



Town of Emmitsburg

Mayor Donald N. Briggs

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

Town Manager
Cathy Willets

Town Clerk
Madeline Shaw

TOWN MEETING AGENDA JANUARY 6, 2020 – 7:30 P.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. FUTURE MEETINGS

Citizen's Advisory Committee Meeting: Tuesday, January 21, 2020 at 7:30 p.m. (Town Office)

Quarterly Planning Commission Meeting: Monday, January 27, 2020 at 7:30 p.m. (Town Office)

Town Council Meeting: Monday, February 3, 2020 at 7:30 p.m. (Town Office)

D. MEETING ITEMS

A. APPROVE MINUTES: DECEMBER 3, 2019 & DECEMBER 16, 2019

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 (DETAILS ATTACHED)

(a) Invitation of Catoctin High School Football Team Regarding State Class 1A Finals.

(b) Announcement of 2019 Holiday House and Business Decorating Contest Winners.

I. CONSENT AGENDA: NONE

J. TREASURER'S REPORT

K. PLANNING COMMISSION REPORT

L. AGENDA ITEMS (DETAILS ATTACHED)

(1). Audit Presentation by Michele Mills.

(2). Final Review and Approval of the FY2020 MHAA Wayside Exhibits for Consideration.

(3). Review Planning Commission Recommendations, Hold a Public Hearing, and Approval of Proposed Ordinance 19-07, which would amend Title 16, Chapter 16.48 – Forest Conservation and Ordinance 19-08, which would amend Title 17, Section 17.20.090 – Commercial District Buffer for Consideration.

(4). Approval of Logging Stand 6 for Consideration.

300A South Seton Avenue • Emmitsburg, Maryland 21727

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

AGENDA ITEMS CONTINUED (DETAILS ATTACHED)

- (5). Approval of Ordinance 20-01, Creation of a Sewer and Water Connection Fee Payment Plan, for Consideration.
- (6). Approval of Resolution 20-04R, Establishing the Terms and Conditions for the Sewer and Water Connection Fee Payment Plan, for Consideration.
- (7). Authorize the Mayor and Town Staff to Seek an Amendment from the General Assembly and Governor to Authorize Implementation of the Small Business Tax Credit for Consideration.
- (8). Amendment to P18-01 Ball Field Reservation Fees for Consideration.
- (9). Ordinance to Amend Title 13.04.170 Water Systems Prohibited Acts Generally for Consideration.
- (10). Amendment of Contract Approving the Sale of 140 South Seton Avenue for Consideration.

M. SET AGENDA FOR NEXT MEETING: FEBRUARY 3, 2020

E. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

F. ADJOURN

A. APPROVE MINUTES: DECEMBER 3, 2019 & DECEMBER 16, 2019

**MINUTES
TOWN MEETING
DECEMBER 3, 2019
EMMITSBURG TOWN OFFICE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Clifford Sweeney, President; Timothy O'Donnell, Treasurer and Vice President; Joseph Ritz III; Frank Davis; and TJ Burns. *Staff Present* - Cathy Willets, Town Manager; Madeline Shaw, Town Clerk; Amy Nail, Code Enforcement Officer; and Zachary Gulden, Town Planner. *Others Present* - Deputy Ben Whitehouse.

I. Call to Order

A quorum being present, Commissioner Clifford Sweeney, President of the Board of Commissioners, called the December 3, 2019 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Approval of Minutes:

Motion: Commissioner O'Donnell motioned to accept the November 4, 2019 town meeting minutes as presented; second by Commissioner Burns. Yeas – 5; Nays - 0. The president declared the motion passed.

Motion: Commissioner Ritz III motioned to accept the November 18, 2019 town meeting minutes as presented; second by Commissioner Davis. Yeas – 5; Nays - 0. The president declared the motion passed.

Police Report:

Deputy Ben Whitehouse presented the police report from November 2019 (exhibit attached). The off-campus Mount student parties were reported to the University. The Board thanked the deputies for attending the Turkey Trot on November 28.

Town Managers Report:

Cathy Willets, Town Manager, read the Town Manager's Report from October 2019 (exhibit in agenda packet). Ms. Willets mentioned the playground equipment removed from Community Park will be rehabbed and re-installed at Memorial Park in spring 2021. The State Highway's MD140 bridge project contractors will work Saturdays until the project is done.

Town Planners Report:

Zachary Gulden, Town Planner, read the Town Planner's Report from October 2019 (exhibit in agenda packet). Mr. Gulden noted the Town was awarded \$55,000 in Community Legacy grant funds for FY2020. The Board requested town staff draft a letter requesting State Highway Administration add sidewalks along MD140 over Rte. 15 connecting the new Rutter's to the rest of Town.

Commissioner Comments:

- Commissioner O'Donnell: He had several phone calls with individuals regarding brown water complaints but explained all individuals he spoke with agreed town staff were professional and proactive in addressing concerns.
- Commissioner Ritz III: He thanked town staff for decorating the Town for Veteran's Day and for the holidays.
- Commissioner Davis: He encouraged the public to call elected officials with any Town concerns.
- Commissioner Burns: He thanked the public for attending the tree lighting ceremony Monday. He encouraged the public to contact any of the Town's elected officials with brown water concerns.
- Commissioner Sweeney: He explained the Lions Club will be hosting a free Christmas event on December 14.

Mayor's Comments:

Mayor Briggs mentioned the Town Office is selling the second annual holiday ornaments for \$10 each. This year's ornaments are pewter and come in a decorative gift box. There are glass bulbs from 2018 available for \$7 each too. Mayor Briggs is working to improve quality of life in Town by raising funds and having staff apply for grants. Mayor Briggs read a letter from prior Town Attorney, John Clapp, thanking the Board for the proclamation and the honored bestowed on him.

Public Comments:

Jack Weller, 8117 Hampton Valley Road - Mr. Weller asked about the timeline of the stand five logging and the payment the Town will receive for the trees. He also asked how much the Town pays per gallon for water from Mount St. Mary's.

Administrative Business:

- I. Amendments to Maryland State Archives Record Retention Schedule's M407 and M408, Originally Adopted as Exhibit B and Exhibit C with Resolution 19-03R, for Consideration:** Ms. Willets explained the Board unanimously approved the adoption of record retention schedules M407 and M408 as exhibits attached to Resolution 19-03R at the October 7, 2019 town meeting; however, the State has requested additional modifications. The resolution does not need to be changed but the Board needs to give approval for the modifications of the exhibits.

Motion: Commissioner Ritz III made a motion to approve the one modification to Exhibit B, Schedule M407, and the three modifications to Exhibit C, Schedule M408, for Resolution 19-03R as presented; second by Commissioner O'Donnell. Yeas – 5; Nays - 0. The president declared the amendments adopted.

Consent Agenda:

The Board gave unanimous consent for the appointment of Glenn Blanchard, Sandy Umbel, Steve Starliper, Amanda Ryder and Shannon Cool to the Parks and Recreation Committee for a 2-year term ending in December 2021. Commissioner Davis stated Cynthia Canadas, David Maze, Matt Myers and Jen Myers have resigned from the Parks Committee. The Board gave unanimous consent for the re-appointment of Dianne Walbrecker to the Board of Appeals for a term ending December 2022.

Treasurer's Report:

Commissioner O'Donnell presented the Treasurer's Report for November 2019 (exhibit in agenda packet). The operating balance forward is \$5,362,256. The top ten check amounts are listed in the agenda packet.

Planning Commission Report:

The last meeting was held on November 25, 2019 to review the Improvement Plan for Rutter's. The plan was tabled at the meeting and will come back to the Commission on December 17, 2019. Mr. Gulden showed a map of the proposed sidewalk locations for the new Rutter's.

II. Agenda Items

Agenda #1 - Review of the FY2020 MHAA Wayside Exhibits for Consideration: Ms. Willets explained the proposed exhibits are part of a future historic walking tour in Town and are partially grant funded. Scott Grove, Grove Public Relations, introduced himself as the contractor who designed the fiscal year 2019 wayside exhibits at the Town Square, Emmet House and Doughboy Statue. The next four exhibits will be on the Great Fire of 1863, Vigilant Hose Company, Chronicle Press building, and Carriage House Inn building. Images of the exhibits were presented on the screen along with a map showing final exhibit locations. The Board requested edits to all the exhibits. The exhibits will be brought back to the Board for final review and approval at the January 2020 town meeting.

Agenda #2 - Staff presentation of proposed ordinance 19-07, which amends Town Code Chapter 16.48 - Forest Conservation. Forward amendment to the Planning Commission for review and recommendation for consideration: Mr. Gulden explained the Board is voting to send the proposed ordinance to the Planning Commission first before it will come back to the Board for a public hearing and final vote. The ordinance is being pursued because the State of Maryland is mandating changes.

Motion: Commissioner O'Donnell motioned to send ordinance series 2019, ordinance number 19-07 to the Planning Commission; second by Commissioner Ritz III. Yeas – 5; Nays - 0. The president declared the motion passed.

Agenda #3 - Staff presentation of proposed ordinance 19-08, which amends Town Code Section 17.20.090 – Buffer Zone Requirements in the B1 Zone. Forward amendment to the Planning Commission for review and recommendation for consideration: Mr. Gulden explained the Board directed town staff to draft an ordinance modifying the commercial buffer zone requirements of the B1 zone at the November 4, 2019 town meeting. The Board must vote to send the proposed ordinance to the Planning Commission first before it will come back to the Board for a public hearing and final vote.

Motion: Commissioner Burns motioned to send ordinance series 2019, ordinance number 19-08 to the Planning Commission; second by Commissioner O'Donnell. Yeas – 5; Nays - 0. The president declared the motion passed.

Agenda #4 - 90-Day Moratorium on Small Cell Towers for Consideration: Commissioner Sweeney announced the item as postponed.

Agenda #5 - Access and Fee Structure for the Emmitsburg Baseball/Softball Fields for Consideration:

Commissioner Davis, Parks and Recreation Committee liaison, explained the proposed changes are a result of discussion with the Parks and Recreation Committee, interested teams and public input. The committee's goal is to bring baseball and softball back to Emmitsburg. The recommendation before the Board is to keep field one open for public usage and give primary usage of field three in the following order: Thurmont Babe Ruth, Mount St. Mary's Club Baseball and Mid-Maryland Travel Baseball. Field four would be used by Catoctin Recreation Softball and fields five, six and seven would have primary usage given to Thurmont Little League. No usage fees would be charged to the teams. *Eric Crouse, Thurmont Babe Ruth, and Justin Gisriel, Thurmont Little League* – stated their support of the proposed field usage. The current Town policy does not allow the fields to be booked seven days in a row to allow the public pick-up access. Ms. Willets requested the leagues submit game and practice schedules to the Town prior to each season. Commissioner O'Donnell suggested having a refundable security deposit for each league and a requirement for the leagues to clean up litter after each event. The Board directed staff to revise policy 2018-01, draft an ordinance, and to waive all fee structures for non-profits with a one-year sunset clause.

Agenda #6 – Approval of Ordinance 19-10, which approves the sale of 140 South Seton Avenue, for consideration: Mayor Briggs explained J&B Real Estate, Inc. has been actively marketing the sale of the residential dwelling at 140 South Seton Avenue since the Board approved the listing agreement at the November 4, 2019 town meeting. The property would be sold for \$165,000 to Amanda Rhodes. Mayor Briggs requested the Board approve the sale for \$165,000 with the ability for the Mayor to negotiate for 5% or \$8,000 net profit. The Board did not approve the Mayor's request to negotiate net profit.

Motion: Commissioner Burns motioned to approve ordinance series 2019, ordinance 19-10, which is the sale of 140 South Seton Avenue at \$165,000; second by Commissioner Davis. Yeas – 5; Nays - 0. The president declared the motion passed.

The Board gave unanimous consent for adding the modification of the pool house renovation contract with Omega Contracting & Consulting, LLC for consideration to the December 16, 2019 town meeting agenda.

Set Agenda Items for January 6, 2020 Town Meeting

1. Audit Presentation by Michele Mills.
2. Final Review and Approval of the FY2020 MHAA Wayside Exhibits for Consideration.
3. Review Planning Commission recommendations, hold a public hearing, and approval of proposed Ordinance 19-07, which would amend Title 16, Chapter 16.48 – Forest Conservation and Ordinance 19-08, which would amend Title 17, Section 17.20.090 – Commercial District Buffer for consideration.
4. Approval of Logging Stand 6 for Consideration.

Administrative Business:

- A. Invitation of Catoctin High School Football Team Regarding State Class 1A Finals

The Board gave unanimous consent accepting the town meeting agenda for December 16, 2019 and January 6, 2020.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner O'Donnell motioned to adjourn the December 3, 2019 town meeting; second by Commissioner Burns. Yeas – 5; Nays - 0. The meeting adjourned at 9:51 p.m.

Respectfully submitted,

Madeline Shaw, Town Clerk
Minutes Approved On:

APPROVE MINUTES: DECEMBER 16, 2019

**MINUTES
BOARD WORKSHOP
DECEMBER 16, 2019
EMMITSBURG TOWN OFFICE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Clifford Sweeney, President; Timothy O'Donnell, Treasurer and Vice President; Joseph Ritz III; Frank Davis; and TJ Burns. *Staff Present* - Cathy Willets, Town Manager; Madeline Shaw, Town Clerk; Amy Nail, Code Enforcement Officer; and Zachary Gulden, Town Planner.

II. Call to Order

A quorum being present, Commissioner Clifford Sweeney, President of the Board of Commissioners, called the December 16, 2019 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

A. Public Comments: None.

B. Agenda Items

Agenda #1 - Modification of the Pool House Renovation Contract with Omega Contracting & Consulting, LLC for Consideration: The pool house renovation project was awarded to Omega Contracting and Consulting, LLC at the August 5, 2019 town meeting. The contract was initially bid and awarded without permitting and plans. Per State of Maryland and Frederick County, the Town must obtain drawings signed by an architect or engineer before the permitting can be approved. Town staff would like the contractor to complete the permitting and drawing requirements. The new contract price would be \$94,140, which is an additional \$27,811 and would include architectural, electrical and plumbing drawings. Even with the additional work the contractor remains the lowest bidder. One contract modification was requested by the Board.

Motion: Commissioner O'Donnell motioned to modify the pool house renovation contract with Omega Contracting and Consulting, LLC and accept the new project cost of \$94,140 for the project; second by Commissioner Davis. Yeas - 5; Nays - 0. The president declared the contract approved.

Agenda #2 - Planning Workshop for Future Economic Development in the Town of Emmitsburg: Town staff reviewed proposed ordinance 20-01 and resolution 20-04R. The proposed legislation was written to parallel Frederick County's legislation and will allow for a sewer and water connection fee payment plan for new businesses with 30 combine taps or more as well as give the Board the ability to waive up to 10% of the total sewer and water connection fees for new businesses or existing businesses with large growth planned. In addition, town staff recommends the Board adopt the Frederick County small business tax credit model for new business or expanding businesses too. The County would administer the tax credit and it must be approved by the Maryland General Assembly prior to execution. Mayor Briggs stated support for the proposed legislation and the pursuit of a Main Street program. Mayor Briggs reached out to the Main Street program about starting an Emmitsburg Main Street program but has not heard back from the organization yet. *Dianne Walbrecker, 535 West Main Street* - Ms. Walbrecker inquired about additional parking in Town and stated the need for more parking. Mr. Gulden explained staff is having difficulty finding empty lots near the town square for parking use. The Board discussed possible parking locations and the need for directional tourism signage. *Pradeep Saini, Broker and Realtor* - Mr. Saini distributed a feasibility study to the Board and requested the Board approve a 30% waiver in water and sewer connection fees for his proposed hotel. The Board did not approve Mr. Saini's request. The Board gave unanimous consent to add the legislation and tax credit proposed by Mayor Briggs and town staff to the next town meeting agenda.

Ms. Willets stated town staff would like to add five more agenda items and one more administrative agenda item to the January 6, 2020 town meeting for a total of eleven items. The Board gave consent.

C. Modification of Next Meeting Agenda for January 6, 2020

1. Audit Presentation by Michele Mills.
2. Final Review and Approval of the FY2020 MHAA Wayside Exhibits for Consideration.
3. Review Planning Commission Recommendations, Hold a Public Hearing, and Approval of Proposed Ordinance 19-07, which would amend Title 16, Chapter 16.48 – Forest Conservation and Ordinance 19-08, which would amend Title 17, Section 17.20.090 – Commercial District Buffer for Consideration.
4. Approval of Logging Stand 6 for Consideration.
5. Approval of Ordinance 20-01, Creation of a Sewer and Water Connection Fee Payment Plan, for Consideration.
6. Approval of Resolution 20-04R, Establishing the Terms and Conditions for the Sewer and Water Connection Fee Payment Plan, for Consideration.
7. Authorize the Mayor and Town Staff to Seek an Amendment from the General Assembly and Governor to Authorize Implementation of the Small Business Tax Credit for Consideration.
8. Amendment to P18-01 Ball Field Reservation Fees for Consideration.
9. Ordinance to Amend Title 13.04.170 Water Systems Prohibited Acts Generally for Consideration.

Administrative Business:

- A. Invitation of Catoctin High School Football Team Regarding State Class 1A Finals.
- B. Announcement of 2019 Holiday House and Business Decorating Contest Winners.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner Burns motioned to adjourn the December 16, 2019 town meeting; second by Commissioner Ritz III. Yeas - 5; Nays - 0. The meeting adjourned at 9:40 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
November 2019
Prepared by Cathy Willets**

Streets:

- Staff conducted monthly street sweeping.
- Staff conducted monthly storm drain inlet cleaning.
- Staff repaired and replaced some street lights.
- Staff put up Christmas decorations around Town and in front of the Community Center.
- Staff put flags up around the square for Veterans Day.
- Staff put new solar lights on the flag pole by the Doughboy statue.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms, etc.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff mowed and trimmed in parks.
- Staff winterized restroom buildings and the concession stand in Memorial Park.
- Staff winterized Dog Park.
- Staff replaced board on Community Park walking trail bridge.

Water:

- Rainbow Lake is at the spillway level (16.6 feet).
- The roughing filters are being backwashed three times a day and the DE filters are being done once per week due to the heavy use during hydrant flushing.
- Well usage is being reduced as lake production has slowly been increased. Well #4 and #5 turned off as of 11/27/19.
- Well levels (optimum level was determined to be May 2011).

	<u>May 2011</u>	<u>November</u>	<u>Change</u>
○ Well #1:	35'	39'	-4
○ Well #2:	8'	12'	-4
○ Well #3:	12'	28'	-16
○ Well #4:	108'	OFF	N/A
○ Well #5:	10'	OFF	N/A

- Water production and consumption. We produced an average of 262,811 GPD. We consumed an average of 216,770 GPD. The difference is "Backwash Water" ... (21.60%).
 - 51.1% of this water came from wells.
 - 5.3% of this water came from Mt. St. Mary's.
 - 43.6% of this water came from Rainbow Lake.

We purchased 419,300 gallons of water from MSM this month.

Wastewater:

- We received about 1.5” of precipitation this month (the average is 3.8”).
 - We have a precipitation SURPLUS of .2” over the last six months. The average precipitation for the period from June 1 through November 30 is 23.2”. We have received 23.4” for that period.

Wastewater Treatment:

- We treated an average of 541,000 gpd (consumed 216,770 gpd) which means that 59.9% of the wastewater treated this month was "wild water".
- We had no spills of untreated sewage in the month of November.
- We did exceed the plant’s design capacity one time in the month of November.
 - 11/01 1,153,000 gpd
- Muffin monster clogged several times in November.
- The WTPP ran smoothly and permit parameters were met or lower than permit.

Trash: Trash pickup will remain Mondays in the month of January.

Meetings Attended:

- 11/01 Conference call with Mayor, Town Planner and Tourism Council re: business incentives.
- 11/01 Met with Mayor.
- 11/04 Attended Town Meeting.
- 11/05 Met with Mayor.
- 11/06 Met with Mayor.
- 11/06 Met with staff regarding proposed pump station at Rutters’ property.
- 11/07 Conference call with Mayor, Town Planner and Middletown Town Manager re: economic development, incentives, water/sewer taps.
- 11/08 Met with Mayor.
- 11/12 Met with Mayor.
- 11/13 Met with Mayor, Town Planner and George Brenton regarding tree plantings.
- 11/13 Met with Mayor.
- 11/18 Met with staff regarding Rutter’s comments on improvement plan.
- 11/18 Met with Mayor.
- 11/18 Attended Town Meeting.
- 11/19 Attended department head meeting.
- 11/19 Attended support staff meeting.
- 11/19 Met with realtor and Mayor regarding the sale of 140 S. Seton Ave.
- 11/21 Met with Mayor.
- 11/21 Met with staff to review building maintenance plan from County.
- 11/22 Conference call with staff and attorney regarding public works agreement.
- 11/22 Met with Town Clerk and architect to review plans/estimate for bathhouse renovation project.
- 11/22 Met with Mayor.
- 11/25 Met with staff to complete review of building maintenance plan from County.

Town Manager's Report Continued...

Noteworthy:

- Staff installed some water meter upgrades.
- Staff addressed brown water and low pressure complaints.
 - Performed lead/copper testing
 - Performed bacteria testing
 - Performed chlorine, turbidity and PH testing
 - Flushed hydrants near problem areas
 - Responded to several resident complaints
 - Reviewed plans for future hydrant flushing as well as installation of blow off valve
- Lagoon liner #3 repaired at WWTP.
- Staff assisted with turkey trot preparations.
- LG Sonic pulled from lake. Meters sent away for calibration.
- Contractor/staff finished installation of well at Saxton property. 8-inch line ready to be shut down.
- Backwash permit renewal at WTP completed.

**PARKING ENFORCEMENT REPORT
NOVEMBER 2019**

Overtime Parking	82
Restricted Parking Zone	6
Street Sweeping	4
Parked in Crosswalk	
Parked on Sidewalk/Curb	
Parked Blocking Driveway	
Parked by Fire Hydrant	
Parked Blocking Street	1
Failure to Park between Lines	
Left Side Parking	2
Total Meter Money	\$ 998.24
Parking Permits	\$ 230.00
Meter Bag Rental	
Parking Ticket Money	\$ 150.00
Total:	\$1,378.24

D. TOWN PLANNER'S REPORT

Town Planner's Report

November 2019

Prepared by Zachary R. Gulden, MPA

1. Board of Commissioners

- Attended BOC meeting on 11/4 & processed pre/post-meeting materials.
- Researched and prepared documents on the following topics for the 11/18 BOC workshop:
 - New business incentive samples;
 - Hotel occupancy (pillow) tax;
 - Emmitt Garden's water plant project;
 - Frederick County municipality tap & impact fee comparison chart;
 - Town tap fee history chart; &
 - Current available tap chart.
- Attended BOC workshop on 11/18 & processed pre/post-meeting materials.
- Researched and prepared the information on the following items for the 12/16 BOC workshop:
 - Sample ordinances/resolutions regarding sewer/water connection fees;
 - Small business tax credit
- Prepared Ordinance 19-07, which amends Town Code Chapter 16.48 - Forest Conservation, for December's BOC meeting.
- Prepared Ordinance 19-08, which amends Town Code §17.20.090 - Commercial District Buffer, for December's BOC meeting.
- Prepared Ordinance #19-10, which authorizes the sale of 140 S Seton Ave, for December's BOC meeting.

2. Grants

- Worked with property owners on the new round of Community Legacy Grant applications.
- Submitted the Chesapeake Bay Trust storm drain-marking program grant final report.
- Started working on the Community Development Block Grant application and prepared:
 - Resolution 20-01R – Citizen Participation Plan
 - Resolution 20-02R – Residential Anti-Displacement & Relocation Assistance Plan.
 - Resolution 20-03R – Authorizing the submittal of the CDBG application.

3. Municipal Separate Storm Sewer System (MS4)

- Created a reforestation deed of easement / maintenance covenants and agreement for the tree planting projects.
- Met with George Brenton, Daughters of Charity, on 11/5 regarding tree-planting project.
- Met with Stream Link Education on 11/13 regarding tree-planting project.

4. Permits & Zoning

- Processed the following zoning applications:
 - 1x carport.
 - 3x roof.
- Processed 9 cross connection permits.
- Created a firewood permit tracking log.

5. Planning Commission (PC)

- Processed & provided a staff report on the Rutter's Store #84 Improvement Plan. for 11/25 meeting.
- Worked with Town Attorney on the Rutter's pump station public works agreement.
- Attended PC meeting on 11/25 & processed pre/post-meeting materials.
- Reviewed and approved the corrected final Dunkin' Site Plan.
- Prepared materials and staff memo for the 12/17 PC meeting:
 - Rutter's Improvement Plan
 - Proposed Amendment 19-07 – Forest Conservation
 - Proposed Amendment 19-08 – Commercial District Buffer

6. Miscellaneous

- Completed the Geographic Information System (GIS) course with Penn State World Campus, which was an after work activity.
- Met with Town Clerk & Town Manager on 11/4.
- Recorded the 140 S Seton Ave subdivision.
- Create a new address for the Rutter's lot and notified all appropriate parties.
- Attended the Green Team meeting on 11/6.
- Met with Town Manager, Public Works Director, and Sewer/Water Superintendent on 11/6.
- Met with Town Manager and Town Mayor on 11/7.
- Met with Town Manager, Public Works Director, & Sewer/Water Superintendent on 11/18.
- Attended a department head meeting on 11/19.
- Attended the EBPA breakfast on 11/21 & was the keynote speaker.
- Met with Town Manager, Director of Public Works, Sewer/Water Superintendent, & Town Clerk on 11/22.

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

Meetings:

- 11/01 Conference call with Town Manager, Town Planner and Tourism Council re: business incentives.
- 11/01 Met with Town Manager.
- 11/04 Attended Town Meeting.
- 11/05 Met with Town Manager.
- 11/06 Met with Town Manager.
- 11/07 Conference call with Town Manager, Town Planner and Middletown Town Manager re: economic development, incentives, water/sewer taps.
- 11/08 Met with Town Manager.
- 11/12 Met with Town Manager.
- 11/13 Met with Town Manager, Town Planner and George Brenton regarding tree plantings.
- 11/13 Met with Town Manager.
- 11/18 Met with Town Manager.
- 11/18 Attended Town Meeting.
- 11/19 Met with realtor and Town Manager regarding the sale of 140 S. Seton Ave.
- 11/21 Met with Town Manager.
- 11/22 Met with Town Manager.

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS

- (a) **Invitation of Catoctin High School Football Team Regarding State Class 1A Finals:** Presentation at meeting by Mayor Briggs.



PROCLAMATION

HONORING THE 2019 CLASS 1A STATE FOOTBALL CHAMPIONS: CATOCTIN HIGH SCHOOL

WHEREAS, in 2019 the Catoctin High School “Cougars” fielded a true team in every sense of the word, with 46 highly skilled and united football players and 10 outstanding coaches; and

WHEREAS, the Cougar Football Team completed a regular season with 13 wins and 1 loss; and

WHEREAS, the Catoctin Cougars won a hard-fought 31 to 8 victory over the Dunbar Poets on December 7, 2019 at the Navy-Marine Corps Memorial Stadium; and

WHEREAS, the hard work, dedication, sportsmanship, talent and exceptional team chemistry of the Catoctin High School varsity football team has enabled these student athletes to earn the 2019 Class 1A State Championship title; and

WHEREAS, Head Coach Doug Williams, Assistant Coach Paul DuMars and the entire coaching staff, team member parents, faculty and student body at Catoctin High School were integral in guiding the team to victory through their unwavering support; and

WHEREAS, the Mayor, Board of Commissioners and citizens of the Town of Emmitsburg are pleased to publicly commend and recognize the “STATE CHAMPIONS.”

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland do hereby cognize and congratulate the 2019 Catoctin High School varsity football team for winning the 2019 Class 1A State Championship.

ADOPTED this 6th day of January, 2020.

Donald N. Briggs
Mayor

Clifford L. Sweeney, President
Board of Commissioners

(b) **Announcement of 2019 Holiday House and Business Decorating Contest**
Winners: Presentation by town staff and Mayor Briggs.

Most Traditional (Simple but Festive):

First Place:	Joseph & Vicky Simmel	1315 Huntley Circle
Second Place:	Hogg Family	1012 Flat Run Court
Honorable Mention:	Tracy Lewis	119 DePaul Street

Most Decorative (Bright, Flashing, Sparkly, Etc.):

First Place:	Ronald Rogers	1303 Huntley Circle
Second Place:	Lori Reifsnider	13 Zanella Drive
Honorable Mention:	Ed Wantz	217 East Main Street

Best Business (We Have Over 90+ Businesses):

First Place:	Carriage House Inn
Second Place:	My Father's Footsteps
Honorable Mention:	Stavros's

First Place Prize: \$75.00

Second Place Prize: \$50.00

****** Thank you to the Emmitsburg Business and Professionals Association (EBPA) for donating the prize money for the contest.**

I. CONSENT AGENDA

NONE

J. TREASURER REPORT

**Town of Emmitsburg
CASH ACTIVITY as of December 27, 2019**

\$5,425,524	Cash Balance December 1, 2019
232,634	Deposits
<u>-268,529</u>	Withdrawals
\$5,389,629	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>
\$65,278	State Retirement & Pension System of MD	FY20 MD Pension System Contribution	12.11.19	40509
\$19,475	MD Dept of Budget & Mgmt	Nov 19 Health Insurance	12.04.19	40486
\$17,384	Chesapeake Employers Insurance	CY20 Workmans Compensaton Insurance	12.18.19	40542
\$10,100	TFJ Excavating	140 South Seton Ave - Concrete	12.11.19	40521
\$8,324	UGI Energy Services	Nov 19 Solar Field #2	12.18.19	40565
\$8,313	UGI Energy Services	Nov 19 Solar Field #1	12.18.19	40565
\$8,250	Baker Tree Service	Tree Removal	12.11.19	40502
\$6,585	Innova Disc Golf	Emmitsburg Disc Golf	12.04.19	40483
\$6,573	Republic Services	Dec 19 Refuse Services	12.11.19	40500
\$4,169	Frederick County DUSWM	Nov 19 Tipping Fees	12.11.19	40506

Check dates 11.27.19 to 12.27.19

K. PLANNING COMMISSION REPORT: Presentation at the meeting.

Last Meeting: Tuesday, December 17, 2019

L. AGENDA ITEMS:

- AGENDA ITEM #1. Audit Presentation by Michele Mills:** Presentation at meeting by Michele Mills, Certified Public Accountant with DeLeon & Stang CPAs and Advisors.

AGENDA ITEM #2. Final Review and Approval of the FY2020 MHAA Wayside Exhibits for Consideration: Presentation at meeting by town staff.

As part of a FY2020 Maryland Heritage Areas Authority (MHAA) grant, the Town was awarded \$12,032 to create four (4) wayside exhibits on the history of the:

1. Great Fire of 1863 (North East Quadrant of Town Square)
2. Vigilant Hose Company
3. Chronicle Press Building
4. Carriage House Inn Building

Long term goal: Create a historic walking tour in Town.

*Draft wayside exhibits can be seen on the following pages. Larger hard copies will also be provided at the town meeting and displayed in color on the projector.

DRAFT: The Great Fire of 1863

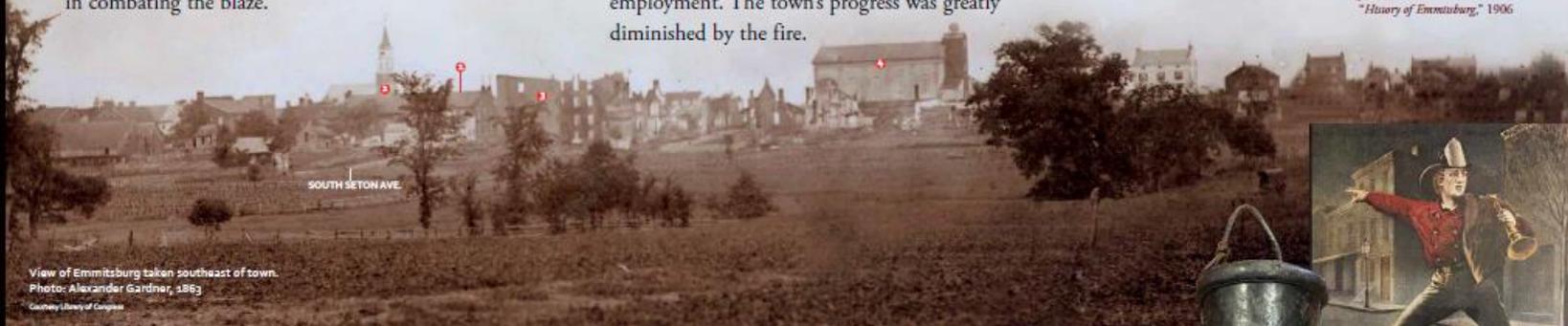
The Great Fire of 1863

On the night of June 15, 1863, approximately 40 homes and businesses were destroyed or damaged by a fire that started at the Beam and Guthrie Stable near the corner of W. North Street and N. Seton Avenue. Local residents and Mount St. Mary's College students joined town firefighters in combating the blaze.

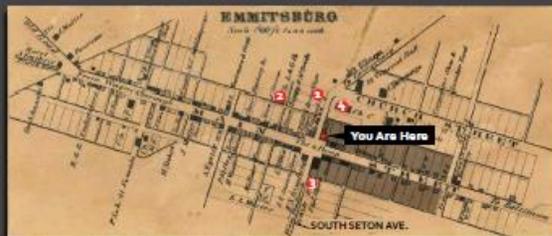
It is believed that one-quarter of the town was destroyed with 55 families left homeless. Evidence of the destruction is seen in this photo taken several weeks after the fire. Nearly seventy percent of the town's workers had to leave Emmitsburg for employment. The town's progress was greatly diminished by the fire.

"Oh, the desolation a fire makes; most of the people lost their all, and never recovered."

—James Helman
"History of Emmitsburg," 1906



View of Emmitsburg taken southeast of town.
Photo: Alexander Gardner, 1863
Courtesy Library of Congress



- 1 Fire started here
- 2 Elias Evangelical Lutheran Church
- 3 Western Maryland Hotel
- 4 St. Joseph's Roman Catholic Church

Shaded areas represent approximate areas impacted by the fire.

Southwestern breezes blew sparks from the stable fire to buildings on three corners of the town square. The fire ravaged buildings on the first two blocks of East Main Street, destroying most buildings. Most of the construction on these blocks is post-1863.

Map of Frederick County, MD, Isaac Bond, 1863, courtesy Library of Congress.



On June 29, 1863 the Western Wing of the U.S. Army of the Potomac marched into Emmitsburg, ultimately enroute to the Battle of Gettysburg (July 1-3). Soldiers initially believed Confederate forces had burned the town. Following the battle, General George Meade led his U.S. troops through Emmitsburg on July 7 in pursuit of the Confederate army.

"March of Lee's Army" Scene of Union Army on the road near Emmitsburg, following the Battle of Gettysburg, marching through the rain. (American Legion, Library of Congress, 1863)



Original Vigilant Hose Company leather bucket, circa 1860.

Courtesy Vigilant Fire Company



Until the early 20th century, fire was the most frequent and deadly natural calamity. Prior to more modern equipment in the late 1800s, firefighting was done by the general public who formed bucket brigades, spanning a water source to the scene of the fire.

The American firemen, rushing to the conflict, 1861, Corlier & Lee, courtesy VHC.



This approved marker is part of the Maryland Heritage Area Authority.

DRAFT: Vigilant Hose Company



Vigilant Hose Company

Each day, members of the Vigilant Hose Company put service above self by responding to the firefighting and emergency needs of Emmitsburg and beyond. Its all-volunteer company of 100 trained professionals responds to some 100 calls a month.

Vigilant Hose Company has the honor of being the most visited firehouse in America. This, due in large part to the firefighters from across the country who seek out their local colleagues while completing coursework at the nearby National Fire Academy.

The company's operation and firehouse maintenance is fully funded by its members and the unwavering support of some 50 auxiliary members who host fundraising events annually that are enjoyed by the community.



Members of the Vigilant Hose Company (and several children) in Emmitsburg's town square. Photo taken looking north across West Main Street, July 4, 1929.



19th century speaking trumpet, used by officers to amplify their voices during a fire.



Edward Hoka Rowe, first president of the VHC.

"FOREVER VIGILANT"

Original 1884 VHC ledger containing bylaws and signatures of its original members.



1929 Ford engine with a front mount pump—the company's first motorized apparatus. Now owned by the Rocky Ridge Volunteer Fire Company.



VHC fireman's helmet worn from 1890s-1910s.



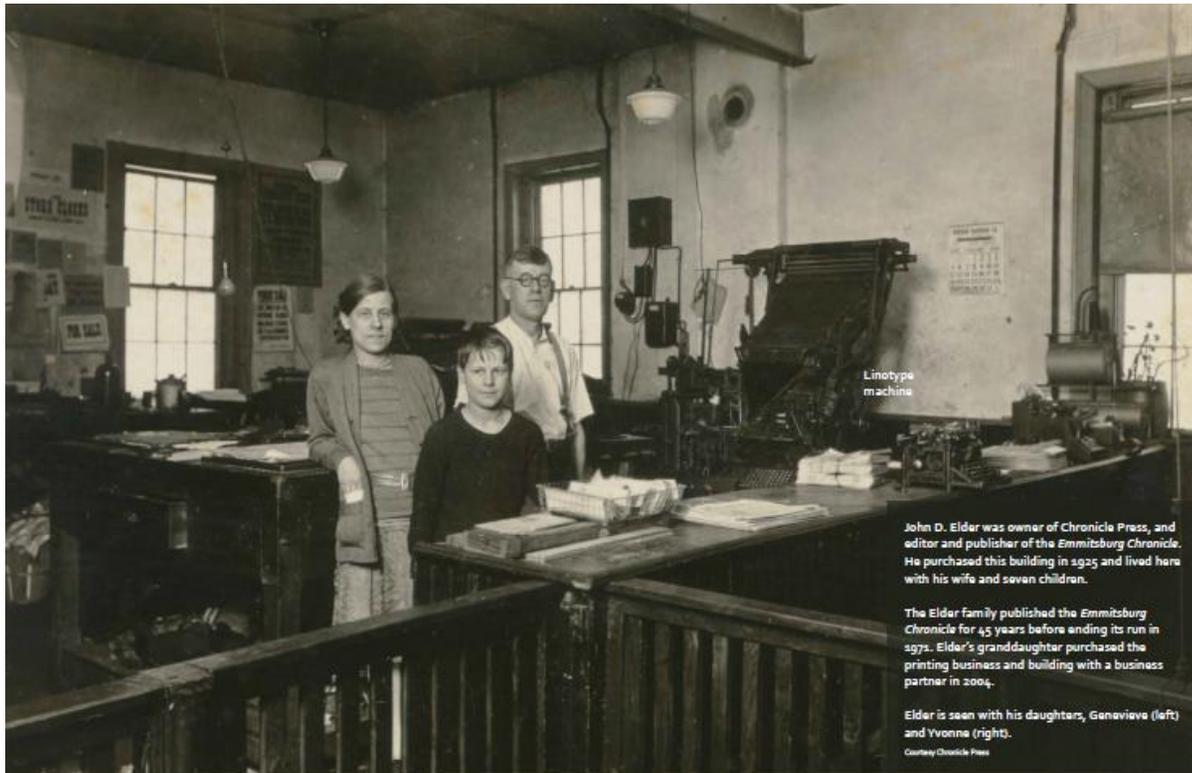
1945 VHC Ford Fire Engine in service until 1983. On permanent loan to Frederick County Fire and Rescue Museum.

All photographs courtesy of Vigilant Hose Company and the Frederick County Fire and Rescue Museum.

VHC has also maintained an active Fire-Police unit since the 1920s, which supports countywide law enforcement agencies. The VHC also oversees all community Emergency Medical Services.



DRAFT: Chronicle Press



Linotype machines

John D. Elder was owner of Chronicle Press, and editor and publisher of the Emmitsburg Chronicle. He purchased this building in 1925 and lived here with his wife and seven children.

The Elder family published the Emmitsburg Chronicle for 45 years before ending its run in 1971. Elder's granddaughter purchased the printing business and building with a business partner in 2004.

Elder is seen with his daughters, Genevieve (left) and Yvonne (right).

Courtesy Chronicle Press



Students and teachers pose in front of this building, originally Emmitsburg High School #3, constructed in 1884. Chronicle Press moved here from its offices on West Main Street in 1925. A new high school was constructed at 308A South Seton Avenue, now the Emmitsburg Community Center.

Emmitsburg High School #3, originally a one-story building.

Courtesy Chronicle Press



Prior to the 1970s, Linotype machines were used in the production of newspapers. The Linotype output lines of type made from molten metal that were assembled into a form. A New York Times composing room employee is seen assembling a form.

Mary Collins, 1965, Library of Congress.

Chronicle Press

Before the early 1930s, the newspaper was the only source Americans had to get their news. In smaller communities, newspapers were often published by locally-owned commercial print shops. This was the case with the *Emmitsburg Chronicle*, founded in 1879.

From its pages, people learned state and national news, as well as happenings involving community residents. The *Emmitsburg Chronicle* ceased publication in 1971 following a run of 87 years. Its commercial printing operations continued.

Issue of Emmitsburg Chronicle, courtesy SA Glass and The Turkey Corporation.



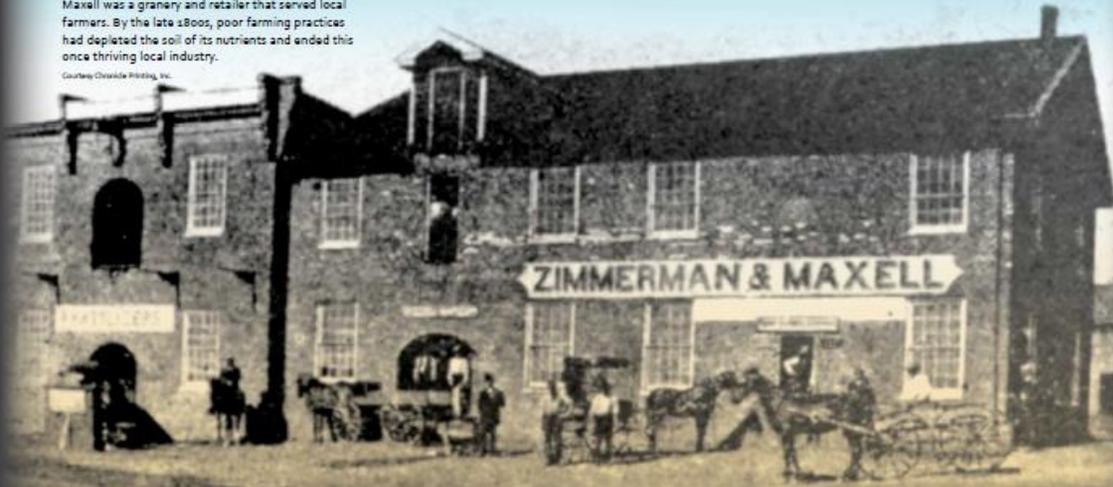
DRAFT: Carriage House Inn Building

A Building With Many Lives

Constructed in 1857, this building has served changing needs over time.

Zimmerman & Maxell - 1877
By 1790, Frederick County was the largest wheat-producing county in the 13 states. Zimmerman & Maxell was a granary and retailer that served local farmers. By the late 1800s, poor farming practices had depleted the soil of its nutrients and ended this once thriving local industry.

Courtesy Chronicle Printing, Inc.



Courtesy Carriage House Inn

Restaurant History

1953: The White House restaurant opened and also offered overnight accommodations in the building. Later it was known as Bucher's Restaurant & Motel, expanding with a detached row of motel rooms.

1980: The building was purchased by the James Hance family, restaurant owners, who relocated their Montgomery County restaurant here, and soon after renamed it Carriage House Inn.



Emmitsburg Broom Factory - 1907
Broom making was an important American industry from the late 1700s-1980s. Brooms were made from broom corn. The Emmitsburg factory was managed by Jacob Winegardner one of five business owners. The factory produced more than 400 brooms per day.

Emmitsburg, Indiana Textile, L.M. Hite, 1911
Courtesy Library of Congress.



Emmitsburg Canning Company
Canning became a major Maryland industry in the late 1800s-1970s with some 20 canneries operating in Frederick County. During the 1920s, the Emmitsburg Canning Company, which canned tomatoes, beans and apples, was located on the property.

Courtesy Heritage Frederick

Bus Depot
The location also served as a Trailways bus stop during the 1950s and 1960s.



Courtesy Trailways



This sign was funded in part by the Maryland Heritage Area Authority.

AGENDA ITEM #3. Review Planning Commission Recommendations, Hold a Public Hearing, and Approval of Proposed Ordinance 19-07, which would amend Title 16, Chapter 16.48 – Forest Conservation and Ordinance 19-08, which would amend Title 17, Section 17.20.090 – Commercial District Buffer for Consideration: Presentation at meeting by town staff.

Note: Planning Commission recommended approval of Ordinance 19-07 without comment at their 12/17/19 meeting.

ORDINANCE SERIES: 2019
ORD. NO: 19 – 07

Page 27 of 38

AN ORDINANCE TO AMEND
TITLE 16
OF THE CODE OF EMMITSBURG
ENTITLED
SUBDIVISIONS

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 Chapter 16.48 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 16.48 - Forest Conservation

ARTICLE I - PURPOSE AND GENERAL PROVISIONS

16.48.010 - PURPOSE

ARTICLE II - FOREST AND TREE CONSERVATION DEFINITIONS

16.48.020 - DEFINITIONS

ARTICLE III - APPLICATION

16.48.030 - APPLICABILITY

16.48.040 - DECLARATION OF INTENT

ARTICLE IV - GENERAL REQUIREMENTS

16.48.050 - GENERAL REQUIREMENTS

ARTICLE V - FOREST STAND DELINEATION

16.48.060 - CRITERIA

ARTICLE VI - FOREST CONSERVATION PLAN

16.48.070 – GENERAL PROVISIONS

16.48.080 – PRELIMINARY FOREST CONSERVATION PLAN

16.48.090 – FINAL FOREST CONSERVATION PLAN

ARTICLE VII – AFFORESTATION AND RETENTION

16.48.100 – AFFORESTATION REQUIREMENT

16.48.110 – RETENTION

ARTICLE VIII - REFORESTATION

16.48.120 – FOREST CONSERVATION THRESHOLD

ARTICLE IX - PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND REFORESTATION

- 16.48.130 – SEQUENCE FOR AFFORESTATION AND REFORESTATION**
- ARTICLE X - PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION**
- 16.48.140 – FOREST CONSERVATION FUND**
- ARTICLE X-1 – PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK**
- 16.48.150 – USE OF FOREST MITIGATION BANK**
- ARTICLE X-2 – ESTABLISHING FOREST MITIGATION BANKS.**
- 16.48.160 – FOREST MITIGATION BANKS.**
- ARTICLE XI - RECOMMENDED TREE SPECIES**
- 16.48.170 – RECOMMENDED TREE SPECIES LIST**
- ARTICLE XII – FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION**
- 16.48.180 – BONDING**
- ARTICLE XIII - STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION**
- ACTIVITIES**
- 16.48.190 – PROTECTION DEVICES**
- ARTICLE XIV - VARIANCES**
- 16.48.200 – PROCEDURE**
- ARTICLE XV - PENALTIES**
- 16.48.210 – ENFORCEMENT**
- ARTICLE XVI - ANNUAL REPORT**
- 16.48.220 – ANNUAL REPORT**
- ARTICLE XVII - BIENNIAL REVIEW BY THE DEPARTMENT OF NATURAL RESOURCES**
- 16.48.230 – BIENNIAL REVIEW**

~~[Article 1.— General Provisions]~~

~~[16.48.010— The initial state of subdivision submittal process.]~~

~~[A.— Information Required. At a minimum, the initial consultation with the commission charged with review of subdivision shall include the following items. Additional information may be required.]~~

~~[B.— A forest stand delineation, if required by Section 12-202, Annotated Code of Maryland. If a forest stand delineation is required, it shall be complete and correct before a preliminary plan is submitted.]~~

~~[16.48.020— The preliminary subdivision plan.]~~

~~[A.— Information Required. At a minimum, the preliminary plan shall include the following items. Additional information may be required because of site-specific conditions.]~~

~~[1.— Proposed Development. A forest conservation plan, if required by Section 12-202, Annotated Code of Maryland.]~~

~~[B.— Approval Procedure.]~~

~~[1.— If a forest conservation plan is required by Section 12-202, Annotated Code of Maryland, the preliminary plan shall not be approved until the forest conservation plan has been approved by the planning commission.]~~

ARTICLE I - PURPOSE AND GENERAL PROVISIONS.

16.48.010 – PURPOSE.

A. The Town’s Board of Commissioners has determined that to meet the requirements of Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland, the provisions of this [~~Ordinance~~] **CHAPTER** must be enacted.

~~[Article 2.— Sediment Control~~

~~16.48.030— Application for permit.~~

~~The plans accompanying the application shall be prepared and certified by a professional engineer or land surveyor, including landscape architects or architect. The standards and specifications shall serve as the standards for erosion and sediment control in Frederick County for activities other than forest harvest operations. The plans shall contain the following:~~

~~A.— If required by Section 12-202, Annotated Code of Maryland, a forest stand delineation and a forest conservation plan.~~

~~16.48.040— Conditions for issuance of permit.~~

~~If a forest conservation plan is required by Section 12-202, Annotated Code of Maryland, the zoning administrator may not issue a permit until a forest conservation plan has been approved by the planning and zoning commission.~~

~~Article 3.— Construction~~

~~16.48.050— Application for grading permit.~~

~~The plans accompanying the application shall be prepared and certified by a professional engineer or land surveyor, including landscape architects or architect. The plans shall contain the following:~~

~~A.— If required by Section 12-202, Annotated Code of Maryland, a forest stand delineation and a forest conservation plan.~~

~~16.48.060— Conditions for issuance of grading permit.~~

~~If a forest conservation plan is required by Section 12-202, Annotated Code of Maryland, the zoning administrator may not issue a permit until a forest conservation plan has been approved by the planning and zoning commission.~~

~~Article 4.— Forest and Tree Conservation]~~

~~[16.48.070]~~ **ARTICLE II - FOREST AND TREE CONSERVATION** Definitions.

16.48.020 – DEFINITIONS.

In this ~~[section]~~ **CHAPTER**, the following terms have the meanings indicated:

"Afforestation" means:

1. ~~[The]~~ Establishment of ~~[the tree cover]~~ **A FOREST** on an area from which ~~[it]~~ **FOREST COVER** has ~~[always or very long]~~ been absent **FOR A LONG PERIOD OF TIME**; or ~~[the]~~
2. Planting of open areas which are not presently in forest cover.

“AGRICULTURAL ACTIVITY” MEANS FARMING ACTIVITIES INCLUDING PLOWING, TILLAGE, CROPPING, INSTALLATION OF BEST MANAGEMENT PRACTICES, SEEDING, CULTIVATING, AND HARVESTING FOR PRODUCTION OF FOOD AND FIBER PRODUCTS (EXCEPT COMMERCIAL LOGGING AND TIMBER HARVESTING OPERATIONS), THE GRAZING AND RAISING OF LIVESTOCK, AQUACULTURE, SOD PRODUCTION, ORCHARDS, NURSERY, AND OTHER PRODUCTS CULTIVATED AS PART OF A RECOGNIZED COMMERCIAL ENTERPRISE.

“AGRICULTURAL AND RESOURCE AREAS” MEANS THE CONSERVATION/RECREATION (CR) EMMITSBURG ZONING CLASSIFICATION.

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

"Approved forest management plan" means a document:

1. Approved by the Department of Natural Resources forester assigned to the county in which the property is located; and
2. Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, ~~[Section]~~ §§5-1607(e)—(f), Annotated Code of Maryland.

"Caliper" means the diameter measured two inches above the root collar.

"Champion tree" means the largest tree of its species within the United States, the State, county or municipality.

~~["Champion tree of the state" means a tree which appears in the state forest conservation manual list of state champion trees.]~~

"Commercial and industrial uses" ~~[includes]~~ **MEANS** manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas, and corresponds to Emmitsburg's **NEIGHBORHOOD COMMERCIAL (B-1), GENERAL COMMERCIAL (B-2), INDUSTRIAL PARK (IP), AND OFFICE, RESEARCH, AND INDUSTRIAL (ORI)** ~~[and HS]~~ zoning classifications.

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

"Commission" means Emmitsburg's Planning ~~[and zoning]~~ Commission.

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

1. Be likely to contribute to the long-term survival of the species;
2. Be likely to be occupied by the species for the foreseeable future; and
3. Constitute habitat of the species which is ~~[deemed]~~ **CONSIDERED** critical under **NATURAL RESOURCES ARTICLE**, ~~[Title 4, Subtitle 2A, Section 6, Section]~~ §§4-2A-04 and ~~[Section]~~ 10-2A-06 ~~[of the Natural Resources Article,]~~ Annotated Code of Maryland.

"Critical habitat for endangered species" means a habitat occupied by an endangered species as determined or listed under ~~[Section]~~ **NATURAL RESOURCES ARTICLE**, §§4-2A-04~~[-Section]~~ **AND** ~~[10-2A-04]~~ **10-2A-04**, ~~[of the Natural Resources Article,]~~ Annotated Code of Maryland.

"Declaration on intent" means:

1. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - a. Is for certain activities exempted under this Chapter or Natural Resources Article, ~~[Section]~~ §§5-103 and 5-1601—5-1612, Annotated Code of Maryland~~[-];~~
 - b. Does not circumvent the requirements of this Chapter or Natural Resources Article, ~~[Section]~~ §§5-103 and 5-1601—5-1612, Annotated Code of Maryland~~[-];~~ **AND**
 - c. Does not conflict with the purpose~~S~~ of any other declaration of intent; or
2. The document required under COMAR 08.19.01.05 or this Chapter.

"Department" means the ~~[town of Emmitsburg planning and zoning commission]~~ **DEPARTMENT CHARGED WITH IMPLEMENTING THE TOWN'S FOREST CONSERVATION PROGRAM.**

[¹] Development Project. [²]

1. "Development project" means the grading or construction activities occurring on a specific tract that is ~~[twenty thousand (20,000)]~~ **FORTY THOUSAND (40,000)** square feet or greater.
2. "Development project" includes redevelopment.

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

1. The release of the development bond, if required;
2. Acceptance of the project's streets, utilities, and public services by the Commission; or
3. Designation by the ~~[Commission]~~ **DEPARTMENT** or State that a:
 - a. Development project has been completed, or
 - b. Particular stage of a staged development project, including a planned unit development, has been completed.

FOREST.

1. "Forest" means a biological community dominated by trees and other woody plants covering a land area of ten thousand (10,000) square feet or greater.
- ~~[1-]~~ 2. "Forest" includes:
 - a. Areas that have at least one hundred (100) **LIVE** trees per acre with at least fifty (50) percent of those trees having a two inch or greater diameter at 4.5 feet above the ground and larger; and
 - b. ~~[Forest]~~ Areas that have been cut but not cleared.
- ~~[2-]~~ 3. "Forest" does not include orchards.

"Forest Conservancy District Board" means the forestry board created for each State forestry conservancy district under Natural Resources Article, [~~See~~] §§5-601—[~~6-610~~] **5-610**, Annotated Code of Maryland.

"Forest conservation" means the retention of existing forest or the creation of new forest at the levels [~~prescribed by the town planning and zoning commission~~] **SET BY THE STATE OR DEPARTMENT.**

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

"Forest conservation plan" means a plan approved pursuant to [~~Section 16.48.120~~] **NATURAL RESOURCES ARTICLE, §§5-1606 AND 5-1607, ANNOTATED CODE OF MARYLAND AND TOWN CODE CHAPTER 16.48.**

"Forest Conservation Technical Manual" means the [~~Maryland~~] State **OF MARYLAND'S FOREST CONSERVATION** Technical Manual, **THIRD ADDITION, 1997, AS IT MAY BE AMENDED, AND OTHER SPECIFICATIONS AND STANDARDS OF PERFORMANCE AS PROVIDED IN THIS CHAPTER AND IN SUPPORTING DOCUMENTS ISSUED BY THE DEPARTMENT,** [~~incorporated by reference~~], used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.

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

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

"FOREST MITIGATION BANK" MEANS AN AREA OF LAND, WHICH HAS BEEN INTENTIONALLY AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF PROVIDING CREDITS FOR REFORESTATION REQUIREMENTS.

"FOREST MITIGATION BANK AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY AN INDIVIDUAL OWNING A FOREST MITIGATION BANK AND THE DEPARTMENT OR LOCAL GOVERNMENT WHICH COMMITS THE BANKER TO CERTAIN PROCEDURES AND REQUIREMENTS WHEN CREATING AND OPERATING THE FOREST MITIGATION BANK"

"FOREST MITIGATION BANK PLAN" MEANS A PLAN SUBMITTED FOR APPROVAL OF A FOREST MITIGATION BANK TO THE DEPARTMENT, OR A LOCAL GOVERNMENT WITH AN APPROVED LOCAL PROGRAM, BY AN INDIVIDUAL PROPOSING TO ESTABLISH A FOREST MITIGATION BANK.

"Forest stand delineations" means the methodology for evaluating the existing vegetation on a site proposed for development, as [~~set forth~~] **PROVIDED** in the Forest Conservation **TECHNICAL** Manual.

[~~"Forest slopes" means an area meeting the definition of forest and growing on an area with a slope of twenty five (25) percent or more and covering an area of at least ten thousand (10,000) square feet.~~]

"Growing season" means a period of consecutive frost-free days as stated in the **CURRENT** soil survey for Frederick County[~~]~~ published by the National [~~Co-op~~] **COOPERATIVE** Soil Survey Program, 16 U.S.C. [~~Section~~] §590 (a)—(f).

"High density residential areas" means areas **LOCATED WITHIN** [~~zoned for densities greater than one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to~~] the **HIGH DENSITY RESIDENTIAL (R-3)** Emmitsburg zoning classification [~~s: RS, (R-3)~~].

"Institutional development area" **MEANS AREAS LOCATED WITHIN** [~~includes civic, institutional, and cultural uses, such as libraries, meeting halls, fire and rescue stations, post offices, government buildings, government offices and facilities, memorials, amphitheaters, museums, places of worship, schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, and cemeteries and corresponds to the Town~~] **THE INSTITUTIONAL (INST) EMMITSBURG** zoning classification [~~:-INST~~].

"Intermittent stream" means a stream in which surface water is absent during a [~~portion~~] **PART** of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field [~~vegetation~~] **VERIFICATION**.

"Landscaping plan" means a plan:

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

“LINEAR PROJECT” MEANS A PROJECT WHICH:

- 1. IS ELONGATED WITH NEARLY PARALLEL SIDES;**
- 2. IS USED TO TRANSPORT A UTILITY PRODUCT OR PUBLIC SERVICE NOT OTHERWISE CONTAINED IN AN APPLICATION FOR SUBDIVISION, SUCH AS ELECTRICITY, GAS, WATER, SEWER, COMMUNICATIONS, TRAINS, AND VEHICLES; AND**
- 3. MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH DEFINED BOUNDARIES, OR ESTABLISHED EASEMENT RIGHTS.**

"Local agency" means each unit in the executive, legislative, or judicial branch of a county or municipal government, including an office or department of public works.

"Lot" means a unit of land, the boundaries of which have been established [~~as a result of a deed or previous~~] **BY** subdivision of a larger parcel, and which will not be the subject of further subdivision, as defined by Natural Resources Article [~~Section~~] §5-1601, Annotated Code of Maryland, and this Chapter without an approved forest stand delineation and forest conservation plan.

“LOW DENSITY RESIDENTIAL AREAS” MEANS AREAS LOCATED WITHIN THE LOW DENSITY RESIDENTIAL (R-1) EMMITSBURG ZONING CLASSIFICATION.

"Maintenance agreement" means the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, [~~Section 6-1605~~], **§5-1605**, Annotated Code of Maryland, and this [~~ordinance~~] **CHAPTER**.

“MEDIUM DENSITY RESIDENTIAL AREAS” MEANS AREAS LOCATED WITHIN THE MEDIUM DENSITY RESIDENTIAL (R-2) EMMITSBURG ZONING CLASSIFICATION.

"Minor development project" means a project:

1. On less than five acres of land containing not more than four lots per acre; or
2. Substantively similar as defined by the Department and approved by the State.

"Mixed use development" means a single, relatively high-density development project, usually commercial in nature, which includes two or more types of uses, and corresponds to **AREAS WITHIN** the Emmitsburg **VILLAGE ZONE (VZ)** zoning classification [~~(s) of VZ~~].

“NATURAL REGENERATION” MEANS THE NATURAL ESTABLISHMENT OF TREES AND OTHER VEGETATION WITH AT LEAST FOUR HUNDRED (400) WOODY, FREE-TO-GROW SEEDLINGS PER ACRE, WHICH ARE CAPABLE OF REACHING A HEIGHT OF AT LEAST TWENTY (20) FEET AT MATURITY.

"Net tract area" means:

1. **EXCEPT IN AGRICULTURE AND RESOURCE AREAS**, the total area of a site, including both forested and non-forested areas, [~~at~~] **TO** the nearest one-tenth acre, reduced by the area [~~found to be within the boundaries of the one hundred year floodplain.~~] where forest clearing is restricted by another local ordinance or program;
2. **IN AGRICULTURE AND RESOURCE AREAS, THE PART OF THE TOTAL TRACT FOR WHICH LAND USE WILL BE CHANGED OR WILL NO LONGER BE USED FOR PRIMARILY AGRICULTURAL ACTIVITIES, REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LOCAL ORDINANCE OR PROGRAM; AND**
3. **FOR A LINEAR PROJECT:**
 - a. **THE AREA OF A RIGHT-OF-WAY WIDTH, NEW ACCESS ROADS, AND STORAGE; OR**
 - b. **THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION FOR SEDIMENT AND EROSION CONTROL APPROVAL OR IN A CAPITAL IMPROVEMENT’S PROGRAM PROJECT DESCRIPTION.**

NON-TIDAL WETLANDS.

1. "Non-tidal wetland**S**" means an area that is:
 - a. Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation[~~;~~]; **AND**
 - [~~1.~~] b. [~~The determination of whether an area is~~] Considered a no**N**tidal wetland [~~shall be made~~] in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.
2. "Nontidal wetlands" does not include tidal wetlands regulated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.

"Offsite" means outside **OF** the limits of the area encompassed by the [~~development plan, including any area(s) classified as one hundred year plain~~] **TRACT**.

"Onsite" means within the limits of the area encompassed by the [~~development plan~~] **TRACT**, including [~~any~~] **AN** area[~~(s)~~] classified as **A** one hundred (**100**) year **FLOOD**plain.

"One-hundred (**100**) year flood" means a flood, which has a one percent chance of being equalled or exceeded in any given year. Except for Class-III waters (natural trout streams), a body of water with a watershed less than four hundred (400) acres is excluded.

"One-hundred-year (**100**) floodplain" means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a one hundred (**100**) year frequency storm event, **OR A 100-YEAR FLOOD.**

~~[A one hundred year flood is a flood which has a one percent chance of being equalled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than four hundred (400) acres is excluded.]~~

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

"Person" ~~[includes]~~ **MEANS** the federal government, the State, ~~[any]~~ **A** county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

"Planned unit development" means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by Emmitsburg with at least twenty (20) percent of the land permanently dedicated to open space and correspond to Emmitsburg's **INSTITUTIONAL (INST)** zoning classification~~[-OS]~~.

"Priority funding area" means an area designated as a priority funding area under **STATE FINANCE AND PROCUREMENT ARTICLE**, ~~[Section]~~ §5-7b-02, ~~[of the state finance and procurement article]~~ **ANNOTATED CODE OF MARYLAND.**

"Project plan" means a construction, grading, or sediment control activity on an area of ~~[twenty thousand (20,000)]~~ **FORTY THOUSAND (40,000)** square feet or greater by a local agency.

"Public utility" means any:

1. Transmission line or electric generating station; **OR**
2. Water, sewer, electric, gas, telephone, or television cable service line.

REFORESTATION

1. "Reforestation" or "reforested" means the:

- a. Creation of a biological community dominated by trees and other woody plants containing at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having the potential of attaining a two-inch or greater diameter measured at 4.5 feet above the ground, within seven years; **OR**
- b. **ESTABLISHMENT OF A FOREST ACCORDING TO PROCEDURES SET FORTH IN THE FOREST CONSERVATION TECHNICAL MANUAL.**

2. "Reforestation" **OR "REFORESTED"** includes landscaping ~~[of]~~ **OF** areas under an approved landscaping plan ~~[that]~~ establish~~[ed]~~**ING** a forest ~~[that is]~~ at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet **OR MORE** of area.

3. "REFORESTATION" OR "REFORESTED" FOR A LINEAR PROJECT INVOLVING OVERHEAD TRANSMISSION LINES MAY CONSIST OF A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND WOODY SHRUBS WITH NO MINIMUM HEIGHT OR DIAMETER CRITERIA.

"Regulated activity" means any of the following activities, when that activity occurs on a unit of land which is [~~twenty thousand (20,000)~~] **FORTY THOUSAND (40,000)** square feet or greater:

1. Subdivision;
2. Grading;
3. An activity that requires a sediment control permit; or
4. Project plan of a local agency.

"Retention" means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as [~~set forth~~] **PROVIDED** in the Forest Conservation **TECHNICAL** Manual.

"SEDIMENT CONTROL PERMIT" MEANS THE AUTHORIZATION OF AN ACTIVITY REGULATED UNDER A SEDIMENT CONTROL PLAN AS PROVIDED IN ENVIRONMENT ARTICLE, TITLE 4, ANNOTATED CODE OF MARYLAND.

"SEEDLING" MEANS AN UNBRANCHED WOODY PLANT, LESS THAN 24 INCHES IN HEIGHT AND HAVING A DIAMETER OF LESS THAN ½ INCH MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

"Selective clearing" means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

"Stream buffer" means all lands lying within fifty (50) feet, measured from the top of each normal bank of [~~any~~] **A** perennial or intermittent stream.

"Stream restoration project" means an activity that:

- ~~[A-]~~ **1.** Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway or floodplain;
- ~~[B-]~~ **2.** Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to [~~those~~] **THE NUMBER** removed by the project;
- ~~[C-]~~ **3.** Maybe performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and
- ~~[D-]~~ **4.** Is not performed to satisfy storm water management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

"Subdivision" means any division of a [~~parcel~~] **UNIT** of land into two or more lots or parcels for the purpose, whether immediate or future, [~~or~~] **OF** transfer of ownership, sale, lease, or development.

TIMBER HARVESTING.

- 1.** "Timber harvesting" means a tree-cutting operation affecting 1 or more acres of forest or developed woodland within a 1-year interval that disturbs five thousand (5,000) square feet or more of forest floor.
- 2.** "Timber harvesting" does not include grubbing and clearing of root mass.

“TOWN” MEANS THE TOWN OF EMMITSBURG, MARYLAND.

~~{Tract. 1. Except as provided in subsection (2) of this definition,}~~ "Tract" means property **OR UNIT OF LAND** subject to an application for a grading or sediment control permit, ~~{or}~~ subdivision approval, **PROJECT PLAN APPROVAL, OR AREAS SUBJECT TO THIS LAW.**

~~{2. If property is included in a planned unit development, "tract" means the entire property subject to the planned unit development.}~~

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

"Tree" means a large, **BRANCHED** woody plant having one or several self-supporting stems or trunks ~~{and numerous branches}~~ that reach a height of at least twenty (20) feet at maturity.

VARIANCE.

1. "Variance" ~~{as provided for in Section 16.48.200,}~~ means relief from Natural Resources Article, ~~{Section}~~ §§5-1601—5-1612, Annotated Code of Maryland, **OR THIS CHAPTER.**
2. "Variance" does not mean a zoning variance.

"Watershed" means all land[s] lying within an area described as a subbasin **IN WATER QUALITY REGULATIONS ADOPTED** by the Department of the Environment under COMAR 26.08.02.08.

"Whip" means an unbranched woody plant greater than ~~{forty eight (48)}~~ **TWENTY FOUR (24)** inches in height and having a diameter less than one inch caliper measured at two inches above the root collar.

~~{16.48.080—Applicability}~~ **ARTICLE III - APPLICATION.**

16.48.030 – APPLICABILITY.

A. Except as provided in subsection B, this ~~{article}~~ **CHAPTER** applies to:

1. A person making application for a subdivision, project plan, grading, or sediment control approval on units of land ~~{twenty thousand (20,000)}~~ **FORTY THOUSAND (40,000)** square feet or greater after the effective date of this ~~{article}~~ **CHAPTER;**
2. A public utility not exempt under subsection B (5) and (6) of this section;
3. A unit of ~~{county}~~ **COUNTY** or municipal government, including a public utility or public works project, making application for a subdivision, project plan, grading, or sediment control approval on areas ~~{twenty thousand (20,000)}~~ **FORTY THOUSAND (40,000)** square feet or greater.

B. This ~~{article}~~ **CHAPTER** does not apply to:

1. ~~{Any}~~ **HIGHWAY** construction ~~{activity}~~ **ACTIVITIES** ~~{that is subject to}~~ **UNDER** Natural Resources Article, ~~{Section}~~ §5-103, Annotated Code of Maryland;
2. ~~{Any cutting or clearing of forest, or any other development activity, in areas governed by the Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of the Natural Resources Article, Annotated Code of Maryland);}~~ **AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA PROTECTION LAW, NATURAL RESOURCES ARTICLE, §§8-1801—8-1817, ANNOTATED CODE OF MARYLAND, INCLUDING THOSE AREAS INTO WHICH CRITICAL AREA FOREST PROTECTION MEASURES HAVE**

**BEEN EXTENDED UNDER NATURAL RESOURCES ARTICLE, §5-1602(C),
ANNOTATED CODE OF MARYLAND;**

3. Commercial logging and timber-harvesting operations, including ~~[any]~~ harvesting conducted ~~[under]~~ **SUBJECT TO** the forest conservation and management program under ~~[Section]~~ §8-211 of the Tax-Property Article, Annotated Code of Maryland, that ~~[were]~~ **ARE** completed:
 - a. ~~[Is completed]~~ Before July 1, 1991; or
 - b. ~~[Is completed on or]~~ After July 1, 1991, ~~[and the]~~ **ON** property ~~[on]~~ which:
 1. ~~[the cutting or clearing is conducted is]~~ **HAS** not **BEEN** the subject of an application for a grading permit for development within 5 years after the logging or harvesting operation; **AND**
 - ~~[e.]~~ 2. Is **THE** subject ~~[to]~~ **OF** a declaration ~~[on]~~ **OF** intent ~~[signed by owner and or developer and approved by the local soil conservation district or sediment control agency]~~ **AS PROVIDED FOR IN §16.48.040 OF THIS CHAPTER, APPROVED BY THE COMMISSION;**
4. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices ~~[-~~ **However**, **EXCEPT THAT** a person engaging in an agricultural activity clearing ~~[twenty thousand (20,000)]~~ **FORTY THOUSAND (40,000)** square feet or ~~[more]~~ **GREATER** of forest within a one-year period, ~~[who wishes to]~~ **MAY NOT** receive an agricultural exemption, **UNLESS THE PERSON** ~~[shall]~~ fileS a declaration of intent ~~[with the Department shall]~~ **AS PROVIDED FOR IN §16.48.040 OF THIS ARTICLE WHICH** includeS:
 - a. A statement that the landowner or ~~[his]~~ **LANDOWNER'S** agent will practice agriculture on that ~~[tract]~~ **PORTION OF THE PROPERTY** for five years from the date of declaration; and
 - b. A sketch map of the ~~[tract]~~ **PROPERTY** which shows the area to be cleared;
5. The cutting or clearing of public utility rights-of-way licensed ~~[pursuant to Sections 54A and 54B or Section 54I of Article 78 of the Code, unless the activity is subject to the requirements of a previous forest conservation plan prepared under this chapter, provided that:]~~ **UNDER PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND, OR LAND FOR ELECTRIC GENERATING STATIONS LICENSED UNDER PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND, IF:**
 - a. ~~[Any]~~ Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, ~~[Section 5-1604(F)]~~ **§5-1603(F)**, Annotated Code of Maryland; and
 - b. ~~[The]~~ Cutting or clearing of the forest is conducted ~~[so as]~~ to minimize the loss of forest;
6. ~~[Any]~~ Routine maintenance **OR EMERGENCY REPAIRS** of public utility rights-of-way **LICENSED UNDER PUBLIC UTILITY COMPANIES, §§7-207 AND 7-208 OR 7-205, ANNOTATED CODE OF MARYLAND;**
7. **EXCEPT FOR A PUBLIC UTILITY SUBJECT TO §16.48.030.B.6. OF THIS ARTICLE, ROUTINE MAINTENANCE OR EMERGENCY REPAIRS OF A PUBLIC UTILITY RIGHT-OF-WAY IF:**
 - a. **THE RIGHT-OF-WAY EXISTED BEFORE THE EFFECTIVE DATE OF THIS CHAPTER; OR**
 - b. **THE RIGHT-OF-WAY'S INITIAL CONSTRUCTION WAS APPROVED UNDER THIS CHAPTER;**
- ~~[7. Any]~~ 8. **A RESIDENTIAL CONSTRUCTION** activity conducted on ~~[a]~~ **AN EXISTING** single lot of any size ~~[provided that]~~ **OF RECORD AT THE TIME OF APPLICATION, OR A LINEAR PROJECT NOT OTHERWISE EXEMPTED UNDER THIS ARTICLE, IF THE ACTIVITY:**

- a. [~~The activity~~] Does not result in the **CUMULATIVE** cutting, clearing, or grading of more than [~~twenty thousand (20,000)~~] **FORTY THOUSAND (40,000)** square feet of forest;
[and]
 - b. [~~The activity on the lot will~~] **DOES** not result in the cutting, clearing, or grading of [~~any~~] A forest that is subject to the requirements of a previous forest conservation plan [~~prepared under this subtitle~~] **APPROVED UNDER THIS CHAPTER; AND**
 - c. Is the subject of a declaration of intent filed with the Commission as provided for in [~~Section 16.48.090~~] **§16.48.040 OF THIS CHAPTER**, stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing, or grading of forest.
- [~~8. Any~~] **9.** Strip or deep mining of coal regulated under [~~Title 7, Subtitle 5 or 5A of the Natural Resources Article,~~] **ENVIRONMENT ARTICLE, TITLE 15, SUBTITLE 5 OR 6,** Annotated Code of Maryland;
- [~~9. Any~~] **10.** Non-coal surface mining regulated under **ENVIRONMENT ARTICLE, TITLE 15, SUBTITLE 8,** [~~Title 7, Subtitle 6A of the Natural Resources Article,~~] Annotated Code of Maryland;
- [~~10.~~] **11.** An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity:
- a. Does not result in the cutting, clearing, or grading of more than [~~twenty thousand (20,000)~~] **FORTY THOUSAND (40,000)** square feet of forest; and
 - b. Is the subject of a declaration on intent filed with the Department, **AS PROVIDED FOR IN §16.48.040 OF THIS ARTICLE**, which states that transfer of ownership may result in a loss of exemption;
- [~~11.~~] **12.** A preliminary plan of subdivision or a grading or sediment control plan approved before July 1, 1991;
- 13. A REAL ESTATE TRANSFER TO PROVIDE A SECURITY, LEASEHOLD, OR OTHER LEGAL OR EQUITABLE INTEREST, INCLUDING A TRANSFER OF TITLE, OF A PORTION OF A LOT OR PARCEL IF:**
- a. **THE TRANSFER DOES NOT INVOLVE A CHANGE IN LAND USE, OR NEW DEVELOPMENT OR REDEVELOPMENT, WITH ASSOCIATED LAND-DISTURBING ACTIVITIES; AND**
 - b. **BOTH THE GRANTOR AND GRANTEE FILE A DECLARATION OF INTENT, AS PROVIDED FOR IN §16.48.040 OF THIS CHAPTER;**
- [~~12.~~] **14.** An activity on a previously developed area covered by impervious surface and located in the priority funding area;
- [~~13.~~] **15.** Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, [~~so long as~~] **IF** the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure; **OR**
- [~~14.~~] **16.** A stream restoration project, as defined in **ARTICLE II OF THIS CHAPTER** [~~this ordinance~~], for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least five years with the affected property owner or owners.
- [~~16.48.090~~] **16.48.040 - Declaration of Intent.**
- A. The purpose of the declaration of intent is to verify that the proposed activity is exempt under Natural Resources Article, [~~Sections~~] §§5-103 and 5-1601—5-1612, Annotated Code of Maryland, and this Chapter.
 - B. A person seeking an exemption under [~~Section 16.48.080~~] **§16.48.030.B. 3, 4, 8, 11, AND 13 OF THIS CHAPTER** shall file a declaration of intent with the Commission.
 - C. The declaration of intent is effective for five years.

- D. The existence of a declaration of intent does not preclude another exempted activity on the property subject to a declaration of intent, if the activity:
1. Does not conflict with the purpose of any existing declaration ~~[of]~~ **OF** intent; and
 2. Complies with the applicable requirements for an exempted activity.
- E. If a regulated activity on the area covered by the declaration ~~[of]~~ **OF** intent occurs within five years of the effective date of the declaration of intent:
1. There shall be an immediate loss of exemption; or
 2. There may be a noncompliance action taken by the Department, as appropriate, under this Chapter.
- F. An applicant may apply for a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this Chapter are satisfied.
- G. The Department may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent to:
1. Meet the retention, afforestation, and reforestation requirements established in **ARTICLES III—XIII OF** this Chapter;
 2. Pay a noncompliance fee of thirty (30) cents per square foot of forest cut or cleared under the declaration of intent;
 3. Be subject to **OTHER** enforcement actions appropriate under Natural Resources Article, ~~[Section]~~ §§5-1601—5-1612, Annotated Code of Maryland, and this Chapter; or
 4. File a declaration of intent with the Department.
- H. In its determination of appropriate enforcement action, the Department may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this Chapter.
- I. COMMERCIAL LOGGING AND TIMBER HARVESTING. THE REQUIREMENTS FOR A DECLARATION OF INTENT MAY BE SATISFIED BY A FOREST MANAGEMENT PLAN FOR THE ENTIRE TRACT, PREPARED BY A FORESTER LICENSED IN MARYLAND ACCORDING TO BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, TITLE 7, ANNOTATED CODE OF MARYLAND, WHICH OUTLINES MANAGEMENT PRACTICES NEEDED TO MEET THE STATED OBJECTIVES FOR A MINIMUM OF 5 YEARS.**
- J. AGRICULTURAL ACTIVITIES OR COMMERCIAL LOGGING AND TIMBER HARVESTING. A DECLARATION OF INTENT MAY BE PART OF AN AMENDED SEDIMENT AND EROSION CONTROL PLAN WHICH ENSURES THAT THE ACTIVITY MEETS THE CONDITIONS FOR AN EXEMPTION AS STATED IN ARTICLE III, §16.48.030.B. 3 AND 4.**

~~[16.48.100]~~ **ARTICLE IV - General Requirements.**

16.48.050 – GENERAL REQUIREMENTS.

- A. A person ~~[who applies]~~ **MAKING APPLICATION** after **THE EFFECTIVE DATE OF** January 1, 1993, for subdivision **OR LOCAL AGENCY PROJECT PLAN** approval, **A GRADING PERMIT, OR A SEDIMENT CONTROL PERMIT** for an area of land of ~~[twenty thousand (20,000)]~~ **FORTY THOUSAND (40,000)** square feet or ~~[more]~~ **GREATER SHALL:**
1. ~~[Shall]~~ Submit to the Commission ~~[a.]~~ a forest stand delineation ~~[for the lot or parcel on which the development is located;]~~ and ~~[b.]~~ a forest conservation plan for the lot or parcel on which the development is located; **AND**
 - ~~[2. Shall not perform any construction activity within the dripline of a tree that is to be retained; and]~~

~~[3. Shall]~~ 2. Use methods approved by the Commission, as ~~[set forth]~~ **PROVIDED** in the Forest Conservation **TECHNICAL** Manual, to protect retained **FORESTS AND** trees during construction.

B. IF A LOCAL AGENCY OR PERSON USING STATE FUNDS MAKES APPLICATION TO CONDUCT A REGULATED ACTIVITY, THE PROVISIONS OF COMAR 08.19.04.01D—G APPLY.

C. APPROVAL OF FOREST STAND DELINEATION AND PRELIMINARY AND FINAL FOREST CONSERVATION PLANS SHALL REST WITH THE COMMISSION.

~~[16.48.110]~~ **ARTICLE V - Forest Stand Delineation.**

16.48.060 – CRITERIA.

A. A forest stand delineation shall be submitted at the initial stageS of subdivision **APPLICATION OR PROJECT PLAN APPROVAL, BEFORE A GRADING PERMIT APPLICATION, OR BEFORE A SEDIMENT CONTROL APPLICATION IS SUBMITTED** for the **TRACT BEING** ~~[lot or parcel intended to be]~~ developed.

B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a **QUALIFIED** professional who meets the requirements stated in COMAR 08.19.06.01A.

~~[C. The delineation will be prepared by a licensed forester or licensed landscape architect who is approved by the commission to:~~

- ~~1. Develop a forest stand delineation according to criteria stated in the forest conservation manual;~~
- ~~2. Prepare and interpret maps, including soils, topography, floodplain, wetlands and a site map;~~
- ~~3. Prepare afforestation and reforestation plans as stated in Section 16.48.120 and 16.48.130;~~
- ~~4. Prepare graphic indication of forest protection and retention areas and all method inclusive therein;~~
- ~~5. Review impact of development on forested area;~~
- ~~6. Prepare forest inventory using forest measurement equipment.]~~

~~[D.]~~ C. The delineation shall ~~[include]~~ **BE USED DURING THE PRELIMINARY REVIEW PROCESS TO DETERMINE THE MOST SUITABLE AND PRACTICAL AREAS FOR FOREST CONSERVATION AND SHALL CONTAIN THE FOLLOWING COMPONENTS:**

1. A topographic map delineating intermittent and perennial streams, and steep slopes over twenty-five (25) percent;
2. A soil's map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of fifteen (15) percent or more;
3. Forest stand maps indicating species, location, and size of trees and showing dominant and codominant forest types;
4. Location of one hundred (100) year floodplains;
5. Information required by the Forest Conservation Technical Manual; and
6. ~~[Any]~~ Other information ~~[required by]~~ the Department **DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.**

D. IF APPROVED BY THE COMMISSION, A SIMPLIFIED DELINEATION, A CONCEPT PLAN OR PLAT, PRELIMINARY PLAT OR PLAN, SEDIMENT CONTROL PLAN, OR OTHER APPROPRIATE DOCUMENT, VERIFIED BY A SITE VISIT, IF APPROPRIATE, MAY SUBSTITUTE FOR THE FOREST STAND DELINEATION IF:

1. **NO FOREST COVER IS DISTURBED DURING A CONSTRUCTION ACTIVITY; AND**
2. **DESIGNATED TO BE UNDER A LONG TERM PROTECTIVE AGREEMENT.**

E. THE COMMISSION SHALL CONSIDER SIMPLIFIED FOREST STAND DELINEATION, OR OTHER SUBSTITUTE PLAN DESCRIBED IN §16.48.050.D., COMPLETE IF IT INCLUDES:

1. **ALL REQUIREMENTS UNDER §16.48.050.C. 1, 2, 4, AND 5 OF THIS CHAPTER;**
2. **A MAP SHOWING EXISTING FOREST COVER AS VERIFIED BY FIELD INSPECTION; AND**
3. **OTHER INFORMATION REQUIRED BY THIS CHAPTER.**

~~[E.]~~ **F.** An approved forest stand delineation may remain in effect for a period not longer than five (5) years.

~~[F.]~~ **G. TIME FOR SUBMITTAL.**

1. Within ~~[sixty (60)]~~ **THIRTY (30)** calendar days after receipt of the forest stand delineation, the ~~[commission or agent]~~ **DEPARTMENT** shall notify the applicant whether the forest stand delineation is complete and correct.
2. If the ~~[commission or agent]~~ **DEPARTMENT** fails to notify the applicant within ~~[sixty (60)]~~ **THIRTY (30)** days, the delineation shall be treated as complete and correct.
3. The ~~[commission]~~ **DEPARTMENT** may require further information or provide for an additional fifteen (15) calendar days under extenuating circumstances.
4. The applicant ~~[will]~~ **SHALL** pay for the review of the ~~[submittal according to Review Fees Policy]~~ **FOREST STAND DELINEATION. FEES ARE TO BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID AT TIME OF APPLICATION.**

~~[16.48.120]~~ **ARTICLE VI - Forest Conservation Plan.**

16.48.070 – GENERAL PROVISIONS.

A. IN DEVELOPING A FOREST CONSERVATION PLAN, THE APPLICANT SHALL GIVE PRIORITY TO TECHNIQUES FOR RETAINING EXISTING FOREST ON THE SITE.

B. IF EXISTING FOREST ON THE SITE SUBJECT TO A FOREST CONSERVATION PLAN CANNOT BE RETAINED, THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE COMMISSION:

1. **HOW TECHNIQUES FOR FOREST RETENTION HAVE BEEN EXHAUSTED;**
2. **WHY THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE, §5-1604(C)(1), ANNOTATED CODE OF MARYLAND, CANNOT BE LEFT IN AN UNDISTURBED CONDITION:**
 - a. **IF PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT UNDISTURBED, HOW THE SEQUENCE FOR AFFORESTATION OR REFORESTATION WILL BE FOLLOWED IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, §5-1607, ANNOTATED CODE OF MARYLAND;**
 - b. **WHERE ON THE SITE IN PRIORITY AREAS AFFORESTATION OR REFORESTATION WILL OCCUR IN COMPLIANCE WITH NATURAL RESOURCES ARTICLE, §5-1607, ANNOTATED CODE OF MARYLAND; AND**
3. **HOW THE DISTURBANCE TO THE PRIORITY FORESTS AND PRIORITY AREAS SPECIFIED IN NATURAL RESOURCES ARTICLE, §5-1607(C)(2), ANNOTATED CODE OF MARYLAND, QUALIFIES FOR A VARIANCE.**

C. THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE COMMISSION THAT THE REQUIREMENTS FOR AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED IF THE APPLICANT PROPOSES TO MAKE A PAYMENT INTO THE LOCAL FOREST CONSERVATION FUND OR TO PURCHASE CREDITS FROM A FOREST MITIGATION BANK.

D. NONTIDAL WETLANDS. A REGULATED ACTIVITY WITHIN THE NET TRACT AREA THAT OCCURS WHOLLY OR PARTLY IN AREAS REGULATED AS NONTIDAL WETLANDS UNDER ENVIRONMENT ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND, IS SUBJECT TO BOTH THE NONTIDAL WETLANDS REGULATORY REQUIREMENTS AND THE REQUIREMENTS OF THIS LAW, SUBJECT TO THE FOLLOWING:

- 1. ANY AREA OF FOREST IN THE NET TRACT AREA, INCLUDING FOREST IN NONTIDAL WETLANDS THAT IS RETAINED, SHALL BE COUNTED TOWARDS FOREST CONSERVATION REQUIREMENTS UNDER THIS LAW;**
- 2. FOR THE PURPOSE OF CALCULATING REFORESTATION MITIGATION UNDER THIS CHAPTER, A FORESTED NONTIDAL WETLAND PERMITTED TO BE CUT OR CLEARED AND REQUIRED TO BE MITIGATED UNDER ENVIRONMENT ARTICLE, TITLE 9, ANNOTATED CODE OF MARYLAND, SHALL BE SHOWN ON THE FOREST CONSERVATION PLAN AND SUBTRACTED ON AN ACRE-FOR-ACRE BASIS FROM THE TOTAL AMOUNT OF FOREST TO BE CUT OR CLEARED AS PART OF A REGULATED ACTIVITY;**
- 3. NONTIDAL WETLANDS SHALL BE CONSIDERED TO BE PRIORITY AREAS FOR RETENTION AND REPLACEMENT;**
- 4. FORESTED NONTIDAL WETLAND IDENTIFICATION AND DELINEATION SHOULD BE INCLUDED AT THE EARLIEST STAGE OF PLANNING TO ASSIST THE APPLICANT IN AVOIDANCE AND REDUCTION OF IMPACTS TO THE NONTIDAL WETLANDS AND TO AVOID DELAY IN THE APPROVAL PROCESS.**

16.48.080 – PRELIMINARY FOREST CONSERVATION PLAN.

- A. A **PRELIMINARY** forest conservation plan shall be prepared by a licensed forester, A licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01.A.
- ~~B. The forest conservation plan will be prepared by a licensed forester, licensed landscape architect, or a qualified professional who is approved by the commission to:~~
- ~~1. Develop a forest stand delineation according to criteria stated in the technical manual;~~
 - ~~2. Prepare and interpret maps, including soils, topography, floodplain, wetlands and a site map;~~
 - ~~3. Prepare afforestation and reforestation plans as stated in Sections 16.48.120 and 16.48.130;~~
 - ~~4. Prepare graphic indication of forest protection and retention areas and all method inclusive therein;~~
 - ~~5. Review impact of development on forested area;~~
 - ~~6. Prepare forest inventory using forest measurement equipment.~~
- C. ~~Developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site.~~
- D. ~~If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the department:~~
- ~~1. How techniques for forest retention have been exhausted;~~
 - ~~2. Why the priority forests and priority areas specified in Natural Resources Article, Section 5-1607(c(2)), Annotated Code of Maryland, cannot be left in an undisturbed condition; and how the priority forests and priority areas specified in this section qualify for a modification;~~
 - ~~3. If the priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article Section 5-1607 (C(1)), Annotated Code of Maryland;~~
 - ~~4. Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article Section 5-1607, Annotated Code of Maryland.~~

- ~~5.—The applicant shall demonstrate to the satisfaction of the department that the requirements for afforestation or reforestation on site or off site cannot be reasonably accomplished if the applicant proposes to make a payment into a fund as per Section 16.48.160 instead of afforestation or reforestation.~~

B. A PRELIMINARY FOREST CONSERVATION PLAN SHALL:

- 1. BE SUBMITTED WITH THE PRELIMINARY PLAN OF SUBDIVISION OR PROPOSED PROJECT PLAN;**
- 2. INCLUDE THE APPROVED FOREST STAND DELINEATION FOR THE SITE;**
- 3. INCLUDE A TABLE THAT LISTS THE PROPOSED VALUES OF THE FOLLOWING, IN SQUARE FEET:**
 - a. NET TRACT AREA;**
 - b. AREA OF FOREST CONSERVATION REQUIRED; AND**
 - c. AREA OF FOREST CONSERVATION THAT THAT THE APPLICANT PROPOSES TO PROVIDE, INCLUDING BOTH ONSITE AND OFFSITE AREAS;**
- 4. INCLUDE A CLEAR GRAPHIC INDICATION OF THE FOREST CONSERVATION PROVIDED ON THE SITE DRAWN TO SCALE, SHOWING AREAS WHERE RETENTION OF EXISTING FOREST OR AFFORESTATION OR REFORESTATION IS PROPOSED;**
- 5. INCLUDE AN EXPLANATION OF HOW THE PROVISIONS OF §16.48.070 OF THIS ARTICLE HAVE BEEN MET;**
- 6. IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE A PROPOSED AFFORESTATION OR REFORESTATION PLAN;**
- 7. INCLUDE A PROPOSED CONSTRUCTION TIMETABLE SHOWING THE SEQUENCE OF FOREST CONSERVATION PROCEDURES;**
- 8. SHOW THE PROPOSED LIMITS OF DISTURBANCE;**
- 9. SHOW PROPOSED STOCKPILE AREAS;**
- 10. INCORPORATE A PROPOSED TWO (2) YEAR MAINTENANCE AGREEMENT THAT SHOWS HOW AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT; AND**
- 11. OTHER INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.**

C. THE REVIEW OF THE PRELIMINARY FOREST CONSERVATION PLAN SHALL BE CONCURRENT WITH THE REVIEW OF THE PRELIMINARY SITE PLAN.

D. DURING THE DIFFERENT STAGES OF THE REVIEW PROCESS, THE PRELIMINARY FOREST CONSERVATION PLAN MAY BE MODIFIED PROVIDED THE COMMISSION APPROVES OF THE CHANGES.

E. THE APPLICANT SHALL PAY FOR THE REVIEW OF THE PRELIMINARY FOREST CONSERVATION PLAN. FEES ARE TO BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID AT TIME OF APPLICATION.

16.48.090 – FINAL FOREST CONSERVATION PLAN.

- A. A FINAL FOREST CONSERVATION PLAN SHALL BE PREPARED BY A LICENSED FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01.A.**

~~{E.}~~ **B.** A **FINAL** forest conservation plan shall:

1. Be submitted with the **FOLLOWING**: ~~[preliminary subdivision plan or site plan submitted for the site;]~~
 - a. **A FINAL SUBDIVISION PLAN;**
 - b. **A FINAL PROJECT PLAN;**
 - c. **AN APPLICATION FOR A GRADING PERMIT; OR**
 - d. **AN APPLICATION FOR A SEDIMENT CONTROL PERMIT;**
- ~~{2.} Include a map of the site drawing at the same scale as the subdivision plat or site plan;~~
- ~~{3.} Include a table that lists, in square feet:~~
 - a. ~~The net tract area;~~
 - b. ~~The total area of forest conservation required; and~~
 - c. ~~The total area of forest conservation that the applicant proposes to provide, including both on-site and off-site areas;~~
- ~~{4.} Include a clear graphic indication of the forest conservation provided on the site, showing areas where retention of existing forest or afforestation is planned;~~
- ~~{5.} Include a construction timetable showing the sequence for tree conservation procedures;~~
- ~~{6.} Include an afforestation or reforestation plan prepared by a licensed forester or licensed landscape architect with a timetable and description of needed site and soil preparation, species, size and spacing to be utilized;]~~
- ~~{7.}~~ 2. Show **PROPOSED** locations and types of protective devices to be used during construction activities to protect trees and ~~[areas of]~~ forest designated for conservation;
- ~~{8.} Show the planned limits of disturbance;~~
- ~~{9.} Show planned stockpile areas;~~
- ~~{10.} Incorporate a commitment to complete all required afforestation and reforestation within one year following approval and recording in the county records of the final development plat, or within two growing seasons following approval and recording in the county records of the final development plat, if a particular species in the plan necessitates it;]~~
3. **IN THE CASE OF AFFORESTATION OR REFORESTATION, INCLUDE AN AFFORESTATION OR REFORESTATION PLAN, WITH A TIMETABLE AND DESCRIPTION OF NEEDED SITE AND SOIL PREPARATION, SPECIES, SIZE, AND SPACING TO BE USED;**
- ~~{11.}~~ 4. Incorporate a binding two (2) year ~~[management]~~ **MAINTENANCE** agreement **SPECIFIED IN COMAR 08.19.05.01** that details how the areas designated for afforestation or reforestation will be maintained to ensure protection ~~[or]~~ **AND** satisfactory establishment, including:
 - a. Watering; and
 - b. **A** reinforcement planting provision if survival rates fall below required standards, as ~~[set forth]~~ **PROVIDED** in the Forest Conservation **TECHNICAL** Manual;
- ~~{12.}~~ 5. Incorporate a **LONG-TERM** binding protective agreement **SPECIFIED IN COMAR 08.19.05.02** that:
 - a. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention; **AND**
 - b. Limits uses in areas of forest conservation to those uses that are **DESIGNATED AND** consistent with forest conservation, including recreational activities and ~~[any]~~ forest management practices that ~~[is]~~ **ARE** used to preserve forest; ~~[and~~
 - c. ~~Incorporates conservation easements, deed restrictions, covenants, and other agreements as necessary;~~
- ~~{13.} Information required in the forest conservation technical manual; and~~
- ~~{14.} Any other information the department requires.]~~

- 6. INCLUDE THE SUBSTANTIVE ELEMENTS REQUIRED UNDER §16.48.080.B. (2)—(5), (7)—(9), AND (11) OF THIS CHAPTER, AS FINALIZED ELEMENTS OF THE FOREST CONSERVATION PLAN; AND**
- 7. OTHER INFORMATION THE DEPARTMENT DETERMINES IS NECESSARY TO IMPLEMENT THIS CHAPTER.**

~~{F.}~~ **C. TIME FOR SUBMITTAL.**

1. Within ~~[sixty (60)]~~ **FORTY-FIVE (45)** calendar days after receipt of the **FINAL** forest conservation plan, the ~~[commission or agent]~~ **DEPARTMENT** shall notify the applicant whether the forest conservation plan is complete and approved.
2. If the ~~[commission or agent]~~ **DEPARTMENT** fails to notify the applicant within ~~[sixty (60)]~~ **FORTY-FIVE (45)** calendar days, the plan shall be treated as complete and approved.
3. The ~~[commission]~~ **DEPARTMENT** may require further information or extend the deadline for an additional fifteen (15) calendar days under extenuating circumstances.
4. At the request of the applicant, the Department may extend the deadline under extenuating circumstances.
5. The applicant ~~[will pay for the review of the forest conservation plan at forty dollars (\$40.00) per hour before approval is issued.]~~ **SHALL PAY FOR THE REVIEW OF THE FINAL FOREST CONSERVATION PLAN. FEES ARE TO BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID AT TIME OF APPLICATION.**

~~{G.}~~ **D.** The Commission's review of a **FINAL** forest conservation plan shall be concurrent with the review of the ~~[preliminary]~~ **FINAL** subdivision ~~[plat]~~ or ~~[site]~~ **PROJECT** plan, **GRADING PERMIT APPLICATION, OR SEDIMENT CONTROL APPLICATION** associated with the project.

~~{H.}~~ **E.** The ~~[commission]~~ **DEPARTMENT** may revoke an approved forest conservation plan if it finds that:

1. ~~[Any]~~ **A** provision of the plan has been violated;
2. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
3. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.

~~{I.}~~ **F.** The ~~[commission]~~ **DEPARTMENT** may issue a stop work order against ~~[any]~~ **A** person who violates ~~[any]~~ **A** provision of this Chapter or ~~[any]~~ **A** regulation, order, approved **FOREST CONSERVATION** plan or ~~[management]~~ **MAINTENANCE** agreement.

~~{J.}~~ **G.** ~~[Prior to]~~ **BEFORE** revoking approval of a forest conservation plan, the ~~[commission]~~ **DEPARTMENT** shall notify the violator in writing and provide an opportunity for a hearing.

~~K.~~ ~~If a forest conservation plan is required by this article, a person may not cut, clear, or grade on the development site until the commission has approved the plan or if the person is in violation of an approved plan.~~

~~16.48.130 – Retention and afforestation.]~~

ARTICLE VII – AFFORESTATION AND RETENTION.

16.48.100 – AFFORESTATION REQUIREMENT.

- A.** A person ~~[who applies]~~ **MAKING APPLICATION** after January 1, 1993 for subdivision **OR PROJECT PLAN** approval, a grading permit, or a sediment control permit for an area of land of ~~[twenty thousand (20,000)]~~ **FORTY THOUSAND (40,000)** square feet or ~~[more]~~ **GREATER, SHALL:**

1. ~~[Shall]~~ Conduct afforestation on the lot or parcel in accordance with the following:
~~[a. For the following land use categories, a site with less than fifteen (15) percent of its net tract area in forest cover shall be afforested up to at least fifteen (15) percent of the net tract area:]~~
 - a. **A TRACT HAVING LESS THAN TWENTY (20) PERCENT OF THE NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST TWENTY (20) PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING LAND CATEGORIES:**
 - i. **AGRICULTURAL AND RESOURCE AREAS; AND,**
 - ii. **MEDIUM DENSITY RESIDENTIAL AREAS;**
 - b. **A TRACT HAVING LESS THAN FIFTEEN (15) PERCENT OF THE NET TRACT AREA IN AREA IN FOREST COVER SHALL BE AFFORESTED UP TO AT LEAST FIFTEEN (15) PERCENT OF THE NET TRACT AREA FOR THE FOLLOWING LAND CATEGORIES:**
 - i. **INSTITUTIONAL DEVELOPMENT AREAS;**
 - ii. **HIGH DENSITY RESIDENTIAL AREAS;**
 - iii. **MIXED USE AND PLANNED UNIT DEVELOPMENT AREAS; AND**
 - iv. **COMMERCIAL AND INDUSTRIAL AREAS.**~~[i. Institutional development areas;]~~
~~[ii. High density residential areas;]~~
~~[iii. Mixed use [and planned unit development areas; and]~~
~~[iv. Commercial and industrial use areas.]~~
~~[2. Shall comply with the standards set forth in COMAR when cutting into forest cover that is]~~
~~[currently below these afforestation percentages.]~~
- B. Comply with the following when cutting into forest cover that is currently below the afforestation percentageS described in ~~[subsection (A)(1) and (2)]~~ **§16.48.100.A.1.** of this ~~[section]~~ **CHAPTER:**
 1. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
 2. Forest cut or cleared below the required afforestation level shall be reforested or afforested at a two (2) to one (1) ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

~~[C.]~~ **16.48.110 – RETENTION.**

A. The following trees, shrubs, plants, and specific areas ~~[shall be]~~ **ARE** considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Commission, that reasonable efforts have been made to protect them and the plan cannot ~~[be]~~ reasonably **BE** altered:

1. Trees, shrubs, and plants located in sensitive areas including the one hundred (100) year floodplain, intermittent and perennial streams and their buffers, steep slopes, **NONTIDAL WETLANDS**, and critical habitats; **AND**
2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

B. THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION AND SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE COMMISSION, THAT THE APPLICANT QUALIFIES FOR A VARIANCE IN ACCORDANCE WITH §16.48.180 OF THIS CHAPTER:

- ~~[3.]~~ 1. Trees, shrubs, or plants ~~[identified on the list of]~~ **DETERMINED TO BE** rare, threatened, ~~[and]~~ **OR** endangered ~~[species]~~ under:

- a. The **FEDERAL** Endangered Species Act of 1973 in **16 U.S.C.** [~~Sections~~] §§1531—1544 and in 50 CFR 17 [~~or under COMAR, 08.08.08~~];
 - b. **THE MARYLAND NONGAME AND ENDANGERED SPECIES CONSERVATION ACT, NATURAL RESOURCES ARTICLE, §§10-2A-01—10-2A-09, ANNOTATED CODE OF MARYLAND; AND**
 - c. **COMAR 08.03.08;**
- ~~4.~~ 2. Trees that:
- a. Are part of a historic site;
 - b. Are associated with a historic structure; or
 - c. Have been designated by the State or the Department as a national, State, or county champion tree; **AND**
- ~~5.~~ 3. **ANY** tree[s] having a diameter measured at 4.5 feet above the ground of:
- a. Thirty (30) inches or more; or
 - b. Seventy-five (75) percent **OR MORE** of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the State of Maryland Department of Natural Resources.

ARTICLE VIII – REFORESTATION.

~~16.48.140 – Reforestation.~~ **16.48.120 – FOREST CONSERVATION THRESHOLD.**

- A. There is a forest conservation threshold established for all land use categories, as provided in Subsection B **OF THIS ARTICLE**. The forest conservation threshold means the percentage of the [~~new~~] **NET** tract area at which the reforestation requirement changes from a ratio of one-fourth (¼) acre planted for each acre removed above the threshold to a ratio of two (2) acres planted for each acre removed below the threshold.
- B. After [~~every~~] reasonable effortS to minimize the cutting or clearing of trees and other woody plants [~~is~~] **HAVE BEEN** exhausted in the development of a subdivision [~~plan~~] **OR PROJECT PLAN**, [~~and~~] grading and sediment control activities, and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, **PURCHASE OF CREDITS FROM A FOREST MITIGATION BANK**, or payment into the forest conservation fund, according to the formula set forth in SubsectionS **(B) AND (C) OF THIS ARTICLE** and consistent with **§16.48.070 OF THIS CHAPTER, AND** the following forest conservation thresholdS for the applicable land use category:

<i>Category of Use</i>	<i>Threshold Percentage</i>
(1) Agricultural and Resource [Conservation] AREAS	50%
(3) MEDIUM DENSITY RESIDENTIAL AREAS	25%
(4) Institutional Development Areas	20%
(5) High Density Residential Areas	20%
(6) Mixed Use and Planned Unit Development Areas	15%
(7) Commercial and Industrial Use Areas	15%

C. CALCULATIONS.

- 1. [~~If the percentage of forest cover remaining on the net tract area after cutting or clearing are completed, equals or exceeds the threshold established by the section, the site~~] **FOR ALL**

EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-TENTH (1/10) ACRE CLEARED ON THE NET TRACT AREA ABOVE THE APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF FOREST REMOVED shall be reforested at a ratio of one-fourth (1/4) acre planted for ~~every~~ EACH acre removed.

2. Each acre of forest retained on the net tract area above the **APPLICABLE FOREST CONSERVATION** threshold shall be credited against the total number of acres required to be reforested under ~~[subsection (C)(1)]~~ **PARAGRAPH (1) OF THIS SUBSECTION. THE CALCULATION OF THE CREDIT SHALL BE ACCORDING TO THE CRITERIA PROVIDED IN THE FOREST CONSERVATION TECHNICAL MANUAL.**
3. ~~[If the percentage of forest cover remaining on the net tract area after cutting and clearing are completed is less than the threshold established by this section, the site]~~ **FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST ONE-TENTH (1/10) ACRE CLEARED ON THE NET TRACT AREA BELOW THE APPLICABLE FOREST CONSERVATION THRESHOLD, THE AREA OF FOREST REMOVED** shall be reforested at a ratio of two (2) acres planted for ~~every~~ EACH acre removed **BELOW THE THRESHOLD.**

~~{16.48.150}~~ **ARTICLE IX - Priorities and Time Requirements for Afforestation and Reforestation.**

16.48.130 – SEQUENCE FOR AFFORESTATION AND REFORESTATION.

- A. ~~[The recommended sequence for forest conservation,]~~ After techniques for retaining existing forest on the site have been exhausted, **THE PREFERRED SEQUENCE FOR AFFORESTATION AND REFORESTATION, AS DETERMINED BY THE DEPARTMENT,** is as follows:
 - ~~{1. Selective clearing and supplemental planting on site;}~~
 - ~~{2. On site afforestation, or reforestation, if economically feasible, using transplanted or nursery stock that is greater than 1.5 inches in diameter measured at 4.5 feet above the ground;}~~
 - ~~{3. On site afforestation, or reforestation, using whips and shelters;}~~
 - ~~{4. Landscaping of areas under an approved landscaping plan that establishes a forest that is at least thirty five (35) feet wide and covers two thousand five hundred (2,500) square feet of area;}~~
 - ~~{5. Off site afforestation, or reforestation, using transplanted or nurser stock that is greater than 1.5 inches diameter measured at 4.5 feet above the ground;}~~
 - ~~{6. Off site afforestation, or reforestation, using whip and shelters.}~~
1. **FOREST CREATION IN ACCORDANCE WITH A FOREST CONSERVATION PLAN USING ONE OR MORE OF THE FOLLOWING:**
 - a. **TRANSPLANTED OR NURSERY STOCK;**
 - b. **WHIP AND SEEDLING STOCK; OR**
 - c. **NATURAL REGENERATION WHERE IT CAN BE ADEQUATELY SHOWN TO MEET THE OBJECTIVE OF THE FOREST CONSERVATION TECHNICAL MANUAL;**
2. **IN A MUNICIPAL CORPORATION WITH A TREE MANAGEMENT PLAN AND IN AN EXISTING POPULATION CENTER DESIGNATED IN THE COUNTY MASTER PLAN THAT HAS BEEN ADOPTED TO CONFORM WITH THE ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING ACT OF 1992, OR IN ANY OTHER DESIGNATED AREA APPROVED BY THE DEPARTMENT, THE USE OF:**
 - a. **STREET TREES AS A PERMISSIBLE STEP IN THE PRIORITY SEQUENCE FOR AFFORESTATION OR REFORESTATION AND WITH A MATURE CANOPY COVERAGE MAY BE GRANTED FULL CREDIT AS A MITIGATION TECHNIQUE; AND**

3. Establish or increase existing forested corridors to connect existing forests within or adjacent to the site[-] **AND** where practical, forested corridors should be a minimum of three hundred (300) feet in width to facilitate wildlife movement;
4. Establish or enhance forest buffers adjacent to critical habitats where appropriate;
5. Establish planting to stabilize slopes of twenty-five (25) percent or greater and slopes of fifteen (15) percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
6. Establish buffers adjacent to areas of differing land use [~~where~~] **WHEN** appropriate, or adjacent to highways or utility rights-of-way;
7. Establish forest areas adjacent to existing forests [~~so as~~] to increase the overall area of contiguous forest cover, when appropriate; and
8. Use native plant materials for afforestation or reforestation, when appropriate.

~~[D.]~~ **G.** A person required to conduct afforestation or reforestation under this Chapter shall accomplish [~~the reforestation~~] **IT** within one (1) year or two (2) growing seasons, whichever is **A** greater **TIME PERIOD**, following [~~the approval and recording in Frederick County's records of the final~~] development ~~plat~~ **PROJECT COMPLETION**.

~~[16.48.160]~~ **ARTICLE X** - Payment [~~in lieu~~] **INSTEAD** of Afforestation and Reforestation.

16.48.140 – FOREST CONSERVATION FUND.

- A. There is [~~created~~] **ESTABLISHED** an "Emmitsburg Forest Conservation Fund [-]" **THAT MEETS THE REQUIREMENTS OF NATURAL RESOURCES ARTICLE, §5-1610(H-1), ANNOTATED CODE OF MARYLAND.**
- B. If a person subject to this [~~article~~] **CHAPTER** demonstrates to the satisfaction of the Commission that **REQUIREMENTS FOR** reforestation or afforestation onsite or offsite cannot be reasonably accomplished **AND APPROPRIATE CREDITS GENERATED BY A FOREST MITIGATION BANK IN THE SAME COUNTY OR WATERSHED ARE NOT AVAILABLE**, the person shall contribute money [~~, at a rate of thirty cents (\$0.30) per square foot of the area of required planting,~~] into the Town's Forest Conservation Fund:
 1. **FOR A PROJECT INSIDE A PRIORITY FUNDING AREA, AS DEFINED IN NATURAL RESOURCES ARTICLE, §5-1610, ANNOTATED CODE OF MARYLAND, AT A RATE OF 30.5 CENTS PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING WITH THE AMOUNT ADJUSTED BY THE DEPARTMENT BASED ON THE PREVIOUS YEAR'S INFLATION RATE; AND**
 2. **FOR A PROJECT OUTSIDE A PRIORITY FUNDING AREA, AT A RATE OF 36.6 CENTS PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING.**
- C. Money contributed [~~in lieu~~] **INSTEAD** of afforestation or reforestation under this [~~subsection~~] **ARTICLE** shall be paid within ninety (90) calendar days of the approval the preliminary subdivision plat, [~~or~~] site plan[-] **PROJECT PLAN, GRADING PERMIT APPLICATION, OR SEDIMENT CONTROL APPLICATION.**
- D. **THE TOWN SHALL ACCOMPLISH THE REFORESTATION OR AFFORESTATION FOR THE EQUIVALENT NUMBER OF ACRES FOR WHICH THE MONEY IS DEPOSITED WITHIN** [~~Money contributed under this section shall remain in the account for a period of~~] two (2) years or three (3) growing seasons, whichever is a greater time period **AFTER RECEIPT OF THE MONEY**. [~~At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money.~~]
- ~~[E.]~~ Money contributed under this section shall remain in the account for a period of two years, or three [~~growing seasons.~~]

~~[F.]~~ **E. Money ~~[contributed under this section]~~ DEPOSITED IN THE TOWN'S FOREST CONSERVATION FUND:**

1. May be ~~[used only for]~~ **SPENT ON THE COSTS DIRECTLY RELATED TO** reforestation and afforestation, including site identification, acquisition, ~~[and]~~ preparation~~[-]~~, **MAINTENANCE OF EXISTING FORESTS**, ~~[and no more than twenty (20) percent for administration; and for maintenance of existing forests that are protected by a long term protective agreement as defined in this chapter;]~~ and ~~[for]~~ achieving urban canopy goals;
2. Shall be deposited in a separate forest conservation fund; and ~~[if this cannot be accomplished]~~ ~~[then the commission can decide to allow reforestation or afforestation to occur in the county]~~ ~~[or watershed in the state in which the project is located;]~~
3. ~~[Shall]~~ **MAY** not revert to the general fund.

~~[G.]~~ **F. SITES FOR AFFORESTATION OR REFORESTATION USING FUND MONEY.**

1. Except as provided in ~~[paragraph]~~ **SUBSECTION F (2)** of this ~~[subsection]~~ **ARTICLE**, the reforestation or afforestation requirement under this ~~[subsection]~~ **ARTICLE** shall occur within the corporate limits of the Town.
2. If the reforestation or afforestation cannot be reasonably accomplished ~~[on the subject property, or]~~ within the corporate limits of the Town **OR OTHER TOWN OWNED PROPERTY WITHIN THE COUNTY**, then the reforestation or afforestation shall occur ~~[on other town-owned property]~~ within the County ~~[-]~~ or **WATERSHED IN THE STATE IN WHICH THE PROJECT IS LOCATED**. ~~[on a property that has been previously approved as a participant in the Frederick County Forest Banking Program.]~~

ARTICLE X-1 – PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK

16.48.150 – USE OF FOREST MITIGATION BANK

- A. IF A PERSON SUBJECT TO THIS CHAPTER DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR REFORESTATION OR AFFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED, THE PERSON MAY CONTRIBUTE CREDITS FROM A FOREST MITIGATION BANK. A CREDIT IS REQUIRED FOR EACH TENTH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.**
- B. THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST MITIGATION BANK WITHIN 90 CALENDAR DAYS AFTER DEVELOPMENT PROJECT COMPLETION.**

ARTICLE X-2 – ESTABLISHING FOREST MITIGATION BANKS.

16.48.160 – FOREST MITIGATION BANKS.

- A. A PERSON MAY CREATE A FOREST MITIGATION BANK FROM WHICH APPLICANTS MAY PURCHASE CREDITS TO MEET THE AFFORESTATION AND REFORESTATION REQUIREMENTS OF THIS CHAPTER.**
- B. THE FOREST MITIGATION BANK SHALL:**
 - 1. AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH A FOREST MITIGATION BANK AGREEMENT;**
 - 2. BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS WHICH REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN PERPETUITY AND ARE ENFORCEABLE BY THE DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES;**
 - 3. LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES WHICH ARE NOT INCONSISTENT WITH FOREST CONSERVATION SUCH**

AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER TAX PROPERTY ARTICLE, §8-211, ANNOTATED CODE OF MARYLAND, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN PREPARED BY A LICENSED FORESTER AND APPROVED BY THE DEPARTMENT;

- 4. USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION UNLESS INAPPROPRIATE; AND**
 - 5. CAUSE TREES TO BE PLANTED WHICH,**
 - i. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO INTERMITTENT AND PERENNIAL STREAMS TO WIDTHS OF AT LEAST 50 FEET;**
 - ii. ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS, WHICH, WHERE PRACTICAL, SHOULD BE A MINIMUM OF 300 FEET IN WIDTH TO FACILITATE WILDLIFE MOVEMENT, TO CONNECT EXISTING FORESTS WITHIN OR ADJACENT TO THE SITE;**
 - iii. ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO CRITICAL HABITATS WHERE APPROPRIATE;**
 - iv. ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;**
 - v. STABILIZE SLOPES OF 25 PERCENT OR GREATER;**
 - vi. STABILIZE SLOPES OF 15 PERCENT OR GREATER WITH A SOIL K VALUE GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER NATURAL DEPRESSIONS;**
 - vii. ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY RIGHTS-OF-WAY; OR**
 - viii. ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE.**
- C. A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL SUBMIT TO THE DEPARTMENT A:**
- 1. COMPLETED APPLICATION ON A FORM APPROVED BY THE DEPARTMENT WHICH HAS BEEN SIGNED BY AN AUTHORIZED INDIVIDUAL IN CONFORMANCE WITH COMAR 08.19.04.02I;**
 - 2. FOREST MITIGATION BANK PLAN WHICH CONTAINS A:**
 - i. VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;**
 - ii. SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE CRITERIA IN COMAR 08.19.04.02;**
 - iii. DETAILED AFFORESTATION OR REFORESTATION PLAN, WHICH SHALL INCLUDE A TIMETABLE AND DESCRIPTION OF THE SITE AND SOIL PREPARATION NEEDED, SPECIES, SIZE, AND SPACING TO BE UTILIZED, PREPARED BY A LICENSED MARYLAND FORESTER, A LICENSED LANDSCAPE ARCHITECT, OR A QUALIFIED PROFESSIONAL WHO MEETS THE REQUIREMENTS STATED IN COMAR 08.19.06.01A; AND**
 - iv. PROPOSED 2-YEAR MAINTENANCE AGREEMENT THAT:**
 - 1. SETS FORTH HOW THE AREAS AFFORESTED OR REFORESTED WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT;**

2. **COMPLIES WITH COMAR 08.19.04.05C(4)(A); AND**
 3. **INCLUDES WATERING AND REINFORCEMENT PLANTING PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED STANDARDS;**
 3. **COPY OF THE DEED TO THE PROPERTY;**
 4. **SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;**
 5. **TITLE REPORT OR OTHER ASSURANCE THAT:**
 - i. **THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER TYPES OF RESTRICTIONS WHICH WOULD IMPAIR THE PROPERTY'S USE AS A FOREST MITIGATION BANK; AND**
 - ii. **THERE IS LEGALLY SUFFICIENT ACCESS TO THE FOREST MITIGATION BANK SITE WHICH CAN BE USED BY THE DEPARTMENT AND ITS ASSIGNEES TO INSPECT THE FOREST MITIGATION BANK; AND**
 6. **DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING AND OPERATING THE FOREST MITIGATION BANK TO IDENTIFY AND KEEP TRACK OF WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED TO MEET AN APPLICANT'S OFFSITE AFFORESTATION OR REFORESTATION REQUIREMENTS.**
- D. THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT WHICH CONTAINS:**
1. **THE APPROVED REFORESTATION OR AFFORESTATION PLAN;**
 2. **THE APPROVED SYSTEM FOR MARKING AND TRACKING WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED; AND**
 3. **AN ACKNOWLEDGMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL 2 YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED UNLESS THE BANKER HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.**

~~[16.48.170]~~ **ARTICLE XI** - Recommended Tree Species.

16.48.170 – RECOMMENDED TREE SPECIES LIST.

- A. Tree species used for afforestation or reforestation shall be native to the county, when appropriate, and selected from a list of approved species established by the ~~[Commission]~~ **DEPARTMENT**.
- B. The ~~[Commission]~~ **DEPARTMENT** shall adopt ~~[regulations establishing]~~ a list of tree species ~~[native to the county]~~ to be used for **ANY REQUIRED** afforestation or reforestation.

~~[16.48.180—Surety]~~ **ARTICLE XII – FINANCIAL SECURITY** for Afforestation and Reforestation.

16.48.180 – BONDING.

- A. A person required to conduct afforestation or reforestation under this ~~[article]~~ **CHAPTER** shall furnish ~~[surety]~~ **FINANCIAL SECURITY** in the form of **A BOND**, an irrevocable letter of credit, ~~[drawn on a Frederick County bank]~~ or other security approved by the ~~[commission]~~ **DEPARTMENT**. The surety shall:
 1. Assure that the afforestation, reforestation, and **THE** associated ~~[management plan]~~ **MAINTENANCE AGREEMENT** are conducted and maintained in accordance with the approved forest conservation plan;

2. Be in the amount equal to the estimated cost, as determined by the [~~commission~~]
DEPARTMENT, of afforestation [~~or~~] **AND** reforestation; plus administration and inspection costs of twenty (20) percent; and
 3. Be in a form and of a content approved by the **DEPARTMENT AND** Town Attorney.
- B. [~~If after one growing season the planting associated with the afforestation or reforestation meet or exceed the standards of the forest conservation manual, the town shall notify the appropriate entity that liability has been reduced by fifty (50) percent.~~] **AFTER ONE GROWING SEASON, THE PERSON REQUIRED TO FILE A BOND UNDER §16.48.180.A. OF THIS ARTICLE MAY REQUEST REDUCTION OF THE AMOUNT OF THE BOND OR OTHER FINANCIAL SECURITY BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT WITH A JUSTIFICATION FOR REDUCING THE BOND OR OTHER FINANCIAL SECURITY AMOUNT, INCLUDING ESTIMATED OR ACTUAL COSTS TO ENSURE AFFORESTATION OR REFORESTATION REQUIREMENTS ARE MET.**
- C. [~~If after two growing seasons the plantings associated with the afforestation or reforestation meet or exceed the standards of the forest conservation manual, the town shall notify the appropriate entity that liability has been reduced to zero (0) percent.~~] **THE DEPARTMENT SHALL DETERMINE WHETHER A LESSER AMOUNT IS SUFFICIENT TO COVER THE COST OF AFFORESTATION OR REFORESTATION, TAKING INTO ACCOUNT THE FOLLOWING:**
1. **THE NUMBER OF ACRES;**
 2. **THE PROPOSED METHOD OF AFFORESTATION OR REFORESTATION;**
 3. **THE COST OF PLANTING MATERIALS OR REPLACEMENT MATERIALS;**
 4. **THE COST OF MAINTENANCE OF THE AFFORESTATION OR REFORESTATION PROJECT; AND**
 5. **OTHER RELEVANT FACTORS.**
- D. **IF, AFTER TWO GROWING SEASONS, THE PLANTINGS ASSOCIATED WITH THE AFFORESTATION OR REFORESTATION MEET OR EXCEED THE STANDARDS OF THE FOREST CONSERVATION TECHNICAL MANUAL, THE AMOUNT OF THE CASH, BOND, LETTER OF CREDIT, SURETY BOND, OR OTHER SECURITY SHALL BE RETURNED OR RELEASED.**
- [~~D.~~] E. The local forest conservation program will incorporate the financial security set forth in §16.48.180 A—D OF this article [~~and~~] **OR** in COMAR 08.19.05.01.B.

~~{16.48.190}~~ **ARTICLE XIII** - Standards for Protecting Trees from Construction Activities.

16.48.190 – PROTECTION DEVICES.

- A. The Town shall adopt standards for the protection of trees from construction activity. ~~{that are at least as effective as the standards set forth in the state of Maryland Department of Natural Resources' Forest Conservation Manual.}~~
- B. Before cutting, clearing, grading, or construction begins on a site for which a forest conservation plan is required by this chapter, the ~~{developer}~~ **APPLICANT** shall demonstrate to the ~~{commission}~~ **DEPARTMENT** that protective devices have been established.

~~{16.48.200}~~ **ARTICLE XIV** - Variances.

16.48.200 – PROCEDURE.

- A. **A PERSON MAY REQUEST A VARIANCE FROM THIS CHAPTER OR THE REQUIREMENTS OF NATURAL RESOURCE ARTICLE, §§5-1601—5-1612, ANNOTATED CODE OF MARYLAND, IF THE PERSON DEMONSTRATES THAT ENFORCEMENT WOULD RESULT IN UNWARRANTED HARDSHIP TO THE PERSON.** The TOWN'S Board of Appeals may grant a variance to this ~~{article}~~ **CHAPTER** in accordance with this section.
- B. ~~{In order to grant a variance to this article, the Board of Appeals issue specific written findings of fact demonstrating that the granting of variance}~~ **THE APPLICANT FOR A VARIANCE SHALL:**
 - 1. ~~{Was due to}~~ **DESCRIBE THE special CONDITIONS PECULIAR TO THE PROPERTY WHICH WOULD CAUSE THE** ~~{features of the particular site or other circumstances, and that implementation of this article would result in}~~ **unwarranted hardship** ~~{to an applicant}~~;
 - 2. ~~{Was because the}~~ **DESCRIBE HOW** enforcement of these rules ~~{would}~~ **WILL** deprive the applicant of rights commonly enjoyed by others in similar areas;
 - 3. ~~{Would}~~ **VERIFY THAT THE GRANTING OF THE VARIANCE WILL** not confer on the applicant a special privilege that would be denied to other applicants;
 - 4. ~~{Was}~~ **VERIFY THAT THE VARIANCE REQUEST IS** not based on conditions or circumstances which are the result of actions by the applicant;
 - 5. **VERIFY** that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; **AND**
 - 6. **VERIFY THAT THE GRANTING OF A VARIANCE** will not adversely affect water quality~~{;}~~.
 - ~~{7. Is designed in a manner consistent with the spirit and intent of this article; and}~~
 - ~~{8. The application to the board of appeals for a variance to this article and public hearing shall take place the same as for request for a variance to the zoning regulations.}~~
- C. The Board **OF APPEALS** shall make findings that the applicant has met the requirements in Subsections A and B of this ~~{section}~~ **ARTICLE** before the Board may grant a variance.
- D. Notice of a request for a variance shall be given to the Department of Natural Resources within fifteen (15) days of receipt of a request for a variance.
- E. There is established by this Chapter the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial, or other original proceeding or appeal in the State concerning an approval of a variance under Natural Resources Article, ~~{Section}~~ **§§5-1601—5-1612, Annotated Code of Maryland, or this Chapter.**

~~{16.48.210—Violations}~~ **ARTICLE XV - Penalties.**

16.48.210 – ENFORCEMENT.

A. NONCOMPLIANCE FEES.

1. A person found to be in noncompliance with this ~~[article]~~ **CHAPTER**, regulations adopted under this ~~[article]~~ **CHAPTER**, the forest conservation plan, or the associated two-year ~~[management]~~ **MAINTENANCE** agreement, shall be assessed by the ~~[commission]~~ **DEPARTMENT**, the penalty of thirty cents (\$0.30) per square foot of the area found to be in noncompliance with required forest conservation.
2. Money collected under ~~[subparagraph (1) of this]~~ Subsection **A(1) OF THIS ARTICLE** shall be deposited in the forest conservation fund required by ~~[Section 16.52.150]~~ **ARTICLE X OF THIS CHAPTER**, and may be used by the ~~[commission]~~ **DEPARTMENT** for purpose~~[s]~~ related to implementing this ~~[article]~~ **CHAPTER**.

B. VIOLATION.

1. In addition to the provisions under Subsection A of this ~~[section]~~ **ARTICLE**, a person who violates ~~[any]~~ A provision of this ~~[article]~~ **CHAPTER** or ~~[any]~~ A regulation or order adopted or issued under this ~~[article]~~ **CHAPTER**~~[-]~~ is liable for a penalty not **TO** exceed~~[ing]~~ one thousand dollars (\$1,000.00), which may be recovered in a civil action brought by the Department.
2. Each day a violation continues is a separate violation.

C. The ~~[commission]~~ **DEPARTMENT** may seek an injunction requiring the person to cease violation of this Chapter and take corrective action to restore or reforest an area.

D. The local program ~~[will]~~ **MAY** adopt the enforcement provisions under COMAR 08.19.06.03.

E. THE LOCAL PROGRAM SHALL PROVIDE TO THE DEPARTMENT NOTICE OF AN ENFORCEMENT ACTION WITHIN 15 DAYS AFTER THE COMMENCEMENT OF ENFORCEMENT BY THE LOCAL PROGRAM.

~~{16.48.220}~~ **ARTICLE XVI - Annual Report.**

16.48.220 – ANNUAL REPORT.

A. On or before March ~~[31]~~ **1** of each year, the ~~[commission]~~ **DEPARTMENT** shall submit to the ~~[Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee]~~ **DEPARTMENT OF NATURAL RESOURCES**~~[-]~~ a report ~~[on]~~ **WHICH CONTAINS THE:**

- ~~{A-}~~ 1. ~~[The]~~ Number, location, and type of projects subject to the provisions of this ~~[article]~~ **CHAPTER;**
- ~~{B-}~~ 2. ~~[The]~~ Amount and location of acres cleared, conserved, and planted, **INCLUDING ANY AREAS LOCATED IN THE ONE HUNDRED (100) YEAR FLOODPLAIN**, in connection with a development project;
- ~~{C-}~~ 3. ~~[The]~~ Amount of reforestation and afforestation fees and noncompliance penalties collected and expended, **THE NUMBER OF ACRES FOR WHICH THE FEES WERE COLLECTED, AND THE NUMBER OF ACRES REFORESTED, AFFORESTED, OR CONSERVED USING THE FEES;** ~~[and]~~
- ~~{D-}~~ 4. ~~[The]~~ Costs of implementing the Forest Conservation Program~~[-]~~;
5. **LOCATION AND SIZE OF ALL FOREST MITIGATION BANKS APPROVED DURING THE PAST YEAR WITH A DESCRIPTION OF THE PRIORITY AREAS AFFORESTED OR REFORESTED BY THE BANK;**
6. **NUMBER OF ACRES DEBITED FROM EACH FOREST MITIGATION BANK SINCE THE LAST ANNUAL REPORT;**
7. **FOREST MITIGATION BANKS INSPECTED SINCE THE LAST ANNUAL REPORT.**

8. NUMBER, LOCATION, AND TYPES OF VIOLATIONS AND TYPES OF ENFORCEMENT ACTIVITIES CONDUCTED; AND
9. THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST AREAS SHALL BE SUBMITTED IN AN ELECTRONIC GEOGRAPHIC INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT IF POSSIBLE. IF NOT POSSIBLE, THE LOCATION SHALL BE GIVEN BY MARYLAND STATE PLANE GRID COORDINATES AND 8 DIGIT SUBWATERSHED.

~~[16.48.230]~~ ARTICLE XVII - Biennial Review by the Department of Natural Resources.

16.48.230 – BIENNIAL REVIEW

A. The ~~[commission]~~ DEPARTMENT shall submit the necessary documentation to comply with COMAR 08.19.02.04.

~~[If the department notifies a local authority that the authority's program is in noncompliance, and the local authority has failed to comply with the terms of the notice within ninety (90) days, the department may do one of the following:~~

- ~~(1) Assume review and approval of all forest conservation plans and forest mitigation bank applications within the jurisdiction of the local authority until the deficiencies are corrected.~~
- ~~(2) On a finding by an auditor made in consultation with the office of the attorney general that a local authority has misappropriated local forest conservation funds, the department may require the local authority to submit payment to the state forest conservation fund for the amount of any misappropriated funds, and~~
- ~~(3) Request that the attorney general investigate payments and expenditures of funds collected by the local authority under this subtitle.~~

~~Article 5. Short and Long Term Protective Agreements~~

~~16.48.240 Short term protective agreements.~~

~~A. Maintenance Agreements.~~

- ~~1. Application. A person required to conduct afforestation or reforestation under a local or state program shall include in the forest conservation plan a binding maintenance agreement for the length of two years, as specified in the forest conservation manual.~~
- ~~2. Approval procedures and timing shall be consistent with the procedures provided in the local program or as provided in COMAR 08.19.04.04.~~
- ~~3. The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest and shall follow the standards provided in Chapter 3 of the forest conservation manual.~~
- ~~4. The person required to conduct the afforestation or reforestation, after this referred to as the "obligee," shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing:
 - ~~a. An executed deed conveying title to a selected site to the obligee;~~
 - ~~b. An executed conservation easement agreement;~~
 - ~~c. Written evidence of the landowners consent to the use of a selected site;~~
 - ~~d. A fully executed option agreement, long term lease agreement, or contract of sale for a selected site; or~~
 - ~~e. Other written evidence of a possessory or ownership interest in a selected site.~~~~
- ~~5. The commission or the local authority shall be a signatory to the maintenance agreement, or shall be designated a third party beneficiary of the agreement.~~

6. ~~The commission or local authority may not release a bond or end monitoring without receipt of a legally binding deed, long term lease, or conservation easement agreement on those lands where afforestation or reforestation will occur.~~
 7. ~~The maintenance agreement shall provide for access by the department or local authority to the afforestation or reforestation site.~~
- B. ~~Bonding.~~
1. ~~Application.~~
 - a. ~~A person required to conduct afforestation or reforestation, or to deposit money into a state or local fund under the state or local program shall include a bond or other financial security as an element of a forest conservation plan.~~
 - b. ~~This section does not apply to agencies of any federal, state, county, or municipal government.~~
 2. ~~Requirements. A financial security shall be furnished in the form of:~~
 - a. ~~A bond which shall be made payable to the department or local authority;~~
 - b. ~~An irrevocable letter of credit which shall:~~
 - i. ~~Be equivalent to the required bond;~~
 - ii. ~~Be issued by a financial institution authorized to do business in Maryland;~~
 - iii. ~~Expressly state that the total sum is guaranteed to be available and payable directly to the department on demand in the event of forfeiture, and~~
 - iv. ~~Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the department or local authority or until all contributions have been made to the state or local fund; or~~
 - e. ~~Other security approved by the Department or local authority.~~
 3. ~~The financial security shall:~~
 - a. ~~Ensure that:~~
 - i. ~~The afforestation, reforestation and associated maintenance agreements are conducted and maintained in accordance with the approved forest conservation plan, or~~
 - ii. ~~Contributions have been made to the State or local fund;~~
 - b. ~~Be in the amount equal to the estimated cost of afforestation and reforestation, or the amount of the contribution due, as determined by the department or local authority;~~
 - c. ~~Be in a form and content approved by the department or local authority.~~
 4. ~~The value of the financial security:~~
 - a. ~~Shall be based on:~~
 - i. ~~The cost to perform all work required by the afforestation or reforestation plan if the work had to be performed by or contracted out by the department or local authority, or~~
 - ii. ~~When appropriate, the amount due for a fund contribution;~~
 - b. ~~May be adjusted according to the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the department or local authority shall notify the obligee of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and~~
 - c. ~~May be reduced if the obligee proves to the department or local authority that the costs to complete the mitigation project have been reduced.~~
 5. ~~A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:~~
 - a. ~~The surety notifies the department and the obligee of its intent to cancel the bond, in writing, by registered mail, not less than ninety (90) days before cancellation; and~~
 - b. ~~At least forty five (45) days before the cancellation date indicated in the notice, the obligee files a commitment from a surety, bank or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.~~

- 6.—After one growing season, the person required to file a bond or other financial security under this regulation may request reduction of the amount of the bond or other financial security by submitting a written request to the department with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure that the afforestation or reforestation requirements are met.
 - 7.—The department shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - a.— The number of acres;
 - b.— The proposed method of afforestation or reforestation;
 - c.— The cost of planting materials or replacement materials;
 - d.— The cost of maintenance of the afforestation or reforestation project; and
 - e.— Other relevant factors.
 - 8.— If, after two growing seasons or one year, whichever is greater, the planting associated with the afforestation or reforestation meet or exceed the standards of the forest conservation manual, the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
 - 9.— Bond Release.
 - a.— The bond shall be released on receipt of written notice from the department or local authority, if applicable, stating that all afforestation or reforestation requirements have been met.
 - b.— The written notice shall be sent at the end of the required two year monitoring and management period, as provided in the maintenance agreement.
 - c.— If the department fails to send written notice within sixty (60) days after the end of the monitoring and management period, the bond shall be automatically released.
 - 10.— Financial Security Forfeiture.
 - a.— The bond or other financial security may be subject to forfeiture if the obligee fails to comply with:
 - i.— Revocation of the forest conservation plan;
 - ii.— An administrative order; or
 - iii.— An element of the afforestation or reforestation plan.
 - b.— The commission or local authority shall notify the obligee, by certified mail, or the intention of the department or local authority to initiate forfeiture proceedings.
 - c.— The obligee has thirty (30) days from receipt of the notice of forfeiture to show cause why the bond or other financial security may not be forfeited.
 - d.— If the obligee fails to show cause, the bond or other financial security shall be forfeited.
- C.— A local program may substitute for the bonding provisions of subsection (B) of this regulation a process that is consistent with the state bonding procedure.
- 16.48.250 Long term protective agreements.
- A.— An applicant under the Emmitsburg program shall have in effect at all times approved long term protective measures as provided for in Natural Resources Article, Section 5-1607, Annotated Code of Maryland, to retain as forest all land forested, afforested, or reforested under this chapter. A local program will contain provisions for long term protective measures including subsection (B) of this regulation.
- B.— Approved Forest Management Plan.
- 1.— Procedure for Approval.
 - a.— An application for approval of a forest management plan shall include all information required in the forest conservation manual.
 - b.— The forest management plan:
 - i.— Shall be legally binding from the date of approval;
 - ii.— Shall be prepared by a licensed professional forester;

- iii.—~~Shall be submitted to the Department of Natural Resources forester assigned to the county where the property is located; and~~
 - iv.—~~May be amended periodically, as provided for in subsection (B)(2) of these regulations.~~
 - e.—~~The Department of Natural Resources forester shall review the plan to ensure that it is complete and consistent with the State or local program.~~
 - d.—~~The department shall notify the applicant whether the forest management plan has been approved.~~
 - 2.—~~Procedure for Amendment of an Approved Forest Management Plan.~~
 - a.—~~An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.~~
 - b.—~~Amendments shall be prepared by a licensed professional forester.~~
 - e.—~~The amendment shall be submitted to the Department of Natural Resources forester assigned to the county where the property is located.~~
 - d.—~~The Department of Natural Resources forester shall review the amendment to ensure that it is complete and consistent with the state or local program.~~
 - e.—~~The Department of Natural Resources shall notify the applicant as to whether the amendment has been approved.~~
 - f.—~~The applicant shall sign the amendment.~~
 - C.—~~Forest Conservation and Management Agreement. An applicant may satisfy the requirement for long term protection under Natural Resources Article, Section 5-1607(e), Annotated Code of Maryland, by executing a forest conservation and management agreement, as provided in Tax-Property Article, Section 8-211, Annotated Code of Maryland, and COMAR 08.07.03.~~
 - D.—~~Other Legally Binding Protective Agreements.~~
 - 1.—~~Other legally binding protective agreements include:~~
 - a.—~~Covenants running with the land;~~
 - b.—~~Deed restrictions;~~
 - e.—~~Conservation easements; and~~
 - d.—~~Land trusts.~~
 - 2.—~~Other legally binding agreements shall provide:~~
 - a.—~~Protection for land forested, afforested, or reforested under Natural Resources Article, Section 5-1601—5-1612, Annotated Code of Maryland, and this chapter; and~~
 - b.—~~Limitation on the uses of forest to those that are consistent with forest conservation.~~
 - E.—~~An applicant may include in a forest conservation plan another long term protective measure if the applicant demonstrates to the satisfaction of the department that the measure will provide for the long term protection of the areas retained, afforested, or reforested under this chapter.~~
 - F.—~~Procedure for a Timber Harvesting Plan.~~
 - 1.—~~An individual may harvest timber on forested, reforested, or afforested areas protected under an approved forest conservation plan provided that the harvest:~~
 - a.—~~Is consistent with the intent of an approved forest management plan, forest conservation management agreement, or other long term protective agreement;~~
 - b.—~~Is subject to a timber harvest plan:~~
 - i.—~~Prepared by a licensed professional forester;~~
 - ii.—~~Submitted to the local forestry conservancy district board for review and approval;~~
 - iii.—~~That remains in effect for two years; and~~
 - e.—~~Is consistent with the intent and requirements of the approved forest conservation plan.~~
 - 2.—~~The local forest conservancy district board shall notify the individual whether the timber harvest plan under Section 16.48.250 (F)(1) has been approved.~~
- Article 6.—~~Additional Requirements~~
16.48.260—~~Qualified professionals.~~
A.—~~An individual may prepare a forest stand delineation or a forest conservation plan, if the individual:~~

1. Is a licensed forester;
 2. Is a licensed landscape architect; or
 3. Meets the requirements of subsection (B) of this regulation.
- B. An individual may be approved by the department as a qualified professional if the individual:
1. Possesses a four-year degree in the natural resources sciences, natural resources management, or landscape or environmental planning;
 2. Has the following:
 - a. Two years of professional experience in natural resources sciences, natural resources management, landscape planning or environmental planning, or the equivalent, as determined by the state, or
 - b. A graduate degree in natural resources and one year of professional experience;
 3. Has the ability to meet the obligations required by the forest conservation manual to prepare a forest stand delineation and a forest conservation plan; and
 4. Satisfactorily completes a forest conservation course offered by the department.
- C. The department shall offer forest conservation courses on a regular basis, which shall demonstrate how to:
1. Develop and interpret a forest stand delineation and forest conservation plan according to criteria stated in the forest conservation manual;
 2. Prepare and interpret soils, topography, floodplain, wetlands and site maps;
 3. Prepare afforestation and reforestation plans according to criteria stated in the forest conservation manual;
 4. Prepare a sketch map of a site, showing areas of forest retention, proposed reforestation, or afforestation;
 5. Identify and evaluate protection measures that may be appropriate for forested areas that are sensitive to disturbance;
 6. Identify flora and fauna, including trees, woody shrubs, plants and wildlife;
 7. Diagnose and treat forest pest and disease problems; and
 8. Understand ecosystem interactions including:
 - a. Water regime impacts;
 - b. Soil variations as they affect existing trees and species selection for afforestation and reforestation;
 - c. Wildlife habitats;
 - d. Multi-storied plant canopies, and
 - e. Forest successional stages.
- 16.48.270 Training.
- A. Seminars for Local Officials.
1. The department shall provide a training program to assist local officials in the development of local programs, including one seminar per year for each geographic region of the state for the calendar years of 1992 and 1993.
 2. For the purposes of this training program the geographic regions are:
 - a. Central Region: Baltimore, Carroll, Cecil, Hartford, Kent and Queen Anne's counties and Baltimore City;
 - b. Eastern Region: Caroline, Dorchester, Somerset, Talbot, Wicomico, and Worcester counties;
 - c. Southern Region: Anne Arundel, Calvert, Charles, Howard, Montgomery, Prince George's and St. Mary's counties; and
 - d. Western Region: Allegany, Frederick, Garrett, and Washington counties.
- B. Additional Seminars.

- 1.—~~The department may offer additional annual seminars to assist local officials, developers, planners, surveyors, engineers, foresters, biologists and landscape architects in the development, review or approval of forest stand delineations and forest conservation plans.~~
- 2.—~~The department may sponsor additional seminars in conjunction with other professional and trade organizations.~~

16.48.280 Enforcement.

A.—Application.

- 1.—~~The provisions of this chapter apply to a person under the state program making application for a subdivision or project plan, grading or sediment control permit, on areas twenty thousand (20,000) square feet or greater.~~
- 2.—~~A local authority may adopt the provisions of this chapter for the enforcement of a local program.~~

B.—Complaints and Orders.

- 1.—~~In addition to sanctions authorized by Natural Resources Article, Section 5-1612, Annotated Code of Maryland, the Department may serve a written complaint on an alleged violator if the department determines that there has been a violation of:~~
 - a.—~~A provision of Natural Resources Article, Section 5-1601—5-1611, Annotated Code of Maryland;~~
 - b.—~~A regulation of this chapter;~~
 - c.—~~A forest stand delineation or forest conservation plan;~~
 - d.—~~An administrative order.~~
- 2.—~~The complaint shall:~~
 - a.—~~Identify the violator and the location of the violation;~~
 - b.—~~State the provision violated;~~
 - c.—~~State the specific facts on which the complaint is based; and~~
 - d.—~~Provide an opportunity to request a hearing to contest the complaint.~~
- 3.—~~Corrective Action.~~
 - a.—~~At any time, including during an enforcement action, the department may issue an administrative order requiring the violator to take correction action within a certain time period.~~
 - b.—~~The corrective action may include an order to:~~
 - i.—~~Stop the violation;~~
 - ii.—~~Stabilize the site;~~
 - iii.—~~Stop all construction work at the site of a regulated activity;~~
 - iv.—~~Restore or rectify unlawfully cleared areas; or~~
 - v.—~~Submit a written report or plan concerning the violation.~~
- 4.—~~Service.~~
 - a.—~~A complaint, order, or other administrative notice issued by the department shall be served:~~
 - i.—~~On the violator personally;~~
 - ii.—~~On the violator's agent at the activity site; or~~
 - iii.—~~By certified mail to the violator's last known address.~~
 - b.—~~An order issued under this regulation is effective immediately, according to its terms, when it is served.~~

C.—Hearings.

- 1.—~~The department shall give notice and hold a hearing under this chapter in conformance with State Government Article, Section 10-210—10-217, Annotated Code of Maryland.~~
- 2.—~~Within ten calendar days of receiving a complaint, order, or notice under this chapter, the violator may request a hearing, in writing.~~
- 3.—~~If a person has been served with an order for corrective action, the person may request a stay in conjunction with a request for a hearing.~~

4. ~~A request for stay may be heard before or during a hearing on the complaint. At the request of a violator, a request for stay may be heard within ten business days of the department's receipt of the request.~~
 5. ~~Administrative Action for a Forest Conservation Plan or Bond. The department may suspend or revoke a forest conservation plan or forfeit a bond on a forest conservation plan on failure of the violator to comply with the requirements of an administrative order.~~
 6. ~~Statutory Remedies. The provisions of this chapter may not be construed to limit or affect the authority of the department to proceed against violators under Natural Resources Article, Section 5-1612, Annotated Code of Maryland.~~
- D. ~~Plan Suspension and Revocation. The department may suspend or revoke a plan after notice to the violator and opportunity for a hearing has been provided if the department determines that one or more of the following has occurred:~~
1. ~~Failure of a violator to post a bond required under COMAR 0819.0B5.01B;~~
 2. ~~Failure to comply with the requirements of an administrative action or order issued under this chapter, or for a violation of Natural Resources Article, Section 5-1601—5-1612, Annotated Code of Maryland;~~
 3. ~~Misrepresentation in the application process or failure to disclose a relevant or material fact;~~
 4. ~~Violation of a forest conservation plan requirement;~~
 5. ~~Substantial deviation from the conditions, specifications, or requirements of a plan;~~
 6. ~~Changes in site conditions, new information, or amended regulatory requirements necessitate revocation before a person's right under a plan have vested.~~
- E. ~~Notice. Except as provided under subsection (G) of this section, the department may not suspend or revoke a forest conservation plan unless the department first gives the violator written notice by certified mail of the specific facts that warrant suspension or revocation, and an opportunity to be heard.~~
- F. ~~Contested Case Hearings.~~
1. ~~On receipt of written notice to suspend or revoke a forest conservation plan, the violator has ten calendar days to request a contested case hearing.~~
 2. ~~A hearing under this regulation shall be conducted in conformance with State Government Article, Section 10-201—10-217, Annotated Code of Maryland.~~
 3. ~~If the department does not receive a request for a hearing, the forest conservation plan shall be suspended or revoked.~~
- G. ~~Emergency Action.~~
1. ~~The department may order the immediate suspension of a forest conservation plan if the department finds that the public health, safety or welfare imperatively requires the emergency suspension.~~
 2. ~~The department shall promptly give the violator written notice that the emergency action has been taken.~~
 3. ~~A notice of emergency action shall include a statement of:~~
 - a. ~~Specific facts on which the emergency suspension is based; and~~
 - b. ~~The violator's opportunity to be heard.~~
- Article 7. ~~Applicability~~
- 16.48.290 ~~Areas which this chapter does not apply.~~
- A. ~~Any preliminary plan of subdivision or any grading or sediment control plan approved before July 1, 1991; and~~
- B. ~~Any planned unit development that by December 31, 1991, has:~~
1. ~~Met all local requirements for planned unit development approval; and~~
 2. ~~Obtained initial development plan approval by the Department]~~

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 6th day of January, 2020

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford L. Sweeney, President

MAYOR

_____APPROVED _____VETOED

this 6th day of January, 2020.

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:

Note: Planning Commission recommended approval of Ordinance 19-08 without comment at their 12/17/19 meeting.

ORDINANCE SERIES: 2019
ORD. NO: 19 – 08

Page 1 of 2

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 Title 17, Section 17.20.090 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 17.20 Commercial Districts

17.20.090 – Commercial district buffer.

Where a commercial zoning district is adjacent to a residential zone, a buffer zone will be provided by the commercial property owner, as follows:

- A. A six-foot tall, solid fence will be installed and maintained along the property boundary abutting the residential zoning district.
- B. Landscaping will be installed and maintained to screen parking areas so as not to be visible from roads within the adjacent residential zoning district.
- C. **THE PLANNING COMMISSION MAY WAIVE THE REQUIREMENTS OF THIS SECTION DURING THE SITE PLAN PROCESS ONLY FOR PROPERTIES IN THE NEIGHBORHOOD COMMERCIAL (B-1) ZONING DISTRICT IF IT IS DETERMINED THAT THE PROPOSED USE OF THE COMMERCIAL PROPERTY WOULD NOT CAUSE DETRIMENT TO THE NEIGHBORING RESIDENTIAL PROPERTIES.**

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 6th day of January, 2020

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford Sweeney, President

MAYOR

_____APPROVED _____VETOED

this 6th day of January, 2020.

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 #4. Approval of Logging Stand 6 for Consideration: Presentation at meeting by town staff.

Area of Stand 6:

- 45 Acres

Dominant Species:

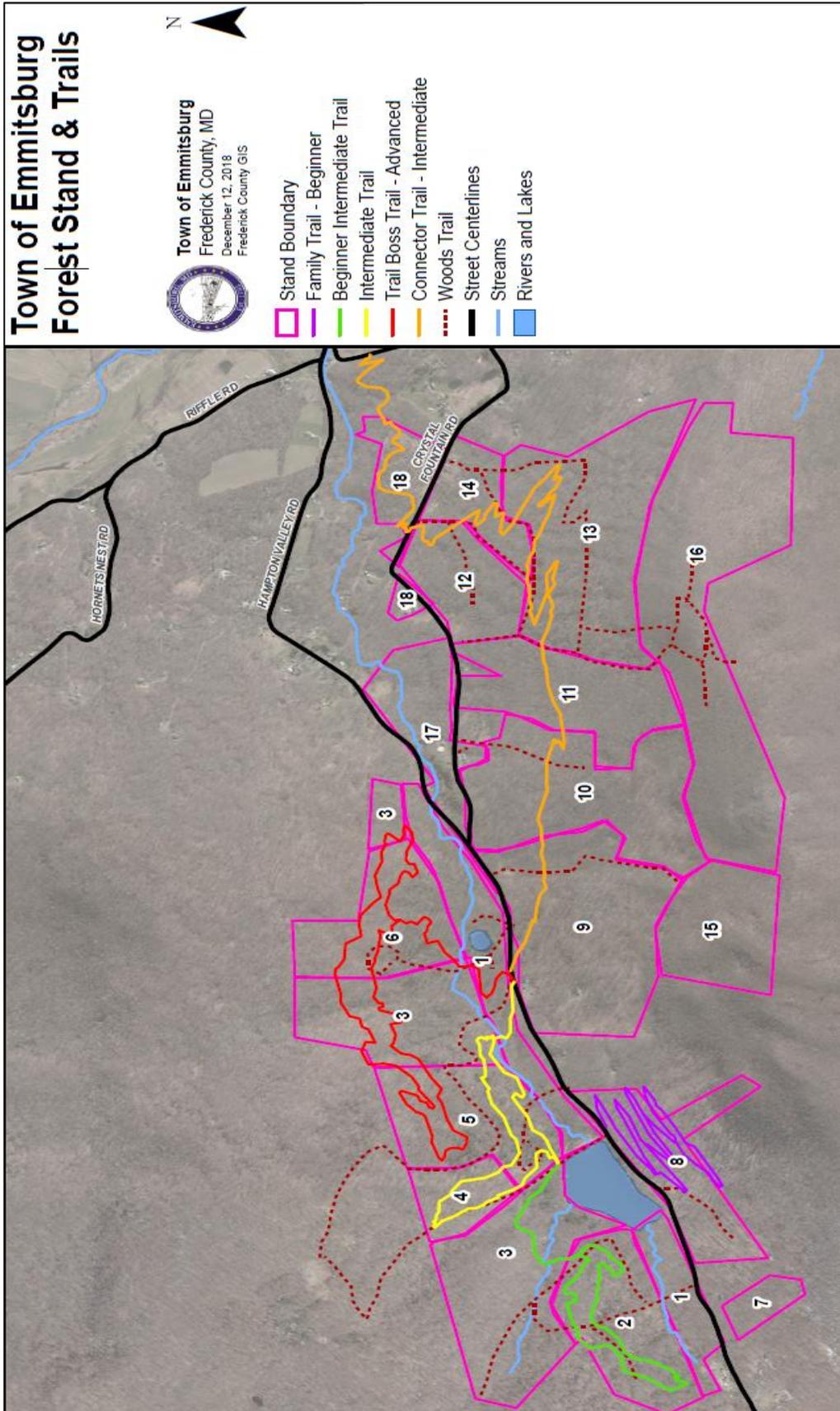
- White Oak
- Red Oak
- Tulip Poplar

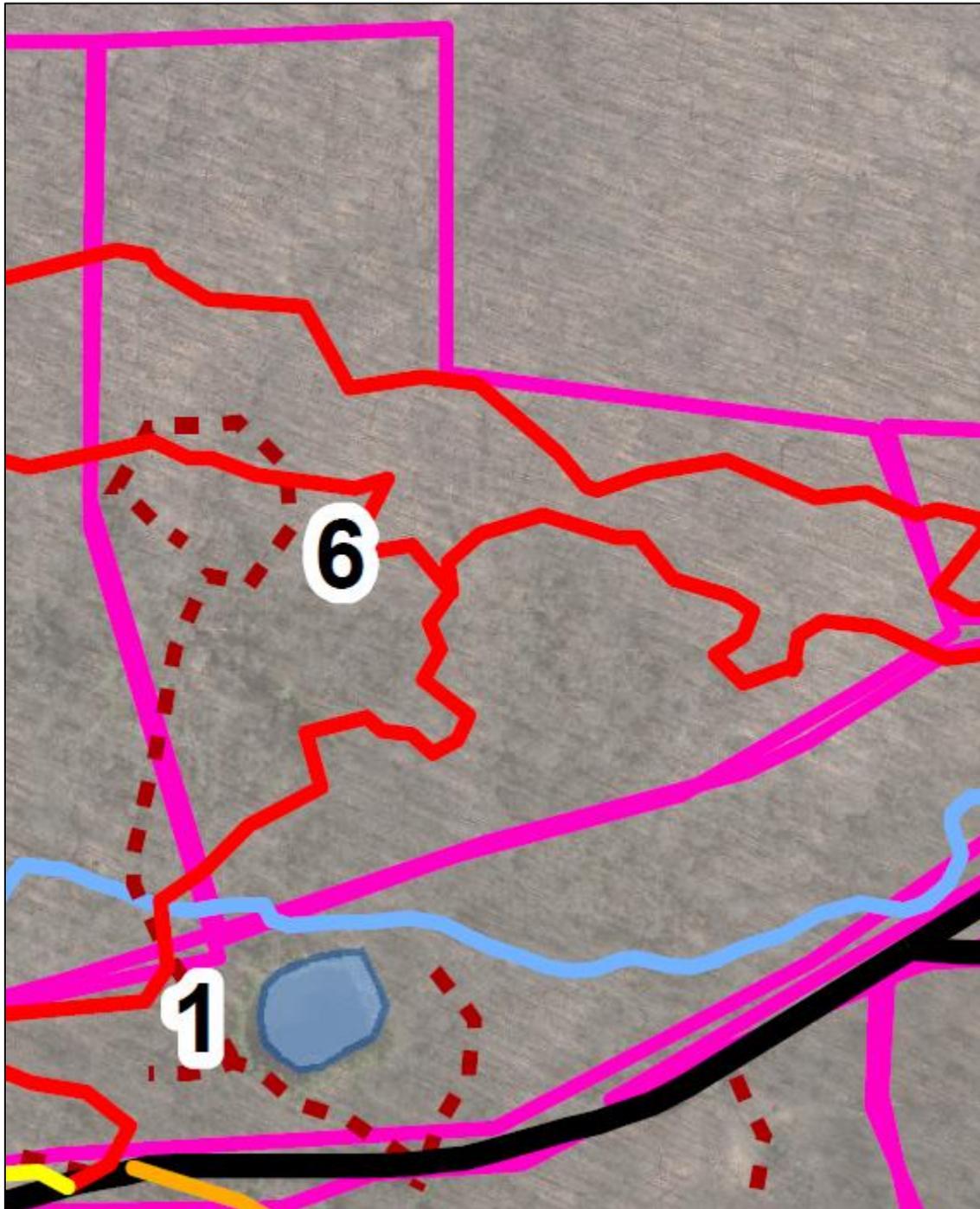
Estimated Value of Sale:

- \$45,000 - \$50,000

Proposed Timeline (once approval is granted):

- January 2020: Mark site, develop site map, develop bid prospectus.
- May 2020: Send bid prospectus to contractors for bidding.
- June 2020: Select successful bidder.
- July 2020: Begin harvest upon receiving permit.





AGENDA ITEM #5. Approval of Ordinance 20-01, Creation of a Sewer and Water Connection Fee Payment Plan, for Consideration: Presentation at meeting by town staff.

ORDINANCE SERIES: 2020
ORD. NO: 20 - 01

Page 1 of 9

AN ORDINANCE TO AMEND
TITLE 13
OF THE CODE OF EMMITSBURG
ENTITLED
PUBLIC SERVICES

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 13, Sections 13.04.040, 13.04.041, & 13.08.090 & 13.08.111 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 13.04 - Water System

13.04.040 Water service and connection capacity charges.

A. Each new service or connection applied for shall be charged a connection capacity fee of eight thousand two hundred dollars (\$8,200.00) per residential unit, or pursuant to the town's "water and sewer service allocation chart" for all other uses, payable at the time the ~~building~~ **ZONING** permit is applied for. All water service shall be metered and such meter shall be purchased by the applicant, and installation shall be performed by the applicant at the applicant's expense, and will be maintained by the town. Installation must be inspected and approved by the town.

B. In the event such water connection is not completed within one year from the date of the obtainment of the permit, such permit to connect with the water system shall become null and void and purchase fee, in full, shall be refunded.

C. ~~[Any user contracting/agreeing to use two million (2,000,000) gallons or more per quarter for a period of ten years or more may request to negotiate their connection fees with the mayor and commissioners.]~~

A SEWER AND WATER CONNECTION FEE PAYMENT PLAN IS ESTABLISHED FOR NON-RESIDENTIAL PROPERTIES THE TERMS AND CONDITIONS OF WHICH WILL BE DETERMINED FROM TIME TO TIME BY THE MAYOR AND BOARD OF COMMISSIONERS AND ENACTED BY RESOLUTION.

D. All funds collected as connection/capacity fees will be restricted/reserved and limited to be used to enhance, repair and maintain the town's water and wastewater treatment systems.

13.04.041 – Water ~~[allocation other than residential.]~~ **FIXTURE UNIT CHART FOR EQUIVALENT UNITS FOR COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL PROPERTIES.**

A. Each new service, other than residential, applied for shall be charged an allocation fee based upon the following fixture unit chart for equivalent units:

Fixture Type	Trap Size	Fixture Unit Value
APARTMENT (PER APARTMENT)²	—	10
Bathtub with or without integral shower	1½ or 2	4
Combination sink and tray	1½	3
Combination sink and tray with food disposal unit	½ separate	4
Dental unit or cuspidor	1½	1
Dental lavatory	1½	1
Drinking fountain - SINGLE	1½	1
DRINKING FOUNTAIN – HIGH/LOW OR DOUBLE	1½	2
Dishwasher (commercial)	1½	6
Dishwasher (domestic type)	1½	4
Eyewash	1½	1
Floor drain ³	2 - 3	[3] 4
[Floor Drain]	[3]	[5]
Floor drain	4	6
Floor drain	6	8
Floor drain (demonstration fume hood)	2	3
Floor sink	3	6

Floor sink	4	7
Fume hood with drain	2	2
Trench drains (every [2 ^o]3' min. 9[^o]') (per each trench drain)	—	1
ICE CREAM DIPPER WELL	—	3
Kitchen sink (domestic type)	1½	4
Kitchen sink (domestic type with food disposal unit)	1½	5
Lavatory [±]	1½	2
Lavatory tray (1 or 2 compartments)	1½	3
Print washer	—	3
Processing sink	—	3
Shower, 2 heads	—	8
Shower, 3 heads	—	12
Shower, 4 heads	—	16
Shower stall (domestic type)	2	4
Shower (group) per head w/2 or more	—	4
Sinks:	—	—
Bar with disposer	1½	3
Bed pan	—	6
Classroom	—	3
Mop, SINGLE BOWL	2	3

MOP, DOUBLE BOWL	2	6
PEDICURE	—	2
Pot, scullery, etc.	1½	4
Print	—	3
Service, SINGLE BOWL	3	3
Surgeon's	1½	3
Three-compartment	—	6
Urinal:	—	—
Pedestal	3	10
Wall or stall	2	5
Trough (for 18 inch length)	—	2
WATERLESS	—	2
Ventilator	2	3
Wash sink (circular or multiples each set [ø] OF faucets - or 12[°])	1½	2
Washing machine	1½	4
Water closet	3	10
Water cooler, electric with drain	1½	1
Motel room or dormitory room:	—	2.5
[Bathroom only]	—	[7.5]
[Bathroom and kitchenette]	—	[10]

Continuing care retirement community living units and beds only:		
Comprehensive Care Bed	—	2.5
Assisted Living Unit	—	5
Independent Living Unit	—	7.5

2 DOES NOT INCLUDE APARTMENTS WITH ASSISTED LIVING/NURSING HOME/REHABILITATION/RETIREMENT CENTERS.

3 FLOOR DRAINS USED TO COLLECT WATER FROM A SERIES OF FIXTURES WILL BE CHARGED BY THE FIXTURE UNITS OF THE FIXTURES OR BY THE DRAIN SIZE, WHICHEVER IS GREATER.

Fixtures and other connections which are not included in this list will need to be rated by staff upon request. Fifteen (15) fixture unit values or any fraction thereof would equate to one residential house or dwelling.

Chapter 13.08 – Sewer System

13.08.090 – Sewer service and connection capacity charges.

- A. The fee for making connection with any sanitary sewer main and/or sewer system maintained by the town shall be eight thousand dollars (\$8,000.00) per residential unit or pursuant to the town's "water and sewer service allocation chart" for all other uses payable at the time the [building] ZONING permit is applied for. In addition, thereto, the property owner shall pay all costs involved in said connection.
- B. In the event said sewer connection is not completed within one year from the date of the obtaining of the permit, said permit to connect with the sewer system shall become null and void and purchase fee, in full, shall be refunded.
- C. ~~[Any user contracting/agreeing to use two million (2,000,000) gallons or more per quarter for a period of ten years or more may request to negotiate their connection fees with the mayor and commissioners.]~~
A SEWER AND WATER CONNECTION FEE PAYMENT PLAN IS ESTABLISHED FOR NON-RESIDENTIAL PROPERTIES THE TERMS AND CONDITIONS OF WHICH WILL BE DETERMINED FROM TIME TO TIME BY THE MAYOR AND BOARD OF COMMISSIONERS AND ENACTED BY RESOLUTION.
- D. All funds collected as connection/capacity fees will be restricted/reserved and limited to be used to enhance, repair and maintain the town's water and wastewater treatment systems.

13.08.111 – Sewer [~~allocation other than residential.~~] **FIXTURE UNIT CHART FOR EQUIVALENT UNITS FOR COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL PROPERTIES.**

A. Each new service, other than residential, applied for shall be charged an allocation fee based upon the following fixture unit chart for equivalent units:

Fixture Type	Trap Size	Fixture Unit Value
APARTMENT (PER APARTMENT)²	—	10
Bathtub with or without integral shower	1½ or 2	4
Combination sink and tray	1½	3
Combination sink and tray with food disposal unit	½ separate	4
Dental unit or cuspidor	1½	1
Dental lavatory	1½	1
Drinking fountain - SINGLE	1½	1
DRINKING FOUNTAIN – HIGH/LOW OR DOUBLE	1½	2
Dishwasher (commercial)	1½	6
Dishwasher (domestic type)	1½	4
Eyewash	1½	1
Floor drain ³	2 - 3	[3] 4
[Floor Drain]	[3]	[5]
Floor drain	4	6
Floor drain	6	8
Floor drain (demonstration fume hood)	2	3

Floor sink	3	6
Floor sink	4	7
Fume hood with drain	2	2
Trench drains (every [2 ^o]3' min. 9[^o]') (per each trench drain)	—	1
ICE CREAM DIPPER WELL	—	3
Kitchen sink (domestic type)	1½	4
Kitchen sink (domestic type with food disposal unit)	1½	5
Lavatory [±]	1½	2
Lavatory tray (1 or 2 compartments)	1½	3
Print washer	—	3
Processing sink	—	3
Shower, 2 heads	—	8
Shower, 3 heads	—	12
Shower, 4 heads	—	16
Shower stall (domestic type)	2	4
Shower (group) per head w/2 or more	—	4
Sinks:	—	—
Bar with disposer	1½	3
Bed pan	—	6
Classroom	—	3

Mop, SINGLE BOWL	2	3
MOP, DOUBLE BOWL	2	6
PEDICURE	—	2
Pot, scullery, etc.	1½	4
Print	—	3
Service, SINGLE BOWL	3	3
Surgeon's	1½	3
Three-compartment	—	6
Urinal:	—	—
Pedestal	3	10
Wall or stall	2	5
Trough (for 18 inch length)	—	2
WATERLESS	—	2
Ventilator	2	3
Wash sink (circular or multiples each set [ø] OF faucets - or 12[°])	1½	2
Washing machine	1½	4
Water closet	3	10
Water cooler, electric with drain	1½	1
Motel room or dormitory room:		2.5
[Bathroom only]	—	[7.5]

[Bathroom and kitchenette]	—	[40]
Continuing care retirement community living units and beds only:		
Comprehensive Care Bed	—	2.5
Assisted Living Unit	—	5
Independent Living Unit	—	7.5

2 DOES NOT INCLUDE APARTMENTS WITH ASSISTED LIVING/NURSING HOME/REHABILITATION/RETIREMENT CENTERS.

3 FLOOR DRAINS USED TO COLLECT WATER FROM A SERIES OF FIXTURES WILL BE CHARGED BY THE FIXTURE UNITS OF THE FIXTURES OR BY THE DRAIN SIZE, WHICHEVER IS GREATER.

Fixtures and other connections which are not included in this list will need to be rated by staff upon request. Fifteen (15) fixture unit values or any fraction thereof would equate to one residential house or dwelling.

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 6th day of January, 2020

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford Sweeney, President

MAYOR

_____ APPROVED _____ VETOED

this 6th day of January, 2020.

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 #6. Approval of Resolution 20-04R, Establishing the Terms and Conditions for the Sewer and Water Connection Fee Payment Plan, for Consideration: Presentation at meeting by town staff.

RESOLUTION: 2020
RESOLUTION NO. 20 – 04R

Page 1 of 2

A RESOLUTION ESTABLISHING THE TERMS AND CONDITIONS FOR THE SEWER AND WATER CONNECTION FEE PAYMENT PLAN FOR NON-RESIDENTIAL PROPERTIES

WHEREAS, pursuant to Ordinance 20-01, enacted January 06, 2020 by the Mayor and Board of Commissioners, a Sewer and Water Connection Fee Payment Plan for Non-Residential Properties (the “Payment Plan”) was created; and

WHEREAS, pursuant to Ordinance 20-01 the Mayor and Board of Commissioners by Resolution shall from time-to-time create and/or amend the terms and conditions of the Payment Plan.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Board of Commissioners of the Town of Emmitsburg hereby adopts and approves the terms and conditions of the Sewer and Water Connection Fee Payment Plan described in Exhibit A attached hereto.

PASSED and ADOPTED this 6th day of January, 2020.

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford L. Sweeney, President

_____ APPROVED _____ VETOED

this 6th day of January, 2020.

Donald N. Briggs, Mayor

EXHIBIT A
SEWER AND WATER CONNECTION FEE PAYMENT PLAN
FOR NON-RESIDENTIAL PROPERTIES
TERMS AND CONDITIONS

1. A “qualified applicant” is defined as a non-governmental and/or non-residential property owner whose property:
 - a. Has a total combined number of sewer and water connections are equal to or greater than 30 for a single tax parcel; and
 - b. Creates private sector employment.
2. The Payment Plan will not be available to government or quasi-government owned properties, including public or private schools, fire or rescue stations, etc.
3. The Payment Plan will allow for an up to five (5) year payment plan for qualified applicants with at least 25% of the total sewer and water connection fee to be paid upon submittal of the zoning permit application and the remainder to be paid in equal quarterly payments.
4. The Mayor and Board of Commissioners may allow a waiver of up to 10% of the total sewer and water connection fee credited in the first two years for qualified applicants.
5. The Payment Plan may not be used to pay fees other than the sewer and water connection fee, e.g., inspection fees, soft cost, permit fees, meter costs, and other charges associated with developing the property.
6. The Town’s Planning Department shall manage the application process and make recommendations to the Mayor and Board of Commissioners as to the participant’s qualification, waiver, etc.
7. The collateral for the capacity purchased under the Payment Plan shall be the real property which the capacity serves; therefore, the Payment Plan shall be between the Town of Emmitsburg and the property owner.
8. If any installment payment due under the Payment Plan has not been received within 30-days from date of its invoice, the Town shall have the option to terminate water and sewer service to the property and/or demand full payment of the outstanding balance due under the Payment Plan.
9. A property owner may only have one (1) outstanding Payment Plan payment at a time.

AGENDA ITEM #7. Authorize the Mayor and Town Staff to Seek an Amendment from the General Assembly and Governor to Authorize Implementation of the Small Business Tax Credit for Consideration: Presentation at meeting by town staff.

Proposed “Small Business Tax Credit”

Program Benefits

- Real property 6-year tax credit;
- The credit is based on the increase in real property tax assessments resulting from the business’s expansion. The credit decreases over 6 years, as follows:

Years	% of tax credit
1-2	40%
3-4	30%
5-6	20%
7+	0% exempt

Business Eligibility

- Obtain at least 2,500 square feet of new or expanded premises; AND
- Employ at least 5 people in full time jobs within the first 24-month period after occupying the new or expanded premises.

**AGENDA ITEM #8. Amendment to P18-01 Ball Field Reservation Fees for
Consideration:** Presentation at meeting by town staff.

POLICY SERIES: 2020
Policy No. P20 - 01

Page 1 of 3

**TOWN OF EMMITSBURG
BALL FIELD RESERVATION FEES**

This Policy will replace previously adopted Policy P18-01 in relation to ball field charges only.

As of this date and pursuant to Title 12, Section 12.20.070 entitled “Ballfield fee schedule information” of the Emmitsburg Municipal Code, ball field fees shall be as follows:

Ball Field Fee(s)

A. Single Day Use

1. Non-Profit Organizations:
 - No charge.
2. Residents (from the Emmitsburg voting district).
 - No charge.
3. Non-Residents (*not* from the Emmitsburg voting district).
 - No charge.

B. League Use:

1. Resident (league address based in the Emmitsburg voting district).
 - No charge.
2. Non-Resident (league address *not* based in the Emmitsburg voting district).
 - No charge.

C. Tournament Use:

1. Youth Tournament (ages 17 and under)
 - No charge.
2. Adult Tournament (ages 18 and older)
 - No charge.

Proof of federal 501(c) (3) status and liability insurance in the minimum amount of \$1,000,000 per occurrence may be required with a registration. The availability of the fields is on a first come, first serve basis, with applicants from the Emmitsburg voting district given first priority. Field reservation requests will be accepted for each season beginning on January 15th of each year. The same field cannot be reserved for seven consecutive days; one day must remain open for public use. The facility used must be returned to its original condition except for normal wear. If this is not followed, the Town may decide not to allow future use to the applicant.

The provisions as outlined in Policy P20-01 shall expire twelve (12) months from the date of passage, unless extended by the Mayor and Board of Commissioners. The following schedule of ball field fees shall take full effect if Policy P20-01 expires:

Ball Field Fee(s)

D. Single Day Use

2. Non-Profit Organizations:
 - \$10.00 an hour.
 - 100% refundable if field and/or surrounding area is left in good condition.
2. Residents (from the Emmitsburg voting district).
 - \$10.00 an hour.
 - 50% refundable if field and/or surrounding area is left in good condition.
3. Non-Residents (*not* from the Emmitsburg voting district).
 - \$20.00 an hour.

E. League Use:

1. Resident (league address based in the Emmitsburg voting district).
 - \$50.00 per team, per field, per season
2. Non-Resident (league address *not* based in the Emmitsburg voting district).
 - \$100.00 per team, per field, per season

F. Tournament Use:

1. Youth Tournament (ages 17 and under)
 - \$50.00 per day.
2. Adult Tournament (ages 18 and older)
 - \$75.00 per day.

Proof of federal 501(c) (3) status and liability insurance in the minimum amount of \$1,000,000 per occurrence may be required with a registration. The availability of the fields is on a first come, first serve basis, with applicants from the Emmitsburg voting district given first priority. The same field cannot be reserved for seven consecutive days; one day must remain open for public use. The facility used must be returned to its original condition except for normal wear. If this is not followed, the Town may retain all refundable fees and may decide not to allow future use to the applicant.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this policy shall take effect this 6th day of January, 2020.

PASSED this 6th day of January, 2020.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford L. Sweeney, President

_____ APPROVED _____ VETOED

this 6th day of January, 2020.

Donald N. Briggs, Mayor

AGENDA ITEM #9. Ordinance to Amend Title 13.04.170 Water Systems Prohibited Acts Generally for Consideration: Presentation at meeting by town staff.

ORDINANCE SERIES: 2020
ORD. NO: 20 - 02

Page 1 of 1

AN ORDINANCE TO AMEND
TITLE 13
OF THE CODE OF EMMITSBURG
ENTITLED
PUBLIC SERVICES

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 13, Section 13.04.170 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 13.04 - Water System

13.04.170 - Prohibited acts generally.

D. ANY PERSON(S) DETECTED CONNECTING TO A TOWN FIRE HYDRANT FOR ANY NONEMERGENCY PURPOSE WILL BE SUBJECT TO A ONE THOUSAND DOLLAR (\$1,000.00) FINE FOR EACH 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 6th day of January, 2020

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Clifford Sweeney, President

MAYOR

_____ APPROVED _____ VETOED

this 6th day of January, 2020.

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 #10. Amendment of Contract Approving the Sale of 140 South Seton Avenue for Consideration: Presentation at meeting by town staff.

DocuSign Envelope ID: 535D7FF7-1406-41CC-B69C-2762A78F7F21



CHANGE IN TERMS ADDENDUM

ADDENDUM dated December 30, 2019 to Contract of Sale
between Buyer Amanda Lee Rhodes
and Seller The Town of Emmitsburg
for Property known as 140 S Seton Ave, Emmitsburg, MD 21727-9214.

Buyer and Seller acknowledge and agree that the Contract of Sale shall be modified as follows:
Only those Paragraphs initialed by both Buyer and Seller shall be binding on the parties.

- 1. **PURCHASE PRICE:** The PURCHASE PRICE is changed from _____ Dollars (\$ _____) to _____ Dollars (\$ _____).
- 2. **SETTLEMENT DATE:** The SETTLEMENT DATE is changed from _____ to _____.
- 3. **FINANCING CONTINGENCY:** The time frame for obtaining FINANCING is changed from _____ to _____.
- 4. **OTHER:** As-is inspection period contingency hereby extended to Tuesday January 7, 2020..

All other terms and conditions of the Contract of Sale remain in full force and effect.

DocuSigned by:
Amanda Lee Rhodes 12/30/2019
Buyer Signature Date
Amanda Lee Rhodes

DocuSigned by:
Mayer Donald Briggs 12/31/2019
Seller Signature Date
The Town of Emmitsburg

Buyer Signature Date

Seller Signature Date



10/19



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J&B Real Estate, Inc., 13 1/2 Water Street Thurmont MD 21788
Cynthia Gilman

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140 S Seton Ave

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GENERAL ADDENDUM

Special provisions attached to and hereby made a part thereof, the Contract dated February 11, 2019
on Lot _____, Block _____, Subdivision _____,
140 S Seton Ave, Emmitsburg, MD 21727-9214
located in Frederick County, Maryland between
(Purchasers) Amanda Lee Rhodes
and (Sellers) The Town of Emmitsburg.

All parties agree to amend the above referenced contract to state the following:

Settlement is extended to February 28, 2020

Financing commitment is extended to February 24, 2020.

Seller agrees, at seller expense to have Gladhill Services perform option number 1 per attached work order and do mold remediation, install enhanced vapor barrier and humidex ventilation system per attached work order.

All other terms and conditions shall remain in full force and effect.

Seller The Town of Emmitsburg

Digitally signed by:

Purchaser Amanda Lee Rhodes

Seller _____

Purchaser _____

Date _____

12/30/2019

Date _____

M. SET AGENDA FOR NEXT MEETING: FEBRUARY 3, 2020

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

Administrative Business:

- A.
- B.
- C.
- D.