

ARTICLE II - BOARD OF COMMISSIONERS

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

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

Amended 4-06-87 See Resolution # 1-87

* Amended 10-08-03 See Resolution #2003-004R qa Amended 1-18-06 See Resolution #2006-01R

Section 2. - Qualifications.

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

Section 3. - Salaries.

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

Section 4. - Meetings.

The Board of Commissioners shall meet regularly once each month at a time and on a date as specified by ordinance. Special meetings may be called by the Mayor or by two Commissioners as often as necessary for the transaction of business. Meetings of the Board shall be opened to the public except as permitted by the laws of the State of Maryland, including, but not limited to, the annotated Code of Maryland State Government Article—Section 10-501 et seq. (as amended) "Open Meetings Act", and the rules of the Board

shall provide (that residents of the town shall have) a reasonable opportunity for public comments to be heard at the regular monthly meeting and all public hearings in regard to any town matters (at any meeting).*

* Amended 10-22-80 See Resolution #2-80 qa Amended 8-07-03 See Resolution #03-06R

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

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

* Amended 1-18-06 See Resolution #2006-01R

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

The Board of Commissioners may compel the attendance of absent members in such manner and under such penalties as may be provided by ordinance. The Board by a vote of three of its members may expel a member from a meeting for disorderly conduct or violation of its rules; provided the Mayor also approves of such action.

* Amended 10-22-80 See Resolution #2-80 qa Amended 1-18-06 See Resolution #2006-01R

Section 7. - Witnesses.

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

Section 8. - Vacancies.

In case of the death, refusal to act, disqualification, resignation, or removal of the Mayor or any of the Commissioners out of the limits of the corporation, the Commissioners, or a majority of them, for the time being, shall elect a Mayor or Commissioner to fill the vacancy for the period of time until the next election for a Mayor and/or Commissioners to be held by the Town. At the time of the next general election, a person shall be elected Mayor or Commissioner and shall serve the remainder of the term of the vacating Mayor or Commissioner, and until a successor shall be elected and qualified, and during the temporary absence from town of the Mayor, or his illness, and until the Mayor is again able to act, the President of the Board of Commissioners shall be the acting Mayor, with all rights, powers and duties of the said Mayor, excepting the powers of appointment and removal.

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

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

Section 10. - Authority to Fix Salaries.

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

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

When any ordinance is introduced for passage by the Board of Commissioners, it shall be read and may be passed at that time. Legislative procedures shall be set out by ordinance. All ordinances passed by the Board shall be approved by the Mayor or passed over his veto in accordance with the provisions of Article III as hereinafter set forth.

* Amended 10-22-80 See Resolution # 2-80

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

- a. General Powers. The Board of Commissioners shall have power to pass all ordinances, not contrary to the Constitution and laws of Maryland or this Charter, as it may deem necessary for the good government of the town; for protection and preservation of the town's property, rights, and privileges; for preservation of peace and good order; and for securing persons and property from violence, danger, or destruction; and for the protection of the health, education, safety, happiness, and welfare of the residents of Emmitsburg and visitors thereto and sojourners therein.
- b. Specific Powers. The Board of Commissioners shall have in addition to the above mentioned general powers, and any other powers which may be conferred in this Article, or otherwise by operation of law, power to pass ordinances not contrary to the laws and constitution of this State for the specific purposes mentioned as follows:
 1. To provide for the codification of all ordinances which have been or may hereafter be passed.

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

21. To regulate laying and use of gas pipes, water pipes, electric light conduits, railroad tracks, and drains for public or private purposes in the streets of the town; and to levy and collect charges on the laying and use thereof.
22. To provide for sprinkling of the streets or parts thereof and establishing of public foundations of any kind, or hydrants, and providing of the same with water.
23. To regulate and provide for a water plant and the use thereof and all facilities used in connection therewith; and to regulate the use of water furnished by the town; and to levy and collect charges for the use of water and water facilities furnished by the town.
24. To provide for the health of the town and prevention of the introduction of contagious diseases within the Town's corporate limits.
25. To prevent and similarly abate nuisances of any kind, at the expense of persons maintaining them.
26. To establish quarantine regulations and regulate the burial and disinterment of the dead.
27. To provide for the licensing and regulating or restraining of theatricals, sports, exhibitions, public amusements and performances within the town's corporate limits.
28. To license, tax, and regulate the peddling of merchandise on the streets, as well as branch stores and other concerns established for temporary purposes only.
29. To establish, equip, regulate, and fund a police department; and to appoint town officers thereto in order to establish and maintain the peace and order of the town, and to insure the compliance with all town ordinances and actions passed or taken pursuant to this Charter.
30. To provide for and regulate the registration of voters in the town for town elections, and the holding of town elections.
31. To operate, maintain, supervise, plan and further regulate all public recreation and park services.
32. To plan and zone the town with the general purpose of guiding and accomplishing a co-ordinated, adjusted, and harmonious development of the town. Among other things, this zoning and planning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the town within its police limits; to provide good civic design and arrangement; to promote wise and efficient expenditure of public funds; to make adequate provisions for traffic; to prevent the over-crowding of land and prevent undue concentration of population; and to provide adequate light and air.
33. To fill all vacancies in any town office not otherwise provided for.
34. And to do any and all things necessary to make effectual the powers herein and by law in any way conferred upon the town.

* Amended 12-4-95 See Resolution # 2-95

Section 13. - Enforcement.

For the purpose of carrying out the powers enumerated above, for the preservation of the cleanliness, health, peace and good order of the community; for the protection of the lives and property of the citizens; and to suppress, abate and discontinue, or cause to be suppressed, abated, or discontinued all nuisances within the corporate and sanitary limits of the City, the Board of Commissioners may pass all ordinances from time to time necessary. To insure the observance of these ordinances, in addition to the usual action of debt or such other civil remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the Board of Commissioners may affix thereto penalties of a fine not exceeding one hundred dollars or imprisonment for not exceeding ninety days or both, except as otherwise provided in this Charter, or in State law.

Amended 9-09-74 See Resolution # 1-74

Section 14. - Jail Commitments.

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

Section 15. - Structure of the Board of Commissioners.

- a. Each year the Board of Commissioners shall elect from among its membership, at a meeting at which all Commissioners are present, a Treasurer and a President of the Board of Commissioners.
- b. The President of the Board of Commissioners shall preside over all meetings of the Board, and shall be acting Mayor when the circumstances are such that the Mayor cannot function in his capacity.

Section 16. - Purpose, Authority, Enforcement.

Any person(s) violating the provisions of this ordinance and polices adopted in accordance with this ordinance shall be charged with having committed a misdemeanor and shall be punished by a fine up to one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court. Any person(s) violating any federal, state, county, or local law or ordinance in force and applicable to park property, shall upon conviction thereof, be punishable in accordance with the applicable penalty provisions of the law or ordinance.

* Added 12-04-95 See Ordinance # 95-21