



AGENDA FOR THE TOWN MEETING

January 5, 2017

7:00 p.m.

PLEDGE TO THE FLAG

CALL TO ORDER

Red Indicates – Action Item
Green Indicates – Ordinance Introduction
Blue Indicates – Link to Additional Information

CONSENT AGENDA

- [Financial Statements](#)
- [Lease with Middletown Valley Bank for Open Space](#)
- Town Meeting Minutes
 - [December 12, 2016 –Town Meeting](#)

PERSONAL REQUESTS FOR AGENDA:

STAFF REPORTS:

[Staff Planner](#)

[Main Street Manager](#)

Engineers Report

[Zoning Administrator](#)

UNFINISHED BUSINESS:

- Discussion of Increase to Tap Fees
- [Update on Fluoride – Brookridge WTP and Well 15 WTP](#)
- [Locust Blvd. & Court Reconstruction – Project Update](#)
- [Lease for Wide Format Color Digital Imaging System](#)

REPORT OF COMMITTEES:

Water/Sewer

Commissioner Falcinelli

Public Works

Commissioner Bussard

Sustainability

Commissioner Dietrick

Planning Commission Liaison

Commissioner Catania

Parks & Recreation

Commissioner Goodman

Public Information

Commissioner Falcinelli

NEW BUSINESS:

- **Appointment(s)**
 - Planning Commission – One (1) Seat
 - Planning Commission Alternate – One (1) Seat
 - Planning Commission Temporary Alternate – One (1) Seat
 - Board of Appeals – Two (2) Seats
- **Resolution 17-01 – Acceptance of Community Legacy Grant for Downtown Streetlights in the Amount of \$50,000**
- **Recommendation from Planning Commission to add Lighting Design Standards, Regulations and Requirements**
- **Discussion Wireless Telecommunications Facility Siting Regulations**

PUBLIC COMMENTS:

ANNOUNCEMENTS:

250th Town Talk – January 17, 2017 at Town Hall at 6:30PM

ADJOURNMENT

Town of Middletown
Statement of Revenue & Expenditures
 General Fund
 Fiscal Year 2017
 For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
<u>REVENUE</u>			
<u>LOCAL TAX</u>			
Real Property	\$ 1,228,459	\$ 816,432	\$ (412,027)
Tangible Personal Property	37,108	35,828	(1,280)
Public Utilities	12,841		(12,841)
Franchise (Cable)	49,940	12,640	(37,300)
Penalties & Interest	10,357		(10,357)
	<u>\$ 1,338,705</u>	<u>\$ 864,900</u>	<u>\$ (473,805)</u>
<u>STATE SHARED TAX</u>			
Admission & Amusement	\$ 22,500	\$ 28	\$ (22,472)
Highway Gasoline & Licenses	162,421	123,499	(38,922)
	<u>\$ 184,921</u>	<u>\$ 123,527</u>	<u>\$ (61,394)</u>
<u>COUNTY SHARED TAX</u>			
Income Taxes	\$ 834,937	\$ 321,497	\$ (513,440)
Tax Equity Grant	566,687	283,343	(283,344)
	<u>\$ 1,401,624</u>	<u>\$ 604,840</u>	<u>\$ (796,784)</u>
<u>LICENSES AND PERMITS</u>			
Beer, Wine and Liquor	\$ 1,950		\$ (1,950)
Business / Traders	4,900	322	(4,578)
Planning / Zoning Fees	20,191	10,066	(10,125)
	<u>\$ 27,041</u>	<u>\$ 10,388</u>	<u>\$ (16,653)</u>
<u>PARKS AND RECREATION</u>			
Pavillion Fees	\$ 1,900	\$ 1,186	\$ (714)
	<u>\$ 1,900</u>	<u>\$ 1,186</u>	<u>\$ (714)</u>
<u>POLICE PROTECTION</u>			
State Grant	\$ 26,187	\$ 13,094	\$ (13,093)
	<u>\$ 26,187</u>	<u>\$ 13,094</u>	<u>\$ (13,093)</u>
<u>MISCELLANEOUS</u>			
Community Events			
Parking Citations			
Bank Shares Grant	2,500		(2,500)
Miscellaneous & Donations	5,000	2,716	(2,284)
	<u>\$ 7,500</u>	<u>\$ 2,716</u>	<u>\$ (4,784)</u>
OPERATING REVENUES	\$ 2,987,878	\$ 1,620,651	\$ (1,367,227)
State Grants & Interest	\$ 42,842	\$ 621	\$ (42,221)
TOTAL REVENUE	\$ 3,030,720	\$ 1,621,272	\$ (1,409,448)

Town of Middletown
Statement of Revenue & Expenditures
 General Fund
 Fiscal Year 2017
 For the 6 Months Ended December 31, 2016

	<u>ANNUAL</u> <u>BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER)</u> <u>BUDGET</u>
<u>EXPENDITURES</u>			
<u>LEGISLATIVE</u>			
Commissioner's Salary	\$ 15,600	\$ 6,500	\$ (9,100)
Communications	3,480	1,511	(1,969)
Dues & Subscriptions	7,400	6,839	(561)
Office Supplies & Exp	3,600	2,521	(1,079)
Advertising	750		(750)
Meetings & Conventions	<u>9,000</u>	<u>5,184</u>	<u>(3,816)</u>
	\$ 39,830	\$ 22,555	\$ (17,275)
<u>EXECUTIVE</u>			
Burgess Salary	<u>\$ 10,200</u>	<u>\$ 4,250</u>	<u>\$ (5,950)</u>
	\$ 10,200	\$ 4,250	\$ (5,950)
<u>ELECTION</u>			
Clerk Fees			
Other Administrative Expenses			
<u>GENERAL SERVICES</u>			
<u>ADMINISTRATION</u>			
Administrative Salary	\$ 247,131	\$ 133,529	\$ (113,602)
Postage & Printing	200	80	(120)
Communications	6,977	3,485	(3,492)
Computer Expenses	28,400	16,141	(12,259)
Office Supplies & Exp	26,000	11,883	(14,117)
Office Maintenance	13,400	8,023	(5,377)
Dues & Subscriptions	150		(150)
Professional Services	4,600	1,987	(2,613)
Meetings & Conventions	100		(100)
Water and Sewer Grant			
	<u>\$ 326,958</u>	<u>\$ 175,128</u>	<u>\$ (151,830)</u>
<u>OPERATIONS</u>			
Maintenance Capital Outlay			
Vehicle Capital Outlay			
Director Salary	97,355	89,430	(7,925)
Maintenance Salary	126,742	24,105	(102,637)
Communications	9,000	4,111	(4,889)
Supplies & Expenses	17,000	9,018	(7,982)
Dues & Meetings		145	145
Landscaping/Beautification			
Maintenance & Repairs	21,633	8,911	(12,722)
Tools & Equipment	<u>500</u>	<u>1,840</u>	<u>1,340</u>
	\$ 272,230	\$ 137,560	\$ (134,670)

Town of Middletown
Statement of Revenue & Expenditures
 General Fund
 Fiscal Year 2017
 For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
<u>PROFESSIONAL SERVICES</u>			
Independent Accounting	\$ 16,000	\$ 9,000	\$ (7,000)
Legal - Development		494	494
Legal - Ordinances	<u>7,796</u>	<u>4,199</u>	<u>(3,597)</u>
	\$ 23,796	\$ 13,693	\$ (10,103)
<u>PLANNING & ZONING</u>			
Salary & Fees	\$ 51,872	\$ 22,484	\$ (29,388)
Other Expenses	<u>3,207</u>	<u>1,894</u>	<u>(1,313)</u>
	\$ 55,079	\$ 24,378	\$ (30,701)
<u>MAIN STREET PROGRAM</u>			
Manager Salary	\$ 43,680	\$ 22,730	\$ (20,950)
Town Contribution	<u>10,000</u>	<u>56,590</u>	<u>46,590</u>
	\$ 53,680	\$ 79,320	\$ 25,640
<u>PUBLIC SAFETY</u>			
Fire Dept. Donation	\$ 20,000		\$ (20,000)
School Crossing Guards	15,758	8,122	(7,636)
Community Deputy Program	<u>401,611</u>	<u>97,950</u>	<u>(303,661)</u>
	\$ 437,369	\$ 106,072	\$ (331,297)
<u>SANITATION & WASTE REMOVAL</u>			
Resident Trash & Yard Waste	\$ 273,888	\$ 131,662	\$ (142,226)
<u>RECREATION AND CULTURE</u>			
Park Salary	34,807	23,926	(10,881)
Park Electric	2,358	727	(1,631)
Maintenance & Repairs	26,450	20,977	(5,473)
Mowing	26,215	15,730	(10,485)
Rensberg Park - Interest	11,320	5,941	(5,379)
Rensberg Park - Principal	<u>112,230</u>	<u>55,833</u>	<u>(56,397)</u>
	\$ 213,380	\$ 123,134	\$ (90,246)

Town of Middletown
Statement of Revenue & Expenditures
 General Fund
 Fiscal Year 2017
 For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
<u>HIGHWAYS AND STREETS</u>			
Salary	\$ 48,841	\$ 34,386	\$ (14,455)
Street Lighting	161,916	52,202	(109,714)
Storm Water Management	7,800	3,677	(4,123)
Snow Removal	75,000	3,558	(71,442)
Repairs & Resurfacing	67,195	88,703	21,508
Signs	6,200	647	(5,553)
Truck Repair & Operation	48,600	14,578	(34,022)
Equipment Repairs & Ops	10,000	5,893	(4,107)
Mowing	32,696	18,432	(14,264)
Interest	60,927	6,685	(54,242)
East Green St - Principal	12,500		(12,500)
West Green St - Principal	65,960		(65,960)
Case Loader - Principal	15,158	14,005	(1,153)
	<u>\$ 612,793</u>	<u>\$ 242,766</u>	<u>\$ (370,027)</u>
<u>OTHER EXPENSES</u>			
MT Historical Society - CIP	\$ 5,000	\$ 5,000	
Donations	100	500	400
Travel - Mileage	4,578	455	(4,123)
Community Events	30,250	20,972	(9,278)
Payroll Taxes	56,578	27,397	(29,181)
Insurance - Property	14,064	6,805	(7,259)
Insurance - Employee	123,164	49,796	(73,368)
Retirement/Pension	75,062	48,328	(26,734)
Web Page & Directory	1,400		(1,400)
Real Estate Taxes	1,242	800	(442)
Bond Issuance Costs			
Other	3,500	2,900	(600)
	<u>\$ 314,938</u>	<u>\$ 162,953</u>	<u>\$ (151,985)</u>
TOTAL EXPENDITURES	\$ 2,634,141	\$ 1,223,471	\$ (1,410,670)
INCOME (LOSS) Exc. Cash Reserves	\$ 396,579	\$ 397,801	\$ 1,222
CASH RESERVES	\$ 936,787	\$ 685,396	\$ (251,391)
SURPLUS / (DEFICIT)	\$ 1,333,366	\$ 1,083,197	\$ (250,169)

Town of Middletown
CIP Funds & Expenditures
 General Fund
 Fiscal Year 2017
 For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
OPERATING REVENUE			
Revenue	\$ 2,987,879	\$ 1,620,651	\$ (1,367,228)
OPERATING EXPENSES			
Expenses	2,634,141	1,223,471	(1,410,670)
OPERATING SURPLUS (LOSS)	\$ 353,738	\$ 397,180	\$ 43,442
<u>OTHER FUND</u>			
POS - Development	\$ 40,500		\$ (40,500)
West Green Street Loan	2,320,500	1,000,000	(1,320,500)
RETAINED EARNINGS	297,275		(297,275)
Interest	2,342	621	(1,721)
Other	32,000		(32,000)
TOTAL OTHER FUNDS	\$ 2,692,617	\$ 1,000,621	\$ (1,691,996)
TOTAL FUNDS AVAILABLE	\$ 3,046,355	\$ 1,397,801	\$ (1,648,554)
<u>CIP PROJECTS & PURCHASES</u>			
West Green St Improvements	\$ 2,253,056	\$ 1,556,803	\$ (696,253)
SHA Streetscape Lighting	175,000		(175,000)
Broad Street Road Construction	40,000		(40,000)
SWM Fence Replacements	34,997		(34,997)
Locust Blvd/Ct Road Construction	415,000		(415,000)
Pedestrian Safety - Franklin St.	85,000		(85,000)
Remsberg Park - Walking Trail an	45,000	13,771	(31,229)
Memorial Park Playground Replace	74,000	77,758	3,758
250th Celebration	58,000		(58,000)
Municipal Center Kitchen	8,000		(8,000)
Municipal Boiler Replacment	30,000		(30,000)
Edco Scarifier Pavement	4,300		(4,300)
Backhoe Replacement	15,200	7,361	(7,839)
Computer Replacements	5,400		(5,400)
Total CIP Costs	\$ 3,242,953	\$ 1,655,693	\$ (1,587,260)
OPERATING & CIP SURPLUS (LOSS)	\$ (196,598)	\$ (257,892)	\$ (61,294)
Cash Reserves	\$ 936,787	\$ 685,396	\$ (251,391)
TOTAL CASH SURPLUS	\$ 740,189	\$ 427,504	\$ (312,685)

Town of Middletown
STATEMENT OF REVENUE and EXPENDITURES
WATER & SEWER
Fiscal Year 2017
For the 6 Months Ended December 31, 2016

	<u>ANNUAL</u> <u>BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER)</u> <u>BUDGET</u>
<u>REVENUE</u>			
Water Revenue	\$ 577,350	\$ 304,786	\$ (272,564)
Sewer Revenue	577,015	299,730	(277,285)
Penalties/Reconnects	21,950	7,785	(14,165)
Rain Barrel Sales	1,000		(1,000)
General Fund Grant/Misc			
TOTAL OPERATING REVENUE	\$ 1,177,315	\$ 612,301	\$ (565,014)
<u>EXPENDITURES</u>			
<u>ADMINISTRATIVE</u>			
Office Salaries	\$ 45,134	\$ 19,602	\$ (25,532)
Communications	11,513	5,998	(5,515)
Postage	9,558	8,012	(1,546)
Office Supplies/Expense	12,600	7,095	(5,505)
Legal - Other	2,000		(2,000)
Meetings & Seminars	500		(500)
Advertising	500	559	59
Uniforms	3,925	1,891	(2,034)
Dues/Subscrip/Certifications	500	40	(460)
Travel	200		(200)
Payroll Taxes	23,600	11,679	(11,921)
Insurance - Prop. & Liability	8,500	4,342	(4,158)
Insurance - Workers Comp	8,718	3,687	(5,031)
Insurance - Health	52,831	17,154	(35,677)
Retirement/Pension	28,448	21,826	(6,622)
Real Estate Taxes	292	292	
Rain Barrel/Educational Programs	2,000		(2,000)
Waterline / I & I Loans	6,908	32,498	25,590
Bond Issuance Costs			
Sub-Total	\$ 217,727	\$ 134,675	\$ (83,052)
<u>Vehicles & Equipment</u>			
2016 Truck (Pearl)	\$ 3,700		\$ (3,700)
2008 Truck (Darner)	3,700	1,280	(2,420)
2012 Truck (Miller)	3,700	1,201	(2,499)
2013 Truck (Whitney)	3,700	343	(3,357)
2015 Meter Van (Hightman)	3,700	1,969	(1,731)
Misc Equipment		83	83
Bobcat Mini-Excavator	1,050		(1,050)
Case Backhoe	6,050	668	(5,382)
Sub-Total	\$ 25,600	\$ 5,544	\$ (20,056)

Town of Middletown
STATEMENT OF REVENUE and EXPENDITURES
WATER & SEWER
Fiscal Year 2017
For the 6 Months Ended December 31, 2016

	ANNUAL BUDGET	YTD ACTUAL	OVER (UNDER) BUDGET
WATER			
Salaries	\$ 139,545	\$ 79,294	\$ (60,251)
Water Distribution System			
Supplies	3,572	870	(2,702)
Repairs & Maintenance	52,450	27,238	(25,212)
Water Line Break Repairs	5,000		(5,000)
Chemicals	500	568	68
Tools & Equipment	3,874	6,577	2,703
Sub-Total	\$ 65,396	\$ 35,253	\$ (30,143)
Water Plant/Reservoir/Booster/Tower/BS Wellhouse			
Electric	\$ 20,150	\$ 43,640	\$ 23,490
Supplies	2,000		(2,000)
Repairs & Maintenance	31,700	12,090	(19,610)
Chemicals	23,943	12,647	(11,296)
Tools & Equipment	2,400	1,407	(993)
Testing & Analysis	12,988	3,443	(9,545)
Sub-Total	\$ 93,181	\$ 73,227	\$ (19,954)
Abandoned Well Costs			
TOTAL WATER EXPENSES	\$ 298,122	\$ 187,774	\$ (110,348)
SEWER			
Salaries	\$ 121,920	\$ 56,646	\$ (65,274)
Sewer Collection System			
Cone Branch PS	18,500	3,742	(14,758)
Brookridge South PS	9,735	909	(8,826)
Foxfield PS	6,500	1,623	(4,877)
Sanitary Sewerlines & Manholes	25,000	2,368	(22,632)
I & I Accrual	75,000	37,500	(37,500)
Sub-Total	\$ 134,735	\$ 46,142	\$ (88,593)

Town of Middletown
STATEMENT OF REVENUE and EXPENDITURES
WATER & SEWER
Fiscal Year 2017
For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
Wastewater Treatment Plants			
East Wastewater Treatment Plant			
Electric	\$ 29,647	\$ 2,107	\$ (27,540)
Supplies	5,802	1,603	(4,199)
Repairs & Maintenance	35,800	1,470	(34,330)
Chemicals	40,844	12,497	(28,347)
Tools & Equipment	5,573	1,020	(4,553)
Testing & Analysis	34,187	13,224	(20,963)
Sludge Hauling Expense	60,000	19,527	(40,473)
Sub-Total	\$ 211,853	\$ 51,448	\$ (160,405)
West Wastewater Treatment Plant			
Electric	\$ 23,084	\$ 1,571	\$ (21,513)
Supplies	2,500	1,322	(1,178)
Repairs & Maintenance	6,050	909	(5,141)
Chemicals	61,258	21,714	(39,544)
Tools & Equipment	1,000	1,671	671
Testing & Analysis	10,459	4,791	(5,668)
Sludge Hauling Expense	22,650	8,625	(14,025)
Sub-Total	\$ 127,001	\$ 40,603	\$ (86,398)
TOTAL SEWER EXPENSES	\$ 595,509	\$ 194,839	\$ (400,670)
TOTAL WATER/SEWER EXPENSES	\$ 1,136,958	\$ 522,832	\$ (614,126)
CONTINGENCY FUND - 3.5%	\$ 39,794	\$ 18,299	\$ (21,494)
ADJUSTED WATER/SEWER EXPENSES	\$ 1,176,752	\$ 541,131	\$ (635,620)
NET INCOME (LOSS)	\$ 563	\$ 71,170	\$ 70,606

Town of Middletown
CIP FUNDS and EXPENDITURES
WATER & SEWER
Fiscal Year 2017
For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
<u>FUNDING SOURCES</u>			
Operating Revenue	\$ 1,177,315	\$ 612,301	\$ (565,014)
Operating Expenses	<u>1,203,662</u>	<u>522,832</u>	<u>(680,830)</u>
OPERATING INCOME (LOSS)	\$ (26,347)	\$ 89,469	\$ 115,816
Cash Reserves	\$ 251,799	\$ 251,799	
Debt Service Fee - New Homes	139,000	70,800	(68,200)
Capital Improvement Fees	149,298	74,607	(74,691)
Inflow & Infiltration - Reserve A	75,000	75,000	
Improvement/Tap Fees	710,000	314,200	(395,800)
Water Tower & Land Leases	192,028	93,653	(98,375)
Main Street Waterline Loan	<u>2,895,000</u>	<u>2,895,000</u>	
TOTAL OTHER REVENUE	\$ 4,412,125	\$ 3,775,059	\$ (637,066)
TOTAL FUNDS AVAILABLE	4,385,778	3,864,528	(521,250)
<u>DEBT SERVICE COSTS</u>			
Principal Payments			
MVB Line of Credit	\$ 200,000		\$ (200,000)
CDA - Water Tower	107,000		(107,000)
MDE - East WWTP	210,349		(210,349)
Main Street Waterline & Reservoir	127,200		(127,200)
Interest - All Loans	<u>217,561</u>	<u>10,886</u>	<u>(206,675)</u>
TOTAL DEBT SERVICE COSTS	\$ 862,110	\$ 10,886	\$ (851,224)
<u>WATER & SEWER PROJECTS</u>			
CIP - Main Street Waterline - Con	\$ 2,895,000	\$ 34,331	\$ (2,860,669)
CIP - Fluoride Systems	8,000	10,157	2,157
CIP - Welll Field Restoration	125,000	3,510	(121,490)
CIP - Scada Control System	310,000		(310,000)
CIP - Booster Station Pump Bypass	25,000		(25,000)
CIP - Fire Hydrant Elm & Washingt	8,000		(8,000)
Water Meter Purchases	65,250	45,252	(19,998)
CIP - West WWTP - Curtain Replace	60,000	12,368	(47,632)
CIP - West WWTP - Chemical Storag	15,000		(15,000)
CIP - East WWTP Bar Screen Refurb	40,000		(40,000)
CIP - East WWTP - Influent Flume	16,000		(16,000)
CIP - Inflow & Infiltration	75,000	11,605	(63,395)
Brookridge PS Vault Magmeter	11,000		(11,000)
Brookridge PS - 3 Phase VFD	25,000		(25,000)

Town of Middletown
CIP FUNDS and EXPENDITURES
WATER & SEWER
Fiscal Year 2017
For the 6 Months Ended December 31, 2016

	<u>ANNUAL BUDGET</u>	<u>YTD ACTUAL</u>	<u>OVER (UNDER) BUDGET</u>
Cone Branch PS - New Pumps	<u>\$ 31,000</u>		<u>\$ (31,000)</u>
TOTAL WATER & SEWER PROJECTS	\$ 3,709,250	\$ 117,223	\$ (3,592,027)
TOTAL CIP COSTS	\$ 4,571,360	\$ 128,109	\$ (4,443,251)
TOTAL FUNDS REMAINING	<u>\$ (185,582)</u>	<u>\$ 3,736,419</u>	<u>\$ 3,922,001</u>

LEASE

THIS LEASE made this 16th day of December 2016, by and between **Middletown Valley Bank**, a financial institution of the state of Maryland, having an address of 24 W. Main Street, Middletown, Maryland 21769 (hereinafter called "Landlord") and **the Burgess and Commissioners of Middletown**, a Maryland municipal corporation, having an address of 31 W. Main Street, Middletown, Maryland 21769 (hereinafter called "Tenant").

WITNESSETH: That for and in consideration of the mutual promises and covenants herein contained, the Landlord and Tenant hereby agree as follows:

1. **LEASED PREMISES:** Landlord hereby leases unto Tenant and Tenant leases from Landlord all that parcel of unimproved land located at 30 West Main Street, Middletown, Maryland, Tax Identification #03-129829, which property was acquired by Landlord by deed dated July 28, 1993 from Anna J. Hoffman, attorney-in-fact for Sarah H. Derr, said deed being recorded among the Land Records of Frederick County, Maryland at Liber 1913, folio 583, EXCLUDING, therefrom, however, all that portion of said land which is currently paved and used for parking vehicles ("the Property"). The Property leased hereunder is depicted generally as that area outlined in red on the attached Exhibit "A".

2. **TERM:** The term of this Lease shall be for a period of ten (10) years commencing on the 1st day of January, 2017, and terminating, of its own terms and without further notice, on the 1st day of January, 2027.

3. **RENT:** Tenant shall not be required to pay, and shall not pay, any rent during the Lease term. Tenant shall, however, pay any and all such real estate taxes and assessments levied annually against the property which may come due during the lease term; provided, however, that such taxes and assessments shall be pro rated for the first and last year of the lease so that Landlord and Tenant shall each pay their respective proportionate shares for those years. Tenant shall

indemnify and hold Landlord harmless against any such taxes or assessments for which Tenant is responsible under the terms of this Lease.

4. **USE OF PROPERTY:** Tenant and Landlord have entered into this Lease with the joint goal of providing park and recreational land to be used by the general public. Therefore, Tenant shall use and occupy the Property solely for the purpose of a public park and recreational area. Tenant shall generally make repairs and maintain the Property in a clean, sanitary and safe condition and to the same degree of quality as it does with its other similar park and recreational areas in the Town of Middletown. Such maintenance shall include, but not be limited to maintenance of landscaping, trees and shrubs, mowing of grass, removal of snow and ice from sidewalks which are on or adjoin the Property, and trash removal.

5. **ADDITIONS AND IMPROVEMENTS:** Tenant shall be entitled to construct and install on the Property such additions, improvements, elements and amenities which are typical to parks and public recreational areas (“Amenities”). Amenities may include, but are not limited to, water fountains, sitting walls, decorative pavers, signs, and areas for public displays of art work and items of historical or cultural significance or interest. The design, construction, installation, repair and maintenance of any and all of the Amenities shall be at the sole cost and expense of Tenant, and Tenant shall indemnify and hold Landlord harmless against any liability for such expenses. Prior to the installation of or alteration to any Amenities, the Town shall submit the plans for such Amenities to the Landlord for review and approval. No Amenities shall be installed or altered without the prior written consent of Landlord, which consent shall not unreasonably be withheld, delayed or conditioned. The installation and maintenance of the Amenities must conform to any and all applicable building code standards, as well as any and all other applicable requirements of the federal, state and local governments. Within ninety (90) days of the expiration of this Lease, Tenant shall remove, at its sole expense, any and all Amenities which were installed on the Property during the term of the Lease.

6. **UTILITIES:** Tenant shall be solely responsible for the payment of all bills, statements or charges for utilities which serve the Property, including but not limited to water,

sewer and electricity. In the event that the Property is not served by any required or desired utility at the commencement of this Lease, then Tenant shall be solely responsible for having the Property connected to such utility service. Landlord, as the owner of the Property, shall cooperate fully with Tenant in any application for connection to such utility services. If the utility service provider requires that the utility account be entered in the name of Landlord as owner of the Property, and Landlord pays such utility bill, statement or invoice, then Tenant shall promptly either pay such bill, statement or invoice or reimburse Landlord for such expense.

7. **QUIET ENJOYMENT:** Tenant shall have the peaceful and quiet use of the demised premises in keeping with the public nature of parks and public recreational areas and without hindrance or interruption by Landlord.

8. **INDEMNIFICATION:** Tenant shall indemnify and hold Landlord harmless from and against any and all claims, actions, damages, liability and expenses, including reasonable attorney=s fees, in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Property, or the occupancy or use by Tenant of the Property or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, servants, employees, assignees, or invitees. In the event that Landlord, without fault on its part, is made a party to any litigation commenced by or against Tenant, then Tenant shall protect and hold Landlord harmless, and shall pay all costs, expenses and reasonable attorney=s fees incurred or paid by the Landlord in connection with such litigation.

9. **INSURANCE:** Tenant shall take such measures as are necessary to have the Property covered under and included in the Tenant=s policy of liability insurance to the same extent as the Tenant covers other municipal property owned or leased by it.

10. **NO PARTNERSHIP:** Nothing contained in this lease shall be deemed or construed to create a partnership or joint venture of or between Landlord and Tenant, or create any other relationship between the parties hereto other than that of Landlord and Tenant.

11. **INSPECTION:** Tenant has inspected the premises and accepts same in ~~As is~~ condition.

12. **ENTIRE AGREEMENT:** This Lease contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained or referred to in this instrument shall have any force or effect. This lease shall not be modified in any way except by a writing subscribed by both parties hereto. The failure of the Landlord or Tenant to insist upon strict performance by the other or any of the covenants or conditions of this lease in any one or more instances shall not be construed as a waiver of relinquishment for the future of any such covenants or conditions, but the same shall be and remain in full force and effect. No waiver of any provision of this Lease shall be deemed to have been made, unless it is in writing and signed by the party to be charged therewith.

13. **BINDING EFFECT OF LEASE:** It is agreed that all rights, remedies and liabilities herein given to or imposed upon either of the parties hereto, shall extend to their respective heirs, executors, administrators, successors and assigns.

14. **ASSIGNMENT:** This Lease may not be assigned, conveyed or transferred by either party without the prior written consent of the other party.

15. **RECORDING SHORT FORM LEASE:** As a lease which term exceeds seven (7) years, this Lease is to be recorded in the Land Records, or alternatively, a Memorandum of Lease may be recorded. Upon request of either party, the other party shall execute any such Memorandum of Lease in a form required by Maryland law.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective duly authorized officers.

{Signatures on following page}

ATTEST:

Dawn R. Woods
Witness

LANDLORD:

MIDDLETOWN VALLEY BANK

By: *Robert Goetz, Jr.* [SEAL]
Robert Goetz, Jr., President
12/19/16
Date

ATTEST:

Andrew J. Bowen
Andrew J. Bowen
Town Administrator

TENANT:

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**

By: *John D. Miller* [SEAL]
John D. Miller, Burgess

Date

BURGESS AND COMMISSIONERS OF MIDDLETOWN MARYLAND

TOWN MEETING MINUTES

REGULAR MEETING

December 12, 2016

The first monthly meeting of the Burgess and Commissioners of Middletown was called to order on December 12, 2016, by Burgess Miller at 7:00 p.m. in the Middletown Municipal Center, 31 W. Main Street, Middletown, Maryland. Present were: Commissioners Larry Bussard, Jennifer Falcinelli, Rick Dietrick, Tom Catania and Christopher Goodman.

CONSENT AGENDA

Financial Statements

2017 Town Board Meetings – 2017 Cancellations, Budget Workshop dates and Joint Meeting dates

Town Meeting Minutes – November 14, 2016

Commissioner Bussard motioned to accept this consent agenda as submitted, seconded by Commissioner Catania and passed unanimously.

Personal Requests for Agenda:

Holiday Decorating Contest Winners – Commissioner Falcinelli announced the Holiday Decorating Contest Winners.

Kids Favorite

1. The Myers Family - 2 Woodmere Cir.
2. The Lynn Family - 620 Glenbrook Dr.
3. The Vance Family - 510 Glenbrook Dr.

Classic Elegance

1. The Latterner Family - 104 Ali Dr.
2. The Propst Family - 206 Layla Dr.
3. The Stottlemeyer Family - 6 Coblenz Ct.

Commercial

- 1 Rhosymedre Design Group Catocin Construction Management - 100 West Main St.
2. Boggs Environmental Consultants - 200 West Main St.
3. The Garden Center - 5 East Main St.

Commissioner Falcinelli presented the Myers Family with their award for winning.

Unfinished Business:

Ordinance 16-10-01 – Amendment to Exemption Standards for Signs on Ball fields and Sports Complexes – Motion by Commissioner Bussard to approve Ordinance 16-10-01 as presented, seconded by Commissioner Goodman. Motion carried 6-0.

Financial Analysis of Proposed Improvement Fee Increase – Drew was asked by Commissioner Catania to prepare this analysis for the Board to see if there was a need for an increase in the Improvement Fee. Drew prepared the analysis with the \$1,000 proposed improvement fee increase, no future annexations, the increase in water/sewer tap fees, future expenses in the water & sewer CIP over the last 10 years. The Board will schedule a public hearing on the Improvement Fee increase at the January meeting.

REPORTS OF COMMITTEES –

WATER & SEWER – Commissioner Falcinelli reported:

Water use for November – 261,000 gal., spring flow for November – 52,000

Well 15 – project is complete. Start-up went well and is running. MDE is scheduled to come out to inspect on Dec. 20th.

No meeting in December.

PUBLIC WORKS – Commissioner Bussard reported:

Trucks are ready for winter, parks are closed, put up Christmas decorations, Locust Blvd. design is almost finished, and Green Street is still underway. They are pouring sidewalk, curb and gutter and plan to blacktop on Wednesday this week.

SUSTAINABILITY – Commissioner Dietrick reported:

Next meeting is January 18, 2017 at 5pm.

PLANNING COMMISSION – Commissioner Catania reported:

Technology MD Network Co. permit application was tabled at the November 2016 meeting.

Medical Cannabis Law – discussion was had and will be handled as any other prescription drugs

Next meeting is December 19, 2016 at 7pm.

PARKS and RECREATION – Commissioner Goodman reported:

Discussion at workshop about free library at the Memorial Park and it was decided that the Town did not want to take on that responsibility.

Tree at Memorial Park was trimmed and looks nice.

No meeting in December.

PUBLIC INFORMATION – Commissioner Falcinelli reported:

Quarterly update information due by December 15, 2016.

Facebook training Tuesday, December 13, 2016 at 4pm.

NEW BUSINESS:

Appointment of Planning Commission Members – Two (2) seats - Burgess Miller stated that we have 2 seats on the Planning Commission open. Burgess Miller is recommending re-appointing Mark Carney and appointing Rich Gallagher to the Planning Commission.

Motion by Commissioner Bussard to re-appoint Mark Carney and appoint Rich Gallagher to the Planning Commission for 5 year terms, seconded by Commissioner Falcinelli. Motion carried (5-1 with Goodman voting against).

Review of Park Fees – Pavilion Rental fee and Wiles Branch Park Dog Park fee – Commissioner Goodman stated that the Parks and Rec. Committee along with Town Staff are recommending that we increase the Park Pavilion Rental fee to the following: In-Town residents currently pay \$40 proposing to increase to \$50 and Out-of-Town residents currently pay \$50 proposing to increase to \$60.

Wiles Branch Dog Park fees – staff is proposing that we decrease the fees for the dog park. The reason is to try and bring in more people by doing that. Staff proposed to decrease the fees for out-of-town residents to \$30. After some discussion the Board decided to decrease both the in-town resident fee and the out-of-town resident fee for the Dog Park.

Motion by Commissioner Goodman to increase the Pavilion Rental fee for In-Town residents to \$50 and Out-of-Town residents to \$60 beginning January 2, 2017 and to decrease the Wiles Branch Dog Park fees for In-Town residents to \$20 and Out-of-Town residents to \$25 beginning July 1, 2017, seconded by Commissioner Catania. Motion carried 6-0.

PUBLIC COMMENT:

Commissioner Falcinelli thanked the Town Staff for all their work with Christmas in the Valley.

ANNOUNCEMENTS:

*Planning Commission Seat Coming Up for Appointment
Town Offices Closing at 11am.on December 23, 2016
Town Office Closed December 26, 2016.
Town Meeting for December 26, 2016 - cancelled*

ADJOURNMENT

Meeting adjourned at 7:55pm.

Respectfully submitted,

Ann Griffin
Office Manager

DRAFT

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 1/3/2017

RE: Monthly Planning Update - January

Major Subdivisions:

Middletown Glen - Master Plan Amendment approved - March 11, 2013

Preliminary plans signed – May 29, 2013

Improvement plans conditionally approved – October 16, 2013

Final FRO Plan approved – April 21, 2014

Final Plats conditionally approved – November 17, 2014

Plats 1 & 2 recorded at Courthouse – May 17, 2016

Site Plans, Plats and Minor Subdivisions:

Cross Stone Commons – BOA Special Exception Use Hearing – May 8, 2013

Final FRO Plan approved – May 19, 2014

Revised Site Plan conditionally approved – October 20, 2014

Phase 1 Improvement Plans conditionally approved – October 20, 2014

Phase 2 Improvement Plans conditionally approved – March 16, 2015 (Plans expire 3/16/2018)

Building permit for Building #3 applied for – June 24, 2016

Plat of Correction recorded at Courthouse – November 8, 2016

East Green Street - Addition plat submitted for review and approval – December 20, 2016

Fire Station – Fire Station plat conditionally approved – October 16, 2013

BOA approved height variance request - October 20, 2016

Revised Site Plan conditionally approved – October 17, 2016 (Plans expire 10/17/19)

Demolition plans conditionally approved – December 19, 2016

Improvement Plans conditionally approved – December 19, 2016

Franklin Commons/Chesterbrook Phase 2 - Site Plan approved – July 17, 2006

Improvement Plans approved and signed – September 16, 2008

Phase 2 Site Plan conditionally approved – January 19, 2015 (Plans expire 1/19/2018)

Phase 2 FRO plan conditionally approved – January 19, 2015

Phase 2 Improvement Plans conditionally approved – Sept. 21, 2015 (Plans expire 9/21/2018)

Mylars signed – January 4, 2016

Caroline's View/Horman Apartments- Site Plan approved – April 21, 2008

Improvement Plans conditionally approved – May 17, 2010

Currently approved SWM plans remain valid until May 4, 2017

Mylars signed – September 11, 2015

Letter sent out to property owner – August 25, 2016

Jiffas – Site Improvement Plan conditionally approved – October 20, 2008
Forest Conservation Plan approved – October 20, 2008
Architectural plans approved by PC – March 16, 2015
BOA hearing for variance requests (approval received) – March 29, 2016
SWM plans submitted to SCD and Frederick County – December 5, 2016

Miller (Ingalls) – Concept and Phase I & II Plan approved & signed – September 27, 2010
Revised Concept Plan reviewed by PC – September 16, 2013
Site plan conditionally approved by PC – July 20, 2015 (Plans expire July 20, 2018)

Nicholson - Final Plat submitted for review – March 2, 2015
Subdivision plat conditionally approved by PC – June 20, 2016
Plat recorded at the courthouse – December 29, 2016

Richland Driving Range – Concept plan reviewed by PC – January 18, 2016
Site Plan reviewed by PC – May 16, 2016
Revised Site Plan conditionally approved by PC – June 20, 2016 (Plans expire June 20, 2019)

School complex – PC reviewed plans for comment to Town Board – June 20, 2016

Technology MD Network Company permit application – tabled by PC on November 21, 2016

Annexations:

A.C. Jets Property- PC approval of annexation petition of 35.96 acres – December 21, 2009
Public hearing date - Monday, October 11, 2010
Annexation petition denied by Town Board – October 11, 2010

Text Amendments: Outdoor lighting regulations – recommendation by PC to Town Board

Reports:

Meetings: Next Middletown Green Team Meeting – January 18, 2017

Next Joint town board/planning commission workshop – February 6, 2017

Town of Middletown Planning Department

To: Burgess & Commissioners and Planning Commission members

From: Cindy Unangst, Staff Planner

Date: 1/3/2017

RE: Tracking of Past Plan Approvals

Jiffas – Site Improvement Plan conditionally approved for commercial building – October 20, 2008
Architectural plans for duplex approved by PC – March 16, 2105
BOA hearing for variance requests for duplex (approval received) – March 29, 2016
Next step – continue application process for duplex building permit including necessary approvals by the County for stormwater management and PWAs

Horman Apartments- Site Plan approved – April 21, 2008
Improvement Plans conditionally approved – May 17, 2010
Currently approved SWM plans remain valid until May 4, 2017
Mylars signed – September 11, 2015
Next step – submit PWAs and apply for building and grading permits (see note above in red)

Sunset Provisions text amendment approved by the Town Board – Effective November 14, 2010

Middletown Glen - Master Plan Amendment approved - March 11, 2013
Planning Commission conditionally approved preliminary plan – March 18, 2013
Improvement plans conditionally approved – October 16, 2013
Final Plats conditionally approved – November 17, 2014
Plats 1 and 2 recorded – May 17, 2016
Next step – record additional final plats

Fire Station – Concept plan submitted to PC for comments – April 22, 2013
BOA approved height variance request - October 20, 2016
Revised Site Plan conditionally approved – October 17, 2016 (Plans expire 10/17/19)
Improvement Plans conditionally approved – December 19, 2016
Next step – submit PWAs and apply for building and grading permits

Cross Stone Commons – BOA Special Exception Use Hearing – May 8, 2013
Revised Site Plan conditionally approved – October 20, 2014 (Plans expire Oct. 20, 2017)
Phase 1 Improvement Plans conditionally approved – October 20, 2014 (Plans expire 10/20/17)
Phase 2 Improvement Plans conditionally approved – March 16, 2015 (Plans expire 3/16/2018)
Next step – submit architectural renderings for buildings #2 and 4 for review/approval

Franklin Commons/Chesterbrook Apts- Site Plan approved – July 17, 2006
Improvement Plans approved and signed – September 16, 2008
Phase 2 Site Plan conditionally approved – January 19, 2015 (Plans expire 1/19/2018)
Phase 2 Improvement Plans conditionally approved – Sept. 21, 2015 (Plans expire 9/21/18)
Mylars signed – January 4, 2016
Next step – submit PWAs and apply for building and grading permits

Miller (Ingalls) – Revised Concept Plan reviewed by PC – September 16, 2013

Site Plan conditionally approved by PC – July 20, 2015 (Plans expire July 20, 2018)

Next step – submit improvement plans for review/approval

Richland Driving Range – Concept plan reviewed by PC – January 18, 2016

Site Plan reviewed by PC – May 16, 2016

Revised Site Plan conditionally approved by PC – June 20, 2016 (Plans expire June 20, 2019)

Next step – submit improvement plans for review/approval



TO: Burgess and Commissioners
FROM: Becky Reich, Main Street Middletown Manager
RE: January 5, 2017 Workshop
DATE: January 5, 2017

Promotions Committee:

- For Christmas in the Valley, we handed out 300 Santa Sacks and received feedback from several business owners that the event brought in sales than previous events. An added feature to the event was the Middletown Branch of the Frederick Library volunteered to have Mrs. Claus do an hourly reading. Main Street also provided maps keyed with the activities taking place at each location. We heard positive feedback from attendees and businesses that the map was very helpful, much more so than a list, or poster at our table. The overall assessment is that even though the street may not feel crowded during the two hours leading up to Santa's visit, the businesses are full to the brim!
- Promotions Committee is meeting on Tuesday, January 3 with members from the 250th Committee to talk about all of the steps we are taking to market the 250th events. We have a marketing plan which uses the Valley Citizen for articles, a monthly ad, and an extensive Facebook campaign, the use of Constant Contact that ties the businesses directly and helps them promote the event on their Facebook pages, and to our county and regional partners such as Frederick County Tourism Council, the Heart of the Civil War Heritage Area, the Journey Through Hallowed Ground, the Frederick County Office of Economic Development, Maryland Main Street, and Maryland Office of Tourism.
- Promotions Committee has reviewed the new ad that will be featured on a 2-page spread with the other Frederick County Main Streets that will be in the annual Visit Frederick magazine. This year, we are focusing on the 250th.
- Main Street wishes to thank the Burgess and Commissioners for sponsoring a workshop for us to gain more insight on advertising with Facebook. In the summer of 2016, we had 1600 people who have liked our page. With concentrated efforts and creating a calendar, we have upped the followers to just shy of 1900. We anticipate this growing even more over the next year.
- Main Street Middletown will be expanding our promotions over the course of 2017 as we start to receive funds from the increased Hotel Tax through the Frederick Tourism Council. The Main Street president, treasurer, and manager are working closely with the Burgess to formulate budgets and promotional products.

Design Committee:

- Members of the Design Committee are working on the 250th Walking Tour, and the project is on time and on schedule.
- Main Street Middletown has secured grant funding for \$15,000 to start a Façade Improvement Program. The Main Street Design Committee meets on the second Thursday of the month and we will be putting final review comments on our program, so as soon as we get the contracts from the State, our program will be ready to proceed.
- We are still waiting to hear from the Maryland Historical Trust if the Main Street Design book will be recognized as a Best of 2016. The deadline to submit materials was extended, but we still anticipate hearing results in January.

- Main Street Manager worked with the Town and submitted a grant for the purchase of decorative street poles for the SHA Streetscape project. The purchase of more decorative street poles has been a goal of the Main Street design committee so we are pleased to state that we were awarded \$50,000 for this purpose.

Economic Development Committee:

- Main Street Middletown secured grant funding from the Small Business Development Association for \$9900 through the DHCD Technical Assistance Grant. This funding will allow us to retain consultants to provide individual counseling to our Main Street businesses in preparation of the SHA Streetscape project. The SBDC will also provide quarterly workshops focusing on areas such as marketing, inventory, customer outreach, etc during construction.

Main Street Green Committee:

- Main Street obtained a grant for \$7490 to purchase planters to visually enhance the Main Street District. We will work with the Town's Green Team for a planting day in the late spring.

Organization Committee:

- The Organization Committee is in charge of recruiting volunteers for Main Street. We will be taking steps this year to increase volunteers for Main Street events.
- The Organization Committee will be carefully watching the Main Street budgeting process in the next few months. We are excited about the increased hotel tax and what that will mean for our ability to promote Middletown.

250th Updates:

- The walking tour project is proceeding on time and we are very excited about the way in which we want to address the significant structures in Town. If you love history, or architecture, like many of us do, it is hard to draw the line and just focus on 15 or so buildings. We are going to talk about specific areas of town and highlight the significant buildings in those areas instead of just focusing on the downtown. For the walking tour that will go onto the website, we will have the ability to talk about more of the structures specifically.
- We have a meeting scheduled with the consultants to review this historic information that has been collected to date to begin the writing process of the interpretative materials in the upstairs meeting room
- Please attend the Town Talks in January on the Tuesday, January 17th to hear about our local government at Town Hall at 6:30 for refreshments, program begins at 7:00pm.
- Please attend the Town Talks in February on February 12th at 100-104 West Main Street. Program begins at 1:00pm

Grants and Other End of Year News/Statistics:

- In 2016, Main Street Middletown put in over 1800-hours of volunteer efforts! The State of Maryland counts the value of a volunteer hour at \$23/hour; this means approximately \$41,400 dollars of valuable volunteer time was donated into the community through the Main Street program.
- Main Street Middletown also secured approximately \$95,000 in grant funding this year through the Heritage Area Grants, TRIPP Grants, DHCD Community Legacy, DHCD Main Street Improvement Funds, and DHCD Technical Assistance Grants.

Thank you for Supporting Main Street Middletown and we look forward to an Exciting 2017 with the 250th Commemoration Events and Festivities!

Town of Middletown Zoning Report

To: Burgess and Commissioners

From: Ron Forrester, Zoning Administrator

Date: 1/5/17

RE: Monthly Zoning Update – December 2016

Board of Appeals (BoA) Meeting: No Board of Appeals meeting in December 2016.

Zoning Violations:

(1) Signage issues at Middletown High School (MHS). 200 School House Drive. Zoning Administrator sent violation letter on April 27, 2016 to Executive Director of Facilities for the Frederick County Public School noting unauthorized signs at and near the MHS football/track facility. Two freestanding commercial signs (one sign was for DARCARS of Frederick) were noted. Temporary Commercial signs are not permitted in any district in Middletown in accordance with Section 17.36.150A of the municipal code and should be removed. Subsequent site visits have noted that the two free standing “business” signs are still on the property in violation of the municipal code. Open.

(2) Unregistered/inoperable motor vehicles parked in driveway. 5 Young Branch Drive. Home owner sent a zoning violation letter on June 10, 2016 for having two unregistered motor vehicles parked in driveway of residential property. Motor vehicles were not screened from adjoining properties in accordance with Section 17.16.060 of the Middletown Municipal Code. A second zoning violation letter (certified letter) was sent to homeowner on July 25, 2016. This is the third time over the last two and one-half years that this homeowner has been cited for parking/storing unregistered/inoperative motor vehicle in the driveway of his residential property. Certified letter sent July 25, 2016 never picked-up by homeowners. Violation letter returned to town office undelivered. Site visit on August 24, 2016 noted that unregistered/inoperative vehicle still parked in driveway. I discussed this violation with wife of property owner and she said that they had not received notification letters. I gave her my business card and reiterated that the inoperative/unregistered vehicle parked on driveway was a violation of municipal code and needed to be resolved. A third zoning ordinance violation notification letter was sent on September 8, 2016 and a violation notice was posted to the front door of the house along with another copy of the violation letter. The son of property owner called and said the Subaru Impresa parked in the driveway was registered and had license tags on it. I visited property and took a picture of vehicle. I requested from the town administrator that the registration be verified. The town deputies determined that the tags on the Subaru Impresa in the driveway were actually tags from a Subaru Outback wagon. *I'm continuing to work with and coordinate with town administrator to identify registration status of vehicles parked in driveway or on Young Branch Drive in front of residence before taken additional actions as needed.* Open.

(3) Unregistered/inoperative vehicles parked in driveway. 605 East Main Street. A zoning violation letter was sent to property owner on September 16, 2016 for having at least one and maybe two unregistered/inoperative motor vehicles parked in driveway that were not screened from adjoining properties in accordance with Section 17.32.060(J)(2) of the Middletown Municipal Code. Site visit on December 19, 2016 determined that unregistered vehicle was no longer parked in driveway in front of two car garage. Closed.

(4) Fence constructed on property without owner/contractor applying for and receiving a zoning certificate. 4 Manda Court. Property owner sent zoning ordinance violation notification warning letter on November 14, 2016 for having a contractor (Ritter Fence) install a fence in rear and side yards of property without applying for and receiving an approved zoning certificate in accordance with Sections 17.08.030 and 17.32.170 of municipal code. Owner has not applied for zoning certification. Property owner sent second zoning ordinance violation warning letter (certified mail) on December 15, 2016 requesting property owner submit a zoning certificate for fence installed on property without a zoning certificate being issued or be subject to a citation and monetary fine for the continued zoning violation cited in the two zoning ordinance violation warning letters sent to property owner. Zoning Certificate submitted and approved for fence installation on December 21, 2016. Closed.

(5) Car Parked on Grass/Junk Yard. 128 East Main Street. A zoning ordinance violation notification letter was sent to property owners on November 16, 2016 for parking motor vehicle on grass area in front yard of property (corner lot) and for having excessive items discarded/stored in rear yard of property that constitutes property being used as a junk yard in accordance with Sections 17.32.040 and 17.32.060(J)(3) of municipal code. Owner called zoning administrator and left message that they are working to address / correct the zoning issues outlined in the violation notification warning letter. Site visit noted that motor vehicle no longer parked on grassy surface in front yard of property. Excessive items still discarded/stored in rear yard of property. Open.

(6) Yard Sale and other zoning ordinance violation. 705 East Main Street. A zoning ordinance violation notification letter was sent to property owner on November 28, 2016 for multiple zoning ordinance violations. Violations included conducting a yard sale (flea market) for two plus weeks in violation of Section 17.32.120; parking two motor vehicle on grass area in front yard of property in violation of Section 17.32.060(J)(3); parking a utility trailer (recreational equipment) in front yard of property in violation of Section 17.32.140; and for having excessive items discarded/stored in front yard of property that constitutes property being used as a junk yard in violation of Section 17.32.040 of municipal code. Subsequent site visits determined that all sale items, motor vehicles and recreational equipment were removed from property; and that zoning violations cited in zoning ordinance violation warning letter were corrected. Closed.

(7) Box truck (restricted vehicle) parked in rear yard of residentially zoned property. 330 South Jefferson Street. A zoning ordinance violation notification warning letter was sent to property owner on December 9, 2016 for a box truck (restricted vehicle) parked on grass in rear yard of residential property. It was also noted during a site visit that there were two storage sheds installed on the property and that an approved zoning certificate was not on file for either shed. Additionally it was reported to the town office by a neighbor that the owner *might* be selling firewood from his property. The owner met with the zoning administrator on December 14, 2016 on these matters. The owner said he is not selling firewood from his residential property and submitted a zoning certificate for the one shed he installed on the property and did not think he needed a zoning certificate. He requested and it was granted that he had until January 10, 2017 to have the box truck removed from his property. Open.

(8) C-container (Right A Way Powder Coating) not modified in accordance with approved change of use / change of tenant site plan. 116 North Church Street. Property owner (AJTA Properties LLC) sent zoning ordinance violation notification warning letter on December 12, 2016 for tenant of warehouse property leased from owner. It was noted that the C-container which is used/located outside the warehouse building by Right A Way Powder Coating has not been modified with a roof and siding that matches the warehouse building; one of the conditions for approval of the site plan by the Middletown Planning Commission in their June 18, 2013 letter. Therefore, the C-container is not in compliance with one of the conditions stipulated in the Planning Commission's June 18, 2013 conditional approval letter. This is a municipal violation/infraction. Additionally, Section 17.32.045D – Storage and disposal containers – of the municipal code states that “*any storage or disposal container...shall be permitted to remain in the same location on the property or premise for a period of*”

three years....Thereafter, such storage container or disposal container shall be removed or otherwise conform to the requirements of this section, and failure to do so constitute a violation of this section.” Open.

(9) Demolition of garage building without prior approval by Middletown Planning Commission – a municipal infraction (Citation and Fine) – Zion Lutheran Church, 107 West Main Street. Owner presented a citation and fine letter by Zoning Administrator on December 16, 2016 for contracting to have building demolished and, in fact, for allowing the contractor to demolish the building before the property owner submitted zoning certificate and demolition supporting paperwork to Middletown Planning Commission for their review and approval. The fine was paid in full on December 19, 2016. Closed.

Miscellaneous Zoning Issues: None.

December 2016 Zoning Certificates - completed	Address	Permit #	M-town Received ZC	RForrester Approved	County Approval
Middletown Commons Holdings, LLC (<i>Middletown Glen</i>) (contractor: Ashton Manor Environmental) – install Mini Shelters & <u>cluster box mail units (location #1)</u> – reference permit number 149494.	36 East Green Street	151723	11/18/16	12/1/16	yes
Middletown Commons Holdings, LLC (<i>Middletown Glen</i>) (contractor: Ashton Manor Environmental) – install Mini Shelters & <u>cluster box mail units (location #3)</u> – reference permit number 149494	36 East Green Street	151724	11/18/16	12/1/16	yes
John Stuart – install a ten (10) foot by fourteen (14) foot storage shed in rear yard of property.	7 Gladhill Drive	Town	11/21/16	12/5/16	no
Kris Baker – install 10’ x 15’ shed in rear yard of property.	330 South Jefferson Street	Town	12/14/16	12/14/16	no
Middletown Valley Fire Company (Frederick County DPW) – demolition permit for existing pavilion on site for new fire station. Middletown Planning Commission conditionally approved demolition plan on December 19, 2016. Cross reference permit #152165.	401 Franklin St	152845	12/15/16	12/20/16	yes

December 2016 Zoning Certificates – completed (continued)	Address	Permit #	M-town Received ZC	RForrester Approved	County Approval
Sandra Robb – master bathroom remodeling. Cross reference permit #136976	1 Stine Court	152927	12/16/16	12/20/16	yes
Middletown Commons Holdings, LLC (<i>Middletown Glen</i>) – new single family home (Lot 27); Ryan Homes.	100 Ingalls Drive	151585	11/10/16	11/30/16 <u>12/21/16</u>	yes
Middletown Commons Holdings, LLC (<i>Middletown Glen</i>) – new single family home (Lot 28); Ryan Homes	102 Ingalls Drive	151592	11/10/16	11/30/16 <u>12/20/16</u>	yes
Kyle & Dina Purdy – installation of 336’ of five (5) foot tall wooden picket fence with Mt. Vernon dip on side and rear yards just inside property line.	4 Manda Court	Town	12/21/16	12/21/16	no
Burgess and Commissioners of Middletown – construct a 27’ x 27’ pavilion & picnic tables at Wiles Branch Park.	700 Knoll Side Place	150571	7/13/16	11/9/16	yes

Zoning Certificate submitted– in progress	Address	Permit #	M-town Received ZC	RForrester Approved	County Approval
Frederick County Department of Engineering & Construction Mgmt. Construction of new fire station (ADTEK Engineers)	401 Franklin Street	152165	11/29/16		yes
Bluestream Professional Services (Town of Middletown Water Tower). Add three (3) panel antennas to existing Sprint telecommunications pad.	201 High Street		12/16/16		yes
Anthony & Karla Tropea – construct 20’ x 20’ & 18’ x 9’ deck on rear of residential structure with stairs to grade. (Elam Contracting).	17 Hoffman Drive		12/20/16		yes

Zoning Certificate submitted -- actions pending and/or suspended	Address	Permit #	M-town Received ZC	RForrester Approved	County Approval
Amir Bhat – install fire place and gas line from 100 gallon propane tank after tank is installed.	19 Young Branch Drive		2/2/16		yes
Dennis Jiffas – construction of two-unit townhouse structure on corner lot. (Variance of 22' from front yard setback on Summers Drive approved by BoA on 3/29/16).	406 West Green Street		3/29/16		yes
Angel Nerona – installation of thirty-nine (39) roof-mounted solar panels by SolarCity Corporation.	13 Wagon Shed Lane		6/21/16		yes
Bill Heaton – install an eighteen (18) feet round above ground swimming pool in rear yard. Pool will be four (4) feet tall.	703 East Main Street		8/8/16		yes
Timothy Warner – installation of twenty-eight (28) roof-mounted solar panels by SolarCity Corporation.	212 Layla Drive		8/12/16		yes
James P. Malecki, Jr. – install propane gas logs in existing masonry fire place. Gas line on outside of house to be extended to provide gas to log insert.	8 Caroline Drive		10/18/16		yes



MEMORANDUM

DATE: January 4, 2017

TO: Burgess and Commissioners

FROM: Andrew J. Bowen, Town Administrator

SUBJECT: Installation of Fluoride – Brookridge WTP & Well #15

ISSUE

Should the Burgess and Commissioners proceed with installation of fluoride injection system at the Brookridge WTP and Well #15, with the substantial increase in cost?

BACKGROUND

With the construction of two additional water treatment facilities; Well #15 in 2006 and the Brookridge WTP in 2008, fluoride injection was not included in the design of either of these facilities. Fluoride is only provided at the reservoir, which is the primary source of water for the Town.

In 2015, the Town tested levels of fluoride throughout the water distribution system and determined that some sections of Town, specifically Brookridge South and Glenbrook have fluoride levels below the recommended EPA standards for the benefits of fluoride. The Town Board made a decision to have fluoride injection added to both of the new facilities and budgeted \$60,000 in the 2017 CIP. In addition, letters were sent to the affected residents informing them of the Town's plans to add the fluoride injection systems by January 2017.

With the installation of the Iron and Manganese Removal System equipment at Well #15, there is not enough physical room in the building to add a fluoride injection system. The building will have to be enlarged to accommodate a fluoride system. The preliminary cost estimate is \$30,000 to construct an addition. There is room available for the fluoride injection system at the Brookridge WTP and this project can proceed immediately.

RECOMMENDATION

Staff would recommend the Town Board give serious consideration to the substantial capital cost for providing fluoride to resident's (\$90,000), which is only a benefit to a specific segment of the population, when fluoride is available through many other sources. If the Town Board decides to move forward with installation of fluoride systems at these two facilities, \$30,000 of additional funding will need to be approved.

ATTACHMENTS

Approve CIP
Letter to Residents

Town of Middletown
Water Sewer Fund
Capital Improvement Program



Burgess and Commissioners of Middletown
Water & Sewer Capital Improvement Program
FY 2017 - FY 2021

INCOME	FY '17	FY '18	FY '19	FY '20	FY '21
CASH Reserves	\$251,799	\$22,658	\$62,512	\$300,363	\$202,451
DEBT SERVICE FEE - NEW HOMES	\$139,000	\$141,400	\$148,500	\$157,200	\$164,100
CAPITAL IMPROVEMENT FEE	\$149,298	\$159,132	\$168,966	\$178,800	\$178,800
Inflow & Infiltration - Reserve Account	\$75,000	\$420,000			
Land Leases	\$192,028	\$199,709	\$207,697	\$216,005	\$224,646
Tap Fees (See Growth Projections)	\$710,000	\$609,000	\$483,000	\$84,000	\$20,000
Main Street Waterline Loan	\$2,895,000	\$965,000			
Reservoir Cover Loan		\$819,500			
Total Revenue	\$4,412,125	\$3,336,399	\$1,070,675	\$936,368	\$789,996
Debt Service					
WATER STORAGE TANK LOAN	\$111,820				
EAST WWTP LOAN	\$241,265	\$241,265	\$241,265	\$239,265	
MAIN STREET WATERLINE LOAN	\$252,462	\$250,184	\$250,294	\$250,899	\$252,399
RESERVOIR LOAN	\$56,670	\$56,578	\$56,754	\$56,754	\$56,725
DEVELOPMENT PROJECTS					
Brookridge WTP (Loan Payments)	\$200,000	\$201,361			
Outstanding Balance - \$401,361.82					
Total Debt Service	\$862,217	\$749,388	\$548,313	\$546,918	\$309,124
Net Income	\$3,549,908	\$2,587,012	\$522,363	\$389,451	\$480,872
Projects					
SYSTEM UPGRADE PROJECTS					
WATER SYSTEM					
Main Street Waterline Program	\$2,895,000	\$965,000			
Reservoir - Dual Feed Cover/Liner Replacement/Road Rebuild		\$819,500			
Fluoride Systems - Well #15/#16 & Brookridge WTP	\$60,000				
Stream Erosion - Well Field Restoration	\$125,000				
Scada Control System	\$76,000	\$50,000	\$25,000		
Booster Station - Replace Starters with VFD's		\$125,000			
Booster Station - Pump Bypass Connections	\$25,000				
Booster Station - Process Piping Replacement			\$40,000		
Booster Station - Roof Replacement/Building Painting		\$5,000			
Fire Hydrant Install - Elm & Washington Street	\$8,000				
Water Meter Replacements	\$65,250	\$60,000	\$57,000	\$57,000	\$55,000
Springline Replacement - US 40 to Reservoir (Expected 2025)			\$100,000	\$100,000	\$100,000
WASTEWATER SYSTEM					
West WWTP - Curtain Replacement	\$60,000				
West WWTP - New Chemical Storage Structure	\$15,000				
West WWTP - Influent Meter Replacement		\$15,000			
West WWTP - Roof Replacement				\$30,000	
East WWTP - Bar Screen Refurbishment	\$40,000				
East WWTP - Influent Flume & Ultrasonic Meter	\$16,000				
East WWTP - Sludge Mag Meter		\$15,000			
Vactor Trailer & Excavator		\$50,000			
Inflow & Infiltration	\$75,000	\$420,000			
Brookridge PS Vault Magmeter & Cabinet	\$11,000				
Brookridge PS - 3 Phase VFD and New Pump Installation	\$25,000				
Cone Branch PS - New Pumps	\$31,000				
Total Projects	\$3,527,250	\$2,524,500	\$222,000	\$187,000	\$155,000
Surplus / Deficit	\$22,658	\$62,512	\$300,363	\$202,451	\$325,872

October 28, 2015

RE: FLUORIDE LEVELS IN DRINKING WATER

Dear Property Owner:

The Town of Middletown provides you with drinking water and over the past 20 years, we have made a number of improvements to the water distribution system. These include the development of new water sources and water plants to provide you with water. One of the chemicals we add to our water system is fluoride.

Fluoride is voluntarily added to community drinking water systems as a public health measure for reducing the incidence of cavities among the treated population. The decision to fluoridate a water supply is made by the local municipality, and is not mandated by the State of Maryland, U.S. EPA or any other Federal entity.

In 2015 the U.S. Public Health Service (PHS) provided updated recommendations about the optimal levels of fluoride in drinking water in order to prevent tooth decay. For community water systems that add fluoride to their water, PHS recommends a fluoride concentration of 0.7 mg/L (parts per million [ppm]) to maintain caries prevention benefits and reduce the risk of dental fluorosis. The full 2015 PHS report can be found at http://www.publichealthreports.org/documents/PHS_2015_Fluoride_Guidelines.pdf.

We have recently completed our periodic testing of the water system and determined that the amount of fluoride your home is receiving is **below** the PHS recommendation (0.7 mg/l) for the benefits of fluoride. The reason is that only the largest water plant (of the Town's three water plants) adds fluoride into the Town water distribution system. I have attached a map of the most recent fluoride testing results throughout the Town. This information can also be found on the Town website at www.middletown.md.us.

Based on these results, the Town will be adding fluoride to the two newer water treatment facilities. The construction of these systems will be completed by January 2017. The purpose of this letter is to bring to your attention the current levels of fluoride in the Town's drinking water supply so you can decide what, if any action, you may want to take to provide additional fluoride to your family. If you have concerns please do not hesitate to contact the Town Office or your dentist for more information. Or you can go to the following link on the Maryland Department of Health and Mental Hygiene website for information about community water fluoride

[\[http://phpa.dhmh.maryland.gov/oralhealth/SitePages/community-water.aspx\]](http://phpa.dhmh.maryland.gov/oralhealth/SitePages/community-water.aspx)

Sincerely,
Burgess and Commissioners
Middletown, Maryland

Andrew J. Bowen
Town Administrator

CC: File



MEMORANDUM

DATE: January 4, 2017

TO: Burgess and Commissioners

FROM: Andrew J. Bowen, Town Administrator

SUBJECT: Locust Blvd & Court Reconstruction – Storm Drain

ISSUE

Should the Burgess and Commissioners replace the existing storm drain on private property as part of the Locust Blvd & Court Reconstruction Project?

BACKGROUND

The Woodmere subdivision was built in the late 1960's. The neighborhood has very limited storm drainage throughout the entire subdivision. The existing storm drain on Locust Boulevard discharges onto private property. At some time in the past, the property owners installed a storm drain on their property to convey the storm water to the edge of their property. The storm drain is in poor condition and in need of repair.

The Town does not have any easement for this storm drain running through the private property and was not involved with its construction. It does convey storm water from the street via "Common Law Drainage".



RECOMMENDATION

Staff would recommend that the replacement of this storm drain on private property not be included in the Locust Blvd & Court Reconstruction Project since the Town does not have any legal right to be on private property.

ATTACHMENTS

None



MEMORANDUM

DATE: January 4, 2017
TO: Burgess and Commissioners
FROM: Andrew J. Bowen, Town Administrator
SUBJECT: Lease for Wide Format Color Digital Imaging System

ISSUE

Should the Burgess and Commissioners sign a lease for a Wide Format Color Digital Imaging System for the Town?

BACKGROUND

The Town staff does not have the ability to print anything larger than 11" X 17" for maps from our GIS system. We also do not have the ability to make copies of construction plans which requires staff to leave the office and pay Copyquik or other type of company to make copies.

This digital imaging system will allow the Town to scan in all of our as-builts for subdivisions and construction projects to allow a digital copy that can be saved on our backup systems.

RECOMMENDATION

Staff would recommend executing a 63 month lease for the Wide Format Color Digital Imaging System at a cost of \$219/month. An additional \$300/month was included in the FY2017 General Fund Operating Budget for General/Administrative Service – Supplies & Expenses

ATTACHMENTS

Proposal from Centric
General Fund Operating Budget 2017



PRESENTATION FOR

Burgess & Commissioners of Middletown, MD

November 22, 2016

PROPOSED BY

Brian Merson | Major Account Executive



Proposed Solution



Ricoh MP CW2201 Wide Format Color Digital Imaging System

Includes:

- Full Color Copy / Print / Scan
- Print Speed: 3.8 PPM (D-Size) B&W; 2.1 PPM Color
- Scan Speed: 3.4 IPS B&W; 1.05 IPS Full Color
- Scan-to-email, Scan-to-folder, Scan-to-FTP, Scan-to-HDD
- Scan-to or Print from a USB Drive or SD Card Directly at the Device
- 36" (max) Paper Roll Feeder w/ Single Sheet Bypass
- Cutting Method: Synchronized, Preset Cut, Variable Cut
- 1200 x 1200 dpi Print Resolution; 600 x 600 dpi Copy and Scan Resolution
- 4GB RAM; 320GB HDD w/ Standard HDD Encrypt/Overwrite
- 10.1" Super VGA Smart Operation Panel Provides Tablet-Like Operation
- Document Server (stores up to 3,000 documents)
- Wide File Format Support, Including RP-GL/GL2 and RTIFF



Proposed Financials

U.S. Communities Pricing		
Ricoh MP CW2201 Wide Format Color Digital Imaging System		
Acquisition Option	Total Cost	Service/Supply Agreement
63 Month FMV Lease	\$219.00/Month <i>Plus Applicable Taxes</i>	Included in Monthly Payment
36 Month FMV Lease	\$310.00/Month <i>Plus Applicable Taxes</i>	Included in Monthly Payment
Purchase Option	\$8,898.00 <i>Plus Sales Tax</i>	\$50.00 / Month
<ul style="list-style-type: none">• <i>Above Pricing Includes 1 ea.: Black, Cyan, Magenta and Yellow Replacement Cartridges</i>• <i>Above Pricing Includes Additional Media Roll Holder</i>		
Monthly Parts and Labor Maintenance Agreement <ul style="list-style-type: none">• Includes 1,000 Sq. Ft./Month (166 D-Size Drawings)– overages billed quarterly @ \$0.025 per Sq. Ft.• Ink Cartridges and Print Heads sold separately		
Centric Maintenance Includes Parts, Labor, Preventative Maintenance, Delivery, Network Installation & Unlimited Training		



Customer First

EQUIPMENT PERFORMANCE

Your equipment will perform to manufacturer's specifications for the term of your lease or we will provide a replacement of equal or greater capabilities. If we can't repair a problem in your office, we will provide a loaner at no additional charge.

TRAINING & SUPPORT

Your staff will receive training and support from our dedicated Customer Support Team on the most effective ways to implement and utilize your Centric solutions.

CERTIFIED TECHNICIANS

All of our technicians are certified and factory trained to maintain your equipment. Centric has a manufacturer-certified trainer on staff, ensuring our technicians are trained to repair most problems on the first call. Centric's technicians are rewarded based on the reliability of your equipment! We measure their success based on the quality and productivity of the document you produce between service visits, a unique approach that ensure a high level of customer satisfaction.

INVESTMENT SECURITY

Our leasing and trade-in programs provide you with the flexibility to upgrade and change equipment when necessary and access new technology without penalties.

AWARDS & ACCOLADES



TOWN OF MIDDLETOWN
GENERAL FUND
BUDGET FY 2017

DESCRIPTION	Preliminary Budget FY 2017	SALY = Same As Last Year
REVENUE		
LOCAL TAXES		
Real Property	1,244,642	Based on CYTR
Tangible Personal Property	37,108	Estimate based on 5 year average (PP Revenue Variable Trend)
Public Utilities	12,841	Estimate based on Average % Change over 5 Years (Year over Year increase Trend)
Franchise (Cable)	49,940	FY16 estimate (+4%) FY 2015 YTD (+1%) FY 2014 (+5%) FY13 (+8.8%)
Discounts	(16,182)	Discounts represent 1.25% of Tax Revenue
Penalties & Interest	10,357	Represent .8% of Tax Revenue
	1,338,705	
STATE SHARED TAXES		
Amusement Taxes	22,500	Estimated Increase from Hollow Creek Golf
Highway User Taxes	162,421	FY 2017 (updated estimate from SHA 3/7/2016)
	184,921	
COUNTY SHARED TAXES		
Income Taxes	834,937	FY17 2% Projected increase; FY15 (+2%); FY 2014 (+11.36%); FY 2013 (-4%); FY 2012 (+2%)
Tax Equity	566,687	FY17 Preliminary Cal - 3/7/2016
	1,401,624	
LICENSES, PERMITS & FEES		
Filing/Permit Fees	6,500	SALY
Beer, Wine & Liquor	1,950	SALY
Traders	4,900	\$4.0k usually received in May-June
Planning & Zoning	13,691	FY17 (Coblenitz 20x200 = \$4k) FY15(Cross Stone Commons \$24k)
	27,041	
PARKS & RECREATION		
Pavillion Fees	1,900	
POLICE PROTECTION		
State Grant	26,187	Updated 3/10/16 - Received estimate from MML 3/7/16
MISC INCOME		
Other (Bank Grant, Animal, Citations)	2,500	
LGIT Health Insurance Rebate	-	FY 2014 YTD (Bank Shares \$1.5k); (Bus Ass Don for Water Ftn \$3.3k)
FredCo Municipal Recycling Reimbursement	5,000	FY14 \$20k - LGIT rebate expected in Feb
Community Events		
MISC	7,500	
	2,987,878	
OPERATING REVENUE		
EXPENSES		
LEGISLATIVE		
Commissioner's Fees	15,600	2 Newly Elected Officials Compensation increase April FY16
Communications	3,480	Wireless \$200/month; Cell \$90/month
Dues & Subscriptions	7,400	MML \$6.7K. Local chapter Dues \$700
Office Supplies/Expenses	3,600	
Advertising	750	
Meetings & Conventions	9,000	MML Meeting & Conventions & Joint Meetings
	39,830	
EXECUTIVE		
Burgess	10,200	Elected Official Compensation increase April FY16

TOWN OF MIDDLETOWN
GENERAL FUND
BUDGET FY 2017

DESCRIPTION	Preliminary Budget FY 2017	SALY = Same As Last Year
ELECTION EXPENSES		
Clerk Fees	-	
Printing, Supplies, Advertising	-	
GENERAL/ADMINISTRATIVE SERVICES		
Capital Outlay		
Administration Salary	247,131	4% Increase; This category includes Vac/Sick/Comp Pay for all GF employees; Hawkins 4wks vacation added to this category
Postage & Printing	200	
Communications	6,977	FY 2017 (+3%) (Sprint \$1.4k, Comcast \$1k, Ver \$1.4, Ver \$3.1k)
Computer Expenses	28,400	Sage \$1.8k; ESRI \$1.3k; Innovative Service \$19.3k (Support \$1435 x 12 = \$17.3k; Misc \$2k); GIS support \$3k; Computer Replacement \$3k
Supplies & Expense	26,000	Copier(s)/Postage Machine Leases \$14k; Supplies \$12k
Maintenance & Repairs	13,400	Removal fuel tank, door replacement, misc.; \$5K Painting 301 W. Main Block
Professional Services	4,600	Arro \$300/mo; \$1k Misc
Dues & Subscriptions	150	
Meetings & Seminars	100	
Water and Sewer Grant	-	
326,958		
OPERATIONS/MAINTENANCE		
Maintenance - Capital Outlay		
Director Salary	97,355	4% Annual Increase
Maintenance Salary	126,742	4% Annual Increase plus JR Salary added in FY17
Communications	9,000	Verizon, Sprint, Comcast, PR Reimbursements \$750/month
Supplies	17,000	Supplies \$8k; Uniforms \$750x12 = \$9k (Cintas)
Dues/Training/Certifications	1,500	
Landscaping / Beautification	-	
Maintenance & Repairs	8,000	
Mowing	12,133	
Tools & Equipment	500	Contract Renewal January 2016 - Waiting for final changes from Classic
272,230		
PROFESSIONAL SERVICES		
Independent Accounting	16,000	
Legal - Development & Ordinance	7,796	New Contract FY17 (Estimate based on Albright Bid)
23,796		Estimate based on 5 Year Average
PLANNING & ZONING		
Salaries	44,072	4% Annual Increase
Bd Members Compensation	7,800	Includes all P & Z and BOA fees
Zoning Expenses	3,207	Misc \$2k; Miss Utility charges, \$1.2k
55,079		
MAIN STREETS MANAGER		
Mainstreet - Capital Outlay		
Salary	43,680	4% Annual Increase (No overtime in FY16)
Town Contribution	10,000	SALY
Wayfinding Signs Grant Contribution	-	
53,680		
PUBLIC SAFETY		
Fire Department Donation	20,000	SALY
School Crossing Guards	15,758	4% Annual Increase
Deputy Contract Services	401,611	10% increase estimate
437,369		
SANITATION & WASTE REMOVAL		
Trash Collection & Disposal		

TOWN OF MIDDLETOWN
GENERAL FUND
BUDGET FY 2017

DESCRIPTION	Preliminary Budget FY 2017	SALY = Same As Last Year
Recycling Pickup Station	5,000	
Regular Pick-up	133,126	Added 30 units for FY17 - Green Street Development
Landfill - Tipping Fees	84,830	Estimate based on historical average
Yard Waste (April - Dec)	30,672	Added 30 units for FY17 - Green Street Development
Eco-Bags	20,260	21,120 bags ordered 2 x yr @ \$.438/bag
RECREATION & CULTURE	273,888	
Park Capital Outlay		
Park Interest	11,320	Loans FY17 Tab
Park Loan Payments	112,230	Loans FY17 Tab
Park Salary	34,807	4% Annual Increase
Park Electric	2,358	3% Estimated increase from FY15
Park Supplies/Equipment	1,500	
Park Mowing Contract	26,215	Contract Renewal January 2016 - Per Bruce 3% increase for FY16
Park Repairs & Maintenance	24,950	\$2.6K Lighting @ Pingods; Jefferson Village & North Point Repaint Sign; \$3K Vinyl Side Memorial Park; \$7.5 Willes Brandy; \$8.1 Remsburg
HIGHWAYS & STREETS	213,378	
Streets Capital Outlay		
Vehicle/Equipment Capital Outlay		
Salaries - Regular	48,841	4% Annual Increase
Street Lighting	161,916	Estimate: \$13,800/month in FY16 Assumes no additiona
Storm Water Management	7,800	\$7.8K Swale Repairs
Snow Removal	75,000	
Mowing (SWM & Streets)	32,696	Contract Renewal January 2016 - Per Bruce 3% increase for FY16
Repairs & Resurfacing	67,195	\$53K Patching; \$6.3K Walking Trail Foxfield to Safeway; Tree Removal Washington St.; \$7.1K Striping
Signs	6,200	Vehicle & Equipment Repairs
Truck Repair & Maintenance	48,600	SALY
Equipment Repairs & Maintenance	10,000	Green S/West Green Street Loans - FY17 Loans Tab
Street Loan - Principal	78,460	Green S/West Green Street Loans - FY17 Loans Tab
Street Loan - Interest	60,927	FY17 Loans Tab - Last Year of Case Loader Payments
Case Loader -Principal & Interest	15,159	
	612,794	
MISCELLANEOUS		
MT Historical Society	5,000	
Donations	100	
Mileage - Travel	4,578	Estimate based on historical average
Web Page / Directory / Public Information	1,400	500 Directory Copies
Community Events	30,250	
Payroll Taxes	56,578	Salary Detail Tab - Based on 4% pay increase
Insurance		
Property	13,376	Estimated 3% Increase
Health	111,243	Health Insurance Worksheet - Estimated 3% increase, Add JR In FY17; Waiting for FY17 rates from Benecon
Worker's Compensation	11,921	Workers Comp Tab - Estimates based on 4% salary increase
Professional	688	Estimate based on historical average
Pension	75,062	Pension Worksheet
Real Estate Taxes	1,242	
Miscellaneous	3,500	SALY
	314,936	
TOTAL OPERATING EXPENSES	2,634,140	

TOWN OF MIDDLETOWN
 GENERAL FUND
 BUDGET FY 2017

DESCRIPTION	Preliminary Budget FY 2017	SALY = Same As Last Year
TOTAL OPERATING SURPLUS	353,739	

Tonight we are appointing 2 members to the Middletown PC. The term of David Lake is expiring on January 17 and the seat of Second Alternate needs to be filled as well.

According to section 2.16.020 of the Middletown Charter/Code The commission shall consist of five members appointed by the burgess with confirmation by the commissioners, each to serve five years, or until a successor takes office.

In addition, the burgess and commissioners may designate one alternate member to the commission who may sit on the commission in the absence of any member of the commission. When the alternate is absent, the burgess and commissioners may designate a SECOND alternate to sit on the commission.

The alternate and SECOND alternate will serve for five years from the date of original appointment.

Our long-standing practice has been that if a vacancy occurs or if appointment presents an opportunity to fill a seat on the PC the alternate essentially "moves up" and is named as a standing member of the PC. This would then vacate the alternate position and that seat would then be available.

As a result of this practice, new members would be appointed as alternates to the PC. This position is significant. The expectation is that the alternates would attend all meetings, participate in discussion and debate but would not have a vote, unless temporarily sitting in for an absent standing member of the PC.

We have had much interest in these positions. Including the incumbent, 5 people have expressed an interest in serving on the PC. For tonight's appointments, Karol Koogle, David Lake, Jean LaPadula, Jennifer Williams, and Meredith McKittrick. All were given careful consideration by the Burgess.

* Tonight I am recommending to you David Lake for reappointment to the PC for a 5 year term ending in January 2022 and the elevation of Dixie Eichelberger to First Alternate completing Rich Gallagher's term ending in 2021 and Meredith McKittrick to Second Alternate completing Dixie Eichelberger's term ending in June 2017.

The recommendations are before you and the floor is now open for action. The Chair will entertain a motion for appointments to the PC.

* Two Board of Appeals members are up for appointment as well. We have used the same pool of interested residents in consideration of these positions. I am recommending reappointment of Tom Routzahn and Tim Coakley to the Board of Appeals for 3 year terms.

The recommendations are before you and the floor is now open for action. The Chair will entertain a motion for appointments to the PC.

Planning Commission members

Mark Carney, Chairman (12/2011-12/2016) – term of office up December 12, 2016

David Lake (2/2012-2/2017) – term of office up January 23, 2017

Dixie Eichelberger, **Second Alternate (2/2014-6/2017) – term of office up May 22, 2017 (she was finishing Ron Forrester’s term of office)

Bob Miller (5/2013-5/2018) – term of office up May 14, 2018

Rich Gallagher, * First Alternate (2/2016-2/2021) – term of office up February 22, 2021

Board of Appeals members

Thomas Routzahn (2/2014-2/2017) – term of office up January 13, 2017

Tim Coakley is finishing up Ken’s term of office which is up January 13, 2017

Alex Kandruck, Alternate (2/2014-2/2017) – term of office up February 24, 2017

Fred Rudy, Chair (6/2013-6/2016) – term of office up May 13, 2019

RESOLUTION NO. 17-01

Resolution of the Burgess and Commissioners of Middletown approving the application and receipt of financing for a[Community Legacy, Community Legacy-Neighborhood Intervention, Strategic Demolition Fund, Baltimore Regional Neighborhood Initiative or other State Revitalization Programs Project(s)] (the “Project”) further described in the Application dated July 15, 2016 (the “Application”), to be financed either directly by the Department of Housing and Community Development (the “Department”) of the State of Maryland or through other departments or agencies of the State of Maryland.

WHEREAS, the Burgess and Commissioners of Middletown recognizes that there is a significant need for reinvestment and revitalization of the communities in Frederick County; and,

WHEREAS, the Department, either through Community Legacy, Community Legacy-Neighborhood Intervention, Strategic Demolition Fund, Baltimore Regional Neighborhood Initiative [or other State Revitalization Programs] or through other Programs of the Department, or in cooperation with other State departments or agencies, may provide some or all of the financing for the Project (the “Project Financing”) in order to assist in making it financially feasible; and

WHEREAS, the Project is located within a priority funding area under Section 5-7B-02 of the Smart Growth Act and the Project will conform to the local zoning code; and

WHEREAS, the applicable law and regulations require approval of the Project and the Project Financing by the Burgess and Commissioners of Middletown and, where appropriate, by the chief elected executive official of the local subdivision;

NOW, THEREFORE BE IT RESOLVED THAT, the Burgess and Commissioners of Middletown hereby endorses the Project in the Sustainable Community Area; and, **HEREBY** approves the request for financial assistance in the form of a grant or loan, up to the amount of \$50,000.00; and

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating [his or her] approval thereof; and,

BE IT FURTHER RESOLVED THAT, the Burgess is hereby authorized to execute documents and take any action necessary to carry out the intent of these resolutions; and,

BE IT FURTHER RESOLVED THAT, copies of this Resolution are sent to the Secretary of the Department of Housing and Community Development of the State of Maryland.

READ AND PASSED THIS 5th day of January, 2017.

BY ORDER: John D. Miller, I hereby certify that Resolution Number 17-01 is true and correct and duly adopted by the Burgess and Commissioners of Middletown.

ATTEST/WITNESS:

**BURGESS AND COMMISSIONERS
MIDDLETOWN, MARYLAND**

By: _____

By: _____

Name: Andrew J. Bowen

Name: John D. Miller

Title: Town Administrator

Title: Burgess

Approved

[Chief elected executive official]

Date: _____

MEMORANDUM

Date: 1/3/2017

To: Burgess and Commissioners, Middletown
From: Cynthia K. Unangst, Middletown Staff Planner
RE: Outdoor Lighting Regulations text amendment

The Middletown Planning Commission on November 21, 2016 reviewed the proposed Outdoor Lighting Regulations text amendment language which would provide a purpose section, general lighting requirements, site plan submission requirements, information regarding alterations after site plan approval and pre-existing lighting, and exemptions from the outdoor lighting provisions. By consensus the Planning Commission recommends approval of the proposed text amendment language. The draft was sent to the Town Attorney and was put into ordinance form. A public hearing will need to be scheduled.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 17, CHAPTER 32 OF THE MIDDLETOWN MUNICIPAL CODE BY ADDING THERETO SECTION 17.32.245 PERTAINING TO LIGHTING DESIGN STANDARDS; TO ESTABLISH REGULATIONS AND REQUIREMENTS RELATING TO GENERAL LIGHTING; TO AUTHORIZE THE PLANNING COMMISSION TO REQUIRE A LIGHTING PLAN AS PART OF THE SUBMISSION OF CERTAIN SITE PLANS; TO PROVIDE FOR CERTAIN EXEMPTIONS FROM THE LIGHTING REGULATIONS AND REQUIREMENTS.

SECTION I. BE IT ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown that Title 17 – Zoning, Chapter 17.32 of the Middletown Municipal Code be, and hereby is, amended by adding thereto the following as Section 17.32.245. The new language is designated by underlining:

Title 17 – Zoning

Chapter 17.32 – Design Standards Generally

Section 17.32.245 - Outdoor Lighting Standards

A. The purpose of this section is to establish outdoor lighting standards that reduce the impacts of glare and spillover of light onto adjacent properties or into the sky, to protect against glare onto public rights-of-way that can impair vision of motorists, pedestrians, and bicyclists, to promote safety and security, and to encourage energy conservation.

B. General Lighting requirements. Exterior lighting shall comply with the following requirements and contain the following information with regard to outdoor lighting.

(1) Pole and Stand-alone lighting.

(a) All street lighting shall comply with the Street Lighting Design Manual regulations.

(b) All other lights, light fixtures, light poles and other structures holding or supporting lighting fixtures shall be located at least ten feet (10') from the closest exterior property line.

(c) All stand-alone light poles or other structures holding or supporting lighting fixtures which are located between ten feet (10') and twenty-five feet (25') of the closest exterior property line shall not exceed a maximum height of fifteen feet (15') which height shall include any base, wall pedestal, platform or other supporting building or structure. All other stand-alone light poles or other structures holding or supporting lighting fixtures shall not exceed a maximum height of twenty feet (20') which height shall include any base, wall pedestal, platform or other supporting building or structure.

(2) Wall-mounted lighting.

(a) Any lighting which is mounted or secured to a wall of a building, including wall-packs, shall not be located more than twenty-five feet (25') above the surface of the ground directly below it. All such lighting shall be located, aimed and shielded, so as to reflect light downward, below the horizontal and so that the light from such fixture is not directed toward adjacent streets, roads or adjacent properties.

(b) Wall-mounted light fixtures which are positioned and aimed to direct lighting in an upward direction on the façade of a building are not permitted. Fixtures designed and located so as to direct lighting in a downward direction down the building surface are preferred.

(3) Landscape and Architectural Lighting

Lighting which is used to illuminate flags, statues, signs or other objects mounted on a pole, pedestal or platform, and spotlighting or floodlighting used for architectural or landscaping purposes shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields may be required in order to limit the amount of light shining outside the intended direction and in particular to shield and protect motorists and pedestrians from the glare of such lighting.

(4) Exterior lighting fixtures shall include full cutoff features and shall be directed downward on site, so that the light does not create excessive glare on adjacent properties. Light trespass from originating property shall not exceed 0.5 footcandle measured on a vertical plane five feet above grade at the property line.

C. Site Plan submissions.

(1) The planning commission may require a lighting plan on any Site Plan submission required by section 17.32.230 which Site Plan shall include:

(a) The specific location, height and type of illuminating devices, fixtures, lamps, or any other light sources;

(b) A full description of each light source, fixtures, lamps, and other devices, to include catalog cuts by manufacturers and diagrams, where appropriate;

(c) Photometric data, such as that furnished by manufacturers, or similar information demonstrating the angle of cutoff and/or light emissions;

(d) Analysis and luminance level diagrams showing that the proposed installation conforms to the lighting level standards of this section;

(e) Tests, reviewed by a lighting engineer, indicating that the lighting plan is sufficient to meet IESNA recommendations, i.e., not to exceed IESNA recommendations, may be required by the planning commission; and

(f) Computer-generated, point-by-point lighting calculations on a scaled site plan with a ten-foot-by-ten-foot grid of footcandle readings, indicating initial horizontal footcandles at grade, and initial vertical footcandles five feet above grade at the property line.

(2) If the planning commission is unable to determine that the lighting plan complies with this section, the planning commission may require the plan to be submitted to a lighting engineer or recognized testing laboratory for review. The report of such engineer or laboratory shall be submitted to the planning commission and the applicant shall bear the cost of the review and report.

(3) The site plan requirements may be modified by the planning commission if it is determined that the general intent of this section can be realized without providing all the information outlined above in Section C.(1).

D. Alterations after Site Plan Approval

No alteration or change in the approved Site Plan lighting plan may be made unless approved by the planning commission in accordance with this section; provided, however, that the zoning administrator may approve the replacement of a failed, broken or damaged lamp, light, fixture or supporting structure if such replacement will be in accordance with the requirements of this section.

E. Pre-existing Lighting

Exterior lighting, including fixtures, lamps, lights, poles and supporting structures, existing on property subject to this section on the date of the enactment of this Ordinance shall be permitted to remain. No changes or alterations or additions to such existing exterior lighting may be made without a zoning certificate being submitted to and approved by the zoning administrator in accordance with the requirements of this section. The zoning administrator may approve the replacement of a failed, broken or damaged lamp, light, fixture or supporting structure if such replacement will be substantially similar to the lighting to be replaced.

F. Exemptions.

The following shall be exempt from the provisions of this section:

- (1) All vehicle lighting, emergency traffic lighting, and traffic control lighting;
- (2) All athletic events and stadium use on Frederick County Public School properties;
- (3) For lighting which is reasonably related to sports, amusements, entertainment events or other public gatherings operating as part of an athletic contest, carnival, fairground activity, parade or public celebration:
 - (a) If a permit has been issued for such event, until 12:00 midnight;
 - (b) If no permit has been issued to authorize such event, until 10:00 p.m.
- (4) Temporary lighting which is typically and traditionally used for the celebration or recognition of a holiday and which is installed and removed within a reasonable period of time prior to and after the holiday.
- (5) Lighting required in order to address an emergency, including lighting required for emergency street, utility or construction repairs if such lighting is discontinued immediately upon abatement of the emergency.

SECTION II. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 201__
PASSED ON THE _____ DAY OF _____, 201__
EFFECTIVE DATE: _____, 201__

ATTEST:

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**

Andrew J. Bowen, Town Administrator

By: _____
John D. Miller, Burgess

MEMORANDUM

Date: 1/3/2017

To: Burgess and Commissioners, Middletown
From: Cynthia K. Unangst, Middletown Staff Planner
RE: Wireless Telecommunications Siting Ordinance

I recently reviewed the Wireless Telecommunications Siting ordinances that the towns of Walkersville and Emmitsburg, and the City of Brunswick, have in their Codes. While they are very extensive (27 pages), I believe it would be a good idea for the Town Board to discuss whether the Town of Middletown should also adopt such an ordinance. The ordinance is primarily for the siting of taller-type telecommunications structures for wireless antennas like we have on our water tower. However, Drew has informed me that there is no longer room for anymore antennas on the water tower and the Town might be in the position of having a telecommunications company propose an additional tower for such uses.

The ordinance outlines a policy, general regulations, exemptions, the administration process, and violations and enforcement. In reviewing the three ordinances, they are all pretty much the same, but I have attached the ordinance that Walkersville uses since I believe it would most conform to the needs of Middletown. If the Town Board agrees that such an ordinance is needed for the Town, please make a motion to send the proposed ordinance to the Middletown Planning Commission for their review and recommendation.

Chapter 86

WIRELESS TELECOMMUNICATIONS SITING ORDINANCE

**ARTICLE I
GENERAL**

§ 86-1. Purpose and Legislative Intent.

§ 86-2. Title.

§ 86-3. Severability.

§ 86-4. Definitions.

**ARTICLE II
POLICY**

§ 86-5. Overall Policy and Desired Goals for WTF Permits for Wireless Telecommunications Facilities.

**ARTICLE III
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§ 86-6. WTF Permit Application and Other Requirements.

§ 86-7. Location of Wireless Telecommunications Facilities.

§ 86-8. Shared Use of Wireless Telecommunications Facilities and Other Structures.

§ 86-9. Height of Telecommunications Tower(s).

§ 86-10. Appearance and Visibility of Wireless Telecommunications Facilities.

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§ 86-12. Signage.

§ 86-13. Lot Size and Setbacks.

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§ 86-15. Exceptions from a WTF Permit for Wireless Telecommunications Facilities.

**ARTICLE V
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- § 86-16. Public Hearing and Notification Requirements.**
- § 86-17. Action on an Application for a WTF Permit for Wireless Telecommunications Facilities.**
- § 86-18. Recertification of a WTF Permit for Wireless Telecommunications Facilities.**
- § 86-19. Extent and Parameters of WTF Permit for Wireless Telecommunications Facilities.**
- § 86-20. Application Fee.**
- § 86-21. Performance Security.**
- § 86-22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.**
- § 86-23. Annual NIER Certification.**
- § 86-24. Liability Insurance.**
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**ARTICLE VI
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- § 86-26. Fines.**
- § 86-27. Default and/or Revocation.**
- § 86-28. Removal of Wireless Telecommunications Facilities.**
- § 86-29. Relief or Waiver or Exemption.**
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**ARTICLE VII
GENERALLY-INTERPRETATION**

- § 86-32. Conflict with Other Laws.**
- § 86-33. Effective Date.**
- § 86-34. Authority.**
- § 86-35. Jurisdiction.**

ARTICLE I
GENERAL

§ 86-1. Purpose and Legislative Intent.

The Telecommunications Act of 1996 ("the Act") affirmed the authority of the Burgess and Commissioners of Walkersville, MD., governing body of the Town of Walkersville, Maryland ("Town" or "Town of Walkersville") concerning the placement, construction and modification of "Wireless Telecommunications Facilities" as that term is defined in the Act. The Town finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, application and permit process for Wireless Telecommunications Facilities. The intent of this Ordinance is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval or denial of applications for such facilities, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town of Walkersville.

§ 86-2. Title.

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" for the Town of Walkersville, Maryland.

§ 86-3. Severability.

- A. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- B. Any WTF Permit (as hereinafter defined) issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the WTF Permit shall be void in total, upon determination by the Town.

§ 86-4. Definitions

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the

singular number include the plural number. The word "shall" is always mandatory, and not merely directory. Any terms not specifically defined herein shall have the same meaning and definition as contained in the Town Code. "Accessory Facility or Structure" means an accessory building, facility or structure (as defined in Chapter 88 of the Code) serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

1. **"Antenna"** means a system or array of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority. **"Applicant"** means any landowner (i.e., the fee simple owner of the land and any other person with any interest in said land that is the subject of the Application) or Wireless Telecommunications service provider submitting an Application for a WTF Permit for Wireless Telecommunications Facilities.
2. **"Application"** means all necessary and appropriate documentation that an Applicant submits in order to receive a WTF Permit for Wireless Telecommunications Facilities.
3. **"Co-location"** means the use of a Tower or structure to support Antennae for the provision of Telecommunications wireless services without increasing the height of the Tower or structure.
4. **"Commercial Impracticability "** or **"Commercially Impracticable"** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "Commercial Impracticable" and shall not render an act or the terms of an agreement "Commercially Impracticable".
5. **"Completed Application"** means an Application that contains all necessary and appropriate documentation, information and/or data necessary to enable an informed decision to be made by the approving authority with respect to an Application.
6. **"FAA"** means the United States Federal Aviation Administration, or its duly designated and authorized successor agency.

7. **"FCC"** means the United States Federal Communications Commission or its duly designated and authorized successor agency.
8. **"Height"** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.
9. **"NIER"** means Non-Ionizing Electromagnetic Radiation.
10. **"Person"** means any individual, corporation, estate, trust, company, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
11. **"Personal Wireless Facility "** (See: definition for 'Wireless Telecommunications Facilities').
12. **"Personal Wireless Services" or "PWS" or "Personal Telecommunications Service" or "PCS"** shall have the same meaning as defined and used in the Act.
13. **"State"** means the State of Maryland.
14. **"Stealth" or "Stealth Technology "** means ^{to} minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or Commercially Impracticable under the facts and circumstances.
15. **"Telecommunication Site"** (See: definition for ("Wireless Telecommunications Facilities").
16. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
17. **"Telecommunications Structure"** means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.
18. **"Temporary"** means, temporary in relation to all aspects and components of this Ordinance; something intended to, or that does, exist for fewer than ninety (90) days.

19. "Town" means the Burgess and Commissioners of Walkersville, MD., and/or the Town of Walkersville, Maryland, as the context may require.
20. "Wireless Telecommunications Facilities" means and includes a "Telecommunications Tower" and "Tower" and "Telecommunications Site" and "Telecommunications Facility" and "Personal Wireless Facility" and means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water Tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority, and excluding those used exclusively for the Town's fire, police or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this Ordinance.
21. "WTF Permit" means the official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Town.

ARTICLE II **POLICY**

§ 86-5. Overall Policy and Desired Goals for WTF Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the Town's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Town hereby adopts an overall policy with respect to a WTF Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

- 1) Implementing an application process for person(s) seeking a WTF Permit for Wireless Telecommunications Facilities;

- 2) Establishing a policy for examining an application for and issuing a WTF Permit for Wireless Telecommunications Facilities that is both fair and consistent;
- 3) Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers;
- 4) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of Stealth Technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or Commercially Impracticable under the facts and circumstances.

ARTICLE III GENERAL REGULATIONS

§ 86- 6. WTF Permit Application and Other Requirements.

- A) All Applicants for a WTF Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Ordinance. **The Burgess and Commissioners of Walkersville, MD., is the officially designated agency or body of the community to whom applications for a WTF Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking WTF Permits for Wireless Telecommunications Facilities. The Town may at its discretion delegate or designate other official departments, agencies and commissions of the Town to accept, review, analyze, evaluate and make recommendations to the Town with respect to the granting or not granting, recertifying or not recertifying or revoking WTF Permits for Wireless Telecommunications Facilities.**
- B) An Application for a WTF Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the duly authorized person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. **The landowner, if different than the Applicant, shall also sign the Application and shall be bound by all the statements and representations contained therein and by all of the terms and conditions of the WTF Permit for the Telecommunications Facilities. At the discretion of the Town, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.**

- C) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the **Burgess and Commissioners of Walkersville, MD.**
- D) The Application shall include a statement in writing from the Applicant:
- 1) That the Applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the WTF Permit, without exception, unless specifically granted relief by the Town in writing pursuant to this Ordinance, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, State and Federal Laws, rules, and regulations;
 - 2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.
- E) No Wireless Telecommunications Facilities shall be installed or constructed until the Application is reviewed and approved by the Burgess and Commissioners of Walkersville, MD., and the WTF Permit has been issued.
- F) All Applications for the construction or installation of new Wireless Telecommunications Facilities shall contain the information hereinafter set forth. The Application shall be signed by an authorized individual on behalf of the Applicant and the landowner and shall include sufficient legal evidence that such person is so authorized. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State. The Application shall include the following information:
- 1) Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
 - 2) The Name, address and phone number of the person preparing the report;
 - 3) The Name, address, and phone number of the property owner (landowner), operator, and Applicant, and to include the legal form of the Applicant (e.g., corporation, partnership);
 - 4) The Postal address and tax map parcel number of the property;
 - 5) The Zoning District or designation in which the property is situated;
 - 6) The Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
 - 7) The Location of the nearest residential structure(s);

- 8) The Location, size and height of all structures on the property which is the subject of the Application;
 - 9) The Location, size and height of all proposed and existing Antennae and all appurtenant or Accessory buildings or structures;
 - 10) The Type, locations and dimensions of all proposed and existing landscaping, and fencing;
 - 11) The number, type and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users;
 - 12) The make, model and manufacturer of the Tower and Antenna(s);
 - 13) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - 14) The frequency, modulation and class of service of radio or other transmitting equipment;
 - 15) The actual intended transmission and the maximum effective radiated power of the Antenna(s);
 - 16) Direction of maximum lobes and associated radiation of the Antenna(s);
 - 17) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
 - 18) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
 - 19) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
 - 20) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site;
 - 21) Certification that the proposed Tower and Antenna comply with the applicable provisions and requirements of the Town Code including but not limited to ~~Chapter 62 Sinkhole Ordinance~~, Chapter 88 Zoning, and Chapter 90 Wellhead Protection Ordinance, of the Town Code as amended;
 - 22) Name and address of all landowners whose property is within 1500 feet of any property line for the lot or parcel of land subject to the Application.
- G) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the Town. Copies of written requests and responses for shared use shall be provided to the Town in the Application, along with any letters of rejection stating the reason for rejection.
- H) The Applicant shall certify that the Telecommunication Facility, foundation and attachments and all Accessory Structures are designed and will be constructed to meet all local, Town, State

and Federal structural requirements for loads, including wind and ice loads.

- I) The Applicant shall certify that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- J) An Applicant may be required to submit an Environmental Assessment Analysis and a Visual Impact Assessment Addendum. Based on the results of the Analysis, including the Addendum, the Burgess and Commissioners of Walkersville, MD. may require submission of a more detailed visual analysis. The scope of the required Environmental Assessment Analysis and Visual Impact Assessment Addendum will be reviewed and determined at the pre-Application meeting.
- K) The Applicant shall furnish a Visual Impact Assessment which shall include:
 - 1) A " Zone of Visibility Map" which shall be provided in order to determine locations from which the Tower may be seen.
 - 2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town limits as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.
 - 3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- L) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed Wireless Telecommunications Facilities.
- M) Any and all representations made by the Applicant to the Town on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Burgess and Commissioners of Walkersville, MD.
- N) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

- O) All Wireless Telecommunications Facilities shall contain a demonstration that the facility be sited so as to be the least visually and physically intrusive means that is not Commercially or technologically Impracticable, and thereby have the least adverse visual effect on the environment of the neighborhood and the Town and its character, on existing vegetation, and on the residences in the general area of the Wireless Telecommunications Facility.
- P) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, which shall include (but not be limited to) the utilization of Stealth or concealment Technology as may required by the Town.
- Q) At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- R) A Person who holds a WTF Permit for Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- S) A holder of a WTF Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Applicant and/or the Wireless Telecommunications Facility.
- T) With respect to this Application process, the Burgess and Commissioners of Walkersville, MD., may conduct an environmental review of the proposed project in combination with its review of the Application under this Ordinance.
- U) An Applicant shall submit to the Town the number of completed Applications determined to be needed at the pre-Application

meeting. Written notification of the Application shall be provided by the Applicant to the legislative body of all adjacent jurisdictions and municipalities within three (3) days of the date of that the Application is submitted to the Town and Applicant shall simultaneously provide Town with written evidence of its compliance with this requirement.

- V) The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial applications; for example, future Co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates to the satisfaction of the Burgess and Commissioners of Walkersville, MD. that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
- 1) The foreseeable number of FCC licenses available for the area;
 - 2) The kind of Wireless Telecommunications Facilities site and structure proposed;
 - 3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites; and
 - 4) Available space on existing and approved Towers.
- W) The Applicant, landowner and the owner of the proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless Telecommunications service providers in the future, and shall:
1. Respond within sixty (60) days to a request for information from a potential shared-use applicant;
 2. Negotiate in good faith concerning future requests for shared use of the new Tower by other Wireless Telecommunications providers;
 3. Allow shared use of the new Tower if another Wireless Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the WTF Permit for the Tower.

- X) There shall be a pre-Application meeting. The purpose of the pre-Application meeting will be to address issues which will help to expedite the review and permitting process. A pre-Application meeting shall also include a site visit by the Burgess and Commissioners of Walkersville, MD. , and/or its representatives and/or its consultants, if there has not been a prior site visit for the requested site. Costs of the Town's consultants to prepare for and attend the pre-Application meeting will be borne by the Applicant.
- Y) The holder of a WTF Permit shall notify the Burgess and Commissioners of Walkersville, MD., Town in writing of any intended modification of a Wireless Telecommunication Facility and shall apply to the Town to modify, relocate or rebuild a Wireless Telecommunications Facility.
- Z) In order to better inform the public, in the case of a new Telecommunication Tower Application, the Applicant shall, at least fourteen (14) days prior to the public hearing on the Application, conduct a "balloon test" on the property that is the subject of the Application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot (3') in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Town . The Applicant shall inform the Burgess and Commissioners of Walkersville, MD. , in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a week day.
- AA) The Applicant will provide a written copy of an analysis, completed by a qualified and duly licensed or certified individual or organization, to determine if the Tower or existing structure intended to support Wireless Telecommunications Facilities requires lighting under FAA Regulation Part 77. This requirement shall be for any new Tower or for an existing structure or building where the Application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided to the FAA and the Town in a timely manner.

§ 86-7. Location of Wireless Telecommunications Facilities.

- A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority.
 - 1) On existing Town-owned municipal structures;

- 2) On existing structures not in residential use;
 - 3) On new Towers on Town-owned properties;
 - 4) On new Towers on non-residential properties.
- B) If the proposed site does not satisfy the criteria for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate to the reasonable satisfaction of the Town the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
- C) An Applicant may not avoid or by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address Co-location as the preference of the Town. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Town why Co-location is Commercially Impracticable or is a hardship. Agreements between Telecommunications services providers limiting or prohibiting Co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.
- D) Notwithstanding the above, the Town may approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
- F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Town may disapprove an Application for any of the following reasons.
- 1) Conflict with safety and safety-related codes and requirements;
 - 2) Conflict with the historic nature or character of a neighborhood or historical district;
 - 3) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
 - 4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
 - 5) Conflicts with the provisions of this Ordinance.

§ 86-8. Shared Use of Wireless Telecommunications Facilities and other structures.

- A) Locating Telecommunication Facilities on existing Tower(s) or other structures without increasing the height, as opposed to the construction of a new Tower, shall always be preferred by the Town. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within four (4) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure can not be used.
- B) An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing Tower owner to permit its use by the Applicant.
- C) Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown by the Applicant.

§ 86-9. Height of Telecommunications Tower(s).

- A) The Applicant shall submit documentation justifying the total height of any Tower, Telecommunications Facility and/or Antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.
- B) If the need for a new Tower can be proven, the maximum permitted height of a new Tower shall be no more than **twenty feet (20')** above the neighboring tree height or the height of any nearby obstruction that would effectively block the signal in that direction.
- C) No Wireless Telecommunications Facility constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Town, State, and/or any Federal statute, law, local law, Town ordinance, code, rule or regulation.

§ 86-10. Appearance and Visibility of Wireless Telecommunications Facilities.

- A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by applicable local, Town, State and/or Federal law, statute, ordinance, code, rule or regulation.
- B) Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of

this Ordinance as determined by the Burgess and Commissioners of Walkersville, MD.

- C) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under Town, State and Federal regulations.

§ 86-11. Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- 1) All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- 2) Transmitters and Telecommunications Facilities control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

§ 86-12. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

§ 86-13. Lot Size and Setbacks.

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the facility or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

§ 86-14. Retention of Expert Assistance and Reimbursement by Applicant.

- A) The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for recertification.

- B) An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be **at least \$8,500.00**. The placement of the \$8,500 with the Town shall precede the pre-Application meeting. The Town will maintain a separate **non-interest bearing** escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance **less than \$2,500.00**, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of **at least \$5,000.00**. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.
- C) The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

ARTICLE IV **EXEMPTIONS**

§ 86-15. Exceptions from a WTF Permit for Wireless Telecommunications Facilities.

- A. No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a WTF Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no WTF Permit shall be required for those non-commercial exceptions noted in the definition of Wireless Telecommunications Facilities.
- B. All Wireless Telecommunications Facilities existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility must comply with this Ordinance.

ARTICLE V **ADMINISTRATION AND DUE PROCESS**

§ 86-16. Public Hearing and Notification Requirements.

- A) Prior to the approval of any Application for a WTF Permit for Wireless Telecommunications Facilities, a public hearing shall be held by the Town, notice of which shall be published in the official newspaper of the Town no less than ten (10) calendar days prior to the scheduled date of the public hearing. In order that the Town may notify nearby landowners, the Application shall contain the names and address of all landowners whose property is located within fifteen hundred feet (1500') of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.
- B) There shall be no public hearing required for an Application to co-locate on an existing Tower or other structure, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.
- C) The Town shall schedule the public hearing referred to in subsection (A) of this section once it finds the Application to be a complete Application. The Town, at any stage prior to issuing a WTF Permit, may require such additional information from the Applicant and/or other government agencies or commissions as it deems necessary.

§ 86-17. Action on an Application for a WTF Permit for Wireless Telecommunications Facilities.

- A) The Town will undertake a review of an Application pursuant to this Ordinance in a timely manner and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.
- B) The Town may refer any Application or part thereof to any advisory or other committee, for a non-binding recommendation and/or to the Town Planning Commission for a certification of consistency with the Town's comprehensive plan, if required under the Town Code and/or Section 3.08 of Article 66B of the Annotated Code of Maryland.
- C) After the public hearing and after formally considering the Application, the Town may approve, approve with conditions, or deny a WTF Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the WTF Permit shall always be upon the Applicant.
- D) If the Town approves the WTF Permit for a Wireless Telecommunications Facility, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Town's action, and the WTF Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Zoning Certificates and other Town-required certificates of compliance, if any, once a WTF Permit has been granted hereunder, no additional permits or approvals

from the Town, such as site plan or zoning approvals, shall be required by the Town for the Wireless Telecommunications Facilities covered by the WTF Permit.

- E) If the Town denies the WTF Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Town's action.

§ 86-18. Recertification of a WTF Permit for Wireless Telecommunications Facilities.

- A) Between twelve (12) months and six (6) months prior to the five (5) year anniversary date after the effective date of the WTF Permit and all subsequent five year anniversaries of the effective date of the original WTF Permit for Wireless Telecommunications Facilities, the holder of a WTF Permit for such Wireless Telecommunication Facilities and the landowner shall submit a signed written request to the Town for recertification. In the written request for recertification, the holder of such WTF Permit shall note the following:

- 1) The name of the holder of the WTF Permit for the Wireless Telecommunications Facilities;
- 2) If applicable, the number or title of the WTF Permit;
- 3) The date of the original granting of the WTF Permit;
- 4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the WTF Permit and if so, in what manner;
- 5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt or otherwise visibly modified, then whether the Town approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
- 6) That the Wireless Telecommunications Facilities are in compliance with the WTF Permit and compliance with all applicable codes, laws, rules and regulations;
- 7) Recertification that the Tower and attachments both are designed and constructed and continue to meet all local, Town, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a Professional Engineer licensed in the State of Maryland, the cost of which shall be borne by the Applicant.

- B) If, after such review, the Town determines that the permitted Wireless Telecommunications Facilities are in compliance with the WTF Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Town shall issue a recertification of the WTF Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes,

rules or regulations. If, after such review it is determined that the permitted Wireless Telecommunications Facilities are not in compliance with the WTF Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Town may refuse to issue a recertification WTF Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of the decision by the Town until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the Telecommunications Facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the Telecommunications Facility and the landowner.

- C) If the Applicant has submitted all of the information requested and required by this Ordinance, and if the review is not completed, as noted in subsection (B) of this section, prior to the five (5) year anniversary date of the WTF Permit, or subsequent five year anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the WTF Permit for up to six (6) months, in order to allow for the completion of the review.
- D) If the holder of a WTF Permit for Wireless Telecommunications Facilities and the landowner do not submit a request for recertification of such WTF Permit within the timeframe noted in subsection (A) of this section, then such WTF Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the WTF Permit, or subsequent five year anniversaries, unless the holder of the WTF Permit adequately demonstrates to the Burgess and Commissioners of Walkersville, MD., that extenuating circumstances prevented a timely recertification request. If the Burgess and Commissioners of Walkersville, MD., agrees that there were legitimately extenuating circumstances, then the holder of the WTF Permit may submit a late recertification request or Application for a new WTF Permit.

§ 86-19. Extent and Parameters of WTF Permit for Wireless Telecommunications Facilities.

The extent and parameters of a WTF Permit for Wireless Telecommunications Facilities shall be as follows:

- 1) such WTF Permit shall be non-exclusive;
- 2) such WTF Permit shall not be assigned, transferred or conveyed without the prior written notification to and express approval of the Burgess and Commissioners of Walkersville, MD.
- 3) such WTF Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the WTF Permit, or

for a material violation of this Ordinance after prior written notice to the holder of the WTF Permit.

§ 86-20. Application Fee.

- A) In addition to the reimbursement of funds under Section 86-14, at the time that a person submits an Application for a WTF Permit for a new Tower, such person shall pay a non-refundable application fee of \$5,000.00 to the Town. If the Application is for a WTF Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,000.00.
- B) No Application fee is required in order to re-certify a WTF Permit for Wireless Telecommunications Facilities, unless there has been a visible modification of the Wireless Telecommunications Facility since the date of the issuance of the existing WTF Permit for which the conditions of the WTF Permit have not previously been modified. In the case of any modification, the fees provided in Subsection (A) shall apply.

§ 86-21. Performance Security.

The Applicant and the landowner of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Town a letter of credit (issued by a financial institution/lender with a branch office in the State of Maryland) or cash escrow, in an amount of at least **\$75,000.00** and with such sureties as are deemed sufficient by the Burgess and Commissioners of Walkersville, MD. to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any WTF Permit issued pursuant to this Ordinance. The full amount of the security shall remain in full force and effect throughout the term of the WTF Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original WTF Permit.

§ 86-22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a WTF Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

§ 86-23. Annual NIER Certification.

The holder of the WTF Permit shall, annually, certify to the Town that NIER levels at the site are within the threshold levels adopted by the FCC.

§ 86-24. Liability Insurance.

- A) A holder of a WTF Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the WTF Permit in amounts as set forth below
- 1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - 2) Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000 aggregate;
 - 3) Workers Compensation and Disability: Statutory amounts.
- B) The Commercial General liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the grant of the WTF Permit, the holder of the WTF Permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 86-25. Indemnification.

- A) Unless otherwise approved by resolution of the Burgess and Commissioners of Walkersville, MD., for an Application submitted by the Town and on the grounds that it is in the best interests of the health, safety and welfare of the Town, any application for Wireless Telecommunication Facilities that is proposed for Town property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the Applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, defend, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or

charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

- B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the Town itself applies for and secures a WTF Permit for Wireless Telecommunications Facilities.

ARTICLE VI
VIOLATIONS AND ENFORCEMENT

§ 86-26. Fines.

- A) In the event of a violation of this Ordinance or any WTF Permit issued pursuant to this Ordinance, the Town may impose and collect, and the holder of the WTF Permit for Wireless Telecommunications Facilities shall pay to the Town, fines or penalties as set forth below.
- B) A violation of this Ordinance and/or the WTF Permit is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) per day per occurrence or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Article, Ordinance and/or WTF Permit shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C) Notwithstanding anything in this Ordinance, the holder of the WTF Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance and/or the WTF Permit or any section of this Ordinance. An attempt to do so shall subject the holder of the WTF Permit to termination and revocation of the WTF Permit. The Town may also seek

injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the Town.

§ 86-27. Default and/or Revocation.

- A. If Wireless Telecommunications Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the WTF Permit, then the Town shall notify the holder of the WTF Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven (7) days of the date of the postmark of the Town's notice, or of the date of personal service of the Town's notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Town may, at its sole discretion, order the violation remedied within twenty-four (24) hours.
- B. If within the period set forth in (A) above the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Ordinance, or of the WTF Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the Town may revoke such WTF Permit for Wireless Telecommunications Facilities, and shall notify the holder of the WTF Permit within forty-eight (48) hours of such action.

§ 86-28. Removal of Wireless Telecommunications Facilities.

- A) Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of Wireless Telecommunications Facilities.
- 1) Wireless Telecommunications Facilities with a WTF Permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within ninety (90) days and evidence of which will be provided to the Town by the Telecommunications Facilities owner;
 - 2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - 3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required WTF Permit, or any other necessary authorization.

- B) If the Town makes such a determination as noted in subsection (A) of this section, then the Town shall notify the holder of the WTF Permit for the Wireless Telecommunications Facilities **within forty -eight (48) hours** that said Wireless Telecommunications Facilities are to be removed. The Town may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.
- C) The holder of the WTF Permit and/or the landowner, or their permitted successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, **within ninety (90) day s** of its receipt of written notice of such determination from the Town as provided in subsection (B) above. However, if the landowner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Burgess and Commissioners of Walkersville, MD.
- D. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities **within ninety (90) days** after the permit holder has received notice of such determination from the Town, then the Town may order officials or representatives of the Town to remove the Wireless Telecommunications Facilities and store it on site or at another location at the sole expense of the landowner and the WTF Permit holder.
- E. If, the Town removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location **within ten (10) days**, then the Town may take steps to declare the Wireless Telecommunications Facilities abandoned (by resolution of the Burgess and Commissioners of Walkersville, MD.) and sell and/or dispose of them and their components.
- F. Notwithstanding anything in this section to the contrary, the Town may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more than **ninety (90) days**, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the WTF Permit and landowner, subject to the approval of the Town, and an agreement to such plan shall be executed by the holder of the WTF Permit and the Town. If such a plan is not developed, approved and executed **within the ninety (90) day** time period, then the Town may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this section.

§ 86-29. Relief or Waiver or Exemption.

Any Applicant or WTF Permit holder desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such at the pre-Application meeting, provided that the relief or exemption is contained in the original Application for either a WTF Permit, or in the case of an existing or previously granted WTF Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the Town, its residents and other service providers.

§ 86-30. Periodic Regulatory Review by the Town.

As with any Town ordinance, the Town may at any time conduct a review and examination of this entire Ordinance.

- A) As with any Town ordinance, if after such a periodic review and examination of this Ordinance, the Town determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, then the Town may take whatever measures are necessary in accordance with the Town Code in order to accomplish the same. As with any Town ordinance, it is noted that in the best interests of the Town, the Town may repeal this entire Ordinance at any time.
- B) Notwithstanding the provisions of subsections (A) and (B) of this section, and as with any Town ordinance, the Town may at any time, and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

§ 86-31. Adherence to State and/or Federal Rules and Regulations.

- A) To the extent that the holder of a WTF Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a WTF Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a WTF Permit for Wireless Telecommunications Facilities, then the holder of such a WTF Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable

changed and/or modified rule, regulation, standard, or provision within a maximum of **twenty-four (24) months** of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity or authority.

ARTICLE VII
GENERALLY-INTERPRETATION

§ 86-32. Conflict with Other Laws.

Whenever possible, this Ordinance shall be read and interpreted as consistent with the Town Code. Where this Ordinance differs or conflicts with other applicable laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, State or Federal government, this Ordinance shall apply.

§ 86-33. Effective Date.

This Ordinance shall be effective pursuant to the Town Code and other applicable legal and procedural requirements.

§ 86-34. Authority.

This Ordinance is enacted pursuant to the applicable authority granted by the Federal, State and Town governments including, but not limited to the Act, the Annotated Code of Maryland and the Town Code.

§ 86-35. Jurisdiction.

The provisions of this Chapter 86 of the Town Code shall apply to all affected lands within the territorial limits of the Town of Walkersville, MD.

*Emmitsburg has the same ordinance
as does Brunswick with a couple
of additions*

Brunswick ordinance

act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of the agreement "commercially impracticable".

Completed Application. An Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.

FAA. The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC. The Federal Communications Commission, or its duly designated and authorized successor agency.

Height. When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Modification or Modify. The addition, removal or change of any of the physical and visually discernable components or aspects of Wireless Telecommunications Facilities, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A modification shall not include the replacement of any components of Wireless Telecommunications Facilities where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of said wireless facility without adding, removing or changing anything.

not included in Walkersville ordinance

NIER. Non-Ionizing Electromagnetic Radiation.

Person. Any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

Personal Wireless Facility. See definition for "Wireless Telecommunications Facilities".

Personal Wireless Services or PWS or Personal Telecommunications Service or PCS. Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Telecommunication Site. See definition for "Wireless Telecommunications Facilities".

Special Use Permit. The official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Mayor and Council of Brunswick.

Stealth or Stealth Technology. Minimization of adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

set forth in Sections 1-15.2-61 and 1-15.2-62.

Title 4. Wireless Telecommunications Facilities

Section 4-1401. Citation

This Title shall be known and may be cited as the Wireless Telecommunications Facilities Ordinance for the City of Brunswick.

Section 4-1402. Severability

(A) If any word, phrase, sentence, part, section, subsection, or other portion of this Title or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Title, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(B) Any Special Use Permit issued under this Title shall be comprehensive and not severable. If part of a Special Use Permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Mayor and Council.

Section 4-1403. Definitions

In this Title, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Accessory Facility or Structure. An accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Applicant. Any person submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.

Application. All necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications Facilities.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority.

Board. The Mayor and Council of the City of Brunswick, or the City of Brunswick, or the City.

Co-location. The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

Commercial Impracticability or Commercially Impracticable. The inability to perform an

Brunswick ordinance Section 4-1415. Action on an Application For a Special Use Permit

been granted hereunder, no additional permits or approvals from the Mayor and Council, such as site plan or zoning approvals, shall be required by the City for the Wireless Telecommunications Facilities covered by the Special Use Permit.

(E) If the Mayor and Council denies the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Mayor and Council's action.

not included in wireless ordinance

(F) Any party or person aggrieved by the decision of the Mayor and Council may appeal that decision to the Circuit Court for Frederick County in accordance with Title 7 of the Maryland Rules and Procedures.

Section 4-1416. Re-certification of a Special Use Permit

(A) Between twelve (12) and six (6) months prior to the five (5) year anniversary date after the effective date of the Special Use Permit and all subsequent five year anniversaries of the effective date of the original Special Use Permit for Wireless Telecommunications Facilities, the holder of a Special Use Permit for such Wireless Telecommunications Facilities shall submit a signed written request to the Board for re-certification. In the written request for re-certification, the holder of such Special Use Permit shall note the following:

- (1) The name of the holder of the Special Use Permit for the Wireless Telecommunications Facilities;
- (2) If applicable, the number or title of the Special Use Permit;
- (3) The date of the original granting of the Special Use Permit;
- (4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the Special Use Permit and if so, in what manner;
- (5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the City approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
- (6) That the Wireless Telecommunications Facilities are in compliance with the Special Use Permit and compliance with all applicable codes, laws, rules and regulations;
- (7) Re-certification that the Tower and attachments both are designed and constructed and continue to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads. Such re-certification shall be by a Professional Engineer licensed in the State, the cost of which shall be borne by the Applicant.

(B) If, after such review, the City determines that the permitted Wireless Telecommunications Facilities are in compliance with the Special Use Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Mayor and Council shall issue a re-certification of the Special Use Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes,

rules and regulations. If, after such review it is determined that the permitted Wireless Telecommunications Facilities are not in compliance with the Special Use Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Mayor and Council may refuse to issue a re-certification Special Use Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of the decision by the Mayor and Council until such time as the Facility is brought into compliance. Any decision requiring the cessation of use of the Facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the Facility.

(C) If the Applicant has submitted all of the information requested and required by this Title, and if the review is not completed, as noted in subsection (B) of this section, prior to the five (5) year anniversary date of the Special Use Permit, or subsequent five year anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the Special Use Permit for up to six (6) months, in order for the completion of the review.

(D) If the holder of a Special Use Permit for Wireless Telecommunications Facilities does not submit a request for re-certification of such Special Use Permit within the time frame noted in subsection (A) of this section, unless otherwise excused by the Mayor and Council for minor technical defects such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Special Use Permit, or subsequent five year anniversaries, unless the holder of the Special Use Permit adequately demonstrates that extenuating circumstances prevented a timely re-certification request. If the Mayor and Council agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late re-certification request or application for a new Special Use Permit.

Section 4-1417. Extent and Parameters of Special Use Permit

The extent and parameters of a Special Use Permit for Wireless Telecommunications Facilities shall be as follows:

(A) Such Special Use Permit shall be non-exclusive;

(B) Such Special Use Permit shall not be assigned, transferred or conveyed without the express written consent of the Mayor and Council;

(C) Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit, or for a material violation of this Title after prior written notice to the holder of the Special Use Permit.

Section 4-1418. Application Fee

(A) At the time that a person submits an application for a Special Use Permit for a new Tower, such person shall pay a non-refundable application fee of \$5,000.00 to the Mayor and Council, in addition to the \$8,500 placed in the escrow account. If the application is for a Special Use Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,000.00.