

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

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

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

Title 6 – Animals.

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

6.04.010 Definitions.

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

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

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

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

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

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

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

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

"Public nuisance" means any animal found repeatedly running at large, making loud or objectionable sounds, damaging property, molesting passersby, chasing vehicles or acting in any manner which is deemed to be doing damage to property or to the public health and well-being, or which is known to have bitten two or more persons within a period of six months, or which shall have been determined by the county animal control officer, the county health officer or any

~~authorized representative of the county or of the town to be a detriment to public health, welfare and safety, shall be deemed to be a public nuisance. If a dead animal is not properly disposed of and is deemed to be a public nuisance by reason of its appearance, odor or for public health reasons, its owner may be charged by the county health officer or the county animal control officer or any authorized representative of the town for maintaining a public nuisance.~~

6.04.020 Requirements for owners.

- A. ~~Dogs and Cats. No person shall own or have custody of any dog or cat over four months of age unless such dog or cat is licensed by the county, and has been vaccinated against rabies in a procedure approved by the state public health veterinarian. This provision shall not apply to a dog or cat within the corporate limits of the town owned by a nonresident; provided, that such dogs or cats are duly licensed in their home city, county or state, and provided that the owner has a valid rabies vaccination certificate for said dog or cat while it is within the corporate limits of the town.~~
- B. ~~Chickens. The following requirements shall apply to the keeping of chickens as defined in Section 6.04.010:~~
- ~~1. The total number of chickens allowed on any property is limited to four over the age of one month.~~
 - ~~2. All chickens shall be confined to a coop and/or pen, and shall not be allowed to run freely on the property.~~
 - ~~3. Coops may be placed in side and rear yards, only.~~
 - ~~4. Coops which are affixed to the land and/or are without any readily and conveniently available means of being moved shall be considered as permanent structures and therefore, shall meet the requirements for accessory structures as stated in Title 17.~~
 - ~~5. Coops which are not affixed to the land and which can be readily and conveniently moved from location to location shall not be required to meet the requirements for accessory structures as stated in Title 17, but shall be at least five feet from the side and rear property boundaries.~~
 - ~~6. Any coop or pen shall be located at least twenty-five (25) feet from any residential dwelling unit.~~
 - ~~7. No person shall own or have custody of any chicken unless such chicken is registered with the state department of agriculture and a copy of the state registration is provided to the town.~~
 - ~~8. Before utilizing a coop for the keeping of chickens, registration of the activity with the town is required. A completed registration form signed by the owner of the property, and a site plan showing that the dimensional requirements stated in this section will be met shall be submitted to the town code enforcement office for review.~~
 - ~~9. Each coop or pen must be kept clean, free of odors and materials that can attract vermin. Feed shall be kept in secure containers so as not to attract vermin.~~
 - ~~10. Animal waste shall be composted or removed from the premises to comply with this section and Section 8.12.030.~~

- ~~11. The slaughtering of chickens on premises is not allowed.~~
- ~~12. This provisions in this subsection B. shall expire eighteen (18) months from passage unless extended by ordinance.~~

6.04.030 Impoundment.

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

6.04.040 Impoundment service fee.

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

6.04.050 Liability for impounding fee.

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

6.04.060 Enforcement.

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

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

6.04.070 Animal control officers.

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

6.04.080 Care and control of animals.

- ~~A. It is a violation of this chapter for any person to abandon any animal, whether or not the person is the owner.~~
- ~~B. All owners of animals shall exercise care and control of such animals so as to prevent same from becoming public nuisances, and an owner of an animal determined to be a public nuisance shall be subject to the penalties of this chapter.~~

~~C. Any state licensed veterinarian in the county is authorized by the commissioners of the town to immediately humanely euthanize or treat a suffering animal without liability if its owner cannot be promptly identified.~~

~~6.04.090 Poisoning of animals.~~

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

~~6.04.100 Female dog in season.~~

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

~~6.04.110 Interference with authorized persons.~~

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

~~6.04.120 Dangerous and potentially dangerous dogs.~~

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

~~6.04.130 Animals roaming at large.~~

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

~~6.04.140 Removal of feces.~~

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

~~The owner or person who has possession or control of an animal which deposits feces upon any street, park lands, sidewalks, public lands or lands not owned, leased or rented by said person in possession or control, or the owner of said animal shall immediately remove such feces from any and all of the above noted locations. Violation of this section is declared to be a municipal infraction.~~

~~6.04.150 Violations—Penalties.~~

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

CHAPTER 6.04 – COUNTY ANIMAL CONTROL REGULATIONS.

SECTION 6.04.010 – ADOPTION OF COUNTY CODE.

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

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

SECTION 6.04.020 – ADMINISTRATION AND ENFORCEMENT

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

SECTION 6.04.030 – ADDITIONAL PROVISIONS.

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

SECTION 6.04.040 – PREVAILING LAW

ANY INCONSISTENCY BETWEEN THE FREDERICK COUNTY CODE AND AN AMENDMENT OR ADDITIONAL PROVISION SET FORTH IN THIS ARTICLE

SHALL BE CONSTRUED IN FAVOR OF THE AMENDMENT OR ADDITIONAL PROVISION.

CHAPTER 6.08 – ADDITIONAL ANIMAL CONTROL REGULATIONS.

SECTION 6.08.010 – DEFINITIONS.

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

SECTION 6.08.020 – ANIMAL WASTE.

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

A SECOND OFFENSE, AND THREE-HUNDRED DOLLARS (\$300.00) FOR A THIRD OR SUBSEQUENT OFFENSE PER CALENDAR YEAR.

SECTION 6.08.030 – NOISY ANIMALS.

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

CHAPTER 6.12 – LIVESTOCK AND FOWL.

SECTION 6.12.010 – DEFINITIONS.

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

HABITUALLY BE OR REMAIN ON, OR BE LODGED OR FED WITHIN BUILDINGS OR LAND OWNED, LEASED, USED, OR OCCUPIED BY SUCH PERSON, IRRESPECTIVE OF WHETHER SUCH PERSON HAS LEGAL TITLE OR CLAIM TO THE ANIMAL. "OWNER" DOES NOT INCLUDE VETERINARIANS, KENNEL OPERATORS, OR LIKE PERSONS TEMPORARILY KEEPING ON THEIR PREMISES ANIMALS OWNED BY OTHERS.

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

SECTION 6.12.020 – LIVESTOCK.

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

B. EXCEPTIONS. THIS SECTION DOES NOT PROHIBIT:

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

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

CHAPTER 6.16 – BACK YARD CHICKENS.

6.16.010 – DEFINITIONS.

- A. IN GENERAL. FOR THE PURPOSES OF THIS CHAPTER, THE FOLLOWING TERMS HAVE THE MEANING INDICATED.**
- B. BACK YARD. "BACK YARD" MEANS THAT PORTION OF A LOT, EXTENDING BETWEEN THE TWO SIDE LOT LINES BETWEEN THE REAR LOT LINE AND A LINE DRAWN PARALLEL THERETO AT THE POINT**

WHERE THE BACK FAÇADE OF THE DWELLING UNIT IS CLOSEST TO THE REAR LOT LINE.

C. CHICKEN RUN. "CHICKEN RUN" MEANS AN ENCLOSED OUTSIDE YARD FOR KEEPING CHICKENS.

D. COOP. "COOP" MEANS A STRUCTURE FOR HOUSING CHICKENS MADE OF WOOD OR OTHER SIMILAR MATERIALS THAT PROVIDES SHELTER FROM THE ELEMENTS.

E. DEPARTMENT. "DEPARTMENT" MEANS THE TOWN'S PLANNING DEPARTMENT.

F. MANAGER. "MANAGER" MEANS THE TOWN MANAGER OR THE MANAGER'S DESIGNEE.

G. OWN. "OWN" MEANS TO KEEP, HARBOR, OR HAVE CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, OR PERMIT TO BE KEPT, HARBORED OR FED UPON OR WITHIN PREMISES OWNED, LEASED, RENTED OR OCCUPIED BY A PERSON AND DOES NOT REQUIRE ACTUAL LEGAL TITLE OR CLAIM TO THE ANIMAL.

H. OWNER. "OWNER" MEANS ANY PERSON KEEPING, HARBORING OR HAVING CHARGE OR CONTROL OF, OR PERMITTING ANY ANIMAL TO HABITUALLY BE OR REMAIN ON, OR BE LODGED OR FED WITHIN BUILDINGS OR LAND OWNED, LEASED, USED, OR OCCUPIED BY SUCH PERSON, IRRESPECTIVE OF WHETHER SUCH PERSON HAS LEGAL TITLE OR CLAIM TO THE ANIMAL. "OWNER" DOES NOT INCLUDE VETERINARIANS, KENNEL OPERATORS, OR LIKE PERSONS TEMPORARILY KEEPING ON THEIR PREMISES ANIMALS OWNED BY OTHERS.

I. TITLE 17. "TITLE 17" MEANS THE ZONING CODE OF THE TOWN.

J. PREMISES. "PREMISES" MEANS THE PROPERTY ON WHICH CHICKENS ARE PERMITTED TO BE OWNED UNDER THIS CHAPTER.

6.16.020 – GENERALLY.

A. PURPOSE. IT IS HEREBY FOUND AND DECLARED THAT THE KEEPING OF CHICKENS IN THE TOWN SUPPORTS A LOCAL, SUSTAINABLE FOOD SYSTEM AS WELL AS PEST CONTROL, ANIMAL COMPANIONSHIP, AND PLEASURE. THIS CHAPTER IS INTENDED TO ALLOW THE KEEPING AND MAINTENANCE OF CHICKENS IN A CLEAN AND SANITARY MANNER THAT IS NOT A NUISANCE OR DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OF THE TOWN.

B. SCOPE. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT OWN ANY LIVE CHICKENS EXCEPT IN COMPLIANCE WITH ALL REQUIREMENTS OF THIS CHAPTER. THIS CHAPTER DOES NOT APPLY TO:

- 1. OWNING CHICKENS ON PROPERTY USED FOR AGRICULTURAL ACTIVITY AS DEFINED IN TITLE 17.**
- 2. THE SALE OR USE OF CHICKENS FOR COMMERCIAL, INDUSTRIAL, OR EDUCATIONAL PURPOSES, INCLUDING BUT NOT LIMITED TO POULTRY PACKING OR PROCESSING FACILITIES, LABORATORIES, OR RETAIL SALES, IN ACCORDANCE WITH TITLE 17 AND ALL OTHER APPLICABLE REGULATIONS.**

C. OTHER LAWS. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ELIMINATE THE NEED FOR COMPLIANCE WITH ANY OTHER APPLICABLE LAW OR REGULATION, INCLUDING BUT NOT LIMITED TO THOSE RELATING TO BUILDING, ZONING, PROPERTY MAINTENANCE, AGRICULTURE, OR HEALTH.

D. REGISTRATION. CHICKENS OWNED UNDER THIS CHAPTER MUST BE REGISTERED WITH THE STATE DEPARTMENT OF AGRICULTURE, DOMESTIC POULTRY, AND EXOTIC BIRD REGISTRATION DIVISION, PURSUANT TO THE ANNOTATED CODE OF MARYLAND, AGRICULTURE ARTICLE, § 3-804, AS AMENDED.

E. PRIVATE COVENANTS. THIS CHAPTER SHALL NOT BE CONSTRUED TO SUPERSEDE OR ALLOW THE VIOLATION OF ANY HOMEOWNERS' ASSOCIATION REGULATIONS, DEED RESTRICTIONS, OR OTHER PRIVATE COVENANTS.

F. VESTED RIGHTS. NEITHER THIS CHAPTER NOR A LICENSE ISSUED UNDER THIS CHAPTER CREATES ANY VESTED RIGHTS IN ANY INDIVIDUAL TO OWN OR RAISE CHICKENS.

6.16.030 – ADMINISTRATION.

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

6.16.040 – LOCATION.

A. SUBJECT TO THE PROVISIONS OF THIS CHAPTER, IN ANY ZONING DISTRICT, A PERSON MAY OWN LIVE CHICKENS IN THE BACK YARD OF A RESIDENTIAL LOT CONTAINING:

- 1. A SINGLE-FAMILY DETACHED DWELLING UNIT; OR**
- 2. A DUPLEX. FOR PURPOSES OF THIS SECTION, "DUPLEX" MEANS A DWELLING UNIT THAT IS ATTACHED TO ANOTHER DWELLING UNIT BUT SEPARATED BY A VERTICAL PARTY WALL, WHERE EACH DWELLING UNIT IS LOCATED ON ITS OWN LOT AND BOTH DWELLING UNITS ARE SEPARATED FROM ANY OTHER STRUCTURE BY YARDS OR OTHER GREEN AREAS ON ALL SIDES.**

B. THE LOT MUST HAVE AN AREA OF AT LEAST 2,500 SQUARE FEET.

6.16.050 – NUMBER AND TYPE OF CHICKENS.

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

6.16.060 – PERMITS.

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

B. PERMIT APPLICATION PROCESS.

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

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

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

C. A SCHEMATIC DRAWING OF THE PREMISES SHOWING:

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

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

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

A. THE APPLICATION MUST BE SIGNED BY THE APPLICANT. IF THE APPLICANT IS NOT THE OWNER OF THE PREMISES ON WHICH THE CHICKENS WILL BE KEPT, THE APPLICATION MUST BE SIGNED BY THE PROPERTY OWNER.

B. PERMIT FEES SHALL BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID FOR BY THE APPLICANT AT THE TIME OF APPLICATION.

3. THE MANAGER SHALL REVIEW A SUBMITTED APPLICATION FOR COMPLIANCE WITH THIS SECTION. IF THE MANAGER FINDS THAT THE APPLICANT MEETS THE REQUIREMENTS OF THIS CHAPTER, THE MANAGER SHALL APPROVE THE APPLICATION AND SHALL ISSUE A CHICKEN PERMIT TO THE APPLICANT. IF THE MANAGER FINDS THAT THE APPLICANT FAILS TO MEET THE REQUIREMENTS OF THIS SECTION, THE MANAGER SHALL DENY THE APPLICATION. AT THE DISCRETION OF THE MANAGER, THE REVIEW CONDUCTED UNDER THIS PARAGRAPH MAY INCLUDE AN INSPECTION OF THE PREMISES.

C. CONDITIONS.

1. A PERMIT ISSUED UNDER THIS SECTION AUTHORIZES THE OWNING OF CHICKENS ONLY BY THE PERMIT HOLDER AND UPON THE PREMISES DESCRIBED IN THE PERMIT.

- 2. THE PERMIT HOLDER MUST MAINTAIN A PERSONAL, PRIMARY RESIDENCE ON THE PREMISES ON WHICH THE CHICKENS ARE KEPT. THE PERMIT HOLDER MAY NOT BE ABSENT FROM THE PREMISES FOR A PERIOD OF LONGER THAN THIRTY (30) CONSECUTIVE DAYS.**
 - 3. THE MANAGER MAY ATTACH ADDITIONAL REASONABLE CONDITIONS TO THE PERMIT IF REASONABLY NECESSARY TO PROTECT ANY PERSON OR NEIGHBORING USE FROM UNSANITARY CONDITIONS, UNREASONABLE NOISE OR ODORS, OR TO PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE.**
- D. TERM. A PERMIT ISSUED UNDER THIS SECTION IS VALID UNTIL IT IS REVOKED OR UNTIL THE PERMIT HOLDER REQUESTS, IN WRITING, THAT THE PERMIT BE TERMINATED.**
- E. TRANSFER. CHICKEN PERMITS ARE NOT TRANSFERRABLE TO A NEW CHICKEN OWNER OR TO A NEW PROPERTY ADDRESS.**
- F. VIOLATION. OWNING A LIVE CHICKEN WITHOUT FIRST OBTAINING A LICENSE AS REQUIRED BY THIS SECTION IS A MUNICIPAL INFRACTION PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00). EACH DAY A VIOLATION CONTINUES IS DEEMED A SEPARATE OFFENSE.**

6.16.070 – PREMISES REQUIREMENTS.

A. ENCLOSURE.

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

B. COOP.

- 1. IN ADDITION TO THE ENCLOSURE DESCRIBED IN SUBSECTION A OF THIS SECTION, CHICKENS MUST BE PROVIDED WITH A COVERED, PREDATOR-RESISTANT COOP.**
- 2. A COOP MUST BE LOCATED IN THE BACK YARD AND AT LEAST TEN (10) FEET FROM ANY LOT LINE.**
- 3. A COOP MUST BE:**
 - A. AT LEAST FOUR (4) SQUARE FEET, BUT NO MORE THAN TEN (10) SQUARE FEET, PER CHICKEN IN AREA; AND**
 - B. NO MORE THAN SIX (6) FEET IN HEIGHT.**
- 4. A COOP MUST BE PROPERLY VENTILATED, PROVIDE ADEQUATE SHADE FROM THE SUN AND THE ELEMENTS, AND CONSTRUCTED IN A MANNER TO RESIST PREDATORS, INCLUDING DOGS AND CATS.**
- 5. A PERMIT HOLDER SHALL ENSURE THAT CHICKENS ARE SECURED WITHIN THE COOP DURING NON-DAYLIGHT HOURS.**
- C. CONDITION. A PERMIT HOLDER SHALL MAINTAIN A CHICKEN RUN AND COOP IN A NEAT, CLEAN, ODOR-FREE, AND SANITARY CONDITION AT ALL TIMES, IN A MANNER THAT WILL NOT DISTURB THE USE OR ENJOYMENT OF NEIGHBORING LOTS DUE TO NOISE, ODOR, OR OTHER ADVERSE IMPACT.**
- D. WASTE STORAGE AND REMOVAL. THE PERMIT HOLDER SHALL ENSURE THAT THE PROPERTY IS KEPT FREE FROM EXCESSIVE ACCUMULATED DROPPINGS AND SHALL PROVIDE FOR THE STORAGE AND REMOVAL OF CHICKEN MANURE. ALL MANURE FOR COMPOSTING OR FERTILIZING MUST BE CONTAINED IN A WELL-AERATED GARDEN COMPOST PILE. ALL OTHER MANURE NOT USED FOR COMPOSTING OR FERTILIZING MUST BE REMOVED.**
- E. OTHER LAWS. A PERMIT HOLDER SHALL COMPLY WITH ANY APPLICABLE LEGAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO OBTAINING ZONING AND BUILDING PERMITS, IF NEEDED.**

6.16.080 – CARE AND FEEDING OF CHICKENS.

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

- B. WINGS. ALL CHICKENS MUST BE WING-CLIPPED PERIODICALLY TO PREVENT ESCAPE.**
- C. FOOD AND WATER. A PERMIT HOLDER SHALL ENSURE THAT THE PERMIT HOLDER'S CHICKENS HAVE ACCESS TO ADEQUATE AMOUNTS OF CLEAN FOOD AND CLEAN WATER AT ALL TIMES. ALL GRAIN AND FOOD STORED FOR THE USE OF THE CHICKENS SHALL BE KEPT IN A RODENT-PROOF CONTAINER.**
- D. DEATH OF A CHICKEN. IF A CHICKEN DIES, IT MUST BE BURIED OR OTHERWISE DISPOSED OF PROMPTLY AND IN A SANITARY MANNER.**

6.16.090 – PROHIBITED ACTS.

- A. CHICKENS LIVING INSIDE. AN INDIVIDUAL MAY NOT OWN A LIVE CHICKEN INSIDE A DWELLING UNIT OR OTHER STRUCTURE EXCEPT FOR THE COOP REQUIRED BY §16.16.070.B.**
- B. CHICKENS RUNNING AT LARGE. A PERMIT HOLDER MAY NOT DELIBERATELY OR NEGLIGENTLY ALLOW CHICKENS TO ESCAPE OUTSIDE THE BACK YARD OF THE PREMISES.**
- C. COMMERCIAL USE PROHIBITED. A PERMIT HOLDER MAY OWN CHICKENS FOR PERSONAL USE ONLY. AN INDIVIDUAL MAY NOT SELL EGGS OR ENGAGE IN CHICKEN BREEDING, MEAT PRODUCTION, OR FERTILIZER PRODUCTION FOR COMMERCIAL PURPOSES.**
- D. SLAUGHTER. A PERMIT HOLDER MAY NOT SLAUGHTER CHICKENS ON THE PREMISES OR ON ANY OTHER RESIDENTIAL PROPERTY. THIS PROHIBITION DOES NOT PRECLUDE A PERMIT HOLDER FROM HAVING CHICKENS SLAUGHTERED AT A FACILITY PROPERLY ZONED AND PERMITTED FOR SUCH USE.**
- E. TRAINING. A PERMIT HOLDER MAY NOT USE OR TRAIN CHICKENS FOR THE PURPOSE OF FIGHTING FOR AMUSEMENT OR SPORT.**
- F. FIGHTING. CHICKEN OR ROOSTER FIGHTING IS PROHIBITED.**

6.16.100 – ENFORCEMENT.

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

DAY A VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE.

B. OTHER LAWS. A VIOLATION OF THIS ARTICLE MAY ALSO CONSTITUTE A VIOLATION OF ANOTHER LAW, SUCH AS THE PROHIBITION AGAINST ANIMALS RUNNING AT LARGE.

C. INSPECTIONS. THE MANAGER MAY, AT ALL REASONABLE TIMES AND IN A REASONABLE MANNER, ENTER UPON AND INSPECT THE PREMISES TO DETERMINE WHETHER THE PERMIT HOLDER IS IN COMPLIANCE WITH THIS ARTICLE.

D. SUSPENSION OF CHICKEN PERMIT.

1. THE MANAGER MAY SUSPEND A PERMIT ISSUED UNDER THIS ARTICLE FOR A PERIOD OF UP TO THIRTY (30) DAYS, OR A LONGER PERIOD IF NECESSARY TO CARRY OUT THE INTENT OF THIS ARTICLE, IF THE MANAGER FINDS:

A. THERE IS A RISK TO PUBLIC HEALTH OR SAFETY; OR

B. THE LICENSE HOLDER HAS VIOLATED ANY OF THE PROVISIONS OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO FAILURE TO OBTAIN OR COMPLY WITH A PERMIT ISSUED UNDER THIS ARTICLE.

2. UPON SUSPENDING A LICENSE, THE MANAGER SHALL PROVIDE WRITTEN NOTICE TO THE PERMIT HOLDER SETTING FORTH THE GROUNDS FOR THE SUSPENSION, THE EFFECTIVE DATE OF THE SUSPENSION, AND THE LENGTH OF THE SUSPENSION.

3. THE MANAGER MAY REINSTATE A PERMIT WHEN THE MANAGER IS SATISFIED THAT THE GROUNDS FOR THE SUSPENSION HAVE BEEN REMEDIED.

E. REVOCATION OF CHICKEN PERMIT.

1. THE MANAGER MAY REVOKE A LICENSE ISSUED UNDER THIS ARTICLE IF THE MANAGER FINDS:

A. THE PERMIT HOLDER HAS MISREPRESENTED OR PROVIDED FALSE INFORMATION ON A PERMIT APPLICATION; OR

B. THE PERMIT HOLDER HAS VIOLATED ANY OF THE PROVISIONS OF THIS CHAPTER, INCLUDING BUT NOT

LIMITED TO FAILURE TO COMPLY WITH A PERMIT ISSUED UNDER THIS ARTICLE AND THE PERMIT HAS BEEN SUSPENDED WITHIN THE PREVIOUS TWELVE (12) MONTHS UNDER SUBSECTION D OF THIS SECTION.

- 2. UPON REVOKING A PERMIT, THE MANAGER SHALL PROVIDE WRITTEN NOTICE TO THE PERMIT HOLDER SETTING FORTH THE GROUNDS FOR THE REVOCATION AND EFFECTIVE DATE OF THE REVOCATION.**
- 3. A NEW CHICKEN PERMIT WILL NOT BE ISSUED TO THE SAME PERMIT HOLDER FOR A PERIOD OF ONE (1) YEAR AFTER REVOCATION.**

F. REMOVAL OF CHICKENS.

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

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

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

CHAPTER 6.20 – APIARY.

6.20.010 – INTENT.

- A. IT IS RECOGNIZED THAT HONEY BEES ARE BENEFICIAL TO HUMANKIND AND TO MARYLAND IN PARTICULAR BY PROVIDING BOTH**

HOME GARDEN AND AGRICULTURAL POLLINATION SERVICES AS WELL AS FURNISHING HONEY, BEESWAX, AND OTHER USEFUL PRODUCTS. THE PURPOSE OF THIS CHAPTER IS TO ESTABLISH CERTAIN REQUIREMENTS FOR BEEKEEPING WITHIN RESIDENTIALLY ZONED AREAS WITHIN THE TOWN.

6.20.020 – DEFINITIONS.

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

6.20.030 – STANDARDS OF PRACTICE.

- A. HONEY BEE APIARIES ARE PERMITTED AS AN ACCESSORY USE IN THE CONSERVATION/RECREATION (C-R), RESIDENTIAL SUBURBAN (R-S), LOW-DENSITY RESIDENTIAL (R-1), MEDIUM DENSITY RESIDENTIAL (R-2), HIGH DENSITY RESIDENTIAL (R-3), AND VILLAGE ZONE (VZ) ZONING DISTRICTS WHEN IN COMPLIANCE WITH THE ANNOTATED CODE OF MARYLAND, AGRICULTURE ARTICLE, §§5-501—5-507, AS AMENDED, AND THE FOLLOWING REGULATIONS:**
 - 1. NO BEEKEEPERS MAY OWN OR MAINTAIN AN APIARY WITHIN THE TOWN OF EMMITSBURG WITHOUT FIRST REGISTERING AND MAINTAINING A CURRENT REGISTRATION CERTIFICATE FOR ALL APIARIES WITH THE MARYLAND STATE DEPARTMENT OF AGRICULTURE.**
 - 2. A BEEKEEPER OWNING OR MAINTAINING AN APIARY IN THE TOWN OF EMMITSBURG SHALL PROMPTLY NOTIFY THE CODE ENFORCEMENT OFFICER WITHOUT UNNECESSARY DELAY, AND IN NO EVENT LONGER THAN 72 HOURS, IF THE DEPARTMENT**

REVOKES SAID APIARY REGISTRATION OR IF SAID REGISTRATION HAS LAPSED.

- 3. NO BEEKEEPER SHALL OWN OR MAINTAIN AN APIARY WITHIN THE TOWN OF EMMITSBURG WITHOUT FIRST OBTAINING A REGISTRATION PERMIT FROM THE MUNICIPALITY. AN APPLICATION FOR A ONE-TIME REGISTRATION PERMIT SHALL BE MADE IN WRITING AND UPON SUPPLIED FORM OR IN SUCH FORMAT AS ESTABLISHED BY THE TOWN OF EMMITSBURG. THE APPLICATION SHALL BE ACCOMPANIED BY A LOT PLAN THAT INCLUDES SIZE OF THE LOT, THE LOCATION AND NUMBER OF HIVES, THE LOCATION OF THE WATER SOURCE, THE DISTANCE OF THE HIVES FROM ANY PROPERTY LINES, AND IF REQUIRED, THE LOCATION OF ANY FLYWAY BARRIERS. THE ISSUANCE OF A PERMIT SHALL NOT OBVIATE THE NECESSITY FOR COMPLIANCE WITH ALL OTHER MUNICIPAL ORDINANCES. PERMIT FEES SHALL BE ESTABLISHED FROM TIME TO TIME BY POLICY, RESOLUTION, OR ORDINANCE BY THE TOWN AND SHALL BE PAID FOR BY THE APPLICANT AT THE TIME OF APPLICATION.**
- 4. THE APPLICATION FOR A MUNICIPAL PERMIT SHALL ALSO BE ACCOMPANIED BY WRITTEN EVIDENCE THAT THE APPLICANT HAS COMPLETED A BEEKEEPING EDUCATIONAL COURSE/PROGRAM WITH A MINIMUM OF 8 HOURS OF INSTRUCTIONS OR HAS A LETTER OF VALIDATION FROM AN OFFICER OF THE MARYLAND STATE BEEKEEPERS ASSOCIATION, AN OFFICER OF THE FREDERICK COUNTY BEEKEEPING ASSOCIATION, OR A CERTIFIED MASTER BEEKEEPER.**
- 5. BEEKEEPERS THAT WISH TO OWN OR MAINTAIN AN APIARY ON PROPERTY THAT THEY DO NOT OWN MUST INCLUDE WRITTEN PERMISSION FROM THE PROPERTY OWNER OR LANDLORD THAT EXPLICITLY INDICATES THAT THE BEEKEEPER HAS PERMISSION TO OWN OR MAINTAIN AN APIARY ON THE SUBJECT PROPERTY. SUCH WRITTEN PERMISSION SHALL BE SUPPLIED TO THE MUNICIPALITY AS PART OF THE BEEKEEPING REGISTRATION APPLICATION.**

6.20.040 – LOCATION AND COLONY DENSITY.

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

A. HIVE LOCATION.

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

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

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

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

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

2. MAXIMUM NUMBER OF HIVES.

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

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

A. AS PART OF NORMAL HONEY BEE COLONY MANAGEMENT, A BEEKEEPER MAY ALSO KEEP, IN ADDITION TO ALLOWABLE STANDARD HIVES, BETWEEN APRIL 15 AND AUGUST 15, TWO NUCLEUS COLONIES PER STANDARD HIVE, PROVIDED THEY ARE USED FOR MANAGING COLONY STRENGTH, TO MINIMIZE REPRODUCTIVE SWARMING, QUEEN REARING, OR SWARM CAPTURE.

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

B. A SUPPLY OF FRESH WATER SHALL BE MAINTAINED IN A LOCATION READILY ACCESSIBLE TO ALL BEE COLONIES

ON THE SITE THROUGHOUT THE DAY TO PREVENT BEES FROM CONGREGATING AT NEIGHBORING SWIMMING POOLS OR OTHER SOURCES OF WATER ON NEARBY PROPERTIES BETWEEN APRIL 1 – NOVEMBER 1.

6.20.050 – INSPECTION.

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

6.20.060 – NUISANCE.

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

6.20.070 – ENFORCEMENT.

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

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

PASSED this 2nd day of August, 2021

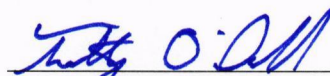
by a vote of 3 for, 1 against, 0 absent, and 1 abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:



Madeline Shaw, Town Clerk

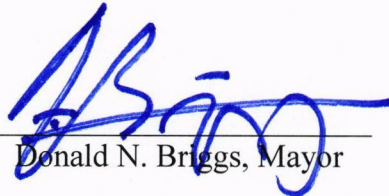


Timothy O'Donnell, President

MAYOR

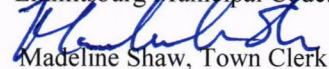
— APPROVED — VETOED

this 2nd day of August, 2021.



Donald N. Briggs, Mayor

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



Madeline Shaw, Town Clerk

Date: 8/3/21