

TOWN OF EMMITSBURG

Mayor
James E. Hoover
Town Manager
David Haller
Town Clerk
Donna DesPres

300A South Seton Avenue
Emmitsburg, Maryland 21727
301-600-6300 fax: 301-600-6313

Board of Commissioners
Christopher Staiger, President
Glenn Blanchard
Clifford Sweeney
Denise E. Etris
Tim O'Donnell

TOWN MEETING September 7, 2010 AGENDA

I) CALL MEETING TO ORDER (7:30PM)

- A) PLEDGE OF ALLEGIANCE TO THE FLAG**
- B) NEXT MEETINGS:** Town Meeting September 20 @ 7:30pm,
Planning Commission Meeting September 27 @ 7:30 pm,
Citizens Advisory Committee Meeting November 3 @ 7:30 pm
Parks Committee Meeting November 16 @ 7:30 pm
- C) APPROVE MINUTES FROM: August 16, 2010 Town Meeting**
- D) COMMISSIONER COMMENTS**
- E) MAYOR COMMENTS**
- F) ADMINISTRATIVE BUSINESS**
- G) CONSENT AGENDA**
- H) REPORTS**
Treasurer's
Planning Commission

For additional information about agenda items contact the Town office

II) AGENDA ITEMS:

1. Firearms Use Within Town Limits
2. Outdoor Water Restrictions
3. Adoption of Maryland Emergency Management Agency Hazard Mitigation Plan
4. Public Hearing Continuation - OS Zoning Requirements Amendments

III) PUBLIC COMMENTS

IV) SET AGENDA ITEMS FOR AUGUST 16, 2010 TOWN MEETING

V) SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

ITEM C

MEETING MINUTES:

August 16, 2010 Town Meeting

Draft

**MINUTES
PUBLIC HEARING
TOWN MEETING
August 16, 2010
Emmitsburg Town Office**

PRESENT: Mayor James Hoover; Commissioners Clifford Sweeney, Glenn Blanchard, Denise Etris, Tim O'Donnell and Christopher Staiger, President.

Staff present were Sue Cipperly, Town Planner; Donna DesPres and Dave Haller, Town Manager.

1. 1 CALL TO ORDER

Commissioner Christopher Staiger, President of the Board of Commissioners, called the August 16, 2010 Public Hearing to order at 7:30 p.m. Pledge of Allegiance was recited.

APPROVAL OF MINUTES

The Minutes of the August 6, 2010 Town Meeting were approved as presented/corrected.

COMMISSIONER COMMENTS

Commissioner Etris reported on some Citizens Advisory Committee concerns: providing a dog park, a community garden and request for a school-starting message be put on local notices cable channel 99.

MAYOR'S COMMENTS

Reported on successful pool party and announced a Safe and Sane fundraiser pool event for September 12.

ADMINISTRATIVE BUSINESS

Commissioner Blanchard spoke to the audience for increased awareness traffic-wise as school will soon be starting. Commissioner Etris relayed the concerns of some residents about the pool membership charge for additional children. Commissioner O'Donnell reported that he is seeking grants for trails, that the Briggs family will be donating trees with one year's maintenance for the town property on South Seton. He also called attention to weeds in gutters and the need of sand to be swept from the roads and alleys.

ANNOUNCEMENT OF A CLOSED SESSION SCHEDULED

President Staiger announced the need for a closed executive session following adjournment of this meeting as permitted by the *Annotated Code of Maryland, State Government Article: Section 10-508 (a) Closed Meetings, Item 1* to discuss a personnel matter. See attached announcement. Motion by Commissioner Blanchard, second by Commissioner Etris, carried 5-0 in favor.

ANNOUNCEMENT OF A CLOSED SESSION HELD

A closed Executive Session was held at the Emmitsburg Town Office on August 12, 2010 at 7:30 p.m. for consultation with the town attorney regarding the Daughters of Charity proposed zoning text amendment. Those present were Commissioners Staiger, Sweeney, Blanchard, O'Donnell and Etris; Mayor Hoover; Dave Haller and Vickie Felix. Motion to hold an Executive Session as permitted by the *Annotated Code of Maryland, State Government Article: Section 10-508 (a) Closed Meetings, Item 7*, by Commissioner Blanchard, second by Commissioner Etris and carried 5-0 in favor.

REPORTS:

Town Manager Report - reported on the public works department monthly activities to include a water production and consumption analysis. Detailed report at *Exhibit A*.

Police Report - Deputy Bartlett mentioned the resolution of a few trouble spots in town and that the mapping reports will be continued when the preparer returns from a temporary transfer. Detailed report at *Exhibit B*. Commissioners relayed the need for more vigilant crosswalk and traffic monitoring with school resumption, and citizen concerns of lack of Sunday coverage, the length of response time on Sundays, no bike patrols, traffic not stopping at crosswalks and lack of truck inspections. The Mayor reported that he has been working with the Sheriff in providing rotating Sunday coverage. Deputy Bartlett expressed that all Emmitsburg-assigned officers are receptive with Sunday coverage. Regarding the reported citizen request responses, Commissioner Staiger requested the numbers of community vs. non-community deputy responses.

II. AGENDA ITEMS

Appointment of Election Judges

Mayor Hoover recommended applicants to serve as election judges.

MOTION: To approve the appointments of Sharon Hane, Lisa Mazaleski and Charlotte Mazaleski as election judges for the 2010 elections.

Motion by Commissioner Etris, second by Commissioner Sweeney

VOTE: 5-0 in favor

PUBLIC HEARING - Daughters of Charity Proposed Text Amendment

With the desire to construct senior housing in existing portions of their Provincial House, the Daughters of Charity have requested an amendment to allowed uses in the Open Space district to add a provision for this proposed housing. Sr. Jean Rhoads outlined in a graphic presentation the building areas and phases of this proposal. Attorney Dan Severn, Ken Bancroft, architect and Dana Johnson of Homes for America provided additional information related to their area of participation in the plan. These areas of information included that town residents would have preferences for construction—the job entails several separate jobs allowing smaller contractors better access, the senior units would be owned by an investment entity that would pay property taxes and tap fees, and that it would provide 45-50 senior occupied apartments.

Town Planner Sue Cipperly informed the Board of the Planning Commission's text amendment recommendations. She extensively reviewed all requested changes in relation to the town's comp plan, current ordinances, water and sewer impact, local census information relative to age and poverty levels, and a needed housing study. She also stated that this plan needs to be viewed as additional high density residential development, not renovation. Among her relevant conclusions, she felt that this housing would not benefit Emmitsburg in any of those mentioned factors and would not be economic development. Detailed report at *Exhibit C*. Mr. Haller added that the OS land use decision should be based on the land, not the applicant.

Public comment: Shannon Boyle, 954 Boyle Road; Eleanor Casey, 333 South Seton Avenue; Cathy Bodin, 312 West Main Street; Betsey Forrence, 17247 Annandale Road; Deborah Hobbs, 51 Depaul Street; Sr. Mary Frances Hildenberger, 333 South Seton Avenue; and Mike Wivell, 16634 South Seton Avenue all spoke in favor of the allowed use. Patrick Joy, 4035 Carrick Court spoke to the need and offered other factors to adjust the requirements. Mr. Harold Craig, 103 West Main Street urged rezoning, commercial development east of route 15 and utilizing the existing town well water resources. With knowledge that consideration must be made non-site specific as this amendment

would affect all OS zoned property and can not be customized to fit one specific location, the Board discussed aspects of those presentations and made inquiries of those representatives discussing ownership, financing, town required contributions and/or grants, contingencies, application and construction timing, conservation and recycling plans, recent down-zoning for tap conservation, changes to parking requirements, possible state water requirement exceptions for senior housing. In summation, Commissioner Staiger put the question to the Board if this is the type of development the town wants and if they are willing to support an amendment. It was discussed that the changes are tailored to fit DOC's site and what alternates, if any, should be considered to make it less arbitrary and inject density control for all OS districts.

MOTION - To have staff draft a new text amendment ordinance to the OS district to allow senior housing in existing structures

Motion by Commissioner Sweeney, second by Commissioner Etris

VOTE: 5-0 in favor

SET AGENDA ITEMS FOR NEXT MEETING

1. Firearms Use, Chapter 09-16
2. Outdoor Water Restrictions
3. Adoption of County-wide Emergency Plan
4. Public Hearing Continuation – OS Zoning Requirements Amendments

III PUBLIC COMMENTS

Larry Little, DePaul Street – requested that the item regarding firearms in town limits be scheduled

IV ADJOURNMENT

With no further business, the August 16, 2010 Town Meeting was adjourned at 11:10 p.m.

Respectfully submitted,

Donna DesPres
Town Clerk

Date Approved:

ITEM H

REPORTS:

Treasurer's Report - see attached

Planning Commission Report – to be given at the meeting

TOWN OF EMMITSBURG

Mayor

James E. Hoover

Town Manager

David Haller

Town Clerk

Donna DesPres

300A South Seton Avenue
Emmitsburg, Maryland 21727
301-600-6300 fax: 301-600-6313

Board of Commissioners

Christopher Staiger, President
Glenn Blanchard
Clifford Sweeney
Denise E. Etris
Tim O'Donnell

TOWN OF EMMITSBURG **CASH ACTIVITY – to August 30, 2010**

\$ 1,429,194 Cash Balance August 1, 2010

add	557,293 Receipts
less	-510,039 Disbursements
less	<u>-748,018 Current Designated/committed Funds</u>

728,430 Operating Balance Forward to September

AGENDA ITEMS

ITEM 1

*Proposed changes to Emmitsburg Municipal Code:
Chapter 9.16.010 Weapons. Discharge within town.*

AN ORDINANCE TO AMEND
TITLE 9
OF THE CODE OF EMMITSBURG
ENTITLED
WEAPONS

BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Town of Emmitsburg, Maryland that Chapter 9.16 of the Emmitsburg Municipal Code be, and it hereby is, amended as follows:

The amended section of this regulation reads as follows with new language designated by being in **BOLD CAPITAL LETTERS**, and language being deleted designated by being ~~stricken through~~:

Chapter 9.16.010 Discharge within town.

It is unlawful for any person to fire, discharge or set off any **FIREARM OR**
dangerous weapon of any character within the town ~~without a written permit from the chief~~
~~of police~~ provided, that this section shall not apply to:

- A. members of any military company when engaged in drilling or target practice under the command or direction of an officer thereof, or
- B. to the use of firearms in the lawful defense of person or property, or
- C. to the use of firearms by members of the police department in the lawful discharge of their duty, **OR**
- D. **TO ANY PERSON LAWFULLY ENGAGED IN HUNTING OR IN A HUNT, AS DEFINED IN NATURAL RESOURCES ARTICLE, SECTION 10-101, ANNOTATED CODE OF MARYLAND (AS MAY BE AMENDED FROM TIME TO TIME), ON PRIVATE PROPERTY SUBJECT TO THE FOLLOWING:**
 - 1. **THE PRIVATE PROPERTY SHALL CONSIST OF AT LEAST FIFTY (50) ACRES, EITHER:**
 - A. **AS ONE PARCEL OR LOT, OR**

- B. AS MORE THAN ONE PARCEL OR LOT JOINED TOGETHER
IF THE SEVERAL PARCELS ARE CONTIGUOUS AND
ADJOINING TO EACH OTHER AND ARE TITLED IN THE
SAME OWNERSHIP; AND**
- 2. THERE ARE NO OCCUPIED OR UNOCCUPIED RESIDENTIAL
DWELLING UNITS LOCATED ON ANY PORTION OF THE PRIVATE PROPERTY.**

AGENDA ITEMS

ITEM 2

Discuss outdoor water restrictions.

Town Manager will give a report at the meeting.

AGENDA ITEMS

ITEM 3

Discuss adoption of county-wide emergency plan.

AGENDA ITEMS

ITEM 4

Public hearing continuation regarding OS zoning requirements amendments.

Proposed changes to Emmitsburg Municipal Code:

*Chapter 17.04.020 Zoning. Definitions
Chapter 17.28 Zoning. OS Open Space District*

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

BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Town of Emmitsburg, Maryland that Chapter 17.04.020 of the Emmitsburg Municipal Code be, and it hereby is, amended as follows:

The amended section of this regulation reads as follows with new language designated by being in **BOLD CAPITAL LETTERS**, and language being deleted designated by being stricken through.

17.04.020 Definitions.

A. For the purpose of this title certain terms or words used herein shall be interpreted as follows: Words used in the present tense include the future. All words in the singular include the plural and all words in the plural include the singular. The word "shall" is mandatory and not directory. The word "used" includes "designed, intended, or arranged to be used."

B. Definitions.

"Accessory use" means a one-story use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

"Agriculture" means the use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, fish culture, animal and poultry husbandry; provided, that the above uses shall not include the business of garbage feeding of hogs, fur farms or the raising of animals for use in medical or other tests or experiments.

"Alley" means a right-of-way which provides secondary service access for vehicles to the side or rear of abutting properties.

"Amend" or "amendment" means any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition thereto.

"Animal boarding place" means any building or buildings used, designed or arranged, for the board, breeding or care of dogs, cats, pets, fowl or other domestic animals for profit, but not to include those animals raised for agricultural purposes.

"Automobile garage, private" means an accessory building or portion of a main building designed, arranged, or used for the housing of private motor vehicles, only one of which may be a commercial vehicle.

"Automobile parking lot, commercial" means a lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

"Automobile parking space" means a permanently surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.

"Automobile repair and service station" means building, lot or both in or upon which the business of general motor vehicle repair and service is conducted, but excluding junk and/or auto wrecking business.

"Automobile sales lot" means a lot arranged, designed or used for the storage and display for sale of any motor vehicle, or any type of trailer, provided the trailer is unoccupied, and where no repair work is done, except minor incidental repair of automobiles or trailers displayed and sold on the premises.

"Automobile service station" means any area of land, including buildings and other structures thereon that are used to dispense motor vehicle fuels, oils and accessories at retail, where repair service is incidental, and no storage or parking space is offered for rent.

"Basement" means that portion of a building below the first floor joists at least half of whose clear ceiling height is above the mean level of the adjacent ground.

"Block" means that property abutting one side of a street and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing divided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

"Board" means the Emmitsburg board of zoning appeals.

"Boarding house" means a dwelling in which, for compensation, lodging or meals, or both, are furnished to not more than five guests. A boarding house shall not be deemed a home occupation.

"Building" means a structure having one or more stories and a roof, designed primarily for the permanent shelter, support or enclosure of persons, animals or property of any kind.

"Building, accessory" means a building subordinate to, and located on the same lot which a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

"Building, height of" means the vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

"Building setback line" means a line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project as determined by the yard requirements.

"Cellar" means that portion of a building below the first floor joists with over one-half of its clear ceiling height below the mean level of the adjacent ground. Such a portion of a building shall not be used for habitation.

"Cemetery" means a place used for the permanent interment of dead human bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

"Child care home" means a day nursery, child boarding home, day camp, summer camp, foster home, or other place for the reception, board of care for compensation of a child or children under sixteen (16) years of age.

"Commission" means the Emmitsburg planning commission.

"Commissioners" mean the town commissioners of Emmitsburg.

"Conditional use" means a use which may be permitted in a district through the granting by the board upon a finding by the board that it meets specified conditions.

"County" means Frederick County, Maryland.

"Court" means an open, unoccupied and unobstructed space, other than a group of buildings.

"Development" means any activity, other than normal agricultural activity, which materially affects the existing condition or use of any land or structure.

"District" means a portion of the territory to which this title applies, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this title. The term "R district" means any "R-1," "R-2," "R-3," or "RS" district"; the term "B district" means any "B-1," "B-2," or "V-Z" district; the term "industrial district" means the "industrial park district;" and the term "ORI district" means the "office research industrial district."

"Dwelling" means a building or portion thereof arranged or designed to provide living facilities for one or more families, but not including a tent, cabin, mobile home, bus, or a room in a motel or hotel.

"Dwelling, attached" means a building arranged or designed to provide living facilities for more than one family to a height of three stories. Individual units will be separated by a common wall.

"Dwelling, detached" means a building designed to provide living facilities for one family entirely separated from any other building or structure by space on all sides.

"Dwelling, duplex" means two dwelling units arranged to be located on abutting and

separate lots and separated from each other by a continuous vertical party wall, without openings from the lowest floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards on all sides.

"Dwelling multiple-family" means a building containing three or more dwelling units (town house, apartments, garden apartments).

"Dwelling, multiple group" means a group of two or more multifamily dwellings, or any combination of same occupying a parcel of land in one ownership and having any yard, compound or service area in common.

"Dwelling, one-family" means a building containing not more than one dwelling unit.

"Dwelling, two-family" means a building located on one lot, containing not more than two dwelling units, arranged one above the other or side by side.

"Dwelling unit" means a building or portion thereof arranged or designed for occupancy by not more than one family for living purposes and having cooking facilities.

"Educational institution, private" means every private school or educational or training institution, however designed, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction, or any combination thereof, or any other program of trade, technical, or artistic instruction, but such term does not include any educational institution of the county board of education. No private educational institution shall be deemed a home occupation.

"Eleemosynary or philanthropic institution" means a private, nonprofit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of such organization or individual, and which either: (a) provides volunteer aid to the sick and wounded of armies in time of war and national relief in case of great national calamities, or (b) provides all or any of the following: religious, social, physical, recreational and benevolent services.

"Essential services" mean the erection, construction, alteration or maintenance, by public utilities or by municipal or other parties, of underground or overhead electrical, gas, communication, steam, water or sewer transmission, distribution, collection, supply or disposal lines, including poles, cross arms, guy wires, towers, repeaters, boosters, switches, transformers, regulators, pumps, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipment used in connection with the constituting integral parts of such lines and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of public health, safety or general welfare, but not including buildings, yards or stations used for storage, repairs or processing of equipment or material and not for transforming, boosting, switching or pumping purposes when such facilities are constructed on the ground.

"Family" means an individual, of two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

"Floodplain, annual" means that floodplain being defined by soil types within the 1969 "Natural Characteristics" Report, published by the County Planning Commission, as they are designated by the U.S. Soil Conservation Service, such being principally a natural water retention area of generally wetland.

"Floodplain, historical" means that land being defined by hydrologic studies done by a registered engineer or hydrologist competent to perform such studies that show that area which at some point in time could be inundated by water due to flood conditions brought on by a one-hundred-year storm or a storm having a one percent chance of occurrence in any given year.

"Frontage" means the length property lien of the lots, lots or tract of land abutting a public street, road or highway, or rural right-of-way.

"Homes association" means an incorporated, nonprofit organization operating under recorded land agreement through which: (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge if unpaid, becomes a lien against the property.

"Home occupation" means an occupation conducted entirely within a dwelling by a member or members of the immediate family residing therein (a) in connection with which there is used no display except one sign may be affixed to the building, not exceeding a total area of two square feet, nor projecting more than one foot beyond the building, and not illuminated, that will indicate from the exterior that the building is being utilized in whole or in part for purposes other than that of a dwelling; (b) in connection with which there is kept no stock in trade or commodity sold upon the premises; (c) in connection with which no person is engaged or employed, other than a member of the immediate family residing on the premises; and (d) provided living quarter occupy at least seventy-five (75) percent of the entire dwelling. Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed home occupations; (e) provided equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor or other obnoxious elements.

"Hospital," "sanitarium," "sanatorium" means any institution receiving in-patients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term hospitals shall also include sanitariums and sanatoriums, including those wherein feeble-minded and mental patients, epileptics, alcoholics, senile and psychotics or drug addicts are treated or cared for.

"Hotel" means any building containing ten or more guest rooms, where for compensation, lodging, meals or both, are provided for ten or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or apartment hotel as defined in this chapter.

"Industrial park" means a tract of land eminently suitable for industrial use, subdivided and developed according to a comprehensive plan for occupancy by a group of industries and equipped with streets and necessary utilities. Industries must agree to accept

certain standards of performance that are designed to protect the environment of the community.

"Junk yard" means any building used for the abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metal, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

"Lot" means a parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as required, and having frontage on a public right-of-way, unless where accepted elsewhere in this title.

"Lot area, net" means the total horizontal area included within the rear, side and front lot or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

"Lot, corner" means a lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.

"Lot, depth of" means the average distance between the front lot line and the rear lot line.

"Lot, front of" means the side or sides of an interior or through lot which abut a street, a corner lot shall be deemed normally to front upon the street on which it has the least dimension.

Lot Frontage, Minimum.

1. At building line means the least permissible width of a lot measured horizontally along the front lot line.
2. At front lot line means the least permissible width of a lot measured along the front lot line.

"Lot line, front" means the street line running along the front of the lot separating it from the street. In a through lot, both lines abutting the street shall be deemed to be front lot lines.

"Lot line, rear" means the lot line or lines generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet long, or the lot comes to a point at the rear, such rear lot line is assumed to be a line not less than ten feet long; lying wholly within the lot, parallel to the front lot line, or in the case of curved front lot line, parallel to the chord of the arc of such front lot line.

"Lot line, side" means any lot line other than a front lot line or a rear lot line.

"Lot, outlot" means a parcel of land which is shown on a record plat, but which is not to be occupied by a building or otherwise considered as a buildable lot within the meaning of this title. No building permit shall be issued on any land so designated.

"Lot, through" means an interior lot, fronting on two parallel or approximately parallel streets.

"Master plan" means a comprehensive plan of any portion of the general plan which may consist of maps, data and other descriptive matter, as a guide for the physical development of the town or any portion thereof, including any amendments, extensions or additions thereto adopted by the commission, indicating the general locations for major roads, parks or other public open spaces, public building sites, routes for public utilities, zoning districts or other similar information. (Also known as "comprehensive plan.")

"Medical or dental clinic" means any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

"Mobile homes" mean any vehicle or similar portable structure having no foundation other than wheels, jacks or skirting and so designed, or constructed, as to permit occupancy for dwelling or sleeping purposes.

"Mobile home park or mobile home subdivision" means any site, lot or parcel of ground maintained or intended for the purpose of supplying a location or accommodation for two or more mobile homes for living purposes and including all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.

"Motel" means any group of dwelling units combined or separate, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facilities.

"Nonconforming use" means a use of a building or of land lawfully existing at the time the ordinance codified in this title and/or previous ordinances or amendments thereto became effective and which does not conform with the use regulations of the zone in which it is located.

"Nursing home" means and includes rest homes, convalescent homes and homes for the aged and means a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities or injuries; not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require care in excess of room and board and who need medical, nursing convalescent or chronic care.

"Plan" means the policies, statements, goals and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area's future developer. For the purposes of this definition, the word plan includes general plan, master plan, comprehensive plan, community plan, and the like as adopted in accordance with Section 3.00 of Article 66B of the Annotated Code of Maryland.

"Private club" means an incorporated or unincorporated association for civic, social, cultural, religious, literary, fraternal, political, recreational or like activities, operated for the benefit of its members and not open to the general public.

"Professional office" means rooms and/or buildings used for the office purposes by a

member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or veterinary clinics.

"Road" means and includes street, highway, avenue, land, marginal access street, service drive, alley, bridge, viaduct or any segment thereof.

"Rooming house" means a dwelling in which for compensation, lodging is furnished to three or more, but not exceeding nine guests. A rooming house shall not be deemed a home occupation.

"SENIOR HOUSING" MEANS A RESIDENTIAL USE LIMITED TO PEOPLE FIFTY-FIVE (55) YEARS OF AGE AND OLDER, PROVIDED THAT ADEQUATE SENIOR FACILITIES ARE PROVIDED ON-SITE OR WITHIN ONE THOUSAND (1,000) FEET OF THE SITE. MINIMUM ADEQUATE SENIORS FACILITIES ARE DEFINED AS (1) A MEETING ROOM AVAILABLE ON A REGULAR AND SUBSTANTIAL BASIS, (2) NUMEROUS SENIOR ACTIVITIES ARE AVAILABLE ON A REGULAR AND SUBSTANTIAL BASIS. THE TOWN COUNCIL SHALL HAVE THE RIGHT OF REVIEW AND APPROVAL OF ANY AND ALL RELATED COVENANTS AND/OR HOMEOWNERS' ASSOCIATION DOCUMENTS.

"Special exception" means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use conforms to the plan and is compatible with the existing neighborhood.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story, if it is used for business or dwelling purposes. A mezzanine floor shall be counted as a story, if it covers more than one-third of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty (20) feet or more.

"Street" means a public or dedicated way, or a public proposed right-of-way, widening, or extension of an existing street or public way shown on any plan approved by the commission.

"Structural alteration" means any change in the structural members of a building, such as walls, columns, posts, beams or girders.

"Structure" means an assembly of materials forming a construction for occupancy or use, including among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, staging, observation towers, radio and television, broadcasting towers, water tanks, trestles, open sheds, coal bins, shelters, fences, walls, signs, power line towers, pipelines, railroad tracks and poles.

"Swimming pool, commercial" means a swimming pool and/or wading pool, including buildings necessary or incidental thereto, open to the general public and operated for profit.

"Theater, drive-in" means an outdoor theater and includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion

pictures to passengers in parked motor vehicles.

"Theater, indoor" means a building designed and/or used primarily for the commercial exhibition of motion pictures or stage presentation to the general public.

"Tourist cabin camp" means any lot, parcel or tract of land, together with such open spaces as are required under the provisions of this title, upon which there are located one or more cottages or cabins used, designed, maintained or held out for the accommodation of transient guests, whether or not a charge is made therefor.

"Tourist home" means a dwelling in which, for compensation, lodging only is provided or offered to not more than twelve (12) transient guests. A tourist home shall not be deemed a home occupation.

"Town house" means one of a group of three or more attached dwelling units divided from each other by party walls, and each having separate front and rear or front and side entrances from the outside.

"Use" means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied or maintained.

"Use, accessory" means a use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

"Use, special exception" means a use which may be permitted in a district through the granting by the board of appeals of a special exception, as defined in Article 66B of the Annotated Code of Maryland, upon a finding by the board that it meets specified conditions.

"Variance" means a modification only of density, bulk or area requirements in the zoning ordinance, where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant; a literal enforcement of this title would result in unnecessary hardship.

"Wayside stand" means a temporary structure designed, arranged or used for the display or sale of agricultural or other products grown or produced on the premises upon which such stand is located.

"Yard" means open space on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except as provided in this title.

"Yard, front" means open space extending across the full width of lot between the front lot line or the proposed front street line and nearest line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof.

"Yard, rear" means open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building.

Second story overhang, roof overhang, unenclosed porches, or similar architectural features are excluded from the measurement if they do not project more than six feet. Open carports may project to within five feet of the side lot line.

"Zone" means an area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open space are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.

"Zoning administrator" means an officer of the town, appointed by the mayor, who administers the zoning regulations and acts as secretary to the board of appeals.

"Zoning certificate" means a written statement issued by the zoning administrator, authorizing buildings, structures, or uses consistent with the terms of this title and for the purpose of carrying out and enforcing its provisions.

"Zoning map" means the zoning map of the town, together with all amendments thereto subsequently adopted. (Ord. 04-21 (part): Ord. 92-8, § 1; prior code Art. XI (Art. XI § 1.0))

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

BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Town of Emmitsburg, Maryland that Chapters 17.28.010, 17.28.020, 17.28.030, 17.28.040, 17.28.050 of the Emmitsburg Municipal Code be, and it hereby is, amended as follows:

The amended section of this regulation reads as follows with new language designated by being in **BOLD CAPITAL LETTERS**, and language being deleted designated by being ~~stricken through~~.

Chapter 17.28

OS OPEN SPACE DISTRICT

Sections:

- 17.28.010 Purpose of provisions.
- 17.28.020 Uses permitted in the OS district.
- 17.28.030 Uses permitted by special exception.
- 17.28.040 Required lot area, lot width and yards in open space district.
- 17.28.050 Accessory uses.

17.28.010 Purpose of provisions.

The open space district is intended to provide open space for its natural beauty and recreational value. It is also intended to preserve natural resources, prevent erosion, pollution, silting, and safeguard the health, safety and welfare of persons and property by limiting development on excessive slopes, on flood plains, on poorly drained lands, or on other areas where protection against natural dangers to life and property, or the lack of such protection would prove costly to members of the community. (Prior code Art. XI (Art. IV § intro))

17.28.020 Uses permitted in the OS district.

Uses permitted in the OS district are as follows:

- A. Farms, tree and plant nurseries;
- B. Parks, playgrounds, golf courses, public and private recreational uses, and cemeteries;
- C. Game, wildlife, and nature study preserves and reservations;
- D. Schools and churches, and other public buildings, and those accessory uses

commonly associated with them, such as retreats and conferences;

- E. Flood control, water protection works, sewage treatment plants, and other municipal public works;
- F. Nursing homes. (Prior code Art. XI (Art. IV § 1.0))
- G. **SENIOR HOUSING UTILIZING BUILDINGS IN EXISTENCE AS OF SEPTEMBER 1, 2010.**

17.28.030 **THIS SECTION RESERVED FOR FUTURE USE.** ~~Uses permitted by special exception.~~

~~Uses permitted by special exception in the OS district are those uses considered by the board of appeals to be the same character as those listed in Section 17.28.020. (Prior code Art. XI (Art. IV § 2.0))~~

17.28.040 Required lot area, lot width and yards in open space district.

Required lot area, lot width and yards in the OS district are as follows, **EXCEPT AS SPECIFIED IN PARAGRAPH F. NURSING HOMES AND PARAGRAPH G. SENIOR HOUSING:**

- A. Minimum area: Not specified;
- B. Front yard: Fifty (50) feet;
- C. Rear yard: Fifty (50) feet;
- D. Side yard: Fifteen (15) feet;
- E. For structure higher than twenty-five (25) feet, the yard requirements shall be as follows:
 - 1. All yards: between the foundation and the nearest lot line, a distance of 2.5 times the height of the structure shall be maintained.
- F. Nursing homes shall comply with the following standards:
 - 1. Minimum lot area: Five acres;
 - 2. Minimum lot width: Two hundred (200) feet;
 - 3. Minimum front yard: One hundred (100) feet;
 - 4. Minimum rear yard: One hundred (100) feet;
 - 5. Minimum side yard: Fifty (50) feet;

6. Maximum height: Fifty (50) feet or five stories;
7. Maximum lot area per bed of five thousand (5,000) square feet.
(Prior code Art. XI (Art. IV § 3.0))

G. SENIOR HOUSING IN EXISTING BUILDINGS.

1. **MINIMUM ORIGINAL LOT SIZE FOR CONSIDERATION UNDER THIS PROVISION IS 50 ACRES, WHICH MUST BE CONTIGUOUS AND UNDER ONE OWNERSHIP, AND SITUATED ENTIRELY WITHIN THE CORPORATE BOUNDARIES OF EMMITSBURG, MARYLAND.**
2. **YIELD PLAN. A BOUNDARY SURVEY AND/OR A RECORD PLAT, PREPARED BY A SURVEYOR LICENSED TO PRACTICE IN THE STATE OF MARYLAND, MUST BE SUBMITTED TO THE TOWN. THE TOWN WILL USE THIS PLAN TO MAKE ITS UNIT YIELD COUNT DETERMINATION.**
3. **UNIT COUNT DETERMINATION. EACH UNIT WILL REQUIRE A MINIMUM GROSS AREA OF 1.44 ACRES OF LAND, CLEAR OF ALL FLOOD PLAINS AND WETLANDS.**
4. **MINIMUM LOT SIZE. THE MINIMUM LOT SIZE FOR ANY NEW LOT CREATED TO SITE THE HEREIN NOTED SENIOR HOUSING WILL BE A MINIMUM OF 2.0 ACRES PLUS 2000 SQUARE FEET PER UNIT. THIS MUST BE A FREE-STANDING LOT OF RECORD AND MUST BY REVIEWED AND APPROVED BY THE TOWN OF EMMITSBURG AND MUST BE RECORDED IN THE LAND RECORDS OF FREDERICK COUNTY, MARYLAND.**
5. **MINIMUM BUILDING RESTRICTION LINES.**
FRONT: 25 FT.
SIDE: 15 FT.
REAR: 25 FT.
HOWEVER, A LOT MAY HAVE UP TO TWO ZERO BUILDING RESTRICTION LINES IF THOSE SIDES OF THE LOT ARE PASSING THROUGH THE PREVIOUSLY EXISTING BUILDING. IF THIS OPTION IS UTILIZED, ALL REMAINING BUILDING RESTRICTION LINES MUST BE A MINIMUM OF 25 FEET.
6. **PARKING. PARKING MUST BE PROVIDED ON THE LOT CREATED FOR THE SENIOR HOUSING AND WILL BE PROVIDED AT THE RATE OF TWO (2) SPACES PER UNIT.**
7. **PUBLIC SERVICES/INFRASTRUCTURE. THE UNITS CREATED HEREBY WILL HAVE TO BE METERED AND SERVICED INDEPENDENTLY OF THE ORIGINAL BUILDING OR ANY PART THEREOF, IF ONLY PART OF THE ORIGINAL BULDING IS BEING USED FOR THE SENIOR HOUSING.**

8. PUBLIC ACCESS. THE LOT CREATED FOR THIS PURPOSE MUST HAVE CLEAR UNOBSTRUCTED ACCESS TO A PUBLIC ROAD, AS

DETERMINED BY THE TOWN OF EMMITSBURG.

9. SITE PLAN REQUIREMENTS. A STANDARD SITE PLAN, PER TOWN OF EMMITSBURG STANDARDS AND REGULATIONS, MUST BE SUBMITTED TO THE TOWN OF EMMITSBURG FOR REVIEW AND APPROVAL.

17.28.050 Accessory uses.

In the OS district, accessory uses are as follows:

- A. General Signs. See Chapter 15.16. (Prior code Art. XI (Art. IV § 4.0))

IV) SET AGENDA ITEMS FOR AUGUST 16, 2010 TOWN MEETING

1.

2.

3.

4.

5.

6.

**V) SIGN APPROVED TEXT AMENDMENTS AND/OR
RESOLUTIONS**