$  east 780.28 feet, more or less, to a point, thence (14) north  $02^{\circ}$  east 51.00 feet to a point, thence (15) north  $07^{\circ} 35' 35''$  east 50.25 feet to a point, thence (16) north  $11^{\circ} 35' 27''$  east 100.04 feet to a point, thence (17) north  $16^{\circ} 10' 27''$  east 100.12 feet to a point, thence (18) north  $18^{\circ} 43' 01''$  east 109.44 feet to a point, thence (19) south  $67^{\circ} 16' 19''$  west 777.59 feet to a point, thence (20) south  $89^{\circ} 38' 28''$  west 1015.75 feet to a fence post, thence (21) south  $75^{\circ} 10' 25''$  west 453.28 feet to a point in the old corporate boundary, said point being in the bed of "Flat Run" and running thence up the bed of Flat Run (22) north  $43^{\circ} 51' 29''$  west 141.37 feet to a point, thence (23) north  $28^{\circ} 46' 25''$  west 413.51 feet to a concrete monument near the northeast corner of Lot

The limits of the Town shall be as they existed immediately prior to the effective date of this Charter, subject to all rights, reservations, limitations and conditions as may be set forth in all prior resolutions of annexation and in this Charter, and as they may be hereafter amended as provided by law. A description of the corporate boundaries shall be maintained on file with the Town Clerk.

~~No.~~ 178 as indicated on the Plat of Emmitsburg, thence (24) north  $31^{\circ} 14' 56''$  west 59.10 feet to a point on the north wall of a small bridge over "Little Run," thence (25) south  $55^{\circ} 10' 13''$  west 140.09 feet to a concrete monument in the bed of "Little Run," thence (26)



up the bed of the "Little Run" to a point at the end of 104.67 feet on the easterly line of Lot #4 of Frailey's Addition to the Town of Emmitsburg, Maryland and continuing with said line (27) north 27° 04' 20" east 45.00 feet to an iron pipe, thence (28) north 32° 12' 48" west 63.07 feet to an iron pipe, thence (29) north 47° 11' 55" west 321.35 feet to an iron pipe, thence (30) south 55° 57' 05" west 215.21 feet to a point in the center of the Emmitsburg—Waynesboro Road, thence with said centerline (32) south 47° 11' 55" east 299.75 feet to a point, thence continuing with the 1966 boundary of said municipal corporation, (formerly line 24), (33) south 17° 50' 40" west 958.91 feet to a concrete monument, thence (34) south 57° 10' east 1839.00 feet to a concrete monument on the east side of a lane between the properties of George Sanders and D. R. Stansbury, thence binding on the east side of the said lane (35) south 32° 09' 05" west 1441.00 feet to a stone, said stone being a property marker of the Sisters of Charity, thence binding on the property of the Sisters of Charity the following courses and distances, (36) south 71° 07' 38" east 1138.52 feet to a monument on the east side of U.S. Route #15, thence (37) south 77° 48' 42" east 1463.43 feet to a point, thence (38) north 80° 33' 53" east 857.57 feet to a granite monument, thence (39) north 06° 22' 45" east 475.61 feet to a point, thence (40) north 89° 03' east 644.54 feet to a concrete monument marked #28 near the south line of the property of the Emmitsburg Development Company, thence (41) by straight line in a northeast direction 483.00 feet, more or less, to the point of beginning.

Section 3. - Police Limits.

All municipal police officers shall, ~~have the power and authority to enforce the laws of the State of Maryland and the Town of Emmitsburg within the municipality and beyond its corporate limits to the extent provided by Maryland law. Municipal police officers shall further have the powers and authority to enforce all ordinances relating to disorderly conduct and nuisances within the municipality and beyond those corporate limits for one-half (½) mile, as well as on any municipally-owned property located outside of the aforementioned area, have the powers and authority to keep and enforce the laws of the State of Maryland and the Town of Emmitsburg. It except where there is the responsibility of all municipal police officers to enforce all ordinances and laws of the town and state equally within the limits for one half (½) mile, or for so much of this distance as does not conflict with the powers of another municipal corporation municipality.~~

All ordinances heretofore passed or that may hereinafter be passed by the Mayor and Commissioners of the Town of Emmitsburg to preserve the peace, order and quiet, health and welfare of the town, or relating to planning and zoning, shall apply to said police limits and to all persons therein. The judges for the District Court of Frederick County shall have the power to apprehend and try any and all persons violating any of the provisions of said ordinances within the police limits of the town, and to enforce the fine, penalties, and punishment therein prescribed.

~~(Res. No. 1 95, 2 7 96.)~~

Section 4. - Laws Applied to Annexed Areas.

The Town of Emmitsburg shall exercise all governmental powers in any area now or hereafter lawfully annexed to and made a part of such Town ~~and in any annexed police limits resulting from any lawful annexation.~~

## ARTICLE II Board of Commissioners

### Section 1. - Legislative Powers; Election Generally; Term.

All legislative powers of the Town of Emmitsburg shall be vested in a Board of Commissioners, consisting of five Commissioners who shall be elected as hereinafter provided. The fifth commissioner established by Charter Amendment Resolution No. 2006-01R shall be elected at the general election in 2006 or at a special election to be held. The terms of the Commissioners elected to office in the years 2001, 2002, and 2003 shall be for three years or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in May of the third year following each Commissioner's election. The terms of the Commissioners elected to office in the years 2004, 2005, and 2006 shall be for three years and five months or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in October of the third year following each such Commissioner's election. Thereafter, each Commissioner shall hold office for a term of three years or until his or her successor is elected and qualified, and the regular terms of Commissioners shall expire on the first Monday in October of the third year following each Commissioner's election. (Res. No. 2003-004R, 1-14-04; Res. No. 2006-01R, 3-9-06).

### Section 2. - Qualifications.

Commissioners shall have resided in Emmitsburg, for at least one ~~year~~ month (30 days) immediately preceding their election and shall be qualified voters. Each Commissioner shall reside in the ~~town~~ Town during his or her term of office, and his removal of his residence from the ~~town~~ Town during his ~~or her~~ term shall immediately vacate his office. The Board shall be the judges of the election and the qualification of its members.

### Section 3. - Salaries.

The Commissioners shall receive such compensation as shall be fixed by ordinance, ~~by~~ but no ~~Commissioners~~ Commissioner shall have his compensation or salary increased or diminished during his term.

### Section 4. - Meetings.

The Board of Commissioners shall meet regularly once each month at a time and on a date as specified by ordinance. Special meetings may be called by the Mayor or by two Commissioners as often as necessary for the transaction of business. Meetings of the Board shall be opened to the public except as permitted by the laws of the State of Maryland, including, but

not limited to, the ~~annotated~~Annotated Code of Maryland ~~State Government~~General Provisions Article—Section ~~40-5013-101~~ et seq. (as amended) "Open Meetings Act", and the rules of the Board shall provide ~~(that residents of the town shall have)~~ a reasonable opportunity for public comments to be heard at the regular monthly meeting and all public hearings in regard to any ~~town~~matters. (Res. No. 2003-06R, 9-26-03.)

Section 5. - Quorum: Passage of Ordinances, Generally: Rules and Order of Business.

A majority of the Board of Commissioners shall constitute a quorum for the transaction of business and no ordinance shall be approved or other action taken without a majority favorable vote. The Board shall determine its own rules and order of business and it shall keep a journal of its proceedings. The Mayor is not a member of the Board of Commissioners and shall not vote on the passage of any resolution, ordinance, order or other action including any action to sustain or override a veto. (Res. No. 2006-01R, 3-9-06.)

Section 6. - Attendance of Absent Members: Expulsion of Members.

The Board of Commissioners may compel the attendance of absent members in such manner and under such penalties as may be provided by ordinance. The Board by a vote of three of its members may expel a member from a meeting for disorderly conduct or violation of its rules; provided the Mayor also approves of such action. (Res. No. 2006-01R, 3-9-06.)

Section 7. - Witnesses.

The Board of Commissioners shall have the power to provide by ordinance for summoning before the board or any of its committees any persons it deems necessary. Such persons may be compelled to testify on matters relating to the business of the ~~city~~Town or its officials and employees.

Section 8. - Vacancies.

In case of the death, refusal to act, disqualification, resignation, or removal of the Mayor or any of the Commissioners out of the limits of the ~~corporation~~Town, the Commissioners, ~~or a majority of them~~, for the time being, shall elect a Mayor or Commissioner to fill the vacancy for the period of time until the next election for a Mayor and/or Commissioners to be held by the Town. At the time of the next general election, a person shall be elected Mayor or Commissioner and shall serve the remainder of the term of the vacating Mayor or Commissioner, ~~and~~ until a successor shall be elected and qualified, ~~and during~~. During the temporary absence from ~~town~~Town of the Mayor, ~~or his illness~~, and until the Mayor is again able to act, the President of the Board of Commissioners shall be the acting Mayor, with all rights, powers and duties of the said Mayor, excepting the powers of appointment and removal. (Res. No. 1-80, 5-29-80; Res. No. 2-80, 10-22-80.)

Section 9. - Authority Over Offices, Departments and Agencies.



The Board of Commissioners by ordinance may create, change, and abolish offices, departments, agencies, or commissions established or not specifically established by this Charter. The Board of Commissioners by ordinance may assign and delegate additional functions or duties to offices, departments, agencies, or commissions established by this Charter or otherwise, but may not discontinue or assign or delegate to any office, department, agency, or commission any function or duty specifically assigned by this Charter to a particular office, department, agency, or commission. In the creation, assignment, and delegation of duties, the Board of Commissioners shall at all times reserve for itself the final decision on all policy and legislative matters and shall reserve for itself supervisory power over all offices, departments, agencies, or commissions established either by the Charter or by the Commissioners pursuant to this Charter.

Section 10. - Authority to Fix Salaries.

The Board of Commissioners shall fix salaries for all employees and officers of the ~~town.~~  
Town.

Section 11. - Ordinances: Method of Passage, Generally. Veto.

When any ordinance is introduced for passage by the Board of Commissioners, it shall be read and may be passed at that time. Legislative procedures shall be set out by ordinance. All ordinances passed by the Board shall be approved by the Mayor or passed over his veto in accordance with the provisions of Article III as hereinafter set forth. (Res. No. 2-80, 10-22-80.)

Section 12. - Powers of the Board of Commissioners Enumerated.

a. General Powers.

\_\_\_\_\_The Board of Commissioners shall have power to pass all ordinances, not contrary to the Constitution and laws of Maryland or this Charter, as it may deem necessary for the good government of the ~~town~~Town; for protection and preservation of the ~~town's~~Town's property, rights, and privileges; for preservation of peace and good order; and for securing persons and property from violence, danger, or destruction; and for the protection of the health, education, safety, happiness, and welfare of the residents of Emmitsburg and visitors thereto and sojourners therein.

b. Specific Powers.

\_\_\_\_\_The Board of Commissioners shall have in addition to the above-mentioned general powers, and any other powers which may be conferred in this Article, or otherwise by operation of law, power to pass ordinances not contrary to the laws and constitution of this State for the specific purposes mentioned as follows:

1. To provide for the codification of all ordinances which have been or may hereafter be passed.
2. To manage and control all property of the ~~Corporation~~Town and to authorize the purchase or the sale of property in the name of the ~~Corporation~~Town within or without the boundaries of the Town.

3. To provide for the form and manner of making contracts.
4. To lay taxes upon all real and personal property in ~~such town~~the Town, and regulate the collection and enforcement of the same.
5. To borrow money as authorized by Article V.
6. To provide for the adjustment of claims against the ~~Corporation~~Town and the payment of the same.
7. To preserve the peace and order of ~~town~~the Town, and punish the resistance, hindrance and obstruction of public officers in the discharge of their duties; and to prevent vice, suppress gambling, houses of ill fame, and disorderly houses.
8. To protect the ~~town~~Town from fire and unsafe buildings and to regulate the cleaning of chimneys.
9. To regulate the manufacturing and keeping of explosives and inflammable materials or conveyance thereof through the streets of the ~~town~~Town.
10. To tax and regulate the use and construction of electrical plants and wires on which electricity is conducted within the ~~town~~Town.
11. To tax and regulate the use and construction of telegraph, telephone, cable television and any other lines used for similar purposes in the ~~town~~Town.
12. To protect public lamps or other public lights ~~therein~~in the Town.
13. To regulate and contribute to the support of the fire companies in the ~~town~~Town.
14. To provide for the laying out, grading, discontinuing, altering, paving, opening, improving, lighting, making and repairing streets, curbs, squares, walks, drains, sewers, gutters and to keep open and safe for public use and travel all streets, squares, alleys or any other parts thereof, and to require sidewalks to be kept free from ice, snow, or other obstructions.
15. To regulate all shows, processions, assemblages, or parades in the streets or public places.
16. To regulate the speed and travel in general of all animals, bicycles, ~~other vehicles or modes of transport~~ and automobiles, and to designate over what streets and thoroughfares the same may be driven.
17. To prohibit the running at large of animals in the streets or public places, and for the impounding of the same, and to prevent the cruelty to animals. To tax dogs and regulate the time and manner, when public safety requires it, of ~~animals~~running at large.
18. To license and regulate public conveyances or forms of transportation, such as, but not limited to, taxies or bus services and the charges for the use thereof.
19. To regulate and prohibit the excavation and opening of streets, public walks, and public grounds for public or private purposes, whether temporary or permanent, and the regulation of any work or thing therein.
20. To regulate and provide for sewage disposal and to levy and collect charges for the use of the Emmitsburg sewage system.
21. To regulate laying and use of gas pipes, water pipes, electric light conduits, railroad tracks, and drains for public or private purposes in the streets of the ~~town~~Town; and to levy and collect charges on the laying and use thereof.
22. To provide for sprinkling of the streets or parts thereof and establishing of public foundations of any kind, or hydrants, and providing of the same with water.
23. To regulate and provide for a water plant and the use thereof and all facilities used in connection therewith; and to regulate the use of water furnished by the ~~town~~Town; and to levy and collect charges for the use of water and water facilities furnished by the ~~town~~Town.

24. To provide for the health of the ~~town~~Town and prevention of the introduction of contagious diseases within the Town's corporate limits.

25. To prevent and similarly abate nuisances of any kind, at the expense of persons maintaining them.

26. To establish quarantine regulations and regulate the burial and disinterment of the dead.

27. To provide for the licensing and regulating or restraining of theatricals, sports, exhibitions, public amusements and performances within the ~~town's~~Town's corporate limits.

28. To license, tax, and regulate the peddling of merchandise on the streets, as well as branch stores and other concerns established for temporary purposes only.

29. To establish, equip, regulate, and fund a police department; and to appoint ~~town~~Town officers thereto in order to establish and maintain the peace and order of the ~~town~~Town, and to insure the compliance with all ~~town~~Town ordinances and actions passed or taken pursuant to this Charter.

30. To provide for and regulate the registration of voters in the ~~town~~Town for ~~town~~Town elections, and the holding of ~~town~~Town elections.

31. To operate, maintain, supervise, plan and further regulate all public recreation and park services.

32. To plan and zone the ~~town~~Town with the general purpose of guiding and accomplishing a co-ordinated, adjusted, and harmonious development of the ~~town~~Town. Among other things, this zoning and planning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the ~~town~~Town within its police limits; to provide good civic design and arrangement; to promote wise and efficient expenditure of public funds; to make adequate provisions for traffic; to prevent the over-crowding of land and prevent undue concentration of population; and to provide adequate light and air.

33. To fill all vacancies in any ~~town~~Town office not otherwise provided for.

34. And to do any and all things necessary to ~~make effectual~~effect the powers herein, ~~(Res. No. ~~and~~2-95, 2-7-96.)~~

35. ~~To perform such other acts as are authorized by law in any way conferred upon~~Section 5-201 *et seq.* of the ~~town~~-Local Government Article of the Annotated Code of Maryland.

#### Section 13. - Enforcement.

For the purpose of carrying out the powers enumerated above, for the preservation of the cleanliness, health, peace and good order of the community; for the protection of the lives and property of the citizens; and to suppress, abate and discontinue, or cause to be suppressed, abated, or discontinued all nuisances within the corporate and sanitary limits of the City, the Board of Commissioners may pass all ordinances from time to time necessary. To ~~insure~~ensure the observance of these ordinances, in addition to the usual action of debt or such other civil remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the Board of Commissioners may affix thereto penalties of a fine not exceeding ~~one hundred dollars~~\$1,000.00 or imprisonment ~~for~~not exceeding ninety days or both, except as otherwise provided in this Charter, or in State law. ~~(Res. No. 1-74, 9-9-74.)~~

#### Section 14. - Jail Commitments.



Any judge of a court having jurisdiction in this County, being the District Court for Frederick County, when imposing any fine, penalty or forfeiture, for the violation of any ordinance of the Town of Emmitsburg, shall order the person convicted to be committed to the public jail if he shall fail or refuse to pay the fine, penalty, or forfeiture and costs, there to remain until the same are paid or until discharged according to law; and the Sheriff of said County shall receive and safe keep in the public jail all persons who shall be committed thereto for a breach of any of the laws or ordinances of the Town of Emmitsburg, according to the tenor of the commitment, and in the same manner and under the same regulations as persons committed for violations of the laws of this State.

Section 15. - Structure of the Board of Commissioners.

a. Each year the Board of Commissioners shall elect from among its membership, at a meeting at which all Commissioners are present, a Treasurer and a President of the Board of Commissioners.

b. The President of the Board of Commissioners shall preside over all meetings of the Board, and shall be acting Mayor when the circumstances are such that the Mayor is absent cannot function in his capacity.

c. The Town Treasurer shall counter-sign all checks and receive such other powers as the Board of Commissioners shall from time to time designate and delegate to him.

**ARTICLE III**  
**Mayor**

Section 1. - Election and Term.

The Mayor shall be elected as hereinafter provided. The term of the Mayor elected to office in 2002 shall be for three years and shall expire on the evening of the first Monday in May of 2005. The term of the Mayor elected in 2005 shall be for three years and five months and shall expire on the first Monday in October of 2008. Thereafter, the Mayor shall hold office for a term of three years, or until his or her successor is elected and shall qualify. The Mayor's term shall expire on the evening of the first Monday in October of each third year after the regular election. (Res No. 2, 12-30-80; Res No. 86-2, 4-22-86; Res. No. 98-17, 1-21-99; Res. No. 2003-005R, 1-14-04.)

Section 2. - Qualifications and Salary.

The Mayor must be a legal resident of Emmitsburg, Maryland, for at least two years~~three months~~ immediately preceding his election and shall be a qualified voter. He shall receive such salary as specified by ordinance, but it may not be raised or diminished during his term of office. The Mayor shall reside in the ~~town~~Town during his term of office ~~and~~. Upon his removal of his residence from the ~~town~~Town during his term, he shall immediately vacate his office. If this should happen, the President of the Board of Commissioners shall be acting Mayor, as set forth in Article II, Section 15. (Res. No. 2, 12-30-80.)

Section 3. - Powers and Duties.

a. *Generally.* The Mayor shall see that the ordinances of the ~~town~~Town are faithfully executed and shall be the Chief Executive Officer. The Mayor shall be responsible for the administration of the ~~town's~~Town's affairs to the Board of Commissioners and to the voters of the ~~town~~Town. He may call upon any officer or employee of the ~~town~~Town, entrusted with receipt and expenditure of public monies, for a statement of his account, as often as he may think necessary. When required by the Commissioners, the Mayor shall report in writing the general state of the ~~town~~Town, and at any time may recommend any matters as he may think will promote its interest.

b. *Approval or Veto of Legislation.* The Mayor shall approve or disapprove every ~~order, resolution, or~~ ordinance passed by the Board of Commissioners. Every ~~order, resolution, or~~ ordinance passed by the Commissioners shall be submitted by them to him immediately after its passage at a public meeting and within ten calendar days after the date of the meeting at which the action was passed he shall act thereon. If he shall approve or fail to act on it within the ten calendar day deadline, it shall become operative and effective, which fact shall be endorsed by the Town Clerk. If the Mayor shall veto any ~~order, resolution, or~~ ordinance he shall notify the Town Clerk of that fact and transmit his reasons for such action in writing to the Commissioners at their next regular meeting; and such ~~order, resolution, or~~ ordinance shall not become operative or effective unless passed over his veto within thirty (30) calendar days of the date on which the ~~mayor~~Mayor exercised the veto by an affirmative vote of at least four (4) members of the Board of Commissioners. The ~~mayor~~Mayor may withdraw his veto at any time during the period of thirty calendar days after vetoing an action of the Board of Commissioners, in which case the action shall be deemed to have been approved by the Mayor ~~- effective as of the date of the withdrawal.~~ (Res. No. 2, 12-30-80; Res. No. 2006-02R, 3-9-06.)

c. *Appointment and Discharge of Officers and Employees.* The Mayor, with the advice and consent of the Board of Commissioners, shall appoint all employees of all offices, departments, commissions, and agencies of ~~town~~Town government as established by this Charter or by ordinance of the Board of Commissioners, unless otherwise provided in this Charter or unless otherwise provided in the ~~town~~Town ordinance establishing the office, department, commission, or agency. If at any time the Mayor shall think that any person appointed to office by him or her shall be incompetent or unfaithful to the duties of his or her office, he or she shall file a written statement of charges against such person with the Commissioners, a copy of which shall also be sent to the persons charged, and if after fully hearing, a majority of the Board of Commissioners shall find the officer or employee unfaithful or incompetent, then the Mayor may dismiss such persons. The vacant position may then be filled by the Mayor with advice and consent of the Commissioners. All employees and officers shall serve at the pleasure of the Mayor, but may be discharged only as previously set forth herein. (Res. No. 2, 12-30-80.)

d. *Miscellaneous Powers and Duties.* The Mayor shall have such other duties and powers as are given to him by the laws of the State of Maryland, other Articles of this Charter and by ordinances passed pursuant to this Charter by the Board of Commissioners, such as, but not limited to, the financial supervision of the ~~town~~Town and preparation of the budget. (Res. No. 2, 12-30-



80.)

## **ARTICLE IV**

### **Registrations, Nominations, and Elections**

#### Section 1. - Eligibility to Vote.

Every ~~person~~ ~~person~~ who is eligible to vote in state and county elections and who has resided in Emmitsburg for at least thirty days next preceding any ~~town~~ ~~Town~~ election and is registered in accordance with the provisions of this Charter shall be a qualified voter in this ~~town~~ ~~Town~~.

#### Section 2. - Elections Generally.

All elections shall be held by ballot or voting machine, and in such manner as shall from time to time be directed by ordinance. The Mayor, with the consent and approval of the Board of Commissioners, shall appoint judges of elections in accordance with procedures which may be established by ordinance. Such judges shall conduct the elections and shall keep the ~~polls~~ ~~polls~~ open from 7:00 a.m. to 8:00 p.m. Registration with the Board of Supervisors of ~~elections~~ ~~Elections~~, Frederick County, Maryland, by a voter who resides in the Town of Emmitsburg, shall be deemed registered for the Town of Emmitsburg. An individual who wishes to vote shall register with the Board of Supervisors of elections of Frederick County in accordance with the regulations established for registration from time to time by the Board of Supervisors of ~~elections~~ ~~Elections~~ of Frederick County. (Res. No. 4-95, 2-7-96; Res. No. 97-07; 8-14-97; Res. No. 2003-02R, 9-24-03.)

#### Section 3. - Nominations.

No nomination for office is required and any person desiring to run for office shall file a certificate of candidacy with the Town Clerk in accordance with the procedures which may be established by ordinance. (Res. No. 4-95, 2-7-96; Res. No. 2003-02R, 9-24-03.)

## **ARTICLE V**

### **Finance**

#### Section 1. - Financial Supervision.

The Mayor shall have complete supervision over the financial administration of the ~~town~~ ~~Town~~ government. The Mayor may delegate, under his supervision, any of the financial powers and duties granted him by this Charter. He shall receive any assistance he requests with regard to financial matters from any ~~town~~ ~~Town~~ officer or employee.

#### Section 2. - Expenditures to be Authorized by the Board of Commissioners.

No public money may be expended without having been appropriated by the Board of Commissioners.

Section 3. - Fiscal Year.

The ~~town~~Town shall operate on an annual budget with the fiscal year beginning on the first day of July and ending on the last day of June of the following calendar year. Such fiscal year shall also constitute the tax year, the budget year and the accounting year.

~~Such fiscal year shall also constitute the tax year, the budget year and the accounting year.~~

Section 4. - Budget—Estimates used for Preparation.

At the first meeting in May of each year the Mayor shall present to the Board of Commissioners a complete budget for the upcoming fiscal year and the explanatory budget message required by Section 5 hereof. The annual budget to be submitted by the Mayor shall include a statement of anticipated capital improvement projects for the upcoming fiscal year. The Mayor, with the assistance of such ~~town~~Town officers and employees as he requests, shall obtain from the head of each office, department and agency the following: (a) estimates of revenue and expenditures for the next fiscal year, detailed by organization units and character and object of expenditures; (b) such other supporting data as he may request; and (c) an estimate of all capital projects pending or which such office, department or agency head believes should be undertaken within the budget year and within the next five succeeding years.

In preparing the budget, the Mayor shall review the estimates, shall hold hearings thereon with the head or other representative of the office, department or agency concerned, and may revise the estimates as he deems advisable. (Res. No. 2006-13R, 10-10-06.)

Section 5. - Budget Message.

The budget message submitted by the Mayor to the Board of Commissioners shall explain the budget, shall contain an outline of the proposed financial policies of the ~~town~~Town for the budget year, and shall describe the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. It shall include a statement of pending capital projects of a capital program for the next five fiscal years. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements, as the Mayor shall believe useful to the Board of Commissioners.

Section 6. - Budget—Contents Generally.

The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) A general summary.
- (b) Detailed estimates of all anticipated revenues applicable to proposed expenditures.
- (c) All proposed expenditures.

The total of the anticipated revenues shall equal the total of the proposed expenditures.

Section 7. - Budget—Classification of Revenues.

Anticipated revenues shall be classified as "surplus," "miscellaneous revenue" and "amount to be raised by property tax." Miscellaneous revenues shall be subclassified by sources.

Section 8. - Budget—Items to Appear Opposite Anticipated Revenues.

In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually received during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually received to the time of preparing the budget plus receipts for the remainder of the fiscal year estimated as accurately as may be.

Section 9. - Budget—Status of Public Utilities to Appear in Separate Section.

The anticipated revenues and proposed expenditures and anticipated surplus ~~or shortfall of~~ revenues from water and sewer operations and any other public utilities owned or operated by the Town shall be stated in a separate statement of the budget.

Section 10. - Budget—Enumeration of Proposed Expenditures.

The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, or, in the absence of such provision, by regulations established by ordinance. Separate provisions shall be included in the budget for at least the following items:

- a. Interest, amortization and redemption charges on the public debt for which the faith and credit of the ~~town~~ Town is pledged.
- b. Other statutory expenditures.
- c. The payment of all judgments.
- d. An amount equal to the deficit for operations of water and sewer and other public utilities during the last completed fiscal year, separately stated for each utility which appears in a separate section of the budget.
- e. Administration, operation and maintenance of each office, department or agency of the ~~town~~ Town itemized by character an object of expenditures.
- f. Contingent expense in an amount of not more than three percent of the total proposed expenditures.
- g. Expenditures proposed for capital projects.

Section 11. - Budget—Items to Appear Opposite Proposed Expenditures.

In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually expended to the time of

preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

Section 12. - Budget—Summary.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of revenue and kinds of expenditures, in such form as to present to the tax payers a simple and clear picture of the detailed estimates of the budget.

Section 13. - Budget—Public Record.

The budget and budget message and all supporting schedules shall be a public record in the office of the Town Clerk, open to public inspection by anyone.

Section 14. - Budget—Change of Items by the Board of Commissioners.

The Commissioners may insert new items or may increase or decrease the items of the budget and where they shall increase the total proposed expenditures, they shall also increase the total anticipated revenue to balance the same.

Section 15. - Budget—Adoption.

The budget shall be prepared and adopted in the form of an ordinance. The budget for the new fiscal year shall be finally adopted not later than the 27th day of June, and if not adopted by the Commissioners on or prior to such day, the budget, as submitted by the Mayor, shall be deemed to have been finally adopted by the Commissioners.

Section 16. - Issuance and Signing of Checks.

All checks issued in payment of municipal ~~obligates~~obligations shall be issued and signed by the Town Treasurer and shall be countersigned by the Mayor.

Section 17. - Taxing Power.

The Town of Emmitsburg shall have the power to levy annually on the assessable property in said Town and collect such taxes as in its judgment may be necessary to pay all the debts, obligations and expenses of the Town government which have been or may hereafter be lawfully incurred. As part of its taxing power, the Town of Emmitsburg shall have the power to levy and to collect a general assessment on all property in the Town to pay for the construction and/or maintenance of water mains, sewer mains, public ways, sidewalks, curbs, gutters, and storm water sewers. This general assessment need not be on the basis of assessed valuation of the property, but may be on any equitable basis determined by the Board of Commissioners.

Section 18. - Taxable Property and Assessments.



All real and tangible personal property within the limits of the Town or which may have a situs there by the reasons of the residence of the owner therein, shall be subject to taxation for municipal purpose and the assessment for such purpose shall be the same as that for State and County taxes. Agricultural property within the Town may be exempt from the ~~town~~Town taxes or taxed at a lower rate than other property in the ~~town~~Town. Industrial property may also be exempted or taxed at a lower rate than other property in the ~~town~~.

Town.

Section 19. ~~Authority to Borrow Money~~When Taxes Are Overdue.

The taxes provided for in Section 17 of this Charter shall be due and ~~Issue~~payable as provided in the Tax — Property Article of the Annotated Code of Maryland and ~~Sell Bonds~~ shall be overdue and in arrears as provided in that article. Taxes shall bear interest while in arrears and shall be subject to additional penalties as authorized by State law. Any interest or penalty rates to be imposed by the Town shall be established by ordinance. This is in addition to the interest and penalties imposed by State law. All taxes not paid and in arrears one year after the date on which they are due and payable shall be collected as provided in Section 20 of this Charter.

~~The Town of Emmitsburg shall have the power to borrow on the faith and credit of the town from time to time as may be deemed necessary for its general corporate purposes. The town may issue and sell bonds for such indebtedness in accordance with the provisions of Section 20 of this Article or with State law.~~

Section 20. Sale of Tax—Delinquent Property.

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 19 above shall be turned over by the Town to the County official responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall, if necessary, be sold for taxes by ~~Section 20. — Regulations Concerning the Issuance and Sale of Bonds.~~

~~Except as otherwise specified under the provisions of this Charter, the total amount of bonds issued under the authority of this Charter, when added to bonds outstanding, shall not exceed a forty percent of the total assessed value of all taxable property in the town. The Board of Commissioners may regulate the issuing or sale of bonds in any manner not contrary to this Article.~~

this County official in the manner prescribed by State law.

Section 21. ~~Short Term Borrowing~~Fees.

The town shall have the power to borrow on a short term basis sums not to exceed in the aggregate Twenty Thousands Dollars and to issue notes or other evidences of indebtedness for such borrowing. All fees received by an officer or employee of the Town in his or her official capacity shall belong to the Town and be accounted for by the Town.

~~Such borrowing shall be done as provided by ordinance.~~

Section 22. ~~Audit. — Bonds and Notes Exempt from Taxes.~~

~~All bonds, notes or other evidences of indebtedness issued~~The financial books and sold  
~~by accounts of the Town of Emmitsburg shall be exempt from all~~audited annually as required by  
~~State, County and Town taxes in Maryland.~~

law.

Section 23. - Collection of Taxes.

a. The tax year shall be from July 1 ~~through~~through June 30, as set forth in Section 3 of this same Article. All taxes provided for in this Charter and ordinances as may be passed thereunder shall be due on the first day of July and shall be overdue and in arrears on the first day of the succeeding October, and bear interest at the rate of one percent for each month or fraction of a month thereafter until paid. The ~~town~~Town may establish discounts for prompt payment of taxes. Tax sales of properties for which taxes have not been paid shall be held in accordance with Tax Property Article, Sections 14-808 to 14-854 and any subsequent amendments thereto, of the Annotated Code of Maryland.

b. Where improvements are added to any property resulting in an increase of assessment between July 1 and December 31 of any year, the ~~town~~Town tax for the last half of the fiscal year, being one-half of the total annual levy, shall be due on the first day of January, and shall be overdue and in arrears on the first day of the succeeding April, and shall bear interest at the rate of one percent for each month or fraction of a month thereafter until paid. The same provisions as to discounts and tax sales as were applicable in subsection a., shall also apply herein.

~~e. — All checks~~

\*Amended 12-4-95 See Resolution # 4-95

Section 24. - Authority to Borrow Money and Issue and Sell Bonds.

The Town of Emmitsburg shall have the power to borrow on the faith and credit of the Town from time to time as may be deemed necessary for its general corporate purposes. The Town may issue and sell bonds for such indebtedness in accordance with the provisions of Section 25 of this Article or with State law.

(a) General Obligation Bonds. The Town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds. The power and obligation of the Town to pay any and all general obligation bonds, notes, or other evidence of indebtedness issued by it under this authority shall be unlimited and the Town shall levy ad valorem taxes upon all the taxable property of the Town for the payment of taxes shall be paid to or such bonds, notes or other evidence of indebtedness and interests thereon, without limitation of amount. Except as otherwise provided herein, the faith and credit of the Town is hereby pledged for the payment of the principal of and the interest on all general obligation bonds, notes, or other evidence of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the general obligation bonds, notes, or other evidence of indebtedness, or in the ordinance authorizing their issuance. The Town shall have the power and authority to sell any



bonds, notes, or other evidence of indebtedness at, above or below the face par value thereof, by public sale or private negotiated sale without advertisement or publication of notice of sale of solicitation of competitive bids, as the Board of Commissioners may, by ordinance, determine, notwithstanding any contrary limitations or restrictions, including, without limitation, any limitations or restrictions contained in Ann. Code of Md. Title 19, Subtitle 3 of the Local Government Article, and, more particularly, in Ann. Code of Md., Local Government Article § 19-304(a), (b), and (e).

(b) *Revenue Bonds.* The Town shall have the power to issue revenue bonds for one or more revenue producing projects that serve a proper public purpose. Prior to the issuance of revenue bonds, the Board of Commissioners shall enact an ordinance stating the public purpose for which the proceeds of the revenue bonds are to be expended, the manner in which the revenue bonds will be sold, which may be by public sale or private negotiated sale, and such other terms as the Board of Commissioners may deem necessary or appropriate. Revenue bonds shall be made payable to the Town of Emmitsburg. The agent for, as to both principal and interest, solely from the income, proceeds, revenues, and funds derived from the project or projects for which they were issued. The faith and credit of the Town shall not be pledged for the payment of revenue bonds.

(c) *Tax Anticipation Borrowing.* During the first six months of any fiscal year, the Town shall have the power to borrow in anticipation of the collection of the property taxes levied for that fiscal year, and to issue tax anticipation notes or other evidence of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidence of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than 6 months after they are issued. No tax anticipation notes or other evidence of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the Town to exceed fifty percent (50%) of the property tax levy for the fiscal year in which such notes or other evidence of indebtedness are issued. All tax anticipation notes or other evidence of indebtedness shall be authorized by ordinance before being issued. The Board of Commissioners shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes in concert with County and State law.

Section 25. - Regulations Concerning the Issuance and Sale of Bonds.

Except as otherwise specified under the provisions of this Charter, the total amount of bonds issued under the authority of this Charter, when added to bonds outstanding, shall not exceed forty percent of the total assessed value of all taxable property in the Town. The Board of Commissioners may regulate the issuing or sale of bonds in any manner not contrary to this Article.

Section 26. Previous Issues.

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

Section 27. - Short Term Borrowing.

The Town shall have the power to borrow on a short-term basis and to issue notes or other evidence of indebtedness for such borrowing. Such borrowing shall be done as provided by ordinance. The amount of short-term borrowing when added to bonds outstanding shall not exceed fifty percent of the total assessed value of all taxable property in the Town.

Section 28. - Bonds and Notes Exempt from Taxes. ~~such taxes for~~

All bonds, notes or other evidence of indebtedness issued and sold by the Town of Emmitsburg shall be ~~the~~ exempt from all State, County and Town ~~Treasurer. The taxes shall be received according to the manner and the procedure as he shall designate in Maryland, as provided by State law.~~ (Res. No. ~~5-95, 2-7-96.~~)

## **ARTICLE VI Public Ways**

### Section 1. - Powers of the Town Generally.

The Town of Emmitsburg shall have charge of all the public ways in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland, the Town of Emmitsburg may do whatever it deems necessary to establish, change from time to time, operate, and maintain in good condition the public ways of the Town.

### Section 2. Power of Town to Levy Special Assessments.

The Town of Emmitsburg may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction, of water mains, sanitary sewer mains, storm water sewers, curbs and gutters and by the construction and paving of public ways and sidewalks or parts thereof, and it may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct costs thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidence of indebtedness issue in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the projects. (Res. 1-84, 9-25-84.)

### Section 3. Procedure.

(a) *Provided.* – The procedure for special assessments, wherever authorized in this Charter, is as provided in this section.

(b) *Assessment of Cost.* – The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Board of Commissioners.



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

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

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

(f) *Right to Appeal* – Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Frederick County within ten days after the levying of any assessment by the Board of Commissioners.

~~(g)~~ *Payments; interest.* – Special assessments may be made payable in annual or more frequent installments over such periods of time, not to exceed ten years, and in such manner as the Board of Commissioners may determine. The Board of Commissioners shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Board of Commissioners.<sup>1</sup>

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

(i) *Town Clerk* – All special assessments shall be billed and collected by the Town Clerk. (Res. 1-84, 9-25-84.)

## **ARTICLE VII**

### **Water, Sewers and Miscellaneous Public Works**

#### Section 1. - Powers of the Town Generally.

The Town of Emmitsburg shall have the power to construct, operate, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of water systems or waterworks, sewerage systems and treatment plants, storm water sewers and ponds, refuse and/or garbage collection and disposal systems, airports, public markets, electric light plants, and electrical distribution systems, fire plugs and other public works and to have surveys, plans, specifications and estimates made for the same and to do such things and make such rules and regulations regarding them as it deems necessary; and to assess the costs, in whole or in part, on the abutting or benefited property in any equitable manner as provided by the Commissioners.

## **ARTICLE VIII**

### **Miscellaneous Provisions**

#### Section 1. - Prior Rights and Obligations not Affected by the Charter.

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

#### Section 2. - Effect of the Charter on Existing Laws.

All laws in effect at the time this Charter is adopted relating to or applicable to the Town of Emmitsburg which are not inconsistent with this Charter shall remain in effect until changed or repealed by the General Assembly of Maryland.

#### Section 3. - Effect of the Charter on Existing Ordinances, Resolutions, Etc.

All ordinances, resolutions, rules and regulations in effect in the Town of Emmitsburg at the time this Charter is adopted and which are not in conflict with the provisions of this Charter,

shall remain in effect until amended, altered, or repealed according to the provisions of this Charter.

A.

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

Section 4. - General Penalty.

a. To ensure the ~~observe~~observance of the Charter and the ordinances of the Town, the Board of Commissioners shall have the power to provide that violation thereof shall be a misdemeanor, unless otherwise specified as an infraction, and shall have the power to affix thereto penalties of a fine not exceeding ~~\$500~~\$1,000.00 or imprisonment for not exceeding 90 days, or both such fine and imprisonment. Any persons subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within 10 days to the Circuit Court for Frederick County. The Board of Commissioners may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

b. (1) The Board of Commissioners may provide that violations of any municipal ordinances shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the State or other ordinance. For purposes of this article, a municipal infraction is a civil offense.

(2) A fine not to exceed ~~\$100~~\$1,000.00 may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the ~~town~~Town within 20 days of receipt of a citation. ~~Repeat offenders may be assessed a fine not to exceed \$200.00 for each repeat offense, and each~~Each day a violation continues shall constitute a separate offense.

(3) Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the ~~town~~Town in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial ~~may~~shall result in ~~an additional the fine or~~being doubled to an amount not exceeding \$1,000.00 and adjudication by the ~~court~~District Court.

(4) Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. (Res. No. 3-95, 2-7-96.)

Section 5. - Inconsistent Laws.

All acts and parts of acts, general or local, inconsistent with the provisions of this Charter, be and the same hereby are repealed to the extent of such inconsistency. Nothing contained herein shall affect or restrict any control which the State Board of Health is empowered by law to exercise in any part of this State.

Section 6. - Charter Powers not Exclusive.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the ~~town~~Town shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the ~~town~~Town shall have all powers, rights and privileges now or hereafter granted by the Constitution and laws of the State of Maryland.

Section 7. - Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section shall held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

RESOLUTION: 2021  
RESOLUTION NO. 21-05R

Page 1 of 3

**A RESOLUTION TO REPEAL THE CHARTER OF THE  
TOWN OF EMMITSBURG IN ITS ENTIRETY AND  
ADOPT A NEW CHARTER**

\*\*\*\*\*

This Resolution of the Board of Commissioners of the Town of Emmitsburg, Maryland, is adopted pursuant to the authority granted to them by Article XI-E of the Maryland Constitution and Section 4-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland to repeal the Charter of the Town of Emmitsburg and enact a new one in its place.

**WHEREAS**, the Town of Emmitsburg (the "Town") is authorized by the Town Charter and provisions of Title 4, Subtitle 3 of the Local Government Article of the Annotated Code of Maryland (the "Maryland Code") to amend its municipal charter; and

**WHEREAS**, the Board of Commissioners has concluded that it is in the best interest of the Town to amend the Town Charter to: 1) make stylistic and grammatical changes; 2) correct misspellings and inconsistencies; 3) provide a more accurate description of the Town boundaries; 4) clarify the Town police limits; 5) reduce the length of the residency qualification of Commissioners and the Mayor; 6) clarify the specific enumerated powers of the Board of Commissioners; 7) correct inconsistencies in penalties for violations of Town ordinances; 8) amend provisions relating to the Mayor's veto power; 9) clarify the Town's tax year, budget year, and accounting year; 10) provide a date for when taxes are due and in arrears and allow the Town to assess interest and penalties by ordinance; 11) provide for the sale of tax delinquent property; 12) provide that the ownership of all fees collected by Town officers and employees acting in their official capacity belong to the Town; 13) provide for the audit of the Town's financial books; 14) clarify and amend the Town's authority to borrow money and issue and sell bonds; 15) increase the Town's short-term borrowing limit; and 16) provide that any ordinance in effect that conflicts with the Charter is repealed to the extent of the conflict.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE BOARD OF COMMISSIONERS OF THE TOWN OF EMMITSBURG** that the Charter of the Town of Emmitsburg as it now exists, is hereby repealed and a new Charter for the Town of Emmitsburg, attached hereto and incorporated herein by reference, is hereby adopted to stand in the place of the Charter so repealed.



**AND BE IT FURTHER RESOLVED THAT** all ordinances and resolutions enacted by the Board of Commissioners of the Town of Emmitsburg prior to the date upon which the Charter adopted by this Resolution takes effect shall thereafter continue in full force and effect, except to the extent that the authority, either express or implied, for such ordinance or resolution is not granted to the Town of Emmitsburg by the Charter adopted by this Resolution or by other law, and further except to the extent that any such ordinance or resolution may irreconcilably conflict with any provision of the Charter adopted by this Resolution.

**AND BE IT FURTHER RESOLVED THAT** this Resolution repealing the Charter of the Town of Emmitsburg and adopting a new Charter for the Town shall not alter ownership, title, or control of any property in which the Town has an interest prior to the effective date of the Charter adopted by this Resolution; nor shall the adoption of this Resolution affect any liabilities, debts or other obligations entered into or incurred by or on behalf of the Town of Emmitsburg prior to the effective date of the Charter and all such liabilities, debts and other obligations shall continue to be fulfilled and satisfied by the Town; nor shall the adoption of this Resolution affect the term of office or incumbency of any Board member, or any appointed or elected member of any department, office, board, commission, committee, agency, or other unit of the Town of Emmitsburg, and the continuity of every department, office, commission, committee, agency, or other unit of the Town is retained, it being the intent of the Board of Commissioners that the affairs of the Town be continued without interruption and without substantial changes in the form or manner of government under the Charter adopted by this Resolution.

**AND BE IT FURTHER RESOLVED THAT** if any provision of this Resolution or the Charter adopted by this Resolution, or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this Resolution or of the Charter which can be given effect without the invalid provisions or application, and to this end, all the provisions of this Resolution and of the Charter are hereby declared to be severable.

**AND BE IT FURTHER RESOLVED THAT** this Resolution shall take effect fifty (50) days from and after the date of its final passage and that its provisions shall be implemented on the 21<sup>st</sup> day of September, 2021, unless a proper petition for referendum filed pursuant to Section 4-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland prior to that date.

**AND IT IS FURTHER RESOLVED THAT** The Town Clerk, on behalf of the Mayor, is hereby directed to proceed with the posting of a complete and exact copy of this resolution at the Town of Emmitsburg's town office located at 300A South Seton Avenue, Emmitsburg, Maryland 21727 for a least forty (40) days following adoption and publication of a fair summary of this Resolution in a newspaper of general circulation in the Town of Emmitsburg not less than four (4) times, at weekly intervals, within a period of at least forty (40) days immediately after the resolution is adopted.

**AND IT IS FURTHER RESOLVED THAT** the sending of information concerning the charter amendment provided herein to the Maryland Department of Legislative Services pursuant to the requirements of Section 4-304 of the Maryland Code.

**NOW, THEREFORE, BE IT HEREBY** enacted this 2<sup>nd</sup> day of August, 2021 by the Mayor and Board of Commissioners, that Resolution Number 2021-05R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

**PASSED** this 2<sup>nd</sup> day of August, 2021

by a vote of \_\_\_\_\_ for, \_\_\_\_\_ against, \_\_\_\_\_ absent, and \_\_\_\_\_ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

\_\_\_\_\_  
Madeline Shaw, Town Clerk

\_\_\_\_\_  
Timothy J. O'Donnell, President

\_\_\_\_\_APPROVED \_\_\_\_\_VETOED

this 2<sup>nd</sup> day of August, 2021.

\_\_\_\_\_  
Donald N. Briggs, Mayor

**EMMITSBURG**  
**ARTICLE I**  
**Incorporation and General Government**

Section 1. - Incorporation.

The citizens of the Town of Emmitsburg in Frederick County, Maryland, are hereby constituted a body corporate by the name of the Town of Emmitsburg and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and have all powers and privileges incident to or that may attach to a municipal corporation, including those powers and general provisions as set forth in Section 5-101 *et seq.* of the Local Government Article of the Annotated Code of Maryland.

Section 2. - Boundaries.

The limits of the Town shall be as they existed immediately prior to the effective date of this Charter, subject to all rights, reservations, limitations and conditions as may be set forth in all prior resolutions of annexation and in this Charter, and as they may be hereafter amended as provided by law. A description of the corporate boundaries shall be maintained on file with the Town Clerk.

Section 3. - Police Limits.

All municipal police officers shall have the power and authority to enforce the laws of the State of Maryland and the Town of Emmitsburg within the municipality and beyond its corporate limits to the extent provided by Maryland law. Municipal police officers shall further have the powers and authority to enforce all ordinances relating to disorderly conduct and nuisances within the municipality and beyond those corporate limits for one-half (½) mile, as well as on any municipally-owned property located outside of the aforementioned area, except where there is conflict with the powers of another municipality.

Section 4. - Laws Applied to Annexed Areas.

The Town of Emmitsburg shall exercise all governmental powers in any area now or hereafter lawfully annexed to and made a part of such Town.



## **ARTICLE II**

### **Board of Commissioners**

#### Section 1. - Legislative Powers; Election Generally; Term.

All legislative powers of the Town of Emmitsburg shall be vested in a Board of Commissioners, consisting of five Commissioners who shall be elected as hereinafter provided. The fifth commissioner established by Charter Amendment Resolution No. 2006-01R shall be elected at the general election in 2006 or at a special election to be held. The terms of the Commissioners elected to office in the years 2001, 2002, and 2003 shall be for three years or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in May of the third year following each Commissioner's election. The terms of the Commissioners elected to office in the years 2004, 2005, and 2006 shall be for three years and five months or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in October of the third year following each such Commissioner's election. Thereafter, each Commissioner shall hold office for a term of three years or until his or her successor is elected and qualified, and the regular terms of Commissioners shall expire on the first Monday in October of the third year following each Commissioner's election. (Res. No. 2003-004R, 1-14-04; Res. No. 2006-01R, 3-9-06).

#### Section 2. - Qualifications.

Commissioners shall have resided in Emmitsburg, for at least one month (30 days) immediately preceding their election and shall be qualified voters. Each Commissioner shall reside in the Town during his or her term of office, and his removal of his residence from the Town during his term shall immediately vacate his office. The Board shall be the judges of the election and the qualification of its members.

#### Section 3. - Salaries.

The Commissioners shall receive such compensation as shall be fixed by ordinance, but no Commissioner shall have his compensation or salary increased or diminished during his term.

#### Section 4. - Meetings.

The Board of Commissioners shall meet regularly once each month at a time and on a date as specified by ordinance. Special meetings may be called by the Mayor or by two Commissioners as often as necessary for the transaction of business. Meetings of the Board shall be opened to the public except as permitted by the laws of the State of Maryland, including, but not limited to, the Annotated Code of Maryland General Provisions Article—Section 3-101 et seq. (as amended) "Open Meetings Act", and the rules of the Board shall provide a reasonable opportunity for public comments to be heard at the regular monthly meeting and all public hearings in regard to any matters. (Res. No. 2003-06R, 9-26-03.)

Section 5. - Quorum: Passage of Ordinances, Generally; Rules and Order of Business.

A majority of the Board of Commissioners shall constitute a quorum for the transaction of business and no ordinance shall be approved or other action taken without a majority favorable vote. The Board shall determine its own rules and order of business and it shall keep a journal of its proceedings. The Mayor is not a member of the Board of Commissioners and shall not vote on the passage of any resolution, ordinance, order or other action including any action to sustain or override a veto. (Res. No. 2006-01R, 3-9-06.)

Section 6. - Attendance of Absent Members; Expulsion of Members.

The Board of Commissioners may compel the attendance of absent members in such manner and under such penalties as may be provided by ordinance. The Board by a vote of three of its members may expel a member from a meeting for disorderly conduct or violation of its rules; provided the Mayor also approves of such action. (Res. No. 2006-01R, 3-9-06.)

Section 7. - Witnesses.

The Board of Commissioners shall have the power to provide by ordinance for summoning before the board or any of its committees any persons it deems necessary. Such persons may be compelled to testify on matters relating to the business of the Town or its officials and employees.

Section 8. - Vacancies.

In case of the death, refusal to act, disqualification, resignation, or removal of the Mayor or any of the Commissioners out of the limits of the Town, the Commissioners, for the time being, shall elect a Mayor or Commissioner to fill the vacancy for the period of time until the next election for a Mayor and/or Commissioners to be held by the Town. At the time of the next general election, a person shall be elected Mayor or Commissioner and shall serve the remainder of the term of the vacating Mayor or Commissioner until a successor shall be elected and qualified. During the temporary absence from Town of the Mayor, and until the Mayor is again able to act, the President of the Board of Commissioners shall be the acting Mayor, with all rights, powers and duties of the said Mayor, excepting the powers of appointment and removal. (Res. No. 1-80, 5-29-80; Res. No. 2-80, 10-22-80.)

Section 9. - Authority Over Offices, Departments and Agencies.

The Board of Commissioners by ordinance may create, change, and abolish offices, departments, agencies, or commissions established or not specifically established by this Charter. The Board of Commissioners by ordinance may assign and delegate additional functions or duties to offices, departments, agencies, or commissions established by this Charter or otherwise, but may not discontinue or assign or delegate to any office, department, agency, or commission any function or duty specifically assigned by this Charter to a particular office, department, agency, or commission. In the creation, assignment, and delegation of duties, the Board of Commissioners shall at all times reserve for itself the final decision on all policy and legislative

matters and shall reserve for itself supervisory power over all offices, departments, agencies, or commissions established either by the Charter or by the Commissioners pursuant to this Charter.

Section 10. - Authority to Fix Salaries.

The Board of Commissioners shall fix salaries for all employees and officers of the Town.

Section 11. - Ordinances: Method of Passage, Generally. Veto.

When any ordinance is introduced for passage by the Board of Commissioners, it shall be read and may be passed at that time. Legislative procedures shall be set out by ordinance. All ordinances passed by the Board shall be approved by the Mayor or passed over his veto in accordance with the provisions of Article III as hereinafter set forth. (Res. No. 2-80, 10-22-80.)

Section 12. - Powers of the Board of Commissioners Enumerated.

a. General Powers.

The Board of Commissioners shall have power to pass all ordinances, not contrary to the Constitution and laws of Maryland or this Charter, as it may deem necessary for the good government of the Town; for protection and preservation of the Town's property, rights, and privileges; for preservation of peace and good order; and for securing persons and property from violence, danger, or destruction; and for the protection of the health, education, safety, happiness, and welfare of the residents of Emmitsburg and visitors thereto and sojourners therein.

b. Specific Powers.

The Board of Commissioners shall have in addition to the above-mentioned general powers, and any other powers which may be conferred in this Article, or otherwise by operation of law, power to pass ordinances not contrary to the laws and constitution of this State for the specific purposes mentioned as follows:

1. To provide for the codification of all ordinances which have been or may hereafter be passed.
2. To manage and control all property of the Town and to authorize the purchase or the sale of property in the name of the Town within or without the boundaries of the Town.
3. To provide for the form and manner of making contracts.
4. To lay taxes upon all real and personal property in the Town, and regulate the collection and enforcement of the same.
5. To borrow money as authorized by Article V.
6. To provide for the adjustment of claims against the Town and the payment of the same.
7. To preserve the peace and order of the Town, and punish the resistance, hindrance and obstruction of public officers in the discharge of their duties; and to prevent vice, suppress gambling, houses of ill fame, and disorderly houses.
8. To protect the Town from fire and unsafe buildings and to regulate the cleaning of

chimneys.

9. To regulate the manufacturing and keeping of explosives and inflammable materials or conveyance thereof through the streets of the Town.

10. To tax and regulate the use and construction of electrical plants and wires on which electricity is conducted within the Town.

11. To tax and regulate the use and construction of telegraph, telephone, cable television and any other lines used for similar purposes in the Town.

12. To protect public lamps or other public lights in the Town.

13. To regulate and contribute to the support of the fire companies in the Town.

14. To provide for the laying out, grading, discontinuing, altering, paving, opening, improving, lighting, making and repairing streets, curbs, squares, walks, drains, sewers, gutters and to keep open and safe for public use and travel all streets, squares, alleys or any other parts thereof, and to require sidewalks to be kept free from ice, snow, or other obstructions.

15. To regulate all shows, processions, assemblages, or parades in the streets or public places.

16. To regulate the speed and travel in general of all animals, bicycles, other vehicles or modes of transport and automobiles, and to designate over what streets and thoroughfares the same may be driven.

17. To prohibit the running at large of animals in the streets or public places, and for the impounding of the same, and to prevent the cruelty to animals. To tax dogs and regulate the time and manner, when public safety requires it, of animals running at large.

18. To license and regulate public conveyances or forms of transportation, such as, but not limited to, taxies or bus services and the charges for the use thereof.

19. To regulate and prohibit the excavation and opening of streets, public walks, and public grounds for public or private purposes, whether temporary or permanent, and the regulation of any work or thing therein.

20. To regulate and provide for sewage disposal and to levy and collect charges for the use of the Emmitsburg sewage system.

21. To regulate laying and use of gas pipes, water pipes, electric light conduits, railroad tracks, and drains for public or private purposes in the streets of the Town; and to levy and collect charges on the laying and use thereof.

22. To provide for sprinkling of the streets or parts thereof and establishing of public foundations of any kind, or hydrants, and providing of the same with water.

23. To regulate and provide for a water plant and the use thereof and all facilities used in connection therewith; and to regulate the use of water furnished by the Town; and to levy and collect charges for the use of water and water facilities furnished by the Town.

24. To provide for the health of the Town and prevention of the introduction of contagious diseases within the Town's corporate limits.

25. To prevent and similarly abate nuisances of any kind, at the expense of persons maintaining them.

26. To establish quarantine regulations and regulate the burial and disinterment of the dead.

27. To provide for the licensing and regulating or restraining of theatricals, sports, exhibitions, public amusements and performances within the Town's corporate limits.

28. To license, tax, and regulate the peddling of merchandise on the streets, as well as branch stores and other concerns established for temporary purposes only.

29. To establish, equip, regulate, and fund a police department; and to appoint Town officers thereto in order to establish and maintain the peace and order of the Town, and to insure the compliance with all Town ordinances and actions passed or taken pursuant to this Charter.

30. To provide for and regulate the registration of voters in the Town for Town elections, and the holding of Town elections.

31. To operate, maintain, supervise, plan and further regulate all public recreation and park services.

32. To plan and zone the Town with the general purpose of guiding and accomplishing a co-ordinated, adjusted, and harmonious development of the Town. Among other things, this zoning and planning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the Town within its police limits; to provide good civic design and arrangement; to promote wise and efficient expenditure of public funds; to make adequate provisions for traffic; to prevent the over-crowding of land and prevent undue concentration of population; and to provide adequate light and air.

33. To fill all vacancies in any Town office not otherwise provided for.

34. And to do any and all things necessary to effect the powers herein. (Res. No. 2-95, 2-7-96.)

35. To perform such other acts as are authorized by Section 5-201 *et seq.* of the Local Government Article of the Annotated Code of Maryland.

### Section 13. - Enforcement.

For the purpose of carrying out the powers enumerated above, for the preservation of the cleanliness, health, peace and good order of the community; for the protection of the lives and property of the citizens; and to suppress, abate and discontinue, or cause to be suppressed, abated, or discontinued all nuisances within the corporate and sanitary limits of the City, the Board of Commissioners may pass all ordinances from time to time necessary. To ensure the observance of these ordinances, in addition to the usual action of debt or such other civil remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the Board of Commissioners may affix thereto penalties of a fine not exceeding \$1,000.00 or imprisonment not exceeding ninety days or both, except as otherwise provided in this Charter, or in State law. (Res. No. 1-74, 9-9-74.)

### Section 14. - Jail Commitments.

Any judge of a court having jurisdiction in this County, being the District Court for Frederick County, when imposing any fine, penalty or forfeiture, for the violation of any ordinance of the Town of Emmitsburg, shall order the person convicted to be committed to the public jail if he shall fail or refuse to pay the fine, penalty, or forfeiture and costs, there to remain until the same are paid or until discharged according to law; and the Sheriff of said County shall receive and safe keep in the public jail all persons who shall be committed thereto for a breach of any of the laws or ordinances of the Town of Emmitsburg, according to the tenor of the commitment, and in the same manner and under the same regulations as persons committed for violations of the laws of this State.

### Section 15. - Structure of the Board of Commissioners.

a. Each year the Board of Commissioners shall elect from among its membership, at a meeting at which all Commissioners are present, a Treasurer and a President of the Board of Commissioners.

b. The President of the Board of Commissioners shall preside over all meetings of the Board, and shall be acting Mayor when the circumstances are such that the Mayor is absent cannot function in his capacity.

c. The Town Treasurer shall counter-sign all checks and receive such other powers as the Board of Commissioners shall from time to time designate and delegate to him.

### **ARTICLE III**

#### **Mayor**

##### Section 1. - Election and Term.

The Mayor shall be elected as hereinafter provided. The term of the Mayor elected to office in 2002 shall be for three years and shall expire on the evening of the first Monday in May of 2005. The term of the Mayor elected in 2005 shall be for three years and five months and shall expire on the first Monday in October of 2008. Thereafter, the Mayor shall hold office for a term of three years, or until his or her successor is elected and shall qualify. The Mayor's term shall expire on the evening of the first Monday in October of each third year after the regular election. (Res No. 2, 12-30-80; Res No. 86-2, 4-22-86; Res. No. 98-17, 1-21-99; Res. No. 2003-005R, 1-14-04.)

##### Section 2. - Qualifications and Salary.

The Mayor must be a legal resident of Emmitsburg, Maryland, for at least three months immediately preceding his election and shall be a qualified voter. He shall receive such salary as specified by ordinance, but it may not be raised or diminished during his term of office. The Mayor shall reside in the Town during his term of office. Upon his removal of his residence from the Town during his term, he shall immediately vacate his office. If this should happen, the President of the Board of Commissioners shall be acting Mayor, as set forth in Article II, Section 15. (Res. No. 2, 12-30-80.)

##### Section 3. - Powers and Duties.

a. *Generally.* The Mayor shall see that the ordinances of the Town are faithfully executed and shall be the Chief Executive Officer. The Mayor shall be responsible for the administration of the Town's affairs to the Board of Commissioners and to the voters of the Town. He may call upon any officer or employee of the Town, entrusted with receipt and expenditure of public monies, for a statement of his account, as often as he may think necessary. When required by the Commissioners, the Mayor shall report in writing the general state of the Town, and at any time may recommend any matters as he may think will promote its interest.

b. *Approval or Veto of Legislation.* The Mayor shall approve or disapprove every

ordinance passed by the Board of Commissioners. Every ordinance passed by the Commissioners shall be submitted by them to him immediately after its passage at a public meeting and within ten calendar days after the date of the meeting at which the action was passed he shall act thereon. If he shall approve or fail to act on it within the ten calendar day deadline, it shall become operative and effective, which fact shall be endorsed by the Town Clerk. If the Mayor shall veto any ordinance he shall notify the Town Clerk of that fact and transmit his reasons for such action in writing to the Commissioners at their next regular meeting; and such ordinance shall not become operative or effective unless passed over his veto within thirty (30) calendar days of the date on which the Mayor exercised the veto by an affirmative vote of at least four (4) members of the Board of Commissioners. The Mayor may withdraw his veto at any time during the period of thirty calendar days after vetoing an action of the Board of Commissioners, in which case the action shall be deemed to have been approved by the Mayor effective as of the date of the withdrawal. (Res. No. 2, 12-30-80; Res. No. 2006-02R, 3-9-06.)

c. *Appointment and Discharge of Officers and Employees.* The Mayor, with the advice and consent of the Board of Commissioners, shall appoint all employees of all offices, departments, commissions, and agencies of Town government as established by this Charter or by ordinance of the Board of Commissioners, unless otherwise provided in this Charter or unless otherwise provided in the Town ordinance establishing the office, department, commission, or agency. If at any time the Mayor shall think that any person appointed to office by him or her shall be incompetent or unfaithful to the duties of his or her office, he or she shall file a written statement of charges against such person with the Commissioners, a copy of which shall also be sent to the persons charged, and if after fully hearing, a majority of the Board of Commissioners shall find the officer or employee unfaithful or incompetent, then the Mayor may dismiss such persons. The vacant position may then be filled by the Mayor with advice and consent of the Commissioners. All employees and officers shall serve at the pleasure of the Mayor, but may be discharged only as previously set forth herein. (Res. No. 2, 12-30-80.)

d. *Miscellaneous Powers and Duties.* The Mayor shall have such other duties and powers as are given to him by the laws of the State of Maryland, other Articles of this Charter and by ordinances passed pursuant to this Charter by the Board of Commissioners, such as, but not limited to, the financial supervision of the Town and preparation of the budget. (Res. No. 2, 12-30-80.)

## **ARTICLE IV**

### **Registrations, Nominations, and Elections**

#### Section 1. - Eligibility to Vote.

Every person who is eligible to vote in state and county elections and who has resided in Emmitsburg for at least thirty days next preceding any Town election and is registered in accordance with the provisions of this Charter shall be a qualified voter in this Town.

#### Section 2. - Elections Generally.

All elections shall be held by ballot or voting machine, and in such manner as shall from time to time be directed by ordinance. The Mayor, with the consent and approval of the Board of Commissioners, shall appoint judges of elections in accordance with procedures which may be established by ordinance. Such judges shall conduct the elections and shall keep the polls open from 7:00 a.m. to 8:00 p.m. Registration with the Board of Supervisors of Elections, Frederick County, Maryland, by a voter who resides in the Town of Emmitsburg, shall be deemed registered for the Town of Emmitsburg. An individual who wishes to vote shall register with the Board of Supervisors of elections of Frederick County in accordance with the regulations established for registration from time to time by the Board of Supervisors of Elections of Frederick County. (Res. No. 4-95, 2-7-96; Res. No. 97-07; 8-14-97; Res. No. 2003-02R, 9-24-03.)

#### Section 3. - Nominations.

No nomination for office is required and any person desiring to run for office shall file a certificate of candidacy with the Town Clerk in accordance with the procedures which may be established by ordinance. (Res. No. 4-95, 2-7-96; Res. No. 2003-02R, 9-24-03.)

## **ARTICLE V**

### **Finance**

#### Section 1. - Financial Supervision.

The Mayor shall have complete supervision over the financial administration of the Town government. The Mayor may delegate, under his supervision, any of the financial powers and duties granted him by this Charter. He shall receive any assistance he requests with regard to financial matters from any Town officer or employee.

#### Section 2. - Expenditures to be Authorized by the Board of Commissioners.

No public money may be expended without having been appropriated by the Board of Commissioners.



Section 3. - Fiscal Year.

The Town shall operate on an annual budget with the fiscal year beginning on the first day of July and ending on the last day of June of the following calendar year. Such fiscal year shall also constitute the tax year, the budget year and the accounting year.

Section 4. - Budget—Estimates used for Preparation.

At the first meeting in May of each year the Mayor shall present to the Board of Commissioners a complete budget for the upcoming fiscal year and the explanatory budget message required by Section 5 hereof. The annual budget to be submitted by the Mayor shall include a statement of anticipated capital improvement projects for the upcoming fiscal year. The Mayor, with the assistance of such Town officers and employees as he requests, shall obtain from the head of each office, department and agency the following: (a) estimates of revenue and expenditures for the next fiscal year, detailed by organization units and character and object of expenditures; (b) such other supporting data as he may request; and (c) an estimate of all capital projects pending or which such office, department or agency head believes should be undertaken within the budget year and within the next five succeeding years.

In preparing the budget, the Mayor shall review the estimates, shall hold hearings thereon with the head or other representative of the office, department or agency concerned, and may revise the estimates as he deems advisable. (Res. No. 2006-13R, 10-10-06.)

Section 5. - Budget Message.

The budget message submitted by the Mayor to the Board of Commissioners shall explain the budget, shall contain an outline of the proposed financial policies of the Town for the budget year, and shall describe the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. It shall include a statement of pending capital projects of a capital program for the next five fiscal years. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements, as the Mayor shall believe useful to the Board of Commissioners.

Section 6. - Budget—Contents Generally.

The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) A general summary.
- (b) Detailed estimates of all anticipated revenues applicable to proposed expenditures.
- (c) All proposed expenditures.

The total of the anticipated revenues shall equal the total of the proposed expenditures.

Section 7. - Budget—Classification of Revenues.

Anticipated revenues shall be classified as "surplus," "miscellaneous revenue" and "amount to be raised by property tax." Miscellaneous revenues shall be subclassified by sources.

Section 8. - Budget—Items to Appear Opposite Anticipated Revenues.

In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually received during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually received to the time of preparing the budget plus receipts for the remainder of the fiscal year estimated as accurately as may be.

Section 9. - Budget—Status of Public Utilities to Appear in Separate Section.

The anticipated revenues and proposed expenditures and anticipated surplus or shortfall of revenues from water and sewer operations and any other public utilities owned or operated by the Town shall be stated in a separate statement of the budget.

Section 10. - Budget—Enumeration of Proposed Expenditures.

The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, or, in the absence of such provision, by regulations established by ordinance. Separate provisions shall be included in the budget for at least the following items:

- a. Interest, amortization and redemption charges on the public debt for which the faith and credit of the Town is pledged.
- b. Other statutory expenditures.
- c. The payment of all judgments.
- d. An amount equal to the deficit for operations of water and sewer and other public utilities during the last completed fiscal year, separately stated for each utility which appears in a separate section of the budget.
- e. Administration, operation and maintenance of each office, department or agency of the Town itemized by character and object of expenditures.
- f. Contingent expense in an amount of not more than three percent of the total proposed expenditures.
- g. Expenditures proposed for capital projects.

Section 11. - Budget—Items to Appear Opposite Proposed Expenditures.

In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

Section 12. - Budget—Summary.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of revenue and kinds of expenditures, in such form as to present to the tax payers a simple and clear picture of the detailed estimates of the budget.

Section 13. - Budget—Public Record.

The budget and budget message and all supporting schedules shall be a public record in the office of the Town Clerk, open to public inspection by anyone.

Section 14. - Budget—Change of Items by the Board of Commissioners.

The Commissioners may insert new items or may increase or decrease the items of the budget and where they shall increase the total proposed expenditures, they shall also increase the total anticipated revenue to balance the same.

Section 15. - Budget—Adoption.

The budget shall be prepared and adopted in the form of an ordinance. The budget for the new fiscal year shall be finally adopted not later than the 27th day of June, and if not adopted by the Commissioners on or prior to such day, the budget, as submitted by the Mayor, shall be deemed to have been finally adopted by the Commissioners.

Section 16. - Issuance and Signing of Checks.

All checks issued in payment of municipal obligations shall be issued and signed by the Town Treasurer and shall be countersigned by the Mayor.

Section 17. - Taxing Power.

The Town of Emmitsburg shall have the power to levy annually on the assessable property in said Town and collect such taxes as in its judgment may be necessary to pay all the debts, obligations and expenses of the Town government which have been or may hereafter be lawfully incurred. As part of its taxing power, the Town of Emmitsburg shall have the power to levy and to collect a general assessment on all property in the Town to pay for the construction and/or maintenance of water mains, sewer mains, public ways, sidewalks, curbs, gutters, and storm water sewers. This general assessment need not be on the basis of assessed valuation of the property, but may be on any equitable basis determined by the Board of Commissioners.

Section 18. - Taxable Property and Assessments.

All real and tangible personal property within the limits of the Town or which may have a situs there by the reasons of the residence of the owner therein, shall be subject to taxation for municipal purpose and the assessment for such purpose shall be the same as that for State and County taxes. Agricultural property within the Town may be exempt from the Town taxes or taxed at a lower rate than other property in the Town. Industrial property may also be exempted or taxed at a lower rate than other property in the Town.

Section 19. When Taxes Are Overdue.

The taxes provided for in Section 17 of this Charter shall be due and payable as provided in the Tax — Property Article of the Annotated Code of Maryland and shall be overdue and in arrears as provided in that article. Taxes shall bear interest while in arrears and shall be subject to additional penalties as authorized by State law. Any interest or penalty rates to be imposed by the Town shall be established by ordinance. This is in addition to the interest and penalties imposed by State law. All taxes not paid and in arrears one year after the date on which they are due and payable shall be collected as provided in Section 20 of this Charter.

Section 20. Sale of Tax—Delinquent Property.

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 19 above shall be turned over by the Town to the County official responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall, if necessary, be sold for taxes by this County official in the manner prescribed by State law.

Section 21. Fees.

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

Section 22. Audit.

The financial books and accounts of the Town shall be audited annually as required by State law.

Section 23. - Collection of Taxes.

a. The tax year shall be from July 1 through June 30, as set forth in Section 3 of this same Article. All taxes provided for in this Charter and ordinances as may be passed thereunder shall be due on the first day of July and shall be overdue and in arrears on the first day of the succeeding October, and bear interest at the rate of one percent for each month or fraction of a month thereafter until paid. The Town may establish discounts for prompt payment of taxes. Tax sales of properties for which taxes have not been paid shall be held in accordance with Tax Property Article, Sections 14-808 to 14-854 and any subsequent amendments thereto, of the Annotated Code of Maryland.

b. Where improvements are added to any property resulting in an increase of assessment between July 1 and December 31 of any year, the Town tax for the last half of the fiscal year, being one-half of the total annual levy, shall be due on the first day of January, and shall be overdue and in arrears on the first day of the succeeding April, and shall bear interest at the rate of one percent for each month or fraction of a month thereafter until paid. The same provisions as to discounts and tax sales as were applicable in subsection a., shall also apply herein.

\*Amended 12-4-95 See Resolution # 4-95

Section 24. - Authority to Borrow Money and Issue and Sell Bonds.

The Town of Emmitsburg shall have the power to borrow on the faith and credit of the Town from time to time as may be deemed necessary for its general corporate purposes. The Town may issue and sell bonds for such indebtedness in accordance with the provisions of Section 25 of this Article or with State law.

(a) *General Obligation Bonds.* The Town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds. The power and obligation of the Town to pay any and all general obligation bonds, notes, or other evidence of indebtedness issued by it under this authority shall be unlimited and the Town shall levy ad valorem taxes upon all the taxable property of the Town for the payment of such bonds, notes or other evidence of indebtedness and interests thereon, without limitation of amount. Except as otherwise provided herein, the faith and credit of the Town is hereby pledged for the payment of the principal of and the interest on all general obligation bonds, notes, or other evidence of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the general obligation bonds, notes, or other evidence of indebtedness, or in the ordinance authorizing their issuance. The Town shall have the power and authority to sell any bonds, notes, or other evidence of indebtedness at, above or below the face par value thereof, by public sale or private negotiated sale without advertisement or publication of notice of sale or solicitation of competitive bids, as the Board of Commissioners may, by ordinance, determine, notwithstanding any contrary limitations or restrictions, including, without limitation, any limitations or restrictions contained in Ann. Code of Md. Title 19, Subtitle 3 of the Local Government Article, and, more particularly, in Ann. Code of Md., Local Government Article § 19-304(a), (b), and (e).

(b) *Revenue Bonds.* The Town shall have the power to issue revenue bonds for one or more revenue producing projects that serve a proper public purpose. Prior to the issuance of revenue bonds, the Board of Commissioners shall enact an ordinance stating the public purpose for which the proceeds of the revenue bonds are to be expended, the manner in which the revenue bonds will be sold, which may be by public sale or private negotiated sale, and such other terms as the Board of Commissioners may deem necessary or appropriate. Revenue bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds derived from the project or projects for which they were issued. The faith and credit of the Town shall not be pledged for the payment of revenue bonds.

(c) *Tax Anticipation Borrowing.* During the first six months of any fiscal year, the Town shall have the power to borrow in anticipation of the collection of the property taxes levied for that fiscal year, and to issue tax anticipation notes or other evidence of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidence of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than 6 months after they are issued. No tax anticipation notes or other evidence of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the Town to exceed fifty percent (50%) of the property tax levy for the fiscal year in which such notes or other evidence of indebtedness are issued. All tax anticipation notes or other evidence of indebtedness shall be authorized by ordinance before being issued. The Board of Commissioners shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes in concert with County and State law.

Section 25. - Regulations Concerning the Issuance and Sale of Bonds.

Except as otherwise specified under the provisions of this Charter, the total amount of bonds issued under the authority of this Charter, when added to bonds outstanding, shall not exceed forty percent of the total assessed value of all taxable property in the Town. The Board of Commissioners may regulate the issuing or sale of bonds in any manner not contrary to this Article.

Section 26. Previous Issues.

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

Section 27. - Short Term Borrowing.

The Town shall have the power to borrow on a short-term basis and to issue notes or other evidence of indebtedness for such borrowing. Such borrowing shall be done as provided by ordinance. The amount of short-term borrowing when added to bonds outstanding shall not exceed fifty percent of the total assessed value of all taxable property in the Town.

Section 28. - Bonds and Notes Exempt from Taxes.

All bonds, notes or other evidence of indebtedness issued and sold by the Town of Emmitsburg shall be exempt from all State, County and Town taxes in Maryland, as provided by State law.



## ARTICLE VI Public Ways

### Section 1. - Powers of the Town Generally.

The Town of Emmitsburg shall have charge of all the public ways in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland, the Town of Emmitsburg may do whatever it deems necessary to establish, change from time to time, operate, and maintain in good condition the public ways of the Town.

### Section 2. Power of Town to Levy Special Assessments.

The Town of Emmitsburg may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction, of water mains, sanitary sewer mains, storm water sewers, curbs and gutters and by the construction and paving of public ways and sidewalks or parts thereof, and it may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct costs thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidence of indebtedness issue in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the projects. (Res. 1-84, 9-25-84.)

### Section 3. Procedure.

- (a) *Provided.* – The procedure for special assessments, wherever authorized in this Charter, is as provided in this section.
- (b) *Assessment of Cost.* – The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Board of Commissioners.
- (c) *Amount.* – The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessments be levied which causes the total amount of special assessments levied by the Town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.
- (d) *Uniformity of rates.* – When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.
- (e) *Levy of charges; public hearing; notice* – All special assessment charges shall be

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

(f) *Right to Appeal* – Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Frederick County within ten days after the levying of any assessment by the Board of Commissioners.

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

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

(i) *Town Clerk* – All special assessments shall be billed and collected by the Town Clerk. (Res. 1-84, 9-25-84.)

## **ARTICLE VII**

### **Water, Sewers and Miscellaneous Public Works**

#### Section 1. - Powers of the Town Generally.

The Town of Emmitsburg shall have the power to construct, operate, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of water systems or waterworks, sewerage systems and treatment plants, storm water sewers and ponds, refuse and/or garbage collection and disposal systems, airports, public markets, electric light plants, and electrical distribution systems, fire plugs and other public works and to have surveys, plans, specifications and estimates made for the same and to do such things and make such rules and regulations regarding them as it deems necessary; and to assess the costs, in whole or in part, on the abutting or benefited property in any equitable manner as provided by the Commissioners.

## **ARTICLE VIII**

### **Miscellaneous Provisions**

#### Section 1. - Prior Rights and Obligations not Affected by the Charter.

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

#### Section 2. - Effect of the Charter on Existing Laws.

All laws in effect at the time this Charter is adopted relating to or applicable to the Town of Emmitsburg which are not inconsistent with this Charter shall remain in effect until changed or repealed by the General Assembly of Maryland.

#### Section 3. - Effect of the Charter on Existing Ordinances, Resolutions, Etc.

A. All ordinances, resolutions, rules and regulations in effect in the Town of Emmitsburg at the time this Charter is adopted and which are not in conflict with the provisions of this Charter, shall remain in effect until amended, altered, or repealed according to the provisions of this Charter.

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

Section 4. - General Penalty.

a. To ensure the observance of the Charter and the ordinances of the Town, the Board of Commissioners shall have the power to provide that violation thereof shall be a misdemeanor, unless otherwise specified as an infraction, and shall have the power to affix thereto penalties of a fine not exceeding \$1,000.00 or imprisonment for not exceeding 90 days, or both such fine and imprisonment. Any persons subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within 10 days to the Circuit Court for Frederick County. The Board of Commissioners may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

b. (1) The Board of Commissioners may provide that violations of any municipal ordinances shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the State or other ordinance. For purposes of this article, a municipal infraction is a civil offense.

(2) A fine not to exceed \$1,000.00 may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the Town within 20 days of receipt of a citation. Each day a violation continues shall constitute a separate offense.

(3) Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the Town in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial shall result in the fine being doubled to an amount not exceeding \$1,000.00 and adjudication by the District Court.

(4) Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. (Res. No. 3-95, 2-7-96.)

Section 5. - Inconsistent Laws.

All acts and parts of acts, general or local, inconsistent with the provisions of this Charter, be and the same hereby are repealed to the extent of such inconsistency. Nothing contained herein shall affect or restrict any control which the State Board of Health is empowered by law to exercise in any part of this State.

Section 6. - Charter Powers not Exclusive.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the Town shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the Town shall have all powers, rights and privileges now or hereafter granted by the Constitution and laws of the State of Maryland.

Section 7. - Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section shall held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

**AGENDA ITEM# 4. Hold public hearing and final vote on Ordinance 2021-12, which would amend Town Code Section 17.08.190: Presentation at meeting by staff.**

ORDINANCE SERIES: 2021  
ORD. NO: 21 – 12

Page 1 of 1

AN ORDINANCE TO AMEND  
TITLE 17  
OF THE CODE OF EMMITSBURG  
ENTITLED ZONING

\*\*\*\*\*

**BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that §17.08.190 of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~{brackets and strike out}~~.

Chapter 17.08 – General Regulations

§17.08.190 – Conversion of garages, sheds, outbuildings, or other accessory structures.

~~A.~~ No garage, shed, outbuilding or other nonresidential structure existing on the lot at the time of **THE** adoption of this title may be converted to residential use unless said structure is able to meet all of the requirements of the zoning ordinance including, but not limited to, lot area per family and front, rear and side yards. **NO VARIANCE OR SPECIAL EXCEPTION WILL BE PERMITTED TO EXPAND A NON-CONFORMING USE.**

~~B. Because this requirement does not disallow the use of land for the purposes set forth in this title, but seeks only to prevent the overcrowding of the lot and environmental degradation of the neighborhood, the board of appeals is not authorized to grant a waiver or variance to this section.~~

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

**PASSED** this 2<sup>nd</sup> day of August, 2021.

by a vote of \_\_\_\_\_ for, \_\_\_\_\_ against, \_\_\_\_\_ absent, and \_\_\_\_\_ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

\_\_\_\_\_  
Madeline Shaw, Town Clerk

\_\_\_\_\_  
Timothy O'Donnell, Vice President

**MAYOR**

\_\_\_\_\_ APPROVED \_\_\_\_\_ VETOED

this 2<sup>nd</sup> day of August, 2021.

\_\_\_\_\_  
Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Madeline Shaw, Town Clerk  
Date:

**AGENDA ITEM# 5. Approval of Policy P21-03 – Review Fee’s for consideration:** Presentation at meeting by town staff.

POLICY SERIES: 2021  
Policy No. P21 – 03

Page 1 of 3

**TOWN OF EMMITSBURG  
REVIEW FEES POLICY**

\*\*\*\*\*  
This Policy will replace previously adopted Policy P20-03.

As of this date and pursuant to §14.04.130 entitled “Fees”, §15.32.200 entitled “Application fee”, §16.36.010 entitled “Annexation fees”, §16.36.020 entitled “Sketch plat fees”, §16.36.030 entitled “Preliminary plat fees”, §16.36.040 entitled “final subdivision plat fees”, §16.36.050 entitled “Improvement plat fees”, §16.48.060 entitled “Criteria”, §16.48.080 entitled “Preliminary forest conservation plan”, §16.48.090 entitled “Final forest conservation plan”, §17.12.030 entitled “Appeals-how taken”, and §17.44.020 entitled “Procedures” of the Emmitsburg Municipal Code, review fees shall be as follows:

1. Board of Appeals:
  - A. Special exception: \$500.00
  - B. Variance: \$300.00
  - C. Zoning Administrator appeal: \$300.00
  - D. Hearing continuances if requested by applicant: \$150.00
2. Re-Zoning:
  - A. Zoning text amendment: \$1,000.00
  - B. Zoning map amendment: \$1,000.00 + \$15.00 per acre
3. Development Review:
  - A. Sketch plat: \$350.00
  - B. Preliminary subdivision plat: \$1,000.00 + \$25.00 per lot + \$10.00 per acre
  - C. Final subdivision plat: \$500.00 + \$25.00 per lot
  - D. Combined preliminary / final subdivision plat: \$850.00 + \$50.00 per lot
  - E. Record plat: \$75.00 plus \$15.00 per lot
  - F. Site Plan: \$1,000.00.



- G. Addition plat: \$350.00 plus \$25.00 per lot
- H. Improvement plat: \$200.00 per sheet
- I. Forest stand delineation plan: \$350.00
- J. Preliminary forest conservation plan: \$350.00
- K. Final forest conservation plan: \$350.00
- L. Combined preliminary / final forest conservation plan: \$700.00
- M. Request for forest conservation exemption: \$35.00 per exemption
- N. Annexation: \$1,000.00 + \$50.00 per acre. \$0.00 if initiated by the Town
- O. Legal documents: [~~public works agreements, letters of credit, easements, sewer/water tap agreements, homeowner association documents, etc.~~]: \$250.00 per document]

**1.LETTERS OF CREDIT, DEED OF EASEMENT, SEWER/WATER TAP AGREEMENTS, HOMEOWNER ASSOCIATION DOCUMENTS, ETC. - \$300.00 PER DOCUMENT.**

**2.PUBLIC WORKS AGREEMENT - \$750.00 PER DOCUMENT.**

**P. CORRECTIVE PLAT: \$500.00 PLUS \$25.00 PER LOT.**

**Q. ADEQUATE PUBLIC FACILITIES ORDINANCE APPLICATION: \$1,000.00**

**R. GEOGRAPHIC INFORMATION SYSTEM (GIS) MAP UPDATE FEE - \$1,200.00**

4. Infrastructure Permit:

A. Any work involving Town water/sewer system: \$100.00

B. Wireless telecommunication's facility:

a) New tower, support structure, or substantial modification: \$8,500.00 escrow deposit plus \$5,000.00 application fee.

b) Co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required: \$8,500.00 escrow deposit plus \$2,000.00 application fee.

c) Re-certify the special use permit without modification: \$0.00

5. Third party review fees: Applicants are required to reimburse the Town for [reasonable] costs incurred by the Town from third parties who invoice the Town for their services rendered to the Town. All billing rates, fees, and out-of-pocket costs of all such third party costs shall be billed at their rates otherwise charged to the Town. Third party costs included but are not limited to, engineering fees, consulting fees, legal fees, inspection fees, court reporting fees, advertising costs for publishing and posting of public notices, etc.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this policy shall take effect this 2<sup>nd</sup> day of August, 2021.

PASSED this 2<sup>nd</sup> day of August, 2021.

*ATTEST:*

*EMMITSBURG BOARD OF COMMISSIONERS:*

\_\_\_\_\_  
Madeline Shaw, Town Clerk

\_\_\_\_\_  
Timothy J. O'Donnell, President

\_\_\_\_\_ APPROVED \_\_\_\_\_ VETOED

this 2<sup>nd</sup> day of August, 2021.

\_\_\_\_\_  
Donald N. Briggs, Mayor

**AGENDA ITEM# 6. Approval of Ordinance 2021-09, comprehensive update to Title 6 – Animals, for consideration:** Presentation at meeting by town staff.

ORDINANCE SERIES: 2021  
ORD. NO: 21 – 09

Page 1 of 23

AN ORDINANCE TO AMEND  
TITLE 6  
OF THE CODE OF EMMITSBURG  
ENTITLED  
ANIMALS

*Draft*

\*\*\*\*\*  
**BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 6, Chapter 6.04 of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in [~~brackets and strike out~~].

Title 6 – Animals.

[~~Chapter 6.04 – Dogs, cats, and other animals.~~

~~6.04.010 Definitions.~~

~~As used in this chapter, the following terms shall have the meanings indicated:~~

~~"Animal" specifically includes, but is not limited to, domestic dogs, domestic cats, chickens, animals used for agricultural purposes and animals used for public exhibitions.~~

~~"At large" means an animal shall be deemed to be "at large" whenever said animal is not on the owner's property or under the immediate physical control of a responsible person capable of physically restraining the animal; provided, however, that dogs will be permitted to run at large when accompanied by the owner or authorized agent if the dog is being used for hunting or trained for hunting or if the dog is being accompanied by its owners or his agent on horseback.~~

~~"Chicken" means use of the word chicken means hens only.~~

~~"Coop" or "pen" means an enclosure or cage for the keeping of chickens.~~

~~"Keeping" or "harboring" means the act or sufferance either of feeding or sheltering an animal on the premises of the occupant or owner thereof.~~

~~"Owner" or "own" means any person having a right of property in an animal and any person who keeps or harbors an animal or has it in his care or acts as custodian or permits it to remain on or about any premises or controlled by him.~~

~~"Potentially dangerous dog" means a dog that poses a threat to public safety, as defined in the county code chapter 1-5.~~

~~"Public nuisance" means any animal found repeatedly running at large, making loud or objectionable sounds, damaging property, molesting passersby, chasing vehicles or acting in any manner which is deemed to be doing damage to property or to the public health and well-being, or which is known to have bitten two or more persons within a period of six months, or which shall have been determined by the county animal control officer, the county health officer or any authorized representative of the county or of the town to be a detriment to public health, welfare and safety, shall be deemed to be a public nuisance. If a dead animal is not properly disposed of and is deemed to be a public nuisance by reason of its appearance, odor or for public health reasons, its owner may be charged by the county health officer or the county animal control officer or any authorized representative of the town for maintaining a public nuisance.~~

~~6.04.020 Requirements for owners.~~

~~A.— Dogs and Cats. No person shall own or have custody of any dog or cat over four months of age unless such dog or cat is licensed by the county, and has been vaccinated against rabies in a procedure approved by the state public health veterinarian. This provision shall not apply to a dog or cat within the corporate limits of the town owned by a nonresident; provided, that such dogs or cats are duly licensed in their home city, county or state, and provided that the owner has a valid rabies vaccination certificate for said dog or cat while it is within the corporate limits of the town.~~

~~B.— Chickens. The following requirements shall apply to the keeping of chickens as defined in Section 6.04.010:~~

- ~~1.— The total number of chickens allowed on any property is limited to four over the age of one month.~~
- ~~2.— All chickens shall be confined to a coop and/or pen, and shall not be allowed to run freely on the property.~~
- ~~3.— Coops may be placed in side and rear yards, only.~~
- ~~4.— Coops which are affixed to the land and/or are without any readily and conveniently available means of being moved shall be considered as permanent structures and therefore, shall meet the requirements for accessory structures as stated in Title 17.~~
- ~~5.— Coops which are not affixed to the land and which can be readily and conveniently moved from location to location shall not be required to meet the requirements for accessory structures as stated in Title 17, but shall be at least five feet from the side and rear property boundaries.~~
- ~~6.— Any coop or pen shall be located at least twenty five (25) feet from any residential dwelling unit.~~
- ~~7.— No person shall own or have custody of any chicken unless such chicken is registered with the state department of agriculture and a copy of the state registration is provided to the town.~~
- ~~8.— Before utilizing a coop for the keeping of chickens, registration of the activity with the town is required. A completed registration form signed by the owner of the property, and a site plan showing that the dimensional requirements stated in this section will be met shall be submitted to the town code enforcement office for review.~~

- ~~9. Each coop or pen must be kept clean, free of odors and materials that can attract vermin. Feed shall be kept in secure containers so as not to attract vermin.~~
- ~~10. Animal waste shall be composted or removed from the premises to comply with this section and Section 8.12.030.~~
- ~~11. The slaughtering of chickens on premises is not allowed.~~
- ~~12. This provisions in this subsection B. shall expire eighteen (18) months from passage unless extended by ordinance.~~

~~6.04.030 Impoundment.~~

~~It is unlawful for any animal to run at large within the corporate limits of the town. Whenever any person finds an animal running at large or complains that the animal constitutes a public nuisance, he may notify the county animal control officer, who may cause the animal to be impounded. No individual shall have the right to willfully destroy or attempt to destroy or maim the animal so long as the animal does not pose a threat to life. Upon the capture of any animal, the animal control officer shall make a diligent effort to notify the owner of its capture if his identity can be ascertained. Such animal may be confined and offered for adoption or humanely disposed of if not identified and claimed within five calendar days after its capture. No owner may claim the animal unless and until all charges incident to the confinement of the animal have been paid.~~

~~6.04.040 Impoundment service fee.~~

~~Whenever an animal is impounded pursuant to this chapter or any other provision of the law, the owner thereof shall pay an impounding fee as may be set from time to time by the county animal control officer.~~

~~6.04.050 Liability for impounding fee.~~

~~Where the owner of any impounded animal can be ascertained, such owner shall be liable for the impounding fee and other proper charges, even in cases wherein the animal is disposed of pursuant to Section 6.04.030.~~

~~6.04.060 Enforcement.~~

~~Animal control officers designated by the board of county commissioners for the county as the enforcement authority for the animal control and dog and cat licensing provisions of the county are designated by the board of commissioners of the town as the enforcement authority for animal control and dog and cat licensing provisions of this chapter.~~

~~All other provisions of this chapter shall be enforced by the town code enforcement officer.~~

~~6.04.070 Animal control officers.~~

~~The animal control officers are empowered to take into custody and turn over to the county humane society stray, injured, sick or dead animals in accordance with the provisions of this chapter.~~

~~6.04.080 Care and control of animals.~~

- ~~A.—It is a violation of this chapter for any person to abandon any animal, whether or not the person is the owner.~~
- ~~B.—All owners of animals shall exercise care and control of such animals so as to prevent same from becoming public nuisances, and an owner of an animal determined to be a public nuisance shall be subject to the penalties of this chapter.~~
- ~~C.—Any state licensed veterinarian in the county is authorized by the commissioners of the town to immediately humanely euthanize or treat a suffering animal without liability if its owner cannot be promptly identified.~~

~~6.04.090 Poisoning of animals.~~

~~No persons shall poison any animal other than rodents, unless authorized by the county health officer to protect human health.~~

~~6.04.100 Female dog in season.~~

~~It is unlawful for the owner or custodian of a female dog while in estrus or in a condition commonly known as "in heat" or "in season" to knowingly allow the dog to run at large. Any dog in estrus shall be confined in a secure enclosure.~~

~~6.04.110 Interference with authorized persons.~~

~~No person shall attempt to interfere with the animal control officer or any other authorized person in the performance of his duties, nor shall any person attempt to release or release without authority any animal impounded pursuant to the animal control laws of the county.~~

~~6.04.120 Dangerous and potentially dangerous dogs.~~

~~The provisions of the county code, Section 1.5.22 are adopted by and for the town, and the county animal control department, or other animal control officer authorized by the county to enforce the provisions of Section 1.5.22, are authorized to enforce such provisions~~

~~6.04.130 Animals roaming at large.~~

~~No animal shall be permitted to run at large at any time whatsoever within the corporate limits of the town. All animals shall be confined to the property of their owner or the person who has possession or control of such animal by fencing or trolley line, unless leashed and accompanied by the owner or other person. Violation of this section is declared to a municipal infraction.~~

~~6.04.140 Removal of feces.~~

~~No owner or other person who has possession or control of an animal shall permit its feces to remain upon any street, park lands, sidewalks, public lands or lands not owned, leased or rented by said person in possession or control or the owner of said animal within the corporate limits of the town.~~

~~The owner or person who has possession or control of an animal which deposits feces upon any street, park lands, sidewalks, public lands or lands not owned, leased or rented by said person in possession or control, or the owner of said animal shall immediately remove such feces~~

~~from any and all of the above noted locations. Violation of this section is declared to be a municipal infraction.~~

~~6.04.150 Violations—Penalties.~~

~~Any person who violates this chapter shall be guilty of a municipal infraction and shall be fined twenty five dollars (\$25.00). Each day the violation continues shall be deemed a separate offense.]~~

**CHAPTER 6.04 – COUNTY ANIMAL CONTROL REGULATIONS.**

**SECTION 6.04.010 – ADOPTION OF COUNTY CODE.**

- A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, THE PROVISIONS OF THE FREDERICK COUNTY CODE, CHAPTER 1-5, AS THE SAME FROM TIME TO TIME MAY BE AMENDED, ARE APPLICABLE AND EFFECTIVE WITH THE TOWN AS THOUGH PROVISIONS WERE SET FORTH AT LENGTH IN THIS SECTION.**
- B. THE FREDERICK COUNTY CODE, CHAPTER 1-5 IS HEREBY AMENDED AS FOLLOWS:**
- 1. UNLESS THE CONTEXT INDICATES OTHERWISE, THE WORD “COUNTY” SHALL REFER TO THE TOWN.**
  - 2. IN §1-5-1, THE DEFINITION OF “AT LARGE” IS AMENDED TO READ: “AN ANIMAL SHALL BE DEEMED TO BE AT LARGE WHENEVER IT IS NOT: 1) ON THE OWNER’S PROPERTY; OR 2) UNDER THE IMMEDIATE PHYSICAL CONTROL OF A PERSON AND RESTRAINED BY A CHAIN OR LEASH.”**
  - 3. IN §1-5-1, THE DEFINITION OF “POTENTIALLY DANGEROUS DOG” IS AMENDED TO READ: “A DOG THAT POSES A THREAT TO PUBLIC SAFETY, DEMONSTRATED BY ANY OF THE FOLLOWING BEHAVIORS: 1) CAUSES INJURY TO A PERSON WITHOUT PROVOCATION WHICH IS LESS SEVERE THAN A SERIOUS INJURY, OR CAUSES SEVERE INJURY TO OR KILLS A DOMESTIC ANIMAL; OR 2) RUNS AT LARGE, MEANING THAT THE ANIMAL: A) RUNS AT LARGE, AS THAT TERM IS DEFINED IN THIS SECTION, THREE OR MORE TIMES WITHIN ANY CONSECUTIVE SIX MONTH PERIOD; OR B) IS IMPOUNDED BY THE DIVISION OF ANIMAL CONTROL THREE OR MORE TIMES WITHIN ANY CONSECUTIVE SIX MONTH PERIOD. AN ANIMAL THAT HAS BEEN DEEMED POTENTIALLY DANGEROUS BASED ON RUNNING AT LARGE WILL NO LONGER BE DEEMED POTENTIALLY DANGEROUS TWO YEARS AFTER THE DOG WAS LAST CITED FOR RUNNING AT LARGE IF DURING THAT TIME THE DOG HAS NOT ENGAGED IN ANY BEHAVIOR PROHIBITED BY THIS CHAPTER.”**



4. **§1-5-6 IS AMENDED TO READ: “ALL FINES IMPOSED UNDER THIS CHAPTER SHALL BE TRANSFERRED TO THE TOWN BY THE CLERK OF THE COURT.”**
5. **§1-5-9 IS DELETED IN ITS ENTIRETY.**
6. **IN §1-5-22, SUBSECTION (F)(4) IS AMENDED TO ADD: “THE OWNER SHALL NOTIFY THE DIRECTOR, IN WRITING, OF ANY CHANGE IN THE OWNER’S ADDRESS WITHIN 48 HOURS AFTER THE CHANGE.”**
7. **IN §1-5-24, THE WORD “TRAINED” IS DELETED.**
8. **§1-5-25 IS DELETED IN ITS ENTIRETY.**
9. **IN §1-5-34, ADD TO THE END OF SUBSECTION A): “A MULTIPLE DOMESTIC ANIMAL LICENSE OR BLANKET KENNEL OR CATTERY LICENSE WILL NOT BE ISSUED FOR ANY ANIMAL THAT HAS NOT BEEN SPAYED OR NEUTERED.”**
10. **§1-5-53 IS DELETED AND REPLACED WITH THE FOLLOWING: “VIOLATION OF ANY PROVISION OF THIS CHAPTER IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE-HUNDRED DOLLARS (\$100.00) FOR THE FIRST OFFENSE, TWO-HUNDRED DOLLARS (\$200.00) FOR A SECOND OFFENSE, OR THREE-HUNDRED DOLLARS (\$300.00) FOR A THIRD OR SUBSEQUENT OFFENSE WITHIN A CALENDAR YEAR.”**

#### **SECTION 6.04.020 – ADMINISTRATION AND ENFORCEMENT**

**THE COUNTY SHALL ADMINISTER AND ENFORCE ITS ANIMAL CONTROL REGULATIONS, AS ADOPTED IN SECTION 6.04.010 OF THIS ARTICLE, WITHIN THE TOWN IN THE SAME MANNER AS THEY ARE ADMINISTERED AND ENFORCED IN THE UNINCORPORATED AREAS OF THE COUNTY.**

#### **SECTION 6.04.030 – ADDITIONAL PROVISIONS.**

**SECTION 6.04.010 OF THIS ARTICLE SHALL NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF THE MAYOR AND BOARD OF COMMISSIONERS TO PROVIDE ADDITIONAL ANIMAL CONTROL THROUGH THE ADOPTION OF PROVISIONS TO THIS CHAPTER OR OTHER ORDINANCE.**

#### **SECTION 6.04.040 – PREVAILING LAW**

**ANY INCONSISTENCY BETWEEN THE FREDERICK COUNTY CODE AND AN AMENDMENT OR ADDITIONAL PROVISION SET FORTH IN THIS ARTICLE SHALL BE CONSTRUED IN FAVOR OF THE AMENDMENT OR ADDITIONAL PROVISION.**

**CHAPTER 6.08 – ADDITIONAL ANIMAL CONTROL REGULATIONS.**

**SECTION 6.08.010 – DEFINITIONS.**

- A. IN GENERAL. FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.**
- B. OWN. “OWN” MEANS TO KEEP, HARBOR, OR HAVE CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, OR PERMIT TO BE KEPT, HARBORED OR FED UPON OR WITHIN PREMISES OWNED, LEASED, RENTED OR OCCUPIED BY A PERSON AND DOES NOT REQUIRE ACTUAL LEGAL TITLE OR CLAIM TO THE ANIMAL.**
- C. OWNER. “OWNER” MEANS ANY PERSON KEEPING, HARBORING OR HAVING CHARGE OR CONTROL OF, OR PERMITTING ANY ANIMAL TO HABITUALLY BE OR REMAIN ON, OR BE LODGED OR FED WITHIN BUILDINGS OR LAND OWNED, LEASED, USED OR OCCUPIED BY SUCH PERSON, IRRESPECTIVE OF WHETHER SUCH PERSON HAS LEGAL TITLE OR CLAIM TO THE ANIMAL. “OWNER” DOES NOT INCLUDE VETERINARIANS, KENNEL OPERATORS, OR LIKE PERSONS TEMPORARILY KEEPING ON THEIR PREMISES ANIMALS OWNED BY OTHERS.**

**SECTION 6.08.020 – ANIMAL WASTE.**

- A. DISPOSAL REQUIRED. AN OWNER OR OTHER PERSON WHO HAS POSSESSION OR CONTROL OF A DOG OR OTHER ANIMAL:**
- 1. MAY NOT PERMIT THE ANIMAL FECES TO REMAIN UPON ANY PARK, SIDEWALK, OR OTHER PUBLIC PROPERTY; AND**
  - 2. SHALL PROPERLY DISPOSE OF THE ANIMAL’S FECES. FOR THE PURPOSE OF THIS SECTION, “PROPERLY DISPOSE” MEANS TO PLACE IN A DESIGNATED WASTE RECEPTACLE OR OTHER REFUSE CONTAINER THAT IS REGULARLY EMPTIED BY THE TOWN OR SOME OTHER REFUSE COLLECTOR; OR TO DISPOSE INTO A SYSTEM DESIGNED TO CONVEY DOMESTIC SEWAGE FOR PROPER TREATMENT AND DISPOSAL.**
- B. VIOLATION. VIOLATION OF THIS SECTION IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE-HUNDRED DOLLARS (\$100.00) FOR A FIRST OFFENSE, TWO-HUNDRED DOLLARS (\$200.00) FOR A SECOND OFFENSE, AND THREE-HUNDRED DOLLARS (\$300.00) FOR A THIRD OR SUBSEQUENT OFFENSE PER CALENDAR YEAR.**

**SECTION 6.08.030 – NOISY ANIMALS.**

- A. PROHIBITED. AN INDIVIDUAL MAY NOT OWN ANY ANIMAL WHICH, BY BARKING, HOWLING, OR IN ANY OTHER AUDIBLE MANNER, DISTURBS THE PEACE, ORDER AND QUIET OF THE TOWN.**
- B. VIOLATION. VIOLATION OF THIS SECTION IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00). EACH DAY A VIOLATION CONTINUES IS DEEMED A SEPARATE OFFENSE.**

**CHAPTER 6.12 – LIVESTOCK AND FOWL.**

**SECTION 6.12.010 – DEFINITIONS.**

- A. IN GENERAL. FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.**
- B. LIVESTOCK.**
  - 1. “LIVESTOCK” MEANS ANY DOMESTIC ANIMAL RAISED FOR BUSINESS OR COMMERCIAL PURPOSES OR ANIMALS COMMONLY ASSOCIATED WITH AGRICULTURAL ENTERPRISES, INCLUDING BUT NOT LIMITED TO HORSES, MULES, DONKEYS, BURROS, CATTLE, SWINE, GOATS, SHEEP, LLAMAS, ALPACAS, EMUS, AND OSTRICHES, REGARDLESS OF AGE, SEX, SIZE OR BREED, OR ANY CROSS BREEDING OF SUCH SPECIES. “LIVESTOCK” INCLUDES POULTRY OF ANY KIND, INCLUDING BUT NOT LIMITED TO CHICKENS, PHEASANTS, GUINEAS, TURKEYS, PEACOCKS, DUCKS, AND GEESE.**
  - 2. “LIVESTOCK” DOES NOT INCLUDE DOGS, CATS, FERRETS, RABBITS, OR OTHER ANIMALS COMMONLY OWNED AS HOUSEHOLD PETS.**
- C. OWN. “OWN” MEANS TO KEEP, HARBOR, OR HAVE CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, OR PERMIT TO BE KEPT, HARBORED OR FED UPON OR WITHIN PREMISES OWNED, LEASED, RENTED OR OCCUPIED BY A PERSON AND DOES NOT REQUIRE ACTUAL LEGAL TITLE OR CLAIM TO THE ANIMAL.**
- D. OWNER. “OWNER” MEANS ANY PERSON KEEPING, HARBORING OR HAVING CHARGE OR CONTROL OF, OR PERMITTING ANY ANIMAL TO HABITUALLY BE OR REMAIN ON, OR BE LODGED OR FED WITHIN BUILDINGS OR LAND OWNED, LEASED, USED, OR OCCUPIED BY SUCH PERSON, IRRESPECTIVE OF WHETHER SUCH PERSON HAS LEGAL TITLE OR CLAIM TO THE ANIMAL. “OWNER” DOES NOT INCLUDE VETERINARIANS, KENNEL OPERATORS, OR LIKE PERSONS TEMPORARILY KEEPING ON THEIR PREMISES ANIMALS OWNED BY OTHERS.**

**E. TITLE 17. "TITLE 17" MEANS THE ZONING CODE OF THE TOWN.**

**SECTION 6.12.020 – LIVESTOCK.**

**A. PROHIBITED. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INDIVIDUAL MAY NOT OWN ANY LIVESTOCK IN THE TOWN.**

**B. EXCEPTIONS. THIS SECTION DOES NOT PROHIBIT:**

- 1. LIVESTOCK ON PROPERTY USED EXCLUSIVELY FOR AGRICULTURAL ACTIVITY, AS THAT TERM IS DEFINED IN TITLE 17 OF THE TOWN CODE.**
- 2. LIVESTOCK USED IN CONNECTION WITH COMMERCIAL, INDUSTRIAL, OR EDUCATIONAL PURPOSES, INCLUDING BUT NOT LIMITED TO MEAT PACKING OR PROCESSING FACILITIES, LABORATORIES, OR RETAIL SALES, IN ACCORDANCE WITH TITLE 17 OF THE TOWN CODE.**
- 3. CHICKENS KEPT IN ACCORDANCE WITH CHAPTER 6.16 OF THIS TITLE.**

**C. VIOLATIONS. VIOLATION OF THIS SECTION IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE-HUNDRED DOLLARS (\$100.00) PER ANIMAL. EACH DAY A VIOLATION CONTINUES IS DEEMED A SEPARATE OFFENSE.**

**CHAPTER 6.16 – BACK YARD CHICKENS.**

**6.16.010 – DEFINITIONS.**

- A. IN GENERAL. FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANING INDICATED.**
- B. BACK YARD. "BACK YARD" MEANS THAT PORTION OF A LOT, EXTENDING BETWEEN THE TWO SIDE LOT LINES BETWEEN THE REAR LOT LINE AND A LINE DRAWN PARALLEL THERETO AT THE POINT WHERE THE BACK FAÇADE OF THE DWELLING UNIT IS CLOSEST TO THE REAR LOT LINE.**
- C. CHICKEN RUN. "CHICKEN RUN" MEANS AN ENCLOSED OUTSIDE YARD FOR KEEPING CHICKENS.**
- D. COOP. "COOP" MEANS A STRUCTURE FOR HOUSING CHICKENS MADE OF WOOD OR OTHER SIMILAR MATERIALS THAT PROVIDES SHELTER FROM THE ELEMENTS.**

- E. DEPARTMENT. “DEPARTMENT” MEANS THE TOWN’S PLANNING DEPARTMENT.**
- F. MANAGER. “MANAGER” MEANS THE TOWN MANAGER OR THE MANAGER’S DESIGNEE.**
- G. OWN. “OWN” MEANS TO KEEP, HARBOR, OR HAVE CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, OR PERMIT TO BE KEPT, HARBORED OR FED UPON OR WITHIN PREMISES OWNED, LEASED, RENTED OR OCCUPIED BY A PERSON AND DOES NOT REQUIRE ACTUAL LEGAL TITLE OR CLAIM TO THE ANIMAL.**
- H. OWNER. “OWNER” MEANS ANY PERSON KEEPING, HARBORING OR HAVING CHARGE OR CONTROL OF, OR PERMITTING ANY ANIMAL TO HABITUALLY BE OR REMAIN ON, OR BE LODGED OR FED WITHIN BUILDINGS OR LAND OWNED, LEASED, USED, OR OCCUPIED BY SUCH PERSON, IRRESPECTIVE OF WHETHER SUCH PERSON HAS LEGAL TITLE OR CLAIM TO THE ANIMAL. “OWNER” DOES NOT INCLUDE VETERINARIANS, KENNEL OPERATORS, OR LIKE PERSONS TEMPORARILY KEEPING ON THEIR PREMISES ANIMALS OWNED BY OTHERS.**
- I. TITLE 17. “TITLE 17” MEANS THE ZONING CODE OF THE TOWN.**
- J. PREMISES. “PREMISES” MEANS THE PROPERTY ON WHICH CHICKENS ARE PERMITTED TO BE OWNED UNDER THIS CHAPTER.**

**6.16.020 – GENERALLY.**

- A. PURPOSE. IT IS HEREBY FOUND AND DECLARED THAT THE KEEPING OF CHICKENS IN THE TOWN SUPPORTS A LOCAL, SUSTAINABLE FOOD SYSTEM AS WELL AS PEST CONTROL, ANIMAL COMPANIONSHIP, AND PLEASURE. THIS CHAPTER IS INTENDED TO ALLOW THE KEEPING AND MAINTENANCE OF CHICKENS IN A CLEAN AND SANITARY MANNER THAT IS NOT A NUISANCE OR DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OF THE TOWN.**
- B. SCOPE. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT OWN ANY LIVE CHICKENS EXCEPT IN COMPLIANCE WITH ALL REQUIREMENTS OF THIS CHAPTER. THIS CHAPTER DOES NOT APPLY TO:**
  - 1. OWNING CHICKENS ON PROPERTY USED FOR AGRICULTURAL ACTIVITY AS DEFINED IN TITLE 17.**
  - 2. THE SALE OR USE OF CHICKENS FOR COMMERCIAL, INDUSTRIAL, OR EDUCATIONAL PURPOSES, INCLUDING BUT NOT LIMITED TO POULTRY PACKING OR PROCESSING FACILITIES,**

**LABORATORIES, OR RETAIL SALES, IN ACCORDANCE WITH  
TITLE 17 AND ALL OTHER APPLICABLE REGULATIONS.**

- C. OTHER LAWS. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ELIMINATE THE NEED FOR COMPLIANCE WITH ANY OTHER APPLICABLE LAW OR REGULATION, INCLUDING BUT NOT LIMITED TO THOSE RELATING TO BUILDING, ZONING, PROPERTY MAINTENANCE, AGRICULTURE, OR HEALTH.**
- D. REGISTRATION. CHICKENS OWNED UNDER THIS CHAPTER MUST BE REGISTERED WITH THE STATE DEPARTMENT OF AGRICULTURE, DOMESTIC POULTRY, AND EXOTIC BIRD REGISTRATION DIVISION, PURSUANT TO THE ANNOTATED CODE OF MARYLAND, AGRICULTURE ARTICLE, § 3-804, AS AMENDED.**
- E. PRIVATE COVENANTS. THIS CHAPTER SHALL NOT BE CONSTRUED TO SUPERSEDE OR ALLOW THE VIOLATION OF ANY HOMEOWNERS' ASSOCIATION REGULATIONS, DEED RESTRICTIONS, OR OTHER PRIVATE COVENANTS.**
- F. VESTED RIGHTS. NEITHER THIS CHAPTER NOR A LICENSE ISSUED UNDER THIS CHAPTER CREATES ANY VESTED RIGHTS IN ANY INDIVIDUAL TO OWN OR RAISE CHICKENS.**

**6.16.030 – ADMINISTRATION.**

- A. THE MANAGER MAY DEVELOP AND IMPLEMENT ADMINISTRATIVE REGULATIONS AS NEEDED FOR THE EFFICIENT IMPLEMENTATION AND ENFORCEMENT OF THIS CHAPTER.**

**6.16.040 – LOCATION.**

- A. SUBJECT TO THE PROVISIONS OF THIS CHAPTER, IN ANY ZONING DISTRICT, A PERSON MAY OWN LIVE CHICKENS IN THE BACK YARD OF A RESIDENTIAL LOT CONTAINING:
  - 1. A SINGLE-FAMILY DETACHED DWELLING UNIT; OR**
  - 2. A DUPLEX. FOR PURPOSES OF THIS SECTION, “DUPLEX” MEANS A DWELLING UNIT THAT IS ATTACHED TO ANOTHER DWELLING UNIT BUT SEPARATED BY A VERTICAL PARTY WALL, WHERE EACH DWELLING UNIT IS LOCATED ON ITS OWN LOT AND BOTH DWELLING UNITS ARE SEPARATED FROM ANY OTHER STRUCTURE BY YARDS OR OTHER GREEN AREAS ON ALL SIDES.****
- B. THE LOT MUST HAVE AN AREA OF AT LEAST 2,500 SQUARE FEET.**

**6.16.050 – NUMBER AND TYPE OF CHICKENS.**

- A. A PERSON MAY OWN NO MORE THAN ONE CHICKEN PER EVERY FIVE HUNDRED (500) SQUARE FEET OF BACK YARD AREA, AND A MAXIMUM OF SIX (6) CHICKENS ON ONE LOT.**

**6.16.060 – PERMITS.**

- A. GENERALLY. A PERSON MAY NOT OWN ANY LIVE CHICKEN WITHOUT A VALID PERMIT ISSUED IN ACCORDANCE WITH THIS SECTION.**

**B. PERMIT APPLICATION PROCESS.**

- 1. THE MANGER SHALL CREATE AND PROVIDE APPLICATION FORMS FOR PERMITS. THE INFORMATION REQUIRED BY THE APPLICATION WILL BE THE MINIMUM INFORMATION THAT IS REQUIRED OF ANY APPLICANT, AND WILL INCLUDE THE FOLLOWING:**

- A. THE NAME OF THE APPLICANT, THE ADDRESS OF THE PREMISES UPON WHICH THE CHICKENS WILL BE KEPT, AND IF THE APPLICANT IS NOT THE OWNER OF THE PREMISES, THE NAME AND ADDRESS OF THE PROPERTY OWNER;**

- B. THE BREED AND NUMBER OF CHICKENS TO BE MAINTAINED ON THE PREMISES;**

**C. A SCHEMATIC DRAWING OF THE PREMISES SHOWING:**

- 1. THE LOCATION OR POTENTIAL LOCATION OF THE COOP;**
- 2. THE SIZE OF THE COOP;**
- 3. DISTANCES BETWEEN THE COOP AND THE SIDE AND REAR LOT LINES;**
- 4. THE LOCATION, STYLE, AND HEIGHT OF A CHICKEN RUN, IF APPLICABLE; AND**
- 5. THE LOCATION, STYLE, AND HEIGHT OF ANY OTHER FENCING LOCATED ON THE PREMISES.**

- D. A STATEMENT THAT THE APPLICANT WILL AT ALL TIMES OWN THE CHICKENS IN ACCORDANCE WITH THIS CHAPTER AND ANY PERMIT CONDITIONS PRESCRIBED BY THE DEPARTMENT.**

- 2. ANY PERSON SEEKING A PERMIT SHALL FILE A COMPLETED APPLICATION WITH THE DEPARTMENT.**



- A. THE APPLICATION MUST BE SIGNED BY THE APPLICANT. IF THE APPLICANT IS NOT THE OWNER OF THE PREMISES ON WHICH THE CHICKENS WILL BE KEPT, THE APPLICATION MUST BE SIGNED BY THE PROPERTY OWNER.**
    - B. PERMIT FEES SHALL BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID FOR BY THE APPLICANT AT THE TIME OF APPLICATION.**
  - 3. THE MANAGER SHALL REVIEW A SUBMITTED APPLICATION FOR COMPLIANCE WITH THIS SECTION. IF THE MANAGER FINDS THAT THE APPLICANT MEETS THE REQUIREMENTS OF THIS CHAPTER, THE MANAGER SHALL APPROVE THE APPLICATION AND SHALL ISSUE A CHICKEN PERMIT TO THE APPLICANT. IF THE MANAGER FINDS THAT THE APPLICANT FAILS TO MEET THE REQUIREMENTS OF THIS SECTION, THE MANAGER SHALL DENY THE APPLICATION. AT THE DISCRETION OF THE MANAGER, THE REVIEW CONDUCTED UNDER THIS PARAGRAPH MAY INCLUDE AN INSPECTION OF THE PREMISES.**
- C. CONDITIONS.**
  - 1. A PERMIT ISSUED UNDER THIS SECTION AUTHORIZES THE OWNING OF CHICKENS ONLY BY THE PERMIT HOLDER AND UPON THE PREMISES DESCRIBED IN THE PERMIT.**
  - 2. THE PERMIT HOLDER MUST MAINTAIN A PERSONAL, PRIMARY RESIDENCE ON THE PREMISES ON WHICH THE CHICKENS ARE KEPT. THE PERMIT HOLDER MAY NOT BE ABSENT FROM THE PREMISES FOR A PERIOD OF LONGER THAN THIRTY (30) CONSECUTIVE DAYS.**
  - 3. THE MANAGER MAY ATTACH ADDITIONAL REASONABLE CONDITIONS TO THE PERMIT IF REASONABLY NECESSARY TO PROTECT ANY PERSON OR NEIGHBORING USE FROM UNSANITARY CONDITIONS, UNREASONABLE NOISE OR ODORS, OR TO PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE.**
- D. TERM. A PERMIT ISSUED UNDER THIS SECTION IS VALID UNTIL IT IS REVOKED OR UNTIL THE PERMIT HOLDER REQUESTS, IN WRITING, THAT THE PERMIT BE TERMINATED.**
- E. TRANSFER. CHICKEN PERMITS ARE NOT TRANSFERRABLE TO A NEW CHICKEN OWNER OR TO A NEW PROPERTY ADDRESS.**

**F. VIOLATION. OWNING A LIVE CHICKEN WITHOUT FIRST OBTAINING A LICENSE AS REQUIRED BY THIS SECTION IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00). EACH DAY A VIOLATION CONTINUES IS DEEMED A SEPARATE OFFENSE.**

**6.16.070 – PREMISES REQUIREMENTS.**

**A. ENCLOSURE.**

- 1. CHICKENS MUST BE CONFINED TO THE BACK YARD OF THE PREMISES AT ALL TIMES.**
- 2. IF THE BACK YARD OR PORTION OF THE BACK YARD WHERE THE CHICKENS ARE KEPT IS NOT ENCLOSED BY A FENCE AT LEAST FOUR (4) FEET HIGH, THE CHICKENS MUST BE CONFINED TO A CHICKEN RUN AT ALL TIMES. THE CHICKEN RUN MUST BE EITHER COVERED OR AT LEAST FOUR (4) FEET HIGH.**
- 3. IF THE BACK YARD OR PORTION OF THE BACK YARD WHERE THE CHICKENS ARE KEPT IS ENCLOSED BY A FENCE AT LEAST FOUR (4) FEET HIGH, THE CHICKENS MAY BE PROVIDED WITH A CHICKEN RUN BUT ARE NOT REQUIRED TO BE CONFINED TO THE RUN.**

**B. COOP.**

- 1. IN ADDITION TO THE ENCLOSURE DESCRIBED IN SUBSECTION A OF THIS SECTION, CHICKENS MUST BE PROVIDED WITH A COVERED, PREDATOR-RESISTANT COOP.**
- 2. A COOP MUST BE LOCATED IN THE BACK YARD AND AT LEAST TEN (10) FEET FROM ANY LOT LINE.**
- 3. A COOP MUST BE:**
  - A. AT LEAST FOUR (4) SQUARE FEET, BUT NO MORE THAN TEN (10) SQUARE FEET, PER CHICKEN IN AREA; AND**
  - B. NO MORE THAN SIX (6) FEET IN HEIGHT.**
- 4. A COOP MUST BE PROPERLY VENTILATED, PROVIDE ADEQUATE SHADE FROM THE SUN AND THE ELEMENTS, AND CONSTRUCTED IN A MANNER TO RESIST PREDATORS, INCLUDING DOGS AND CATS.**

**5. A PERMIT HOLDER SHALL ENSURE THAT CHICKENS ARE SECURED WITHIN THE COOP DURING NON-DAYLIGHT HOURS.**

**C. CONDITION. A PERMIT HOLDER SHALL MAINTAIN A CHICKEN RUN AND COOP IN A NEAT, CLEAN, ODOR-FREE, AND SANITARY CONDITION AT ALL TIMES, IN A MANNER THAT WILL NOT DISTURB THE USE OR ENJOYMENT OF NEIGHBORING LOTS DUE TO NOISE, ODOR, OR OTHER ADVERSE IMPACT.**

**D. WASTE STORAGE AND REMOVAL. THE PERMIT HOLDER SHALL ENSURE THAT THE PROPERTY IS KEPT FREE FROM EXCESSIVE ACCUMULATED DROPPINGS AND SHALL PROVIDE FOR THE STORAGE AND REMOVAL OF CHICKEN MANURE. ALL MANURE FOR COMPOSTING OR FERTILIZING MUST BE CONTAINED IN A WELL-AERATED GARDEN COMPOST PILE. ALL OTHER MANURE NOT USED FOR COMPOSTING OR FERTILIZING MUST BE REMOVED.**

**E. OTHER LAWS. A PERMIT HOLDER SHALL COMPLY WITH ANY APPLICABLE LEGAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO OBTAINING ZONING AND BUILDING PERMITS, IF NEEDED.**

**6.16.080 – CARE AND FEEDING OF CHICKENS.**

**A. GENERALLY. A PERMIT HOLDER SHALL KEEP THE PERMIT HOLDER'S CHICKENS IN A HUMANE MANNER AT ALL TIMES.**

**B. WINGS. ALL CHICKENS MUST BE WING-CLIPPED PERIODICALLY TO PREVENT ESCAPE.**

**C. FOOD AND WATER. A PERMIT HOLDER SHALL ENSURE THAT THE PERMIT HOLDER'S CHICKENS HAVE ACCESS TO ADEQUATE AMOUNTS OF CLEAN FOOD AND CLEAN WATER AT ALL TIMES. ALL GRAIN AND FOOD STORED FOR THE USE OF THE CHICKENS SHALL BE KEPT IN A RODENT-PROOF CONTAINER.**

**D. DEATH OF A CHICKEN. IF A CHICKEN DIES, IT MUST BE BURIED OR OTHERWISE DISPOSED OF PROMPTLY AND IN A SANITARY MANNER.**

**6.16.090 – PROHIBITED ACTS.**

**A. CHICKENS LIVING INSIDE. AN INDIVIDUAL MAY NOT OWN A LIVE CHICKEN INSIDE A DWELLING UNIT OR OTHER STRUCTURE EXCEPT FOR THE COOP REQUIRED BY §16.16.070.B.**

**B. CHICKENS RUNNING AT LARGE. A PERMIT HOLDER MAY NOT DELIBERATELY OR NEGLIGENTLY ALLOW CHICKENS TO ESCAPE OUTSIDE THE BACK YARD OF THE PREMISES.**

- C. COMMERCIAL USE PROHIBITED. A PERMIT HOLDER MAY OWN CHICKENS FOR PERSONAL USE ONLY. AN INDIVIDUAL MAY NOT SELL EGGS OR ENGAGE IN CHICKEN BREEDING, MEAT PRODUCTION, OR FERTILIZER PRODUCTION FOR COMMERCIAL PURPOSES.**
- D. SLAUGHTER. A PERMIT HOLDER MAY NOT SLAUGHTER CHICKENS ON THE PREMISES OR ON ANY OTHER RESIDENTIAL PROPERTY. THIS PROHIBITION DOES NOT PRECLUDE A PERMIT HOLDER FROM HAVING CHICKENS SLAUGHTERED AT A FACILITY PROPERLY ZONED AND PERMITTED FOR SUCH USE.**
- E. TRAINING. A PERMIT HOLDER MAY NOT USE OR TRAIN CHICKENS FOR THE PURPOSE OF FIGHTING FOR AMUSEMENT OR SPORT.**
- F. FIGHTING. CHICKEN OR ROOSTER FIGHTING IS PROHIBITED.**

**6.16.100 – ENFORCEMENT.**

- A. MUNICIPAL INFRACTION. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, VIOLATION OF ANY PROVISION OF THIS CHAPTER IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00). FOR VIOLATIONS OF A CONTINUING NATURE, EACH DAY A VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE.**
- B. OTHER LAWS. A VIOLATION OF THIS ARTICLE MAY ALSO CONSTITUTE A VIOLATION OF ANOTHER LAW, SUCH AS THE PROHIBITION AGAINST ANIMALS RUNNING AT LARGE.**
- C. INSPECTIONS. THE MANAGER MAY, AT ALL REASONABLE TIMES AND IN A REASONABLE MANNER, ENTER UPON AND INSPECT THE PREMISES TO DETERMINE WHETHER THE PERMIT HOLDER IS IN COMPLIANCE WITH THIS ARTICLE.**
- D. SUSPENSION OF CHICKEN PERMIT.**
  - 1. THE MANAGER MAY SUSPEND A PERMIT ISSUED UNDER THIS ARTICLE FOR A PERIOD OF UP TO THIRTY (30) DAYS, OR A LONGER PERIOD IF NECESSARY TO CARRY OUT THE INTENT OF THIS ARTICLE, IF THE MANAGER FINDS:**
    - A. THERE IS A RISK TO PUBLIC HEALTH OR SAFETY; OR**
    - B. THE LICENSE HOLDER HAS VIOLATED ANY OF THE PROVISIONS OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO FAILURE TO OBTAIN OR COMPLY WITH A PERMIT ISSUED UNDER THIS ARTICLE.**

2. **UPON SUSPENDING A LICENSE, THE MANAGER SHALL PROVIDE WRITTEN NOTICE TO THE PERMIT HOLDER SETTING FORTH THE GROUNDS FOR THE SUSPENSION, THE EFFECTIVE DATE OF THE SUSPENSION, AND THE LENGTH OF THE SUSPENSION.**
3. **THE MANAGER MAY REINSTATE A PERMIT WHEN THE MANAGER IS SATISFIED THAT THE GROUNDS FOR THE SUSPENSION HAVE BEEN REMEDIED.**

**E. REVOCATION OF CHICKEN PERMIT.**

1. **THE MANAGER MAY REVOKE A LICENSE ISSUED UNDER THIS ARTICLE IF THE MANAGER FINDS:**
  - A. **THE PERMIT HOLDER HAS MISREPRESENTED OR PROVIDED FALSE INFORMATION ON A PERMIT APPLICATION; OR**
  - B. **THE PERMIT HOLDER HAS VIOLATED ANY OF THE PROVISIONS OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO FAILURE TO COMPLY WITH A PERMIT ISSUED UNDER THIS ARTICLE AND THE PERMIT HAS BEEN SUSPENDED WITHIN THE PREVIOUS TWELVE (12) MONTHS UNDER SUBSECTION D OF THIS SECTION.**
2. **UPON REVOKING A PERMIT, THE MANAGER SHALL PROVIDE WRITTEN NOTICE TO THE PERMIT HOLDER SETTING FORTH THE GROUNDS FOR THE REVOCATION AND EFFECTIVE DATE OF THE REVOCATION.**
3. **A NEW CHICKEN PERMIT WILL NOT BE ISSUED TO THE SAME PERMIT HOLDER FOR A PERIOD OF ONE (1) YEAR AFTER REVOCATION.**

**F. REMOVAL OF CHICKENS.**

1. **THE MANAGER MAY IMPOUND OR REMOVE, OR CAUSE TO BE IMPOUNDED OR REMOVED, ANY CHICKENS FOR THE OWNER'S VIOLATION OF THIS ARTICLE. THE OWNER OF THE CHICKENS IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE IMPOUNDMENT OR REMOVAL.**
2. **WITHIN TEN (10) DAYS AFTER RECEIPT OF A NOTICE OF THE SUSPENSION, REVOCATION, OR TERMINATION OF A PERMIT ISSUED UNDER THIS ARTICLE, THE PERMIT HOLDER SHALL REMOVE ALL CHICKENS FROM THE PREMISES.**

**G. NOTICES. ANY WRITTEN NOTICE REQUIRED BY THIS ARTICLE IS DEEMED PROPERLY SERVED IF IT IS DELIVERED PERSONALLY TO THE INDIVIDUAL TO BE SERVED OR IS SENT BY FIRST CLASS MAIL TO THE PERSON'S LAST KNOWN MAILING ADDRESS. FOR PURPOSES OF THIS CHAPTER, THE LAST KNOWN MAILING ADDRESS OF A CHICKEN PERMIT HOLDER IS THE ADDRESS ON FILE WITH THE DEPARTMENT. NOTICE IS DEEMED RECEIVED WHEN IT IS PERSONALLY DELIVERED OR ON THE THIRD BUSINESS DAY AFTER IT IS MAILED.**

**H. REMEDIES NOT EXCLUSIVE. IN ADDITION TO THE REMEDIES SET FORTH IN THIS SECTION, THE TOWN MAY SEEK ANY OTHER REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY.**

**CHAPTER 6.20 – APIARY.**

**6.20.010 – INTENT.**

**A. IT IS RECOGNIZED THAT HONEY BEES ARE BENEFICIAL TO HUMANKIND AND TO MARYLAND IN PARTICULAR BY PROVIDING BOTH HOME GARDEN AND AGRICULTURAL POLLINATION SERVICES AS WELL AS FURNISHING HONEY, BEESWAX, AND OTHER USEFUL PRODUCTS. THE PURPOSE OF THIS CHAPTER IS TO ESTABLISH CERTAIN REQUIREMENTS FOR BEEKEEPING WITHIN RESIDENTIALLY ZONED AREAS WITHIN THE TOWN.**

**6.20.020 – DEFINITIONS.**

- A. “APIARY” MEANS A COLLECTION OF ONE OR MORE COLONIES OF BEES, INCLUDING ALL EQUIPMENT & TOOLS USED IN MAINTAINING AND OPERATING IT.**
- B. “FLYWAY BARRIER” MEANS A WALL, FENCE, VEGETATION, HEDGE, OR COMBINATION THEREOF THAT FORCES BEES TO FLY AT A HIGHER ELEVATION.**
- C. “HIVE” INCLUDES ANY DEPARTMENT APPROVED CONTAINER, WHICH MAY BE USED AS A DOMICILE FOR BEES.**
- D. “HONEY BEE” MEANS ANY STAGE OF THE COMMON DOMESTIC HONEY BEE.**
- E. “NUCLEUS COLONY” MEANS A HIVE THAT DOES NOT EXCEED THE VOLUME OF 50 LITERS (I.E. 10 FRAME STANDARD 9 5/8” DEEP BODY OR LESS).**

**6.20.030 – STANDARDS OF PRACTICE.**

**A. HONEY BEE APIARIES ARE PERMITTED AS AN ACCESSORY USE IN THE CONSERVATION/RECREATION (C-R), RESIDENTIAL SUBURBAN (R-S), LOW-DENSITY RESIDENTIAL (R-1), MEDIUM DENSITY RESIDENTIAL (R-2), HIGH DENSITY RESIDENTIAL (R-3), AND VILLAGE ZONE (VZ) ZONING DISTRICTS WHEN IN COMPLIANCE WITH THE ANNOTATED CODE OF MARYLAND, AGRICULTURE ARTICLE, §§5-501—5-507, AS AMENDED, AND THE FOLLOWING REGULATIONS:**

- 1. NO BEEKEEPERS MAY OWN OR MAINTAIN AN APIARY WITHIN THE TOWN OF EMMITSBURG WITHOUT FIRST REGISTERING AND MAINTAINING A CURRENT REGISTRATION CERTIFICATE FOR ALL APIARIES WITH THE MARYLAND STATE DEPARTMENT OF AGRICULTURE.**
- 2. A BEEKEEPER OWNING OR MAINTAINING AN APIARY IN THE TOWN OF EMMITSBURG SHALL PROMPTLY NOTIFY THE CODE ENFORCEMENT OFFICER WITHOUT UNNECESSARY DELAY, AND IN NO EVENT LONGER THAN 72 HOURS, IF THE DEPARTMENT REVOKES SAID APIARY REGISTRATION OR IF SAID REGISTRATION HAS LAPSED.**
- 3. NO BEEKEEPER SHALL OWN OR MAINTAIN AN APIARY WITHIN THE TOWN OF EMMITSBURG WITHOUT FIRST OBTAINING A REGISTRATION PERMIT FROM THE MUNICIPALITY. AN APPLICATION FOR A ONE-TIME REGISTRATION PERMIT SHALL BE MADE IN WRITING AND UPON SUPPLIED FORM OR IN SUCH FORMAT AS ESTABLISHED BY THE TOWN OF EMMITSBURG. THE APPLICATION SHALL BE ACCOMPANIED BY A LOT PLAN THAT INCLUDES SIZE OF THE LOT, THE LOCATION AND NUMBER OF HIVES, THE LOCATION OF THE WATER SOURCE, THE DISTANCE OF THE HIVES FROM ANY PROPERTY LINES, AND IF REQUIRED, THE LOCATION OF ANY FLYWAY BARRIERS. THE ISSUANCE OF A PERMIT SHALL NOT OBTAIN THE NECESSITY FOR COMPLIANCE WITH ALL OTHER MUNICIPAL ORDINANCES. PERMIT FEES SHALL BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID FOR BY THE APPLICANT AT THE TIME OF APPLICATION.**
- 4. THE APPLICATION FOR A MUNICIPAL PERMIT SHALL ALSO BE ACCOMPANIED BY WRITTEN EVIDENCE THAT THE APPLICANT HAS COMPLETED A BEEKEEPING EDUCATIONAL COURSE/PROGRAM WITH A MINIMUM OF 8 HOURS OF INSTRUCTIONS OR HAS A LETTER OF VALIDATION FROM AN OFFICER OF THE MARYLAND STATE BEEKEEPERS ASSOCIATION, AN OFFICER OF THE FREDERICK COUNTY BEEKEEPING ASSOCIATION, OR A CERTIFIED MASTER BEEKEEPER.**

- 5. BEEKEEPERS THAT WISH TO OWN OR MAINTAIN AN APIARY ON PROPERTY THAT THEY DO NOT OWN MUST INCLUDE WRITTEN PERMISSION FROM THE PROPERTY OWNER OR LANDLORD THAT EXPLICITLY INDICATES THAT THE BEEKEEPER HAS PERMISSION TO OWN OR MAINTAIN AN APIARY ON THE SUBJECT PROPERTY. SUCH WRITTEN PERMISSION SHALL BE SUPPLIED TO THE MUNICIPALITY AS PART OF THE BEEKEEPING REGISTRATION APPLICATION.**

**6.20.040 – LOCATION AND COLONY DENSITY.**

**PLACEMENT OF AN APIARY ON A RESIDENTIAL PROPERTY SHALL CONFORM TO THE FOLLOWING REGULATIONS SO AS TO MINIMIZE AND ELIMINATE ANY POSSIBLE CONCERNS TO ADJOINING NEIGHBORS:**

**A. HIVE LOCATION.**

- 1. LOCATION OF HIVES MUST COMPLY WITH THE FOLLOWING CRITERIA:**

**A. HIVES SHALL NOT BE LOCATED WITHIN TEN FEET (10') OF ANY SIDE OR REAR PROPERTY LINE UNLESS A FLYWAY BARRIER IS IN PLACE OR THE HIVE(S) ARE LOCATED AT LEAST TEN FEET (10') ABOVE GRADE.**

**B. HIVES SHALL NOT BE LOCATED WITHIN A FRONT YARD.**

**C. HIVES SHALL NOT BE LOCATED WITHIN FIFTY FEET (50') OF A PRE-EXISTING SWIMMING POOL OR A PRE-EXISTING KENNELED ANIMAL.**

**D. APIARIES ARE NOT PERMITTED WITHIN TWENTY FEET (20') OF ANY BUILDINGS LOCATED ON ADJACENT PROPERTIES.**

- 2. MAXIMUM NUMBER OF HIVES.**

**A. FOR A PROPERTY WITH A MINIMUM OF 2,000 SQUARE FEET OF LOT AREA, A BEEKEEPER IS PERMITTED TO KEEP TWO (2) HIVES. FOR EACH ADDITIONAL 4,000 SQUARE FEET OF LOT AREA, THE BEEKEEPER IS PERMITTED TWO ADDITIONAL HIVES.**

- 1. EXCEPTIONS. A BEEKEEPER MAY EXCEED THESE REGULATIONS UNDER THE FOLLOWING CONDITIONS:**

**A. AS PART OF NORMAL HONEY BEE COLONY MANAGEMENT, A BEEKEEPER MAY ALSO KEEP, IN ADDITION TO ALLOWABLE STANDARD**



**HIVES, BETWEEN APRIL 15 AND AUGUST 15, TWO NUCLEUS COLONIES PER STANDARD HIVE, PROVIDED THEY ARE USED FOR MANAGING COLONY STRENGTH, TO MINIMIZE REPRODUCTIVE SWARMING, QUEEN REARING, OR SWARM CAPTURE.**

**B. FOR EACH ALLOWED STANDARD HIVE, A SINGLE NUCLEUS HIVE MAY BE KEPT FROM AUGUST 16<sup>TH</sup> TO APRIL 14<sup>TH</sup> TO ALLOW A BEEKEEPER TO MITIGATE WINTER COLONY LOSSES.**

**B. A SUPPLY OF FRESH WATER SHALL BE MAINTAINED IN A LOCATION READILY ACCESSIBLE TO ALL BEE COLONIES ON THE SITE THROUGHOUT THE DAY TO PREVENT BEES FROM CONGREGATING AT NEIGHBORING SWIMMING POOLS OR OTHER SOURCES OF WATER ON NEARBY PROPERTIES BETWEEN APRIL 1 – NOVEMBER 1.**

**6.20.050 – INSPECTION.**

**IF AN INSPECTION IS REQUIRED AS A RESULT OF A NUISANCE COMPLAINT, THE DESIGNATED MUNICIPAL CODE ENFORCEMENT OFFICER WILL INSPECT THE PROPERTY ONLY AND NOT THE BEE HIVES. IT IS RECOMMENDED THAT THE STATE OR LOCAL BEEKEEPING ORGANIZATION BE CONTACTED TO ASSIST IN UNDERSTANDING HOW THE COMPLAINT AROSE AND TO WHAT EXTENT IT IS ACTUALLY CAUSED BY THE HONEY BEES/BEEKEEPER (I.E. “BEE” STINGS ARE OFTEN CAUSED BY YELLOW JACKETS, HORNETS, AND WASPS AND MISTAKENLY BLAMED ON HONEY BEES BECAUSE THE HONEY BEE COLONIES CAN BE SEEN UNLIKE MANY OTHER AGGRESSIVE STINGING INSECTS). A NOTICE OF 48 HOURS SHALL BE GIVEN TO THE BEEKEEPER PRIOR TO ANY INSPECTION.**

**6.20.060 – NUISANCE.**

- A. THE USE OF RECEPTACLES FOR HONEY BEES THAT DO NOT COMPLY WITH THE ANNOTATED CODE OF MARYLAND, AGRICULTURE ARTICLE, §§5-501—5-507, AS AMENDED.**
- B. HIVE PLACEMENT AND RELATED BEE MOVEMENT SUCH THAT THE BEES, WITHOUT PROVOCATION, INTERFERE WITH THE REASONABLE FREEDOM OF MOVEMENT OF PERSONS IN A PUBLIC RIGHT-OF-WAY, OR THE LOCATION OF BEES HAVE A PROVEN IMPACT TO THE GENERAL SAFETY, HEALTH, AND WELFARE OF THE GENERAL PUBLIC.**

**6.20.70 – ENFORCEMENT.**

**MUNICIPAL INFRACTION. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, VIOLATION OF ANY PROVISION OF THIS CHAPTER IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00). FOR VIOLATIONS OF A CONTINUING NATURE, EACH DAY A VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE.**

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

**PASSED** this 2<sup>nd</sup> day of August, 2021

by a vote of \_\_\_\_\_ for, \_\_\_\_\_ against, \_\_\_\_\_ absent, and \_\_\_\_\_ abstain.

ATTEST:  
COMMISSIONERS:

EMMITSBURG BOARD OF

\_\_\_\_\_  
Madeline Shaw, Town Clerk

\_\_\_\_\_  
Timothy O'Donnell, President

**MAYOR**

\_\_\_\_\_ APPROVED \_\_\_\_\_ VETOED

this 2<sup>nd</sup> day of August, 2021.

\_\_\_\_\_  
Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Madeline Shaw, Town Clerk  
Date:

**AGENDA ITEM# 7. Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration:** Presentation at meeting by staff.

AGENDA ITEM POSTPONED  
PER FREDERICK COUNTY REQUEST

**AGENDA ITEM# 8. TENTATIVE – Approval of Rutter’s stream restoration deed easement with Town of Emmitsburg for consideration.**

AGENDA ITEM POSTPONED

**M. SET AGENDA FOR NEXT MEETING: TUES. SEPTEMBER 7, 2021 AT 7:30 PM**

- 1.
- 2.
- 3.
- 4.
- 5.

***Administrative Business:***

- A.
- B.
- C.