

**THE CODE
OF ORDINANCES
OF THE TOWN OF
HANCOCK,
MARYLAND**

**A MUNICIPAL CORPORATION
EXISTING UNDER
AND BY VIRTUE OF
THE LAWS OF THE STATE OF MARYLAND**

Date of Passage:

**THE CODE
OF THE TOWN OF
HANCOCK, MARYLAND**

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**CODE OF THE TOWN OF
HANCOCK, MARYLAND**

PREFACE

Pursuant to the Article 23A of the Annotated Code of Maryland, the Mayor and Council of the Town of Hancock, Maryland have updated and recodified its Code of Ordinances.

The previous "Code" was codified in 1983. Until then there had been a compilation of Ordinances dating back many years. Subsequent thereto ordinances have been passed and published and recorded among the Acts, Ordinances and Resolutions of Incorporate Municipalities in the office of the Clerk of the Circuit Court for Washington County, Maryland.

This current recodification is intended to be effective June 1, 2006.

All amendments to those Ordinance and any new Ordinances enacted since that date are intended to be contained in this document. It is intended that unless otherwise specified, the Ordinances (this Code) supersedes any previous enactments. However, it is not intended to abrogate or rescind the financial obligations and/or regulatory actions and regulations that are currently in force and effective.

**CHARTER OF THE
TOWN OF HANCOCK, MARYLAND**

Adopted November 14, 1972

With subsequent amendments

Effective _____

**OFFICIALS
OF THE
TOWN OF HANCOCK**

**Town Hall
126 West High Street
Hancock, Maryland 21750
Telephone: 301-678-5622**

2006

Daniel A. Murphy, Mayor

Council

**Maurice Wheeler
Randy Pittman
R. Anthony McCusker
Sinclair Hamilton**

**David Smith, town manager
Lisa Fleegle, Town Clerk**

**Robert E. Kuczynski, Esquire
Edward L. Kuczynski, Esquire**

Town Attorneys

Date of Publication: _____

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Metes and Bounds description

§ 1. Corporate name.

This charter is the municipal corporation charter of the Town of Hancock, Maryland, the corporate name of which is The Town of Hancock.

§ 2. Definitions.

(a) The terms "town," "city," "municipality," or "municipal corporation" in this charter shall be construed as synonymous.

(b) Whenever the male gender is used, the provisions of that section shall apply equally to the female gender.

(c) Whenever the term "town manager," "manager," or "clerk-treasurer" is used, the terms shall be considered synonymous if the council has delegated the clerk-treasurer's duties to the town manager pursuant to the provisions of this Charter.

GENERAL CORPORATE POWERS

§ 3. General powers.

The municipal corporation here established (or continued), under its corporate name, has all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and may pass and adopt all ordinances, resolutions, or by-laws necessary or proper to exercise the powers granted herein or under the laws of the State of Maryland and Constitution thereof.

CORPORATE LIMITS

§ 4. Description of corporate boundaries.

A description of the corporate boundaries of the town at all times shall be on file with the town clerk or other comparable official and with the Clerk of the Circuit Court of Washington County, Maryland and the Department of Legislative Reference, and is incorporated herein and made a part hereof by reference (appendix).

THE COUNCIL

§ 5. Number of council members; selection; term.

All legislative powers of the town are vested in a council consisting of the Mayor and four council members who shall be elected as hereinafter provided. The Mayor shall hold office for a

term of two years or until a succeeding Mayor takes office and the council members shall hold office for a term of four years or until the succeeding council takes office. The regular term of council members shall expire on the second Monday following the election of their successors. Council members holding office at the time this charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding council takes office under the provisions of this charter.

§ 6. Qualifications of council members.

Council members shall have resided in the town for at least one year immediately preceding their election and shall be qualified voters of the town.

§ 7. Salary of council members.

Each council member shall receive an annual salary which shall be equal for all council members and shall be as specified from time to time by an ordinance passed by the council in the regular course of its business; provided, however, that the salary specified at the time any council takes office shall not be changed during the period for which that council was elected. The ordinance making any change in the salary paid to the several council members, either by way of increase or decrease, shall be finally ordained prior to the municipal election for the members of the next succeeding council and shall take effect only as to the members of the next succeeding council.

§ 8. Meetings of council.

The newly elected council shall meet at 7:00 p.m. on the second Monday following its election for the purpose of organization, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. Special meetings shall be called by the clerk-treasurer upon the request of the mayor or a majority of the members of the council. All meetings of the council shall be open to the public, and the rules of the council shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. The mayor and council shall have the right to close its meetings to the public for the purposes set forth in the Annotated Code of Maryland, State Government Article, § 10-501, et. seq. as it now exists and as may be amended from time to time. Applicable state laws shall control and regulate any closed meeting which may be held by the mayor and council. (Amended Resolution #1, 5/30/96, recorded in Liber 5, folio 936.)

§ 9. Council to be judge of qualifications of its members.

The council shall be the judge of the election and qualification of its members.

§ 10. President of council.

The Mayor shall serve as president of the council. The mayor may take part in all discussions, and the Mayor shall have the right to vote. In the absence of the mayor, the council shall elect a councilmember to serve as interim president.

§ 11. Quorum.

A majority of the members of the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected to the council.

§ 12. Rules and order of business; journal.

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection.

§ 13. Vacancies in council.

Vacancies in the council shall be filled as provided in § 37 of this charter.

§ 14. Passage of ordinances; publication; effective date.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of four members of the council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty calendar days following the date of passage by the council. A fair summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality. An emergency ordinance shall become effective on the date specified in the ordinance.

§ 15. Referendum.

If, before the expiration of twenty calendar days following the approval of any ordinance, a petition is filed with the clerk-treasurer containing the signatures of not less than twenty per cent (30%) of the qualified voters of the town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town for their approval or disapproval, the council shall have the ordinance, or the part thereof requested for the referendum, submitted to a vote of the qualified voters of the town at the next regular town election or, in the discretion of the council, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, then operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part thereof, passed under the authority of § 56, levying property taxes for the payment of indebtedness, but the provisions of this section shall apply to any ordinance, or any part thereof, levying special assessment charges under the provisions of §§ 84 and 85. The provisions of this section shall be self-executing, but the council may adopt ordinances in furtherance of these provisions and not in conflict with them.

§ 16. File of ordinances.

Ordinances shall be permanently filed by the town manager/clerk-treasurer and shall be kept available for public inspection in accordance with the Annotated Code of Maryland.

THE MAYOR

§ 17. Selection and term.

The mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until the mayor's successor is elected and qualified. The newly elected mayor shall take office on the second Monday following the mayor's election. The mayor holding office at the time this charter becomes effective shall continue to hold office for the term for which elected and until said successor takes office under the provisions of this charter, or until termination by operation of law.

§ 18. Qualifications.

The mayor must have resided in the town for at least one year immediately preceding the date of the election for a mayor and must be a qualified voter of the town.

§ 19. Salary of Mayor.

The mayor shall receive an annual salary as set from time to time by an ordinance passed by the council in the regular course of business. No change shall be made in the salary for any mayor during the term for which the mayor was elected. The ordinance making any change in the salary paid to the mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding mayor, and shall take effect only as to the next succeeding mayor.

§ 20. Powers and duties.

(a) Generally. -- The mayor shall see that the ordinances of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.

(b) Appointments and removal of employees and heads of offices, departments and agencies. -- The mayor, with the approval of the council, shall appoint the heads of all offices, departments, and agencies of the town government as established by this charter or by ordinance. All office, department, and agency heads shall serve at the pleasure of the mayor, except as may be otherwise provided by the provisions of this Charter or Ordinance. All subordinate officers and employees of the offices, departments, and agencies of the town government shall be appointed and removed by the mayor, in accordance with rules and regulations in any merit system which may be adopted by the council.

(c) Reports and recommendations to council. -- The mayor each year shall report to the council the condition of municipal affairs and make such recommendations as the mayor deems proper for the public good and the welfare of the town.

(d) Supervision of financial administration of government. -- The mayor shall have complete supervision of the financial administration of the town government. The mayor shall prepare or have prepared annually a budget and submit it to the council. The mayor shall supervise the administration of the budget as adopted by the council. The mayor shall supervise the distribution of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

(e) Other powers and duties. -- The mayor shall have such other powers and perform such other duties as may be prescribed by this charter or as may be required of the mayor by the council, not inconsistent with this Charter.

GENERAL POWERS

§ 21. Powers of council enumerated.

(1) General powers. – The council shall have the power to enact such ordinances authorized by and not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the town.

The council shall have all of the powers, privileges, immunities, duties and obligations as set forth in Article 23A of the Annotated Code of Maryland, the Constitution of the State of Maryland, and all other applicable laws or regulations of the State of Maryland as are now in force or may be amended from time to time.

(2) Specific powers. – The council shall have, in addition, but not limited thereto, the power to pass ordinances not contrary to the laws and Constitution of the State of Maryland for all those specific purposes set forth in Article 23A, Section 2 of the Annotated Code of Maryland, and any other provisions of the public general laws of the State of Maryland that may be applicable, and subject to any provisions to the contrary set forth in this Charter.

(3) Saving clause. -- The enumeration of any powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned. The Mayor and council shall exercise all those powers in addition to those enumerated and granted by the Constitution and the laws of the State of Maryland or its Charter.

§ 22. Exercise of powers.

For the purpose of carrying out the powers granted in this charter, the council may pass all necessary ordinances and/or resolutions. All the powers of the town shall be exercised in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance or the laws of the State of Maryland.

§ 23. Enforcement of ordinances and resolutions.

To insure the observance of the ordinances and resolutions of the town, the council as the legislative body shall have the power to provide that violations of ordinances and resolutions shall be

punishable as misdemeanors or constitute a municipal infraction as provided in Article 23A of the Annotated Code of Maryland, and/or any other applicable statutory provisions, as now prescribed by such statutory provisions or as may be amended from time to time.

REGISTRATION, NOMINATION, AND ELECTION

§ 24. Qualifications of voters.

Every person who (a) is a citizen of the United States, (b) is at least eighteen (18) years of age, (c) has been a resident of the State of Maryland for at least thirty (30) days next preceding any town election, (d) is a bona fide resident within the corporate limits of the town of Hancock for thirty (30) days as of the time for closing registration, next preceding any town election, and (e) is registered in accordance with the provisions of this Charter or any ordinance applicable thereto, or in accordance with the provisions of Article 33 of the Annotated Code of Maryland, entitled Election Code, as it now exists or may be subsequently amended, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections.

§ 25. Board of supervisors of elections.

There shall be a board of supervisors of elections, consisting of three members who shall be appointed by the Mayor with the approval of the council on or before the second Monday in January in every second odd-numbered year. The terms of members of the board of supervisors of elections begin on the second Monday in January in the year in which they are appointed and run for four years. Members of the board of supervisors of elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their term of office. The board shall appoint one of its members as chairperson. Vacancies on the board shall be filled by the Mayor with the approval of the council for the remainder of the unexpired term. The compensation of the members of the board, if any, shall be determined by the council.

§ 26. Same -- Removal of members.

Any member of the board of supervisors of elections may be removed for good cause by the council, if in the judgment of the council the member is not properly performing or will not properly perform the duties of the position. Before removal, the member of the board of supervisors of elections to be removed shall be given a written copy of the charges against said member and shall have a public hearing on them before the council if said member so requests within ten days after receiving the written copy of the charges.

§ 27. Same -- Duties.

The board of supervisors of elections shall be in charge of the registration of voters, nominations, and all town elections. The board may appoint election clerks or other employees to assist it in any of its duties. Any compensation of such persons, if any, shall be subject to the determination and approval of the council.

§ 28. Notice of registration days and elections.

The board of supervisors of elections shall give at least two weeks' notice of every registration day and every election by an advertisement published in at least one newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

§ 29. Registration.

There shall be a registration of persons not registered to vote in the municipal office at all times during its regular office hours. Registration will close at noon on the twenty-fifth (25th) day preceding the municipal election of officers or any special election or referendum. Registration shall be conducted by the clerk-treasurer and other persons in the municipal office so authorized to do so by the board of supervisors of elections. Any bona fide resident within the corporate limits of the town at the time of registration will be eligible to register. Universal voter registration, by bona fide residents of the town for all general and primary elections, as provided for and defined in Article 33 Election Code of the Annotated Code of Maryland as it now exists, and as may be amended from time to time, shall qualify said person to vote in all municipal elections or referendums provided said registration is effective by noon on the twenty-fifth (25th) day preceding any municipal election of officers, special elections, or referendum. Registration shall be permanent, and no person shall be entitled to vote in town elections unless such person is registered. It shall be the duty of the board of supervisors of elections to keep the registration list up to date by striking from the list persons known to have died or to have moved out of the town limits or have in any manner been subject to removal from the voter registration as provided in this charter or Article 33, Election Code of the Annotated Code of Maryland. The council is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration, and to provide for a re-registration when necessary. (Amended effective Resolution 3, 11/2/00).

§ 30. Appeal from action of board of supervisors of elections.

If any person is aggrieved by the action of the board of supervisors of elections in refusing to register or in striking off the name of any person, or by any other action said person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the circuit court for the county within the time allowed for such appeals.

§ 31. Filing certificate of Nomination/Candidacy.

Persons may be nominated for elective office in the town by filing a certificate of nomination/candidacy at the office of the board of supervisors of elections or town hall or community center at least sixty (60) days preceding the municipal election of officers election. No person shall file for nomination to more than one elective town public office or hold more than one elective town public office at any one time. In addition thereto, no elected officer of the town, except elected officers running for re-election, shall be a candidate or nominee for election to any town public office unless he or she shall have first resigned from his/her then office. If he/she fails to resign upon registering for candidacy and/or upon nomination he/she shall be deemed to have forfeited his/her town public office immediately upon filing. Any such officer of the town who shall become a candidate for election by the people to a public office, other than a **town** public office, shall automatically forfeit such town position when and if he/she is elected for said public office. No employee or appointed officer of the Town of Hancock shall be eligible to file a certificate of nomination for elective office in the town without first terminating his/her employment. (Amended resolution 6/30/88, 11/2/00, recorded at Liber 9, folio 40.)

§ 32. Election of mayor and council members.

On the last Monday in January, 1973, and on the last Monday in January every two years thereafter an election shall be held for the purpose of electing a Mayor and Council members. At the election to be held on the last Monday in January, 1973, and every two years thereafter, the Mayor shall be elected whose term of office shall be for two years or until his successor is duly qualified. At the election to be held on the last Monday in January of 1973, there shall be elected four council members, the two council members with the highest vote shall serve for a period of four years or until their successors are duly qualified and the third and fourth council members receiving the highest number of votes shall serve for a period of two years or until their successors are duly qualified. At the election to be held on the last Monday in January of 1975, and every two years thereafter there shall be elected two council members whose term of office shall be for four years or until their successors are duly qualified.

§ 33. Conduct of elections generally.

It is the duty of the board of supervisors of elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this charter, arranged in alphabetical order by office with no party designation of any kind. The board of supervisors of elections shall keep the

polls open from 11:00 a.m. to 7:00 p.m. on election days or for longer hours if the council requires it. (Amended by Resolution 2, 11/2/00, recorded Liber 9, folio 39.)

The Board of Supervisors of Elections shall arrange for voting by absentee ballot in accordance with the provisions of the election law of the Annotated Code of Maryland as it now exists and/or may be subsequently amended and shall so notify the voters of same.

§ 34. Special elections.

All special town elections shall be conducted by the board of supervisors of elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

§ 35. Vote count.

Within forty-eight hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the clerk-treasurer of the town, who shall record the results in the minutes of the council.

§ 36. Preservation of votes.

All ballots used in any town election shall be preserved for at least six months from the date of the election.

§ 37. Vacancies.

In the case of a vacancy on the council, except for the office of mayor, for any reason, the council shall elect some qualified person to fill such vacancy for the unexpired term of such the person vacating the office. In case of a vacancy in the office of the mayor, the most senior council person who received the highest number of votes when elected, shall immediately become mayor for the unexpired term of the mayor. Any vacancies of any other council member or members for any reason whatsoever shall be filled by the favorable votes of a majority of the remaining members of the council. The results of any such vote shall be recorded in the minutes of the council. Vacancies shall be filled in the method set forth within fifteen (15) days of said vacancy.

§ 38. Regulation and control by council.

The council has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

§ 39. Penalties.

Any person who (1) fails to perform any duty required of said person under the provisions of this subheading or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this subheading or any ordinances passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election, is guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. The above penalty is in addition to and is not in derogation of any punishment or penalty for violation of any Federal, state or county election laws.

TOWN MANAGER

§ 40. Creation of position of town manager.

The position of town manager for the Town of Hancock is hereby created.

§ 41. Appointment of town manager.

The town manager shall be appointed by the Mayor, with the approval of the council. The term of appointment shall be indefinite and the town manager shall serve at the pleasure of the Mayor. The town manager shall be chosen on the basis of accomplishments in organization and planning, and on the basis of experience in administration in a large organization, institution, or political subdivision, with special reference to knowledge and experience in the accepted practices of the duties of the office hereinafter set forth.

§ 42. Compensation of town manager.

The town manager shall receive such compensation as the council shall prescribe.

§ 43. Duties and responsibilities of town manager

The duties and responsibilities of town manager include the following:

(a) The town manager shall organize, direct and supervise the administration of all department, offices, and agencies of the town, including the Police Department, the Department of Public Works, the Department of Finance, and the Department of Planning. In addition to the town manager there may be department heads including a chief of police, superintendent of public works, and director of planning. However on individual may serve as head of more than one department if the Town Manger shall so organize and direct. The town manager shall also serve as clerk-treasurer and shall discharge all duties and responsibility of that position as provided in the Charter of the Town of Hancock provided that said duties are delegated to the town manager by the Mayor and Council by appropriate resolution. The terms "town manager" and "clerk-treasurer" shall be construed as synonymous in this Charter in said event.

(b) The town manager shall appoint, and when the manager deems it necessary and in the best interest of the town, suspend or remove any town department head or employee for sufficient cause, with the approval of the council. The town manager may authorize any department head to exercise these powers with respect to subordinates in the respective department as provided for in the personnel rules of the town as may be adopted from time to time by the Mayor and Council.

(c) The town manager shall see that all laws, provisions of the Town Charter and acts of the Council are faithfully executed.

(d) The town manager shall attend all public meetings of the Council and shall have the right to participate in discussion at such meetings, but the town manager may not vote.

(e) The Town Manger shall undertake such research and make reports and recommendations as the council may direct or may deem desirable and in the best interest of the Town of Hancock.

FINANCE

§ 44. Clerk-Treasurer.

The town manager shall act as clerk-treasurer and carry out the duties of the clerk-treasurer if said duties are delegated to the town manager as set forth in this Charter.

If the Council does not delegate the clerk-treasurer powers to the town manager, then there shall be a clerk-treasurer appointed by the Mayor with the approval of the Council. The clerk-treasurer shall serve at the pleasure of the Mayor. The clerk-treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this Charter, shall be exercised by the clerk-treasurer under the direct supervision of the Mayor.

(a) The town manager shall organize, direct and supervise the administration of all department, offices, and agencies of the town, including the Police Department, the Department of Public Works, the Department of Finance, and the Department of Planning. In addition to the town manager there may be department heads including a chief of police, superintendent of public works, and director of planning. However on individual may serve as head of more than one department if the Town Manger shall so organize and direct. The town manager shall also serve as clerk-treasurer and shall discharge all duties and responsibility of that position as provided in the Charter of the Town of Hancock provided that said duties are delegated to the town manager by the Mayor and Council by appropriate resolution. The terms "town manager" and "clerk-treasurer" shall be construed as synonymous in this Charter in said event.

(b) The town manager shall appoint, and when the manager deems it necessary and in the best interest of the town, suspend or remove any town department head or employee for sufficient cause, with the approval of the council. The town manager may authorize any department head to exercise these powers with respect to subordinates in the respective department as provided for in the personnel rules of the town as may be adopted from time to time by the Mayor and Council.

(c) The town manager shall see that all laws, provisions of the Town Charter and acts of the Council are faithfully executed.

(d) The town manager shall attend all public meetings of the Council and shall have the right to participate in discussion at such meetings, but the town manager may not vote.

(e) The Town Manger shall undertake such research and make reports and recommendations as the council may direct or may he may deem desirable and in the best interest of the Town of Hancock.

FINANCE

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§ 45. Same -- Powers and duties.

Under the supervision of the mayor, the clerk-treasurer shall have authority and shall be required to:

- (1) Prepare at the request of the mayor an annual budget to be submitted by the mayor to the council.
- (2) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the town in such form as the council may require, not contrary to State law.
- (4) Submit at the end of each fiscal year, and at such other times as the council may require, a complete financial report to the council through the mayor.
- (5) Ascertain that all taxable property within the town is assessed for taxation.
- (6) Collect all taxes, special assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.
- (7) Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- (8) Do such other things in relation to the fiscal or financial affairs of the town as the mayor or the council may require or as may be required elsewhere in this charter.

§ 46. Same -- Bond.

The town manager and/or clerk-treasurer shall provide a bond with such corporate surety and in such amount as the council by ordinance or resolution may require.

§ 47. Fiscal year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July in any year and shall end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year, and the accounting year.

§ 48. Budget.

The mayor, on such date as the council by ordinance determines, but at least thirty (30) days before the beginning of any fiscal year, shall submit a budget to the council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the clerk-treasurer, open to public inspection by anyone during normal business hours.

§ 49. Same -- Adoption of Budget.

Before adopting the budget the council shall hold a public hearing thereon after two weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. The council may insert new items or may increase or decrease the items of the budget. If the council increases the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to the total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the council is necessary for adoption. The budget shall be effective on July 1; the commencement of the fiscal year.

§ 50. Appropriations.

No public money may be expended without having been appropriated by the council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

§ 51. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the mayor must be approved by the council before becoming effective.

§ 52. Over expenditures forbidden.

No officer or employee during any budget year may expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter is null and void. Nothing in this section contained, however, prevents the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease for services for a period exceeding the budget year in which the contract is made, when the contract is permitted by law.

§ 53. Appropriations lapse after one year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpected and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

§ 54. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the town manager or clerk-treasurer, if a clerk-treasurer has been appointed other than the town manager, and shall be countersigned by the mayor. In the absence of the mayor, the town manager or council member as designated by a majority of the council by resolution shall countersign said checks.

§ 55. Taxable property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, is subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

§ 56. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax constitutes a determination of the amount of the tax levy in the corresponding tax year.

§ 57. Notice of tax levy.

Immediately after the levy is made by the council in each year, the clerk-treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. The clerk-treasurer shall make out and mail or deliver in person to each taxpayer or taxpayer's agent at their last known address a bill or account of the taxes due from said taxpayer. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this charter all taxes levied on taxpayer's property.

§ 58. When taxes are overdue.

The taxes provided for in § 55 of this charter are due and payable on the first day of July in the year for which they are levied and are overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the maximum rate provided for by State law for each month or fraction of a month until fully paid. All taxes not paid and in arrears shall be collected as provided in § 58.

§ 59. Sale of tax-delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears after they are levied shall be submitted by the clerk-treasurer of the town to the treasurer, collector, or any other official of the County of Washington responsible for the sale of tax-delinquent property as provided by the Annotated Code of Maryland. The official designated herein for the purposes of collection shall proceed to sell and sell in accordance with the provisions of the Annotated Code of Maryland applicable thereto, said real property at any time thereafter, but in no case later than two years from the date the tax is in arrears.

Failure of the collector or designated official to sell any real property within the two year period shall not affect the validity or the collectability of any tax, or the validity of any sale thereafter made.

§ 60. Fees.

All fees received by an officer or employee of the town government in their official capacity shall belong to the town government and be accounted for to the town. The town shall have the authority and the mayor and council can establish fees and charges from time to time for various services, licenses and other matters, except for utility services, or other services regulated by Federal or State statute or regulation, by resolution at a duly constituted public meeting.

§ 61. Audit.

The financial books and accounts of the town shall be audited annually as required by Article 19, Uniform System of Accounts, of the Annotated Code of Maryland, as it now exists and as may be subsequently amended from time to time.

CREATION OF MUNICIPAL PUBLIC DEBT

§ 62. Authority to borrow money, issue bonds and tax anticipation notes.

(a) Authority to borrow. -- (1) During the first 6 months of any fiscal year, the town may borrow in anticipation of the collection of the property tax imposed for that fiscal year, any may issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing.

(2) Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than 6 months after the beginning of the fiscal year in which they are issued.

(3) No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed 50 percent of the property tax imposed for the fiscal year in which the notes or other evidences of indebtedness are issued.

(4) All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued.

(5) The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

(b) Public sale; notice of sale; price; issuance for cash or other valuable consideration; signatures and seals; marketing agreements. -- (1) Municipal bonds or notes may be sold for any public purpose by private negotiated sale without advertisement or publication of notice of sale or at public sale after solicitation of competitive bids, as determined by the resolution or ordinance authorizing the issuance of the bonds or notes.

(2) (i) Any public sale of municipal bonds or notes may be held only after 1 or more insertions of a notice of the sale in either a newspaper of general circulation in the town or a publication having a circulation primarily among the investment and financial community.

(ii) The first insertion of the notice of sale shall be published at least 10 days before the date fixed for sale.

(3) (i) Municipal bonds or notes issued under this subsection may be sold or redeemed for a price or prices which may be at, above, or below the par value of the bonds or notes, as provided in the authorizing resolution or ordinance.

(ii) The resolution or ordinance that authorizes the municipal bonds or notes may provide for prior redemption of the bonds or notes.

(iii) Municipal bonds or notes may be issued, sold, and delivered on such terms and conditions, including fixed or variable rate or rates of interest or method of determining interest rate or rates, as provided in the authorizing resolution or ordinance.

(4) Municipal bonds or notes may be issued for either cash or other valuable consideration.

(5) The official signatures and seals affixed to any municipal bonds or notes may be imprinted in facsimile.

(6) The town may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of or as security for the bonds or notes and for security any tendered option granted to holders.

(c) The town shall have the power to borrow money for any proper public purpose in accordance with the provisions of the Annotated Code of the Public Laws of Maryland in addition to and not in derogation of this section if so authorized.

The municipal corporation shall also have and retain all powers set forth in Title 9 of the Environmental Article and any other powers to borrow money, finance projects or negotiate agreements pertaining to same.

(d) The town may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purposes of enhancing the marketability of, or as security for the bonds or notes, and for security of any tendered option granted to holders.

§ 63. Payment of indebtedness.

The power and obligation of the town to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this charter shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness issued under the authority of this charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance.

§ 64. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the town previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

§ 65. Purchasing and contracts.

All purchases and contracts for the town government shall be administered by the clerk-treasurer. The council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual services involving more than five thousand dollars (\$5,000) shall be made on written contract. The clerk-treasurer shall advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. The written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. All such written contracts shall be approved by the council before becoming effective. The council may reject any or all bids in whole or in part within its discretion, and readvertise within its sole discretion if it is determined to be in the best interest of the citizenry. The

town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the town may require. (Amended Resolution effective 9/20/95, recorded in Liber 5, folio 705.)

PERSONNEL

§ 66. Clerk to council.

The clerk-treasurer shall serve as clerk to the council. The clerk shall attend every meeting of the council and keep a full and accurate account of the proceedings of the council. The clerk shall keep such other records and perform such other duties as may be required by this charter or the council.

§ 67. Town attorney.

The mayor with the approval of the council may appoint a town attorney. The town attorney shall be a member of the bar of the Maryland Court of Appeals. The town attorney is the legal adviser of the town and shall perform such duties in this connection as may be required by the council or the mayor. The town attorney's compensation shall be determined by the council. The town has the power to employ such legal consultants as it deems necessary from time to time.

§ 68. Authority to employ personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this charter or other State law and to operate the town government. The town shall not employ any elected town public official in a regular salaried or hourly position except in an emergency declared by the majority of the council. (Amended Ord., 6-30-88.)

§ 69. Merit system authorized.

The town may provide by ordinance for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose the council may adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations. The town may request and avail itself of the facilities of the Commissioners of State Personnel for the administration of its merit system, as provided in State law.

§ 70. Unclassified and classified service.

(a) Civil service divided into unclassified and classified service. --The civil service of the town shall be divided into the unclassified and classified service.

(b) Unclassified service. -- The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

(1) The mayor, the council members, and persons appointed to fill vacancies in these positions.

(2) The town manager.

(3) The clerk-treasurer and the town attorney.

(4) The heads of all offices, departments, and agencies and members of town boards and commissions.

(5) Part-time, temporary, and unpaid offices and positions.

(c) Classified service. -- The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

§ 71. Prohibitions and penalties.

(a) Prohibitions. -- If a merit system is adopted, no person in the classified service of the town or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall wilfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the town shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the classified service of the town shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with the person's appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the town; no person holding a position in the classified service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs, or political campaign of any political party or candidate for public office, further than in the exercise of the person's right as a citizen to express their opinion and to cast their vote.

(b) Penalties. -- Any person who by himself or with others wilfully or corruptly violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than the maximum set forth in the provisions of Article 23A of the Annotated Code of Maryland, Section 3, as it now exists or as it may be subsequently amended. Any person who is convicted under this section for a period of five years is ineligible for

appointment to or employment in a position in the town service, and, if the person be an officer or employee of the town, same shall immediately forfeit the office or position which said person holds.

(c) The penalty provisions set forth in this section are not to be construed as in derogation of any other applicable laws pertaining to violations of the Election Code of the State of Maryland or any other governmental agency, but are in addition thereto.

§ 72. Retirement system.

The town may do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town.

§ 73. Compensation of employees.

The compensation of all officers and employees of the town shall be set from time to time by resolution passed by the council, subject to the restrictions imposed upon establishing the salaries of the council members and the mayor.

§ 74. Employee benefit programs.

The town may provide for participation in hospitalization or other forms of benefit or welfare programs for its officers and employees, and may expend public moneys of the town for such programs, and enter into contractual agreements pertaining to same in accordance with the provisions of this Charter.

PUBLIC WAYS AND SIDEWALKS

§ 75. Definition of public ways.

The term "public ways" as used in this charter includes all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys.

§ 76. Control of public ways.

The town shall have control of all public ways in the town except those that are under the jurisdiction of the State Highway Administration. Subject to the laws of the State of Maryland and this charter, the town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the town.

§ 77. Powers of town as to public ways.

The town may:

(1) Establish, regulate, and change from time to time the grade lines, width, and construction materials of any town public way or part thereof, bridges, curbs, and gutters.

(2) Grade, lay out, construct, open, extend, and make new town public ways.

(3) Grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.

(4) Pave, surface, repave, or resurface any town public way or part thereof.

(5) Install, construct, reconstruct, repair, and maintain curbs and/or gutters along any town public way or part thereof.

(6) Construct, reconstruct, maintain, and repair bridges.

(7) Name town public ways.

(8) Have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.

(9) Regulate any construction of or placing of or changing the location of any utility infrastructure to regulate and require any and all individuals, firms or corporations utilizing any rights of way or public ways in the town for improvements, construction or infrastructure as maybe requisite for the appropriate maintenance of any town water or sewer system.

(10) The town has all other powers not enumerated herein pertaining to public ways provided by the laws of the State of Maryland.

§ 78. Powers of town as to sidewalks.

The town may:

(1) Establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.

(2) Grade, lay out, construct, reconstruct, pave, repaved, repair, extend, or otherwise alter sidewalks on town property along any public way or part thereof.

(3) Require that the owners of any property abutting on a sidewalk keep the sidewalk in good repair, clear of all ice, snow, and other obstructions.

(4) Require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

(5) The town has all other powers not enumerated herein pertaining to sidewalks provided by the laws of the State of Maryland.

WATER AND SEWERS

§ 79. Powers of town as to water and sewers.

The town may:

(1) Construct, operate and maintain a water system and water plant.
(2) Construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.
(3) Construct, operate, and maintain a storm water drainage system and storm water sewers.
(4) Construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems for the efficient and orderly operation of said facilities. **PROVIDED, HOWEVER,** that the council does not have the authority to sell or lease or convey, the entire water or sewer system unless it submits the question of said sale or lease to the qualified voters of the town for approval or disapproval in accordance with the provisions of town Property § 86 or any other applicable provisions of this Charter or the laws of the State of Maryland.

(5) Have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

(6) Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.

(7) Make a charge, the amount to be determined by the council for each connection made to the town's water or sewer system, and to assess appropriate charges for water and sewer usages and rates or other charges as the council deems advisable or required from time to time. Said fees and charges may be revised and/or changed from year to year and shall be established with the provisions of the applicable provisions of the Annotated Code of Maryland.

All charges provided for are to be billed and collected by the clerk-treasurer, and if bills are unpaid within thirty (30) days, or in accordance with the policies promulgated and adopted by ordinance by the council or in accordance with the laws of the State of Maryland, then service may be disconnected. All charges shall be a lien on the property, collectable in the same manner as town taxes or by suit at law.

(8) To promulgate any rules or regulations and pass any ordinances pertaining to the operation, maintenance and control of any water or sewage drainage systems or any other related matters.

(9) Contract with any party or parties inside or outside the town, to obtain water or to provide for the removal of sewage.

(10) To establish a water board and/or other commission to manage the water system and/or department.

(11) The town has all other powers not enumerated herein pertaining to water and sewer provided by the laws of the State of Maryland.

ELECTRIC SERVICE

§ 80. Powers of town as to electric service.

The town may:

(1) Own, operate, modify and maintain an electric light and power plant, and to distribute for charge electricity produced by the plant.

(2) Construct, operate and maintain all necessary appurtenances and fixtures for the distribution and sale of electricity in the corporate limits of the town.

(3) Construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installation and appurtenances in reference to said electrical distribution system. **PROVIDED, HOWEVER,** that the council does not have the authority to sell or lease or convey, the entire electric utility system unless it submits the question of said sale or lease to the qualified voters of the town for approval or disapproval in accordance with the provisions of Town Property § 86 or any other applicable provisions of this Charter or the laws of the State of Maryland.

(4) Enter into agreements for the purchase of energy and electricity for distribution and sale as a utility in the town of Hancock.

(5) Promulgate any rules or regulations and pass any ordinances pertaining to the operation, maintenance and control of the electric utility system subject to and in accordance with the Public Service Commission regulations and any Federal acts, ordinances or regulations applicable.

(6) Charge for electricity and distribution thereof to the customers in accordance with applicable town rules, regulations or ordinances validly enacted and /or all applicable Public Service Commission acts, rules and regulations and Federal acts and regulations.

All charges shall be billed and collected by the clerk-treasurer unless otherwise specified by the council.

(7) The town has all powers not enumerated herein pertaining to an electrical utility system provided by the laws of the State of Maryland.

GENERAL UTILITY POWERS

§ 81. Entering on county public ways.

The town may enter upon or do construction in, on, or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary, to establish, operate, and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant, storm water sewers, or electrical utility system provided for in this charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

§ 82. Extensions beyond boundaries.

The town may extend its water or sewerage systems beyond the town limits.

§ 83. Exception.

The provisions of this subheading shall not extend to any town located in a sanitary district or special tax area or district authorized to discharge the powers provided in this subheading, as to the particular powers included in the authorization.

SPECIAL TAXING DISTRICTS

§ 84. Power of town to levy special assessments.

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

In addition thereto, but not limited thereto, the town may exercise all powers pertaining to special taxing districts as set forth in Article 23A, Section 44(a) of the Annotated Code of Maryland or pursuant to any other applicable public general law of the State of Maryland as it now exists or may be subsequently amended from time to time.

§ 85. Procedure.

Provided. -- The procedure for special assessments, wherever authorized in this charter, is as provided in this section.

(b) Assessment of cost. -- The cost of the project being charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the council.

(c) Amount. -- The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any assessment be levied which causes the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-

five percent (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

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

(e) Levy of charges; public hearing; notice. -- All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The clerk-treasurer shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, and the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment.

Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The clerk-treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the clerk-treasurer shall have completed publication and service of notice as provided in this section. Following the hearing the council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(f) Right to appeal. -- Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the circuit court for the county within ten days after the levying of any assessment by the council.

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

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

(i) Clerk-treasurer. -- All special assessments shall be billed and collected by the clerk-treasurer.

TOWN PROPERTY

§ 86. Acquisition, possession and disposal.

The town may acquire in accordance with the provisions of Article 23A of the Annotated Code of Maryland as it now exists or as may be amended from time to time, by conveyance, purchase or gift, real, personal, mixed or leaseable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any property so acquired when no longer needed for the public use in accordance with the provisions of Article 23A after having given at least twenty (20) days notice of the proposed conveyance; to control, protect and maintain public buildings, grounds, and property of the town, **PROVIDED, HOWEVER,** that said Mayor and council shall not have the power and authority to sell or lease to any person, association, or corporation the light, water, or sewer system of the said town without submitting the question of said sale or lease to the qualified voters of said town for approval or disapproval and that if the majority of the said voters voting on the said question shall be against such sale or lease, then the said Mayor and council shall not sell or lease same. (Amended, former Section 16-21, Powers Enumerated (48) Property – effective 1/26/05, recorded Liber 10, folio 537.)

§ 87. Condemnation.

The town may condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this charter or any other State law applicable to the town is a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Title 12, Eminent Domain, of the Real Property Article of the Annotated Code of Maryland as it now exists or as it may be amended from time to time.

GENERAL PROVISIONS

§ 88. Oath of office.

(a) Oath required. -- Before entering upon the duties of their offices, the mayor, the council members, the clerk treasurer, the members of the board of supervisors of elections, and all other persons elected or appointed to any office of profit or seat in the town government shall take and subscribe to the following oath or affirmation: "I, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of, according to the Constitution and laws of this State."

(b) Before whom taken and subscribed. -- The mayor shall take and subscribe to this oath or affirmation before the clerk of the circuit court for the county or before one of the sworn deputies of the clerk. All other persons taking and subscribing to the oath shall do so before the mayor.

§ 89. Official bonds.

The town manager/clerk-treasurer and such other officers or employees of the town as the council or this charter may require, shall give bond in such amount and with such surety as may be required by the council. The premiums on such bonds shall be paid by the town.

§ 90. Prior rights and obligations.

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

§ 91. Effect of charter on existing ordinances.

(a) Ordinances, etc., not in conflict with charter remain in effect. -- All ordinances, resolutions, rules, and regulations in effect in the town at the time this charter becomes effective which are not in conflict with the provisions of this charter shall remain in effect until changed or repealed according to the provisions of this charter.

(b) Ordinances, etc., in conflict with charter repealed. -- All ordinances, resolutions, rules, and regulations in effect in the town at the time this charter becomes effective which are in conflict with the provisions of this charter are repealed to the extent of such conflict.

§ 92. Separability.

If any section or part of section of this charter is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this charter or the context in which such section or part of section so held invalid appears, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or party of section to which such holding shall directly apply.

APPENDIX

Metes and Bounds Description of the Town of Hancock

The following description is recorded in the office of the Clerk of the Circuit Court for Washington County, Maryland at Liber ____ Folio ____ among the Acts, Ordinances and Resolutions for Incorporated Towns, and is also on file with the Department of Legislative Reference for the State of Maryland as required by the provisions of Article 23A of the Annotated Code of Maryland. The plat of the corporate boundaries set forth is on file with the Clerk-Treasurer, Town Hall, Hancock, Maryland, and is also recorded at plat Folio _____ at the Land Records of Washington County, Maryland.

CHARTER

**TOWN OF HANCOCK,
MARYLAND**

APPENDIX

SUMMARY OF ANNEXATIONS

APPENDIX
CORPORATE LIMITS
TOWN OF HANCOCK
SUMMARY OF ANNEXATIONS

1966 Annexation, effective date December 23, 1966.

Recorded among the Land Records of Washington County, Maryland, at Liber 555, folio 764 through 770. Date of recording: March 1, 1973.

Agreement of Annexation: Londontown Manufacturing Company, Daniel R. Fleming and wife, date June 30, 1966.

Property: Plat prepared by J. B. Ferguson dated June 2, 1966 (Liber 555, folio 766) entitled Area of Annexation, Town of Hancock...

Plat prepared by J. B. Ferguson & Co., Inc., recorded at Plat 287B among the Plat records of Washington County, Maryland, dated June 2, 1966, entitled Area of Annexation, Town of Hancock, Washington County, Maryland. Date of recording: _____

Plat of Corporate Boundaries, Hancock, Washington County, Maryland, prepared by J. B. Ferguson & Co., filed and recorded among the Plat Records of Washington County, Maryland on March 2, 1967, receipt Number 42186.¹ Also Plat recorded Liber 287A, 287C (Kirk),

1968 Annexation, effective date June 14, 1968.

Recorded among the Land Records of Washington County, Maryland, at Liber 555, folio 771 through 778. Date of recording: March 1, 1973.

Agreement of Annexation: Roy E. Pittman and wife, James S. B. Resley and wife, dated March 18, 1968.

Property: Plat J. B. Ferguson Co., Inc. entitled Area of Annexation, Town of Hancock, Washington County, Maryland, prepared March 6, 1968, recorded at Liber 555, folio 773 on March 1, 1973. Metes and Bounds description dated February 7, 1968 attached of the annexed area.²

¹ Plat does not appear to include the plat recorded at Plat Folio 287B. Plat referred to as 287B appears to be the same plat recorded at Liber 555, folio 766 among the Land Records of Washington County, Maryland on March 1, 1973, dated June 2, 1966 prepared by J. B. Ferguson & Co., Inc. Plat 287A and 287C appear to refer to the same annexations.

² The plat referred to herein has a notation indicating "Annexation of 1966" on a portion thereof for definitive reference purposes.

1970 Annexation, effective date July 16, 1970.

Recorded among the Land Records of Washington County, Maryland, at Liber 555, folio 779 through 793 on March 1, 1973.

Agreement of Annexation: Fleetwood Enterprises, Board of Education, Albert G. Creek and wife, William H. Hess and wife, Mayor and Council of Hancock, Adele M. Cohill Donnelly and Ralph H. Donnelly, and Tri-State Cable TV, Inc., dated April 15, 1970.

Property: Three tracts. Metes and bounds description contained in Agreement and Resolution of the area annexed.¹

1972 Annexation, effective date April 23, 1973.

Recorded on May 10, 1973, at Liber 560, folio 14 through 23 among the Land Records of Washington County, Maryland.

Annexation Agreement: Genuine Parts Company, A. Hart McKinley, Jr. and wife, dated December 1, 1972.

Property: Three tracts described in metes and bounds description prepared by J. B. Ferguson & Co., recorded therewith.

1976 Annexation, effective date March 31, 1977.

Recorded on March 31, 1977, at Liber 2 folio 91 through 95 among the Acts, Ordinances and Resolutions for Incorporated Towns in Washington County, Maryland.

Annexation Agreement: Hancock Mobile Homes, Inc., dated November 2, 1976.

Property: Described on a plat prepared by J. B. Ferguson Engineering, Inc., attached, dated August 18, 1976 at Liber 560 folio 96 among Land Records of Washington County, Maryland.

1978 Annexation, effective date February 25, 1978.

Recorded on February 27, 1978, at Liber 2, folio 174 through 178 among the Acts, Ordinances and Resolutions for Incorporated Towns in Washington County, Maryland.

Annexation Agreement: Norhan, Inc., dated December 5, 1977.

Property: Metes and bounds description set forth in Agreement of Annexation recorded at Liber 2 folio 174.

1979 Annexation, effective dated April 30, 1979.

Recorded on May 17, 1979, at Liber 2, folio 250 through 255 among the Acts, Ordinances and Resolutions for Incorporated Towns in Washington County, Maryland.

Annexation Agreement: Hancock Mobile Homes, Inc., dated January 10, 1979.

Property: Two tracts described in Agreement and Resolution of Annexation by metes and bounds.

¹ The Agreement refers to a plat attached. It is not attached and recorded with the Agreement. The original is presumed on file in the office of the Town Manager.

The above documents are recorded among the Land Records of Washington County, Maryland, the Acts, Ordinances and Resolutions of Incorporated Towns of Washington County, Maryland and are on file with the Department of Legislative Reference of the State of Maryland as required by provisions of Article 23A of the Annotated Code of Maryland. The above are also incorporated in Section 4 of the Charter of the Town of Hancock by reference and made a part thereof.

**RESOLUTION AND ORDINANCE ADOPTING THE CODE FOR THE
TOWN OF HANCOCK, A MUNICIPAL
CORPORATION EXISTING UNDER AND BY
VIRTUE OF THE LAWS OF THE STATE OF MARYLAND**

PREAMBLE

The Mayor and Council of the Town of Hancock, Maryland, as its duly constituted legislative body have passed and enacted certain ordinances governing the Town of Hancock, Maryland. These ordinances are in full force and effect as of this date. It is intended that the ordinances contained in this Code shall and will remain in full force and effect.

Pursuant to the provisions and requirements of the Annotated Code of Maryland, the Mayor and Council of Hancock have caused these ordinances to be updated, codified, compiled, re-enacted and enacted.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED, by the Mayor and Council of the Town of Hancock, as its duly constituted legislative body, that the document entitled **"ATHE CODE OF THE TOWN OF HANCOCK, MARYLAND"** is hereby adopted and declared to be a compilation of all of the ordinances of the Town of Hancock, Maryland.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that the Charter and each and every ordinance contained herein shall be effective as of the date of its initial passage as shown and designated thereon, and/or June 1, 2006, if no date of passage is designated;

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that all ordinances not specifically set forth in this Code, except for Bond issues, financial obligations evidenced by ordinance and/or resolution, water and sewer rates, other utility rates, special assessments and tax rates which are at this time in force are hereby repealed and declared of no force and effect.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this ordinance and the enactment of this Code is hereby declared as an emergency ordinance and shall be effective as of its date of introduction and date of passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

TOWN OF HANCOCK, MARYLAND

By: _____
David Smith, Town Manager

By: _____
Daniel A. Murphy, Mayor

DATE OF INTRODUCTION: _____
DATE OF PASSAGE: _____
EFFECTIVE DATE: _____

CERTIFICATION

**MAYOR AND COUNCIL OF
THE TOWN OF HANCOCK**

OFFICE OF THE TOWN MANAGER

I, David Smith, Town Manager of the Town of Hancock, a municipal corporation existing under and by virtue of the laws of the State of Maryland, do hereby certify that the copies of the ordinances and charter as set forth in this volume entitled "The Code of the Town of Hancock" are correct transcripts of the text of the original ordinances.

Given under my hand and the seal of the Town of Hancock, Washington County, Maryland, this _____ day of _____.

David Smith, Town Manager

CERTIFICATION OF REGISTRATION
AND DEPOSIT OF MUNICIPAL DOCUMENTS
PURSUANT TO THE PROVISIONS OF
ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND

We do hereby certify that the code of the Town of Hancock, a municipal corporation, (entitled Code of the Town of Hancock) existing under and by virtue of the Laws of the State of Maryland, has been properly deposited and filed with the Department of Legislative Reference by sending one (1) copy of such document to the aforementioned agency by certified mail, return receipt requested.

We further certify that copies of the aforementioned document have been filed and are a matter of public record in accordance with the provisions of the Town Charter and the Annotated Code of Maryland with the Town Clerk, Town Hall, Hancock, Maryland, and is recorded amongst the acts, ordinances, and resolutions of incorporated towns in the records of the Clerk of the Circuit Court for Washington County, Maryland, at Liber _____, Folio _____.

Robert E. Kuczynski
Town Attorney

Edward L. Kuczynski
Town Attorney



OFFICE OF THE COUNTY ATTORNEY
WASHINGTON COUNTY, MARYLAND

County Administration Building
100 West Washington St., Suite 202
Hagerstown, MD 21740-4735
Telephone: 240.313.2230
Facsimile: 240.313.2231
TDD: Dial 7-1-1
www.washco-md.net/county_attorney/county_att.html

Richard W. Douglas
County Attorney
rdouglas@abanet.org

John M. Martirano
County Attorney
jmartirano@washco-md.net

January 12, 2006

Robert L. Kuczynski, Esq.
Edward L. Kuczynski, Esq.
Kuczynski & Kuczynski, P.A.
55 N. Jonathan Street
Hagerstown, MD 21740

Re: Amendments to town APFOs

Dear Bob and Ed:

Thanks for forwarding me to the resolutions amending the APFOs in Funkstown, Williamsport, Keedysville, and Hancock. Based on my review of these documents, the revised APFOs in these towns seem to comply with the school adequacy provisions of Section 2-701 of the Code of Public Laws and the County Building Excise Tax Ordinance. Thanks for your cooperation.

Let me know if you have any questions or comments concerning this matter.

Very truly yours,

Richard W. Douglas
County Attorney

RWD/tbm

cc: County Commissioners and County Administrator (via e-mail)
Michael C. Thompson, Planning Director (via e-mail)
Gary W. Rohrer (via e-mail)

I:\LETTERS2\Rwd\PUBWKS\LT Bob K re compliant APFOs.doc

COPY

KUCZYNSKI & KUCZYNSKI, P. A.

Attorneys at Law

KUCZYNSKI BUILDING
55 N. JONATHAN STREET

HAGERSTOWN, MARYLAND 21740

Edward L. Kuczynski

of Counsel

Robert E. Kuczynski

Telephone
(301) 797-9120

Facsimile
(301) 797-4317

February 9, 2006

Mr. Richard Douglas
County Attorney for Washington County
100 W. Washington Street
Hagerstown, MD 21740

RE: Hancock Adequate Public Facilities Ordinance (APFO)
Our file: 4669

Dear Mr. Douglas,

The amendments to the town of Hancock **APFO** previously furnished to you were enacted by the Mayor and Council on February 8, 2006.

The amendments are being/or have been recorded among the acts, ordinances, and resolutions of incorporated towns in the office of the Clerk of Circuit Court at this time.

It is our opinion that the town definitely has met the requirements of Section 2-701 of the Code of Public Laws, as amended by House Bill 1272. The standard set forth in yours of December 13, 2005 has been more than satisfied as indicated in yours of January 12, 2006.

Therefore, the municipality is eligible and entitled to retain a portion of the building excise tax. We trust the county will comply with the statute.

Attached is a copy of the amended APFO of the town for your information and distribution.

Very truly yours,

Kuczynski & Kuczynski, PA

By:


Robert E. Kuczynski, Esquire


Edward L. Kuczynski, Esquire

cc: Mayor and Council of Hancock
Rod Shoop, County Administrator (with out enclosures for distribution)
Greg snook, President, County Commissioners (with out enclosures)

ARTICLE X – STUDIES AND/OR EVALUATIONS FOR ADEQUACY DETERMINATION

In the event that the Planning Commission determines that it is advisable or necessary to have appropriate studies performed in relation to an evaluation of adequacy of any of the facilities referred to in this Ordinance, then they may require and make a condition precedent for approval that the developer prepare same and submit copies of said report(s) to the Planning Commission at the expense of the developer.

ARTICLE XI – ADMINISTRATION FEES

The Mayor and Council of the Town are authorized to establish reasonable fees for the review and administration of this Ordinance to be charged to developers. Said fees may be established by Resolution.

ARTICLE XII – VALIDITY

If validity of any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XIII – CONFLICT

In the event that this Ordinance conflicts with any other ordinance or regulation of the Town, then and in said event, the stricter provision of an applicable ordinance shall govern.

ARTICLE XIV – EFFECTIVE DATE

This Ordinance is effective as of February 8, 2006 and is recorded among the Acts, Ordinances and Resolutions on February 14, 2006.

8.4 PROCEDURES AND STANDARDS

The procedures and standards established by the Maryland State Fire Marshall shall be used in the design, review, approval and installation of the interim fire protection system.

ARTICLE IX – EXCEPTIONS, AGENCY PARTICIPATION

9.1 Nothing under the terms of the Ordinance shall prohibit or prevent a governmental body from reaching an agreement with an individual or a developer concerning the construction of the necessary improvements for the purpose of ensuring that public facilities are adequate as required by this Ordinance.

9.2 With regard to any public facility required to be adequate under the terms of this Ordinance, the Mayor and Council of any incorporated municipality in Washington County, the Washington County Water & Sewer Department, the State of Maryland, or any other governmental body, may elect to participate in the cost of any necessary improvements to ensure the adequacy of facilities as required by this Ordinance.

ARTICLE X – STUDIES AND/OR EVALUATIONS FOR ADEQUACY DETERMINATION

In the event that the Planning Commission determines that it is advisable or necessary to have appropriate studies performed in relation to an evaluation of adequacy of any of the facilities referred to in this Ordinance, then they may require and make a condition precedent for approval that the developer prepare same and submit copies of said report(s) to the Planning Commission at the expense of the developer.

ARTICLE XI – ADMINISTRATION FEES

The Mayor and Council of the Town are authorized to establish reasonable fees for the review and administration of this Ordinance to be charged to developers. Said fees may be established by Resolution.

ARTICLE XII – VALIDITY

If validity of any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**ARTICLE VIII – FIRE PROTECTION IN ADOPTED AREA WHERE PUBLIC
OR MULTI-USE WATER SYSTEM IS NOT AVAILABLE**

It is the intent of this Article of the Ordinance to ensure that adequate fire protection capability is provided in new commercial and industrial developments in adopted Urban or Town Growth Areas designated in the Comprehensive Plan Washington County, and the Comprehensive Plan of the Town of Hancock, where public water is not currently available but is expected to be available within two (2) years. These systems shall be known as interim fire protection systems.

8.1 DETERMINATION OF NEED FOR INTERIM FIRE PROTECTION SYSTEMS

A commercial or industrial development shall provide an interim fire protection system if:

8.1.1 The Planning Commission determines that the commercial or industrial development is located substantially within adopted growth areas, and

8.1.2 A public water supply and distribution system is not available or schedule in the Capital Improvements Program of any responsible agency to be in service within two (2) years, and

8.1.3 The commercial or industrial development proposes more than 2,000 square feet of new commercial, industrial or institutional enclosed area.

8.2 ADEQUACY DETERMINED

The adequacy of an interim fire protection system in the proposed commercial or industrial development shall be determined by the Planning Commission after receiving the recommendations from the Hancock Water Department, the Mayor and Council, the Hancock Fire Department, and/or any other properly established agency, including organizations in addition to those mentioned herein, charged with fire protection with the legal authority and responsibility to construct, maintain, improve or permit hook up to the water supply system.

8.3 GENERAL DESIGN

The interim fire protection system shall be capable of providing the same level of fire protection service as if it were hooked up to a public water supply and distribution system.

- (b) The system's water supply source;
- (c) The system's available capacity;
- (d) The responsible agency's adopted guidelines, standards, procedures and policies regarding water service;
- (e) The projected water needs of the proposed development including domestic consumption and fire protection;
- (f) Other proposed or expected connections to the system reasonably probable of fruition;
- (g) The evaluations and recommendations of the Fire Department that provides fire protection service in the new development;
- (h) Other variables found to have an effect on the ability of the water system to deliver the projected water needs of the development;
- (i) The applicable guidelines concerning fire protection provision in areas where public water supplies are inaccessible as set forth in Article VIII of this Ordinance.
- (j) Existing storage, treatment, and pumping facilities affected by the proposed development.

7.2 DETERMINATION OF PROJECTED WATER NEEDS

The projected water needs of the new development for domestic consumption and fire protection shall be determined by the Planning Commission, after reviewing the recommendation of the Hancock Water Department and/or the Mayor and Council having jurisdiction over the water supply and distribution system.

7.3 WATER SUPPLY AND DISTRIBUTION SYSTEM DETERMINED INADEQUATE

Except as otherwise provided in this Ordinance, if the Planning Commission, upon recommendation from the various departments and agencies referred to determines that the community or multi-use water supply and distribution system is inadequate to accommodate the projected needs of the new development, the development shall not be approved, unless the developer agrees to construct all necessary infrastructure and appurtenances at its expense to bring up to standards.

ARTICLE VII – WATER SUPPLY AND DISTRIBUTION SYSTEMS

The Town of Hancock operates and maintains its own water distribution system and sewage disposal system. The Town operates and maintains all infrastructure connected therewith and is completely autonomous in relation to the operation and maintenance of same.

7.1 ADEQUACY DETERMINED

7.1.1 No private individual one-lot onsite water supply distribution systems are allowed within the Town of Hancock.

7.1.2 The adequacy of an existing public or multi-use water supply and distribution system to provide the projected water needs of the new development shall be evaluated by a Registered Professional Engineer and a report submitted to the Planning Commission and any other agency having jurisdiction for review. Adequacy of the system shall then be determined by the Planning Commission upon consideration of the recommendations made by the Town Water Department, and/or any other properly established agency with the responsibility to construct, maintain, improve or permit hook up to the water supply system. Adequacy shall be determined according to the Hancock Water Department and Town's adopted guidelines, standards, procedures and policies and all other applicable municipal, county, state or federal acts, statutes, ordinances or regulations.

7.1.3 The adequacy of a new community or multi-use water supply and distribution system shall be determined by the Planning Commission upon recommendations made by the Town Water Department, and the Maryland Department of Environment. Adequacy shall be determined according to the Maryland Department of Environment's adopted guidelines, standards, procedures and policies. Establishment of new public or multi-use water supply and distribution systems shall be consistent with the Comprehensive Plan of the Town of Hancock and the Comprehensive Plan of Washington County.

7.1.4 When evaluating the adequacy of any water supply and distribution system for domestic consumption and fire protection, all parts of the system affected by the projected water needs of the new development shall be considered, including but not necessarily limited to the water source, quality, distribution or collection system, treatment system, pumping facilities, and metering devices.

7.1.5 When evaluating the adequacy of a water supply and distribution system the following matters shall be considered:

- (a) The system's design capacity;

Department Service Policy, and the Maryland Department of Environment policies and regulations. Establishment of new community or multi-use sewage disposal systems shall be consistent with the Comprehensive Plan for the Town of Hancock and the Comprehensive Plan for Washington County.

6.1.4 In evaluating the adequacy of any sewage disposal system, all parts of the system affected by the projected flow generated from the new development shall be considered including, but not limited to, laterals, interceptors, pumping stations, force mains, treatment plants, points of discharge, flow meters and rights-of-way.

6.1.5 In evaluating the adequacy of sewage disposal systems, the Planning Commission and the responsible agency shall consider the following items:

- (a) Design Capacity;
- (b) Available Capacity;
- (c) The agency's adopted standards, guidelines, policies, and procedures;
- (d) The projected flow to be generated by the new developments;
- (e) Other proposed or expected connections to the system reasonably probable of fruition;
- (f) Other variables found to have an effect on the system's ability to accept the projected flow.

6.2 DETERMINATION OF EXPECTED FLOW

The projected flow expected to be generated by the proposed new development shall be determined by the Planning Commission after receiving recommendations from the responsible governmental agency involved, to wit: The Sewer Board for the Town of Hancock and/or the Mayor and Council.

6.3 SEWAGE DISPOSAL SYSTEMS DETERMINED INADEQUATE

Except as otherwise provided in this Ordinance, if the Planning Commission, upon recommendation of the responsible agency determines that the sewage disposal site or system is inadequate to accommodate the sewage disposal needs of the new development when considered together with existing development and development which is reasonably probable of fruition, the development shall not be approved, unless the developer agrees to upgrade and be responsible for the construction and/or upgrading of any necessary infrastructure at its cost and to dedicate same to the Town.

developments in the affected area which might impact the historical growth trend to make it inaccurate or obsolete.

(h) The Planning Commission may require phasing or an annual maximum build-out rate to plan for future adequacy.

5.6 RESIDENTIAL BUILDING PERMIT APPROVAL

The Mayor and Council shall have the authority to limit the number of building permits in the Town that impact upon any school attendance area. The decision to limit building permits shall be based on the recommendation of the Planning Commission as to the adequacy of the school district, the geographical relationship of a school district to a designated urban growth area or town growth areas as indicated on the Comprehensive Plan of the Town and Washington County, Maryland, and enrollment capacity in immediately adjacent school attendance areas. The Mayor and Council shall also take into consideration the recommendations of the BOE to the Planning Commission in relation to the adequacy of the school attendance area and enrollment capacity in immediately adjacent school attendance areas.

ARTICLE VI – SEWAGE DISPOSAL SYSTEMS

The Town of Hancock operates and maintains its own water distribution system and sewage disposal system. The Town operates and maintains all infrastructure connected therewith and is completely autonomous in relation to the operation and maintenance of same.

6.1 ADEQUACY DETERMINED

6.1.1 No private individual one-lot onsite septic disposal systems are allowed within the Town of Hancock.

6.1.2 The adequacy of existing community or multi-use sewage disposal systems to accommodate the flow projected to be generated by the new development shall be determined by the Planning Commission after the recommendation and evaluation by the Sewer Board and the Mayor and Council of the Town of Hancock who are charged with responsibility to construct, maintain, improve and permit hook-up to the disposal system. Adequacy shall be evaluated according to the adopted guidelines, standards, policies or procedures of the aforementioned agencies and any other applicable federal, state, county, or municipal acts, statutes, ordinances or regulations.

6.1.3 The adequacy of a new community or multi-use sewage disposal system shall be determined by the Planning Commission after receiving the recommendation and evaluation by the Sewer Board of the Town of Hancock and the Maryland Department of Environment. Adequacy shall be evaluated according to the Town of Hancock Sewer

proposed development shall be tentatively measured at the time of preliminary consultation and preliminary plat review, and shall be finally measured and determined as of the date of final plan submission, or the first date upon which all necessary documentation and materials have been submitted, whichever occurs last, based upon data as published by the BOE.

(a) If approval has not been received from the Planning Commission within six (6) months of the date of plan submission, the most recent quarterly school enrollment data must be utilized by the Commission for APFO review unless a delay occurs not attributable to the applicant.

(b) For determining adequacy, enrollment shall mean the total of the BOE official enrollment figures, background enrollment, pupils generated from the proposed development, and other previously approved developments, including municipalities.

(c) Pupil generation rates shall be determined using the formulas proposed by the BOE and adopted by the Board of County Commissioners and shall reflect the characteristics of the school attendance area within which the proposed development is located.

(d) If a school is not adequate as defined in section 5.4.1 and an adjoining school district at the same level is at least twenty (20) percent below State Rated Capacity, then the applicant may request the BOE to determine the viability of redistricting to accommodate the new development. If the BOE determines that redistricting is a viable alternative, and the BOE approves a specific redistricting plan that would result in all the schools serving the proposed development meeting the standards established in Section 5.4.1, then the school shall be considered adequate.

(e) If a school is not adequate, and the BOE has not approved a specific redistricting plan that would result in the school meeting the standards established in Section 5.4.1, then the final subdivision or site plan approval shall be denied, except as provided for in Section 9.3(a).

(f) Any Developer proposal to create improvements to meet adequacy shall be submitted to the Board of Education for recommendations and reviewed under any BOE adopted mitigation policy then in effect and be subject to the standards and review processes of the Interagency Committee on School Construction (IAC) of the Maryland Board of Public Works.

(g) Background enrollment growth will be extrapolated over the number of years for which approval is requested. Included in the calculations shall be any additional approved but unplatted major preliminary plan

(b) New development to be developed according to federal regulations restricting occupancy in the dwelling units to elderly persons;

(c) The planning commission may exempt a new development to be developed as a retirement community;

(d) Public or private elementary and secondary schools, and public safety facilities; or

(e) Simplified plat/subdivision.

5.3 DATA ON WHICH ADEQUACY SHALL BE DETERMINED

The BOE is required pursuant to Section 5.3 of the Washington County APFO to provide actual enrollment data to the Board of County Commissioners for the last school day of September, December, March, and June and the State Rated Capacity for each elementary and secondary school.

5.4 DETERMINATION OF ADEQUACY

5.4.1 The Planning Commission shall determine whether public school facilities are "adequate" for the proposed new development after evaluating enrollment information provided by the BOE to the Board of County Commissioners, and/or to the Planning Commission. The Planning Commission shall determine that a school is adequate if the school has the capacity as follows:

(a) Elementary schools are adequate if the school has available capacity to accommodate student enrollment, including new development without exceeding 90% of the State Rated Capacity (SRC) for each school.

(b) Middle schools and high schools are adequate if the school has available capacity to accommodate student enrollment, including new development without exceeding the State Rated Capacity established for each school.

(c) Available capacity for individual schools shall be determined in accordance with Section 5.5, below.

(d) Final approval will not be granted for developments in the review process until the affected schools obtain adequate status.

5.5 MEASURING FOR AVAILABLE CAPACITY

Adequacy of every elementary, middle and high school serving the

and in accordance with the applicable provisions of the Subdivision Ordinance of the Town, and in the spirit of the Comprehensive Plan requirements.

4.5 GENERAL ADEQUACY

It is the intention of this Ordinance that all subdivisions shall be developed in accordance with the land use ordinances of the Town, to wit: Comprehensive Plan, Subdivision Regulations, Zoning Ordinance, and any other applicable ordinances or statutes. Same shall also be constructed in accordance with all federal, state and county acts, ordinances or regulations.

ARTICLE V – SCHOOLS

5.1 ADEQUACY⁵

All residential new development shall be served by public schools that:

- (a) Are currently adequate;
- (b) Have funded construction capacity, exclusive of any capacity created pursuant to a Developer-funded mitigation program, scheduled for completion within the same school attendance area in the current or the next year of the approved Washington County Capital Improvement Program (CIP) following final plat or site plan approval to be adequate based upon 90% of elementary school State Rated Capacity and to be adequate based on 100% of State Rated Capacity for middle schools and high schools; or
- (c) Have been identified by the Board of Education (BOE) as part of an approved redistricting plan scheduled to occur in the current or the next year of final plat or site plan approval that will render the public schools adequate.

5.1.1 CAPACITY CREATED BY MITIGATION PROGRAM -Funded construction capacity to be created by a mitigation program may not be used in a determination of adequacy for any Developer other than the Developers who are parties to the mitigation program.

5.2 EXEMPTIONS

Article V of this Ordinance does not apply to:

- (a) New development to be developed exclusively for non-residential uses;

⁵ Amended FEBRUARY 8, 2006.

frontage of all new or existing lot(s) containing the proposed new development and the remainder of the roads in the anticipated direction of traffic flow as determined by the Planning Commission after receiving the recommendation from the Town Engineer (or engineer designated by the Mayor and Council), and/or the State Highway Administration to the nearest designated intersection with a road determined to be adequate to support the projected traffic volume generated by the new development. The Planning Commission may require that roads be adequate in several directions or in any one direction from the location of the proposed new development.

4.3.3 In evaluating the adequacy of the existing roads or the improvements necessary to make the existing roads adequate, the Planning Commission shall consider the following:

- (a) Existing traffic,
- (b) Traffic projected to be generated by the development,
- (c) Traffic projected to be generated by other approved but not constructed development,
- (d) Improvements schedule or approved and funded or being funded,
- (e) Improvements with full funding within the six (6) year schedule in the Maryland Department of Transportation Consolidated Transportation Program,
- (f) Traffic studies that may be required by the Town Engineer (or engineer designated by the Mayor and Council),
- (g) Any other information that may reasonably be required by the Town Engineer (or engineer designated by the Mayor and Council), State Highway Administration, or the Planning Commission to effectively evaluate the road network or information supplied by the developer.

4.4 ROADS DETERMINED INADEQUATE

Except as otherwise provided in this Ordinance, if an existing road is determined by the Planning Commission to be inadequate to accommodate the traffic flow projected to be generated from the new development when combined with existing traffic flow, the new development shall not be approved.

In instances where an existing road is determined to be below the minimum standards as set forth in section 4.3, the Planning Commission shall disapprove any proposed application for new development unless the developer improves same and brings up to standard at its expense in accordance with applicable engineering standards

Commission, the Planning Commission may approve a subdivision so that substantial justice may be done and the public interest served.

4.2 NEW PUBLIC ROADS

New public roads to be built as part of the new development shall be constructed in accordance with the standards adopted by the Town and set forth in the Subdivision Regulations and/or other applicable acts, statutes and ordinances. In the event that the Subdivision Ordinance and/or other established policies of the Town do not prescribe with any degree of specificity the standards for construction of said roads, the standards adopted by the Washington County Engineering Department's Specifications for Highway and Street Improvements, as amended or design and construction specifications as adopted by the State Highway Administration shall be applicable. The more stringent of the applicable standards referred to herein shall be utilized as a guideline.

4.2.1 The type of road to be built shall be based on the projected volume of traffic determined by the Engineer and/or, if applicable, the State Highway Administration, that will be generated by the new development in accordance with the aforementioned standards, as now exist or be amended from time to time.

4.2.2 The Engineer and/or the State Highway Administration may require a traffic impact study for proposed commercial or residential development to be provided by the developer in order to determine which specifications are applicable to the new development. Said studies shall be prepared at the expense of the developer.

4.3 EXISTING PUBLIC ROADS

Existing public roads that serve the new development shall at a minimum meet the standards contained in the Washington County Engineering Department's publication entitled *A Policy to Determine Adequacy of Existing Roadway for Additional Development, As Amended*, or the *Guidelines for Traffic Impact Reports/Studies, As Amended*, if the existing road is a state highway. Such roads are to meet the above standards and applicable provisions of the Subdivision Ordinance and any other ordinances or regulations of the Town as a condition precedent to approval of the proposed new development.

4.3.1 The portion of the existing roads required to be adequate for the proposed new development shall be from its intersection with any new road in the new development, in the direction of traffic flow determined by the Planning Commission after receiving a recommendation for the Town Engineer (or engineer designated by the Mayor and Council), and/or the State Highway Administration to the nearest designated intersection with a road determined by the Planning Commission to be adequate to support the projected traffic volume generated by the development.

4.3.2 The portion of the existing roads to be adequate for proposed new development that does not include the construction of new public streets shall be the road

3.7 VIOLATIONS AND PENALTIES

Any violation of this Ordinance shall constitute a misdemeanor and shall be punishable upon conviction by a fine of not less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00) Dollars. Each day that a violation continues shall be deemed a separate offense. In addition to any other remedies, the Mayor and Council may initiate any appropriate actions or proceedings to compel compliance with this Ordinance.

ARTICLE IV – ROADS

All new development shall be serviced by an adequate network of existing and proposed new roads.

4.1 EXEMPTIONS

4.1.1 Generally speaking, there shall be no exemptions allowed. However, in the event that the Subdivision Ordinance or any other ordinance or regulation applicable to the development provides for an exemption, then and in said event, the Planning Commission may consider granting said exemption as long as it complies with the spirit and intent of the Comprehensive Plan and Town policies and procedures.

4.1.2 The Planning Commission may grant exemptions from the various terms and provisions of this Ordinance if it finds that extraordinary hardship may result from the strict compliance of the provisions of this Ordinance and strict application would unreasonably deprive the applicant of reasonable use of the property. **PROVIDED, HOWEVER,** that if the hardship is general, that is, shared generally by other lands or developments in the Town or the public in general, or if the hardship is self created, the Planning Commission does not have authority to grant exemptions.

The hardship must be unique to the property in question.

If an exemption is not allowed, then relief shall only be obtained by legislation action or judicial review.

The exemptions allowed herein may be granted only if not violative of the spirit and/or intent of the Comprehensive Plan, this Ordinance, or any other land use ordinance of the Town, and provided that the developer shall comply with all other applicable federal, state, county and municipal acts, statutes, ordinances and regulations applicable to the development.

4.1.3 Where the Planning Commission finds that extraordinary hardship will result from strict compliance with this Article of the Ordinance because of alteration to existing historic structures, including bridges, as determined by the Planning

agrees to construct necessary improvements for the purpose of complying with this Ordinance and/or any agreement or applicable subdivision requirements. Nothing in this Ordinance shall prevent the Planning Commission from approving portions of subdivisions or site plans of new development if the portions of the subdivision or site plan comply with the provisions of this Ordinance.

3.2 JURISDICTION

This Ordinance does not apply to land outside the municipal corporation.⁴

3.3 NEW DEVELOPMENT

This Ordinance applies to all new subdivisions and site plans for new construction received for preliminary approval, not to include preliminary consultations under the Subdivision Ordinance of Zoning Ordinance by the Town Planning Commission after the effective date of this Ordinance. Except as provided in this Section or Section 3.5 of this Ordinance, all new development shall meet the requirements set forth in this Ordinance prior to final approval. If the Planning Commission for the Town determines that a site plan contains minor additions to existing development, the site plan is not subject to the requirement of this Ordinance.

3.4 DISAPPROVAL

New development not meeting the requirements for adequate public facilities contained within this Ordinance shall not be approved by the Planning Commission except as hereinafter provided.

3.5 SIMPLIFIED PLATS EXEMPT

Subdivisions which can be approved by the simplified plat procedure described in the Subdivision Ordinance of the Town are not subject to the requirements of this Ordinance.

3.6 APPEALS

Any person or persons, jointly or severally, aggrieved by any decision of the Planning Commission, or any taxpayer of the Town, may appeal the decision to the Circuit Court for Washington County, Maryland. Said appeal shall be taken in accordance with provisions of the applicable Maryland Rules of Procedure.

⁴ The Adequate Public Facilities Ordinance of the County does not apply to land within the municipal corporation. See Section 3.2 of County APFO.

the responsibility of maintaining, operating and controlling and establishing policies in relation to the Town responsible for managing the distribution system.

2.3.24 Simplified Plat – The term “simplified plat” as used in this Ordinance is a map, plan, chart or drawing indicating the proposed subdivision or resubdivision of land filed or intended to be filed with the Planning Commission, or as may be required or defined by the Subdivision Ordinance of the Town.

2.3.25 Site Plan – A drawing that shows all the existing conditions of a specified area (the site) and all of the improvements and changes proposed to be made on the site. A site plan is the drawing required by the Subdivision Ordinance and/or Zoning Ordinance of the Town for all new development and certain additions and must contain all applicable information as specified in the Subdivision Ordinance and/or Zoning Ordinance and all applicable federal, state, county or municipal acts or ordinances.

2.3.26 Subdivision Ordinance – The Town Subdivision Ordinance of the Town as it exists and/or may be subsequently amended.

2.3.27 Town – The municipal corporation known as the Town of Hancock, Maryland.

2.3.28 Washington County and Sewer Department – The sewer department of the County.

2.3.29 Water Board – The Water Board, Commission, or the agency and/or committee designated by the Mayor and Council of the Town charged with the responsibility of maintaining, operating and controlling and establishing policies in relation to the water distribution system.

2.3.30 Zoning Ordinance – The Zoning Ordinance of the Town as it now exists and/or may be amended from time to time.

ARTICLE III – ADMINISTRATION

3.1 ADMINISTRATION OF ORDINANCE

This Ordinance shall be administered by the Planning Commission of the Town. All applications, maps, and documents relative to subdivision or site plan approval coming under the provisions of this Ordinance shall be submitted to the Planning Commission.

The Planning Commission of the Town may not approve new development unless there exists adequate public facilities as required by this ordinance or the developer

lines, septic tanks, wells, walks, and other accessory works and appurtenances, dwellings, farm buildings, and other principal or accessory structures.

2.3.12 Lot – A parcel of real property marked by the developer as a numbered, lettered or otherwise identified tract to be utilized as a unit of land intended for building development.

2.3.13 Mayor and Council - The legislative body of the Town.

2.3.14 New Development – New development consists of new subdivision and site plans for new construction received for approval by the Planning Commission of the Town after the effective date of this Ordinance. New development also consists of construction activity requiring a building and/or zoning permit.

2.3.15 Original Tract of Land – A parcel of real estate unsubdivided as of the date of adoption of this Ordinance.

2.3.16 Planning Commission – The Planning Commission of the Town.

2.3.17 Plat – A map, plan, chart or drawing indicating the subdivision or re-subdivision of land filed or intended to be filed for the record.

2.3.18 Remaining Land – the residual portion or tract of land which remains after lots or parcels have been subdivided from the original tract of land.

2.3.19 Residential Development – The term “residential development” as used in this Ordinance means any lot, building or portion thereof used exclusively for dwelling units, including concomitant uses, and other uses of residential nature for the individuals residing in said units.

2.3.20 Responsible Agency – The Planning Commission of the Town of Hancock.

2.3.21 Right-of-Way – A land area designated, dedicated, or reserved for use as a highway, street, alley, interior walk, or for a drainage channel, or other public use.

2.3.22 Road – A public right-of-way, intended for vehicular traffic, including freeways, expressways, arterials, parkways, thoroughfares, collector streets, local streets, cul-de-sacs, marginal access streets, avenues, boulevards, lanes and other public ways, and as now or hereafter or otherwise designated.

2.3.23 Sewer Board - The Sewer Board, Commission, or the agency and/or committee designated by the Mayor and Council of the Town charged with

2.3 DEFINITIONS

2.3.1 Agricultural Purposes - A parcel of land that has been determined by the Maryland Department of Assessments and Taxation as having an "Agricultural Use Assessment" or a parcel of land that is primarily involved in a bona fide and continuing agricultural activity, such as, the raising of farm products for use or sale, including animal or poultry husbandry, and the growing of crops such as grain, vegetables, fruit, grass for pasture or sod, trees, shrubs, flowers and similar products of the soil.

2.3.2 Board of County Commissioners - The legislative body of Washington County, Maryland.

2.3.3 Board of Education - The elected members of the Washington County Board of Education.

2.3.4 Comprehensive Plan - The Comprehensive Plan of the Town.

2.3.5 County - Washington County, Maryland

2.3.6 County Health Department - The Washington County Health Department.

2.3.7 Developer - Any individual commencing proceedings under this Ordinance to effect a subdivision or development of land for himself or for another.

2.3.8³ Engineer - Wherever the term engineer is used in this ordinance, it shall be construed as the duly designated and authorized engineer of the Town and does not include the Chief Engineer or Engineering Department of Washington County, unless the Mayor and Council and Board of County Commissioners enter into a formal agreement and resolutions establishing such relationship pursuant to the provisions of the annotated code of Maryland.

2.3.9 Extraordinary Hardship - Extraordinary hardship is a condition that exists when strict compliance with this Ordinance would result in an unusually and extraordinary severe financial economic impact on the owner or developer.

2.3.10 Immediate Family Member - Immediate family member shall mean father, mother, step-father, step-mother, son, daughter, brother, sister, stepson, stepdaughter, grandchild.

2.3.11 Improvements - Improvements shall mean storm sewers, sanitary sewers, water supply lines, roads, curbs, gutters, gas lines, electricity lines, water

³ Amended FEBRUARY 8, 2006

CHAPTER _____

ADEQUATE PUBLIC FACILITIES ORDINANCE

ARTICLE I – PURPOSE

1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the Adequate Public Facilities Ordinance of the Town of Hancock, Maryland.

1.2 PURPOSE

It is the purpose of the Mayor and Council of the Town of Hancock, Maryland that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the Town to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development.

ARTICLE II – DEFINITIONS

2.1 GENERAL

For the purpose of the Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. Words in the present tense include the future, the singular number includes the plural, and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive. The words "used for" shall include "arranged for," "designed for," "intended for," "maintained for," "constructed for," "occupied for." The word "individual" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, trustee of any kind, or the manager, lessee, agent, servant, officer or employee of any of them, or legal entity of whatsoever nature of kind. The word "land" shall include water surface and land under water. The term "Ordinance" shall refer to this Ordinance and all subsequent additions or amendments thereto.

2.2 ADEQUATE PUBLIC FACILITIES

For the purpose of this Ordinance, the term "Adequate Public Facilities" shall be defined as those facilities relating to roads, sewerage disposal systems, schools, water supply and distribution systems, and interim fire protection systems meeting established minimum standards.

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² Amended FEBRUARY 8, 2006

ADEQUATE PUBLIC FACILITIES ORDINANCE TOWN OF HANCOCK, MARYLAND

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¹ Amended FEBRUARY 8, 2006

CHAPTER 3
ADEQUATE PUBLIC
FACILITIES
ORDINANCE
OF THE

TOWN OF HANCOCK,
WASHINGTON COUNTY,
MARYLAND

EFFECTIVE: July 13, 2005
AMENDED: February 8, 2006

CHAPTER 2

COUNTY ORDINANCES – EXEMPTION

APPLICABILITY

WHEREAS, The Mayor and Council of Hancock are the duly constituted legislative body for the Town of Hancock, Maryland, a municipal corporation, existing under and by virtue of the Laws of the State of Maryland, and

WHEREAS, The Town of Hancock has been authorized and empowered pursuant to Article 23A of the Annotated Code of the Public General Laws of Maryland, 1957, as subsequently amended, to specifically exempt itself from applicability of county ordinances and/or legislation; and

WHEREAS, The Town of Hancock through its duly authorized body does hereby desire and intend to exempt itself from the applicability of County Legislation of the County of Washington in accordance with the provisions of said Article 23A, Section 2B of the Annotated Code of Maryland.

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED, that The Mayor and Council of the Town of Hancock does hereby declare itself, pursuant to Article 23A, Section 2B, of the Annotated Code to be specifically exempt from any and all Washington County Legislation within the corporate boundaries of said Town, EXCEPT:

1. Those Ordinances already adopted by the Town which are Washington County Ordinances, or
2. Those Ordinances which the Town by Ordinance has requested and authorized Washington County to administer or enforce within its corporate boundaries as of this date; and
3. Except any other Washington County Legislation which is specifically provided for as being applicable within the corporate boundaries of The Town of Hancock under Article 23A, Section 2B, of the Annotated Code of Maryland.

ARTICLE V.

MISCELLANEOUS

1. The provisions of this Code are in addition to and not in derogation of any federal, State or County acts, ordinances, statutes or regulations that may be applicable within the corporate limits of the Town of Hancock.
2. In the event that there is any inconsistency in the application of any of the ordinances contained in this Code, then the ordinance providing for the strictest procedures or practices to be followed shall be applicable and take precedence over the more lenient.

ARTICLE III.

GENERAL PENALTY

1. Any violation of the provisions of the Code of The Town of Hancock, as adopted, and any other subsequent amendments or ordinances, shall be considered and hereby declared unlawful. Said violation(s) shall be and are hereby considered misdemeanors unless declared by the Mayor and Council of Hancock to be a municipal infraction pursuant to the provisions of Article 23A of the Annotated Code of Maryland.
2. Whenever in such Code or ordinance the doing of any act is required or the failure to do an act is declared to be unlawful as set forth in each and every ordinance referred to and as set forth in these provisions, and where no specific penalties are provided therefore, the violator of any such provision of this Code or any ordinance shall be punished by a fine not exceeding one thousand (\$1000.00) dollars, and imprisonment for six (6) months or both in the discretion of the court, pursuant to the provisions of Article 23A, Section 3, Violations of Ordinances and Resolutions, as it now exists, or as may be amended from time to time.
3. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

ARTICLE IV.

SEVERABILITY

1. It is hereby declared to be the intention of the Town of Hancock that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph, or section of this Code shall be declared to be unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity will not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code.

PERSON – Shall include a corporation, company, partnership association or society as well as a natural person, or any legal entity of whatsoever nature or kind.

PERSONAL PROPERTY – Includes money, goods, chattels, things in action and evidences of debt.

PRECEDING, FOLLOWING – Shall mean next before, and next after, respectively.

PROPERTY – Property shall include real and personal property.

REAL PROPERTY – Real property shall include lands, tenements and hereditaments.

SIDEWALK – Shall mean that portion of a street between the curbline and the adjacent line intended for the use of pedestrians.

SIGNATURE or SUBSCRIPTION – Includes a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

STATE – Shall be construed to mean the State of Maryland.

STREET – Shall include any public ways, roads, highways, avenues, alleys and lanes within the Town.

TENANT, OCCUPANT – Applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

TIME – Words used in the past or present tense include the future as well as the past and present.

TOWN – Shall mean the Town of Hancock, a municipal corporation and shall include the Mayor and Council if used in a corporate or legislative sense, in the County of Washington and State of Maryland, except as otherwise provided.

WRITING – Shall include printing.

YEAR – Shall mean a calendar year.

GENDER – Words importing the masculine gender shall include the feminine and neuter.

JOINT AUTHORITY – All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

KEEPER AND PROPRIETOR – Shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or as a servant, agent or employee of same.

LIBER AND FOLIO¹ – Shall mean document recorded in the office of the Clerk of the Circuit Court for Washington County, Maryland among the Acts, Ordinances and Resolutions for Incorporated Towns.

MAYOR AND COUNCIL – Shall mean the Mayor and Council of the Town of Hancock as the duly constituted legislative body of the town. If used as the corporate name of the town same shall have the applicable meaning.

MONTH – Shall mean a calendar month.

NUMBER – Words used in the singular include the plural and the plural includes the singular number.

OATH – Shall be construed to include an affirmation or declaration in all cases in which, by law, and affirmation may be substituted for an "oath," and in such cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED.

OR, AND – Or may be read AND, and AND may be read OR, if the sense requires it.

OWNER – Applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

¹ It is to be noted that the Liber and folio recording information contained in the various chapters of this, the Code of Ordinances of Hancock, Maryland, have been determined from various sources when such information is available; and, as such, no certification is made as to the accuracy thereof.

ARTICLE II.

GENERAL LEGISLATION

1. Titles.

Titles or titling of the Sections of this Code printed in bold face type are intended only as references and description to summarize the contents or indicate the contents of the Chapter, Article, or Section, and shall not be deemed or interpreted to be a part of any Section, nor unless expressly so provided, shall they be so deemed when any Section, including its titling, is amended or re-enacted.

2. Repeal – Continuation of Ordinances.

The repeal of any Ordinance shall not revive any Ordinances in force before or at the time the Ordinance repealed took effect. The repeal of an Ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal, for an offense committed under the Ordinance repealed.

The provisions appearing in this Code, so far as they are the same as those of Ordinances in existence at the effect date of this Code, shall be considered as continuation thereof and not as new enactments.

3. Definitions; Rules of Construction.

In the construction of this Code and of all ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Mayor and Council or not consistent with the laws of the State of Maryland in legislative interpretation.

BOND – When a bond is required, an undertaking in writing shall be sufficient.

COMPUTATION OF TIME – The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.

COUNTY – Shall mean Washington County, Maryland and/or the Board of County Commissioners of Washington County, Maryland. All three terms are to be considered as synonymous.

CHAPTER 1

GENERAL PROVISIONS

ARTICLE I.

ADOPTION

1. The ordinances contained in the following Sections and Chapters are hereby ordained as General Ordinances of the Mayor and Council of Hancock, and are adopted as **"THE CODE OF THE TOWN OF HANCOCK, MARYLAND"** and may be so cited.

2. Effective Date.

This code shall take effect from the date of its passage. All provisions of this Code shall be in full force and effect on and after said Effective Date, and all Ordinances of a general and permanent nature, not contained in this Code, are hereby repealed from and after said Effective Date, except as hereinafter provided.

3. Exceptions to General Repealing Clause.

The repeal provided for in the preceding Section of this Ordinance shall not affect any offense or act committed or done, or any penalty of forfeiture incurred or any contract or right established or occurring before the effective date of this Code; nor shall such repeal affect any Ordinance or Resolution promising or guaranteeing the payment of money by the Town or authorizing this issuance of bonds of said town or any evident of said Town's indebtedness or any contracts or obligation assumed by said Town; nor shall said repeal affect the administrative resolutions or policies of the Mayor and Council which are not ordinances and are not in conflict or inconsistent with the provisions of this Code; nor shall it affect any right or franchise conferred by any Ordinance or Resolution of the Mayor and Council on any person or corporation prior to the effective date of this Code.

CHAPTER 4

CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PARKS AND BUILDINGS CONTAINED THEREON

Be it enacted and ordained by the Mayor and Council of the Town of Hancock, Maryland, that it shall be unlawful to consume any beverage commonly referred to as an alcoholic beverage, in the public parks of the said Town or in the buildings, structures, or shelters, connected therewith or located thereon.

SECTION 1. PENALTY

The violation of said Ordinance shall be considered a misdemeanor. A violation of this Ordinance shall be punishable by a fine of not more than One Hundred (\$100.00) Dollars or imprisonment for a period not exceeding thirty (30) days, or both such fine and imprisonment, within the discretion of the Court.

Effective Date: June 1, 2006

CHAPTER 5

AN ORDINANCE REGULATING AND CONTROLLING ANIMALS

SECTION 1: PROHIBITED ANIMALS - CORPORATE LIMITS

It shall be and is unlawful for any person, corporation, legal entity, or resident to keep, raise maintain, exhibit, or utilize any farm animal, wild animal, exotic animal, fowl or reptile for either profit or non-profit purposes within the limits of the Town of Hancock.

SECTION 2: ADOPTION - ANIMAL CONTROL ORDINANCE FOR WASHINGTON COUNTY, MARYLAND

An Ordinance entitled "Animal Control Ordinance for Washington County, Maryland" enacted January 30, 2001 by the Board of County Commissioners for Washington County, Maryland is hereby adopted as it now exists, and as it may be subsequently amended from time to time in the future except as may be hereinafter set forth.

Said Ordinance is attached hereto and incorporated herein by reference.

SECTION 3: APPLICABILITY

The provisions of this Ordinance shall apply and be applicable and enforceable within the corporate limits of the municipality. This Ordinance is not to be construed as in derogation of any existing zoning, health regulations, or any other applicable State, federal statutes or regulations, except as hereunder set forth.

- (a) Exceptions:
 - (i) Section 1 of this Ordinance or any other provision of this Ordinance does not pertain to any establishment maintained and/or operated by a veterinarian for purposes of treatment.
 - (ii) Section 53, Exception of Farm Animals, as set forth in the Animal Control Ordinance for Washington County, Maryland is not adopted and is not applicable within the corporate limits of the municipality.

SECTION 4: ENFORCEMENT

Pursuant to the provisions of Article 23A,(2)(B) of the Annotated Code of Maryland, the Mayor and Council of the Town hereby request and authorizes the Board of County Commissioners

of Washington County, Maryland, its employees, agents, representatives, servants and/or contract representatives to implement, enforce, and regulate the applicable provisions of this Ordinance within the corporate limits of the municipality in accordance with the provisions set forth herein.

SECTION 5: INTERPRETING AND APPLYING THIS ORDINANCE

The provisions of this Ordinance shall be held to be minimum requirements to meet the stated purpose and intent of said Ordinance. Where the provisions of this Ordinance impose greater restrictions than those of any Federal, State, County, Town statute, Ordinance or regulations, the provisions of this Ordinance shall govern. Where the provisions of any Federal, State, County, Town statute, Ordinance or regulations impose greater restrictions than those of this Ordinance, the provisions of such Federal, State, County, Town statute, Ordinance or regulations shall prevail.

SECTION 6: SEVERABILITY

Should any section or provision of this Ordinance be declared by the Court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereto other than the part so declared to be invalid or unconstitutional.

SECTION 7: EXECUTION OF AGREEMENTS

The Mayor and/or Town Manager, or their successors in office, are hereby authorized and directed to enter into any Agreements or Memorandums of Understanding that may be requisite to consummate the purposes of this Ordinance and to execute any documents necessary to effectuate the purposes thereof.

SECTION 8: EFFECTIVE DATE

The effective date of this Ordinance shall be May 1, 2001.

Note: Former Chapter 3, Hancock Code, recorded in Liber 9, folio 302 among the Acts, Ordinances, Resolutions of Towns of Washington County, effective May 1, 2001, attached resolution of the Board of County Commissioners of Washington County to enforce animal control Ordinance in the Town of Hancock.

**RESOLUTION TO ENFORCE THE ANIMAL CONTROL ORDINANCE FOR
WASHINGTON COUNTY IN THE TOWN OF HANCOCK**

RECITALS

The Board of County Commissioners of Washington County, Maryland, is the duly constituted legislative body of Washington County (the "County").

The Town of Hancock (the "Town") is the duly constituted legislative body for the said municipal corporation.

Md. Code, Article 25, §236A grants the County the authority to adopt an animal control ordinance. Pursuant to that authority, the revised Animal Control Ordinance (the "Ordinance") was adopted by the Board on January 30, 2001, and became effective on February 20, 2001.

The Town, pursuant to Md. Code, Article 23A, §2B, has the authority to request and authorize the County to administer and enforce ordinances within the corporate limits of the municipal corporation.

The Mayor and Council of the Town reviewed the Ordinance and, believing that it would be in the best interests of the citizens of the Town and in the interest of uniformity and efficiency to adopt the same, passed an ordinance on April 18, effective May 1, 2001, authorizing and directing the County to administer and enforce the Ordinance as amended by the Town, within the corporate limits of the Town to provide for the control, safety and welfare of animals and the community. A copy of the Town's ordinance is attached hereto and incorporated by reference.

The County, having expressly found that it would be in the best interests of the citizens of the County to enforce the Ordinance, as amended by the Town, within the corporate boundaries of the Town, has agreed to do so.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Washington County, Maryland, that, pursuant to the request of the Town in the attached ordinance, the County agrees to administer and enforce the Animal Control Ordinance for Washington County within the corporate limits of the Town in accordance with the existing agreement with the County's animal control agency.

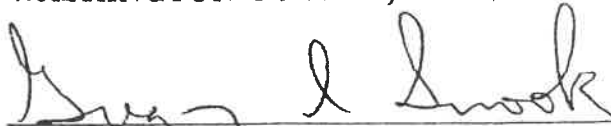
Adopted this 11th day of December, 2001, effective as of the date of adoption of the Town's ordinance.

ATTEST:

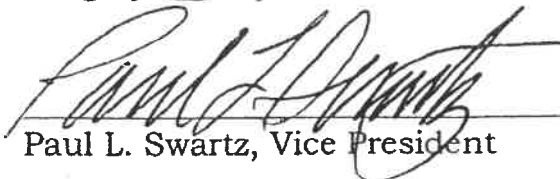
BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND



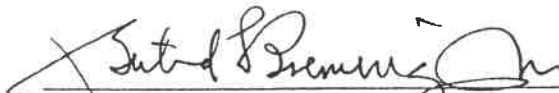
Joni L. Bittner, Clerk



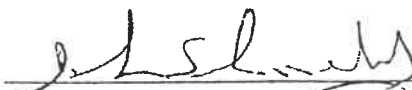
Gregory I. Snook, President



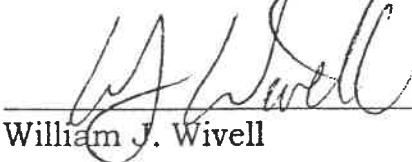
Paul L. Swartz, Vice President



Bertrand L. Iseminger, Jr.



John L. Schnebly



William J. Wivell

Approved as to form
and legal sufficiency:



Richard W. Douglas
County Attorney

Mail to:

Richard W. Douglas
Washington County Attorney
100 W. Washington Street
Room 213
Hagerstown, MD 21740

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**COUNTY ATTORNEY
FOR WASHINGTON COUNTY**

County Administration Building
100 West Washington Street, Room 213
Hagerstown, Maryland 21740-4727
Telephone: (301) 791-3183
TDD/Hearing Impaired: (301) 791-3383
FAX: (301) 791-3225

January 3, 2002

The Honorable Daniel Murphy, Mayor
Town of Hancock
126 West High Street
Hancock, MD 21750

Re: Animal Control Ordinance

Dear Mayor Murphy:

I have enclosed a copy of the resolution adopted by the County Commissioners agreeing to enforce the Animal Control Ordinance within the corporate limits of the Town of Hancock.

Thank you for your cooperation in this matter.

Very truly yours,

Richard W. Douglas
County Attorney

RWD/vcl
Enclosure
cc: Robert E. Kuczynski, Esquire

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RECYCLED PAPER

ANIMAL CONTROL ORDINANCE
FOR WASHINGTON COUNTY, MARYLAND

Adopted May 15, 1990
Effective May 15, 1990

Revision 1 - February 19, 1991
Revision 2 - December 10, 1991
Revision 3 - January 30, 2001

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ANIMAL CONTROL ORDINANCE FOR WASHINGTON COUNTY, MARYLAND

ARTICLE I. DEFINITIONS

Section 1. Definitions.

[Note: terms defined in this section are capitalized elsewhere in the Ordinance]

The following words and phrases as used in this Ordinance (the "Ordinance") and any regulations adopted pursuant hereto, unless a different meaning is plainly required by the context, shall have the following meanings:

Agency. The animal control agency that is responsible for the enforcement of this Ordinance. The Agency may be a department of Washington County government or an outside agency under contract with the County.

Animal. Any living, nonhuman, vertebrate creature.

Animal at Large. Any animal off the premises of the Owner, and not under the immediate control, charge or possession of the Owner or other responsible person capable of physically restraining the animal. See Section 27.

Animal Control Officer. That Individual designated as such by the Agency to perform animal control duties described by this Ordinance.

Animal Control Shelter. Any facility owned or operated by or under contract with the County, for the care, confinement, adoption, detention and euthanasia of animals pursuant to the authority of this Ordinance or state law.

Animal Under Restraint. Any animal secured by a leash or confined within a vehicle or within the real property limits of its Owner or, when used for hunting, under control of a responsible person and obedient to that person's command.

Authority. The duly appointed Animal Control Authority. See Article II.

Board. The Board of County Commissioners of Washington County, Maryland.

Citation. A charge filed by an Animal Control Officer with either the Authority or the District Court of Maryland for Washington County, charging a Person with a violation of the Ordinance. A Citation shall be entered on a form approved by the County.

Complaint. A writing filed by a Person with the Authority, charging another Person with a violation of the Ordinance. A Complaint may but need not be entered on a form approved by the County. The Authority may ask for additional information concerning the charge in a Complaint.

County. Washington County, Maryland.

Department. The Washington County Department of Permits and Inspections.

Domesticated Animal. Any such animal that is accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses or swine, but not to include any Wild Animal or Farm Animal.

Exotic Animal. Any animal of any species that is not indigenous to the State and is not bred or raised as a Domesticated Animal. Exotic Animal includes any hybrid animal that is part exotic. See Section 34. This definition shall not include Farm Animals. See Section 53.

Farm Animal. Any animal maintained or used for the production of food or fiber or for other agricultural purposes.

Health Officer. The Health Officer of the County and duly authorized designees.

Individual. A human being; a natural living Person. See definition of "Person" below.

Kennel. Any building, structure or land used, designed, or arranged for housing, boarding, breeding, or care of more than five dogs over the age of four (4) months kept or bred for hunting, sale, exhibition, or domestic use, but not including Farm Animals. For licensing of Kennels, see Section 21.

Owner. Any Person owning, keeping, harboring or acting as custodian of a Domesticated Animal. Any animal owned by a minor shall be deemed to be owned, for the purpose of this Ordinance, by the parent, guardian, or adult with whom such minor resides.

Person. Any Individual, corporation, business trust, general or limited partnership, limited liability company, limited liability partnership, firm, joint stock company, unincorporated association, trust, estate or other legal entity. See definition of "Individual" above.

Pet Shop. A separate commercial establishment that offers to sell live animals as pets, without outside areas or runways. A pet shop license is required. See Section 25.

Public Nuisance Animal. An animal found to be or have been in one or more of the conditions set forth in Section 32.

State. The State of Maryland.

Treasurer. The duly elected or appointed Treasurer for Washington County, Maryland.

Veterinarian. A veterinarian licensed and registered to practice in the State.

Veterinary Hospital. Any establishment maintained or operated by a Veterinarian for immunization, hospitalization, surgery, diagnosis, prevention and treatment of diseases and injuries of animals.

Vicious and Dangerous Animal. Any animal that constitutes a physical threat to human beings or animals or any animal that, due to its disposition and demonstrated hostile behavior, might reasonably be expected to cause injury to human beings or animals, or any animal that has bitten or attacked a human being or animal without provocation. See Section 35. This definition shall not include Farm Animals. See Section 53.

Wild Animal. Any animal of a species that in its natural life is wild, dangerous or ferocious and, though it may be trained and domesticated by the owner, will remain dangerous to the public at large. See Section 34. This definition shall not include Farm Animals. Section 53.

ARTICLE II. ANIMAL CONTROL AUTHORITY

Section 2. Animal Control Authority - Creation; duties, powers.

(a) There is an Animal Control Authority for the County. The Authority shall be vested with and shall possess all of the powers and duties specified in this Ordinance and all powers necessary to properly carry out fully the provisions of this Ordinance. The jurisdiction and powers created under this Ordinance shall extend to any and all Persons owning, leasing, harboring, sheltering or controlling any animal within the County, whether resident or nonresident.

(b) The Authority shall meet as necessary to conduct hearings, as set forth in Section 6. of this Ordinance.

(c) The Authority may adopt a set of rules to govern its own hearings and procedures, and shall make them readily available to the public. These rules and procedures shall be approved by the Board.

(d) The Authority shall submit an annual report to the Board and the Agency concerning the performance of its responsibilities hereunder.

~~Section 3. Animal Control Authority - Composition; term of office.~~

(a) The Authority shall consist of five (5) members, all of whom shall be residents of the County. Members shall be appointed by the Board and shall be governed by certain County ordinances and policies, including without limitation the Boards and Commissions Policy and the Ethics Ordinance.

(b) The Authority shall be made up of one member who is a Veterinarian, one member of the agricultural community, one member of the legal profession, and two members from the public at large. If, after reasonable efforts to recruit a Veterinarian to serve as a member of the Authority the Board is unable to find a Veterinarian, the Board may appoint a veterinary technician who is registered in the State.

(c) The members of the Authority shall be appointed by the Board for a term of three (3) years or to fill the unexpired term of a member who has vacated a position before the end of his or her term. No member shall serve more than two (2) consecutive terms.

(d) The members of the Authority shall elect a chair that shall serve for a term of one (1) year or until the expiration of his or her own term as a regular member of the Authority, whichever period is shorter.

Section 4. Animal Control Authority - Duties of chair.

(a) The chair may call special hearings at any time. Each member shall be notified of such special hearing and shall be given the opportunity to attend. Any meeting may be canceled upon consent of a simple majority of all members.

(b) The chair shall appoint from the membership a vice-chair to serve in his or her absence. The chair shall also designate a recording secretary, who may but need not be a member of the Authority.

(c) The chair or, in his or her absence, the vice-chair, shall preside at all hearings of the Authority.

(d) The recording secretary or his or her substitute as designated by the chair shall keep a record of the members present at meetings of the Authority.

(e) The recording secretary or his or her substitute as designated by the chair shall keep accurate records of all hearings of the Authority. The recording secretary may but need not be a member of the Authority.

Section 5. Animal Control Authority - Quorum.

The presence of any three (3) Authority members shall constitute a quorum. Any decision, resolution or finding shall be construed as the act of the Authority if passed by a majority of those present.

Section 6. Animal Control Authority - hearings; procedures; and orders

(a) The Authority may conduct a hearing when:

(1) A Citation is filed with the Authority by an Animal Control Officer, alleging that a Person has violated or permitted an animal to violate the provisions of this Ordinance.

(2) A Complaint is filed with the Authority by an Individual other than an Animal Control Officer, alleging that a Person has violated or permitted an animal to violate the provisions of this Ordinance.

(3) A Citation is filed with the Authority by an Animal Control Officer or a Complaint is filed with the Authority by an Individual, alleging that a Person has failed to comply with an outstanding order of the Authority.

(4) It is necessary for the Authority to resolve any other controversy over which it has responsibility under this Ordinance.

(b) The Authority shall hear and decide cases referred by the Agency concerning the enforcement of this Ordinance, including the abatement of a nuisance caused by one or more Public Nuisance Animals.

(c) The Authority shall conduct a hearing when a Person who has been served with a Citation or Complaint charging a violation of the provisions of this Ordinance files a written request for a hearing before the Authority within five (5) business days after receipt of a Citation or Complaint.

Instructions for requesting a hearing before the Authority shall be printed on all form Citations and Complaints.

(d) The Authority shall not have the power to hear or decide any cases that involve matters arising strictly under the applicable zoning ordinance.

(e) The Authority shall give notice in writing by regular mail to the complainant and the Person charged with or appealing a Citation or Complaint of the time and place of the hearing, providing all parties with a minimum of ten (10) days notice of the hearing. The Authority shall also send notice by personal delivery or by certified mail, return receipt requested, to the Person charged. If the notice sent by regular mail is not returned and if the personal delivery or certified mail receipt indicates that the Person charged is at the address given, it shall be presumed that the Person has received notice of the hearing.

(f) Any hearing held pursuant to this Ordinance shall be conducted in an informal manner. The strict rules of evidence shall not apply. The Authority may hear any evidence that is relevant and probative of the matters set forth in the Citation or Complaint, but shall not be required to hear irrelevant or merely cumulative evidence. Hearsay evidence is admissible if credible and of sufficient probative force to be considered, in the judgment of the Authority.

(g) The charging Animal Control Officer, the complainant, and the Person charged by the Citation or Complaint may appear in person or, if not an Individual, by agent or by attorney. Failure of the charging Animal Control Officer or the complainant to appear shall result in the dismissal of the case by the Authority, unless a postponement is granted by the Authority for good cause shown.

(h) If, after notice is given, the Person charged in a Citation by an Animal Control Officer or in a Complaint filed by an Individual other than an Animal Control Officer:

(1) Does not appear, nevertheless, the Authority may hear and determine the matter.

(2) Does not request a hearing, the Authority may deem that the matter has been heard and may impose a civil penalty.

(i) The Authority is authorized and empowered to issue subpoenas upon forms approved by the Board compelling the attendance of witnesses to testify and to produce evidence at hearings of the Authority. The Authority may effect service of a subpoena by personal delivery or by registered or certified mail. Upon the failure of an Individual subpoenaed to appear, the Authority may apply to the Circuit Court for an order compelling compliance with the subpoena. Failure to comply with the court's order shall constitute contempt of court and shall be punishable in accordance with Maryland law.

(j) The Authority may administer oaths at hearings held under this section. All hearings shall be recorded.

(k) At the close of all the evidence, the Authority shall deliberate and shall issue written findings of fact, conclusions and an appropriate order by regular mail to all relevant parties within fifteen (15) days of the hearing. If the Authority fails to find that a violation was committed, it shall dismiss the Citation or Complaint. If the Authority finds that a violation has been committed, or that an animal is a Public Nuisance Animal, or that a public nuisance condition exists as provided in Section 32., it may impose civil penalties pursuant to Section 43. In lieu of or in addition to imposing civil penalties, it may require appropriate affirmative action, including but not limited to the following:

(1) The mandatory restriction or confinement of the animal, under such conditions as may be appropriate.

(2) The mandatory destruction or other disposition of the animal if the evidence shows that such action is necessitated by the need for the protection of public health and safety, pursuant to Section 41.

(3) The correction of conditions or methods of animal care, keeping, maintenance, housing or veterinary treatment as the Authority may require in its discretion.

(4) Suspension or revocation of the Kennel license, if any.

(l) The Agency may request the Authority to convene immediately for the purpose of investigating situations of acute emergency. In such case, good faith efforts shall be made to serve notice of this expedited hearing upon the Person charged. The Authority may make such findings and orders as are appropriate to deal with the emergency situation. Such an order shall have effect for a period not to exceed fifteen (15) days, and the Authority shall schedule and hold a hearing in the ordinary course to consider further action as necessary.

(m) The determination of the Authority is a final decision for the purpose of judicial review of an administrative decision.

(n) The Authority shall accept oral or written testimony from an agent of the Cooperative Extension Service on the issue of what are customary and normal animal husbandry practices without the formal requirement of qualification as to expertise.

Section 7. Animal Control Authority - Appeals from Authority orders.

(a) Any party, including the Agency, aggrieved by a final order of the Authority in a contested case, whether such a decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order. Such appeal shall be governed by the provisions of the Maryland Rules pertaining to judicial review of administrative decisions. See Maryland Rules, Section 7-201, *et seq.*

(b) Judicial review of disputed issues of fact shall be confined to the record of the hearing before the Authority. No cases appealed under this Ordinance shall be heard *de novo*.

Section 8. Animal Control Authority - Compensation; expenses.

The members of the Authority shall be reimbursed for such actual expenses as may be incurred by them and for special costs as may be approved by the Board, subject to budget limitations, provided, however, that no compensation shall be paid to the chair or any member of the Authority.

Section 9. Animal Control Authority - Removal from office.

The Authority may recommend to the Board by majority vote that any member be removed for inefficiency, neglect of duty, or malfeasance. The Board shall consider such recommendation and may take whatever action is deemed proper in its discretion.

ARTICLE III. LICENSING

Section 10. Licenses generally

All dogs, Kennels and Pet Shops shall be licensed.

Section 11. Licenses generally - Rules and regulations.

The Board may promulgate rules and regulations for the issuance of dog, Kennel and Pet Shop licenses as deemed desirable for public health and welfare and for the protection of animals. Such rules and regulations may include requirements for humane care of all animals and for compliance with the provisions of this Ordinance and other applicable laws.

Section 12. Licenses generally - Refusal to issue license.

Any license provided for in this Article shall be refused where the applicant is or would be in violation of this Ordinance, land use or other state or local laws.

Section 13. Licenses generally - Fraudulent use of license or tag.

It shall be unlawful for any Person to use any dog license, Kennel license, Pet Shop license, or license tag issued to another Person.

Section 14. Licenses generally; Land use laws.

No provision of this Ordinance shall supersede or modify land use laws and regulations.

Section 15. Dog licenses generally.

(a) Any Person owning, keeping, harboring, or having custody of any dog, four (4) months of age or older within the County, must obtain a license as herein provided.

(b) If not revoked, the license for the keeping of a dog shall be for one year beginning each fiscal year on July 1. Application for a dog license may be made as follows:

- (1) Thirty (30) days prior to the beginning of each fiscal year;
- (2) Within thirty (30) days of obtaining a dog over the age of four (4) months;
- (3) Within thirty (30) days of a dog reaching four (4) months of age; or
- (4) Within thirty (30) days of moving to the County and owning a dog over the age of four (4) months.

(c) Written application for a dog license shall be made to the Treasurer or designee on forms provided and shall state the name, address, telephone number of the Owner, the name, breed, color, age,

sex of the dog, whether the dog has been spayed or neutered, and the current rabies inoculation tag number.

(d) A valid certificate of rabies inoculation issued by a Veterinarian or anti-rabies clinic recognized by the Health Officer, stating the inoculation date, expiration date and the type of vaccine used, shall accompany the application for a dog license, except when, in the written opinion of a Veterinarian, it is not advisable due to the impaired physical condition of the dog. If the animal has been exempted from the requirement of a rabies inoculation due to physical impairment, a license will be issued without proof of a rabies inoculation and a copy of the written exemption from a Veterinarian will be submitted to the Treasurer or designee for attachment to the copy maintained by the Treasurer. If the animal was brought into the County from outside the State, an unexpired rabies inoculation certificate or tag issued by a veterinarian or anti-rabies clinic licensed in the state in which the animal was inoculated shall be acceptable. See Md. Code, Health-General Article, §18-318.

(e) The Owner of any dog having received or having been subject to protection training shall be required to include such information in the application in addition to those matters required in subsection (c) of this section.

Section 16. Dog licenses - License required; exception.

The licensing requirements of this section shall not apply to any dog belonging to a nonresident of the County and kept within the boundaries of the County for a single period of less than thirty (30) days; provided that all such dogs shall, at the time of entry into the County, have been properly vaccinated against rabies. While any such animal is kept within the County, the Owner shall comply with all other requirements of this Ordinance.

Section 17. Dog licenses - Guide dogs and police dogs.

(a) If the license application discloses that a dog for which a license is sought will be used as a guide dog trained to aid a blind, hearing impaired, or disabled Individual and it is actually in use for such purpose, the license will be issued without payment of any fee and the issuing agent shall record across the face of the license in red ink the words "Dog Guide." Dogs so licensed will be exempt from any charge at County-sponsored anti-rabies clinics.

(b) All publicly owned police dogs shall be licensed only as provided by Article 88B, Section 70 of the Annotated Code of Maryland, and are exempted from the licensing provisions of this Ordinance. Dogs so licensed shall be exempt from any charge at County-sponsored anti-rabies clinics.

(c) All license-exempt dogs shall be vaccinated against rabies as mandated by the health laws in the Annotated Code of Maryland.

Section 18. Dog licenses - Fees.

(a) A dog license may be issued after payment of a fee of \$3.00 for each spayed or neutered dog required to be licensed and a fee of \$6.00 for each dog that has not been spayed or neutered and required to be licensed. Effective July 1, 2001, the fee for a spayed or neutered dog shall increase to \$5.00 and the fee for a dog that has not been spayed or neutered shall increase to \$15.00. This schedule of fees may be amended by the Board by resolution.