

**Mayor and Council of Federalsburg
Monday, October 3, 2022
Executive Session @ 5:30 P.M. – Legal Advice
Business Meeting @ 6:00 P.M.**

This Meeting is being held at the Mayor and Council Meeting Room located at 118 North Main Street. Citizens who wish to participate by video shall follow directions listed below:

Join Zoom Meeting

<https://us02web.zoom.us/j/82205246927?pwd=Sm1YeGUya1dDZF>

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Meeting ID: 822 0524 6927

Passcode: TOFBusi

Agenda

- I. Call to Order**
- II. Welcome and Pledge of Allegiance – Pastor Stanford Ricks Invocation**
- III. Public Comment**
- IV. Approval of Minutes**
- V. Solar Panel Project Wrap Up – Scott Kane**
- VI. Request to End Municipal Trash Collection Services - Laurel Grove Acres Apartments**
- VII. Chapter 65 - Ethics Ordinance Text Amendments**
- VIII. Old Denton Road Watermain Project Update**
- IX. Discussion of and Approval to Submit Comments Regarding the Proposed AquaCon Facility's Draft Discharge Permit to the Maryland Department of the Environment**

X. Informational Report on Town Industrial Well Use Permit Process, Industrial Water and Sewer Connection Process to Include Fee Structure, and Related Matters

XI. Mayor and Council Action Items

- * Councilmember Windsor
- * Councilmember Sewell
- * Councilmember Phillips
- * Councilmember Willoughby
- * Mayor Abner

XII. Adjournment

NOTES:

THE MEETINGS ARE BEING RECORDED, PLEASE TURN OFF ALL CELLULAR DEVICES AND PAGERS DURING THE MEETING, PLEASE REMAIN QUIET, UNLESS ADDRESSING THE COUNCIL.

Please Note: Pursuant to the Annotated Code of Maryland, State Government Article Section 10-508(a), the Council by majority vote may retire to executive or closed session at any time during the meeting. Should the Council retire to executive or closed session; the chair will announce the reasons and a report will be issued at a future meeting disclosing the reasons for such session. Meetings are conducted in Open Session unless otherwise indicated. All or part of Mayor and Council meetings can be held in closed session under the authority of the state open meetings law by vote of the Mayor and Council.

Rules for Public Comment

The Mayor and Council invite and welcome comments at public meetings. The Mayor or presiding officer will recognize you. Please introduce yourself at the podium (spelling your last name, for recording purposes) and give the name of your street and block number (e.g., 100 block of Main Street).

Time limits for speaking are indicated on the meeting agenda. While speaking, please maintain a courteous tone and avoid personal attack.

Mayor & Council of Federalsburg
Regular Monthly Meeting
September 7, 2022

The Mayor & Council of Federalsburg held their regular monthly meeting on Wednesday, September 7, 2022 at 6:00 pm, in the Mayor and Council meeting room located at Town Hall. Those in attendance were Mayor Abner and Councilmembers Sewell, Phillips, Willoughby and Windsor. Lyndsey Ryan, Town Attorney, staff and members of the public were also present.

Mayor Abner called the meeting to order at 6:00 pm, welcomed all guests present and led the group in the pledge of allegiance.

Closed Session

Mayor Abner reported that a closed session was held from 5:35 pm to 5:55 pm to obtain legal advice.

Invocation

Pastor Norris Colona gave the prayer of invocation.

Minutes

Councilmember Sewell made a motion seconded by Councilmember Phillips and unanimously passed by a vote of five to zero approving the minutes from the previous months meeting as presented.

ARPA Funding

Town Manager DiRe reported that a request for financial assistance with the Hay Day Community Event was received to help with budgeted expenses for this years event. He recommended approval of ARPA funds in the sum of \$2,659.70 to support the 2022 Hay Day event.

Councilmember Willoughby made a motion seconded by Councilmember Phillips and unanimously passed by a vote of four to zero approving \$2,659.70 for the 2022 Hay Day event.

Town Manager DiRe also gave a reporting of ARPA drawdowns that have been made thus far.

Water Tower Lights

Town Manager DiRe reported that there were concerns regarding access to the town facilities in the agreement with Pixelumen's proposed agreement. Town staff followed up and revised the agreement language to conform to the town's best interests.

Councilmember Phillips made a motion seconded by Councilmember Sewell and unanimously approved by a vote of five to zero accept the revised agreement with Pixelumen.

Animal Ordinance

There was discussion regarding the Animal Ordinance and it was agreed that the revised Ordinance should include existing animals that are in violation, and allow people two years to remove them from town limits. These animals are regulated through the State/County, and residents should be required to provide proof of that registration to the town. Once the ordinance is updated, this will allow the Code Enforcement Officer to effectively enforce it.

Councilmember Willoughby made a motion seconded by Councilmember Phillips and unanimously passed by a vote of five to zero introducing the revised Ordinance No. 2022-07 Animal Ordinance and to schedule a Public Hearing for the October 17th workshop.

Eastern Shore Environmental – Garbage Contract

There was discussion regarding the town's contract with Eastern Shore Environmental for garbage collections services. ESE was awarded the contract but has not met the terms. Staff recommends Town Attorney draft a letter to terminate the contract with ESE.

Councilmember Phillips made a motion seconded by Councilmember Windsor and unanimously passed by a vote of five to zero authorizing the Town Attorney to draft and send a letter to Eastern Shore Environmental to terminate the town's contract effective immediately.

Agreement with Bigg Tyme Trash Company

There was discussion regarding entering a temporary agreement with Bigg Tyme Trash Company for garbage collection services on an interim basis. Bigg Tyme has assisted the town on occasion in the past and done a great job.

Councilmember Willoughby made a motion seconded by Councilmember Sewell and unanimously passed by a vote of five to zero to enter into an agreement with Bigg Tyme Trash Company on an interim basis for garbage collection.

September 19th Workshop – Aquacon

Mayor Abner reported that the representatives from Aquacon will be attending the September 19th workshop to discuss and answer community questions and comments. Mayor Abner will gather the questions from the link that was posted online and compose a list.

Mayor & Council Action items

Councilmember Windsor – Planning & Zoning – at their last meeting focused on review of the comprehensive plan and covered first 40 pages.

Councilmember Sewell – She attended a meeting with representatives from the MD State Arts Council to discuss public art (sturgeon) for the bi-centennial.

Councilmember Sewell spoke Mr. Robert Riggin regarding the agreement and check for resolution of the Friends of the Water Tower account.

As Parks and Recreation Liaison, she has been having a difficult time getting everyone on the board together. She stated that she's not sure who is still interested in being a member of the board. It was suggested to check with the members to see what the interest is and possibly put a call for service out to get new members to fill the board.

There is also an opening on Planning & Zoning if anyone interested.

Councilmember Phillips – reported that the Homecoming Committee would like to have the parade on Friday, September 30th at 5:30 pm – line up 4:30 pm. The parade will start on South Main and proceed toward Old Denton Road and on to the school for game. It has been verified with Chief McDermott. All Mayor and Councilmembers were in agreement.

Councilmember Phillips asked if Town Manager DiRe could find out the status of weed/grass cutting at 205 East Central; and he asked if the Code Enforcement Officer could look into the sign regulations. The new grocery store on East Central may be in violation, as well as other businesses in town.

Councilmember Willoughby – thanked Public Works for covering trash collection for past few weeks. Councilmember Willoughby also requested a closed session to discuss personnel matters.

Mayor Abner – The bi-centennial kickoff party is scheduled for October 15th. Tickets are on sale online or at the town office. There will be music food and a sneak peek into what is planned for next year.

Mayor Abner announced that a river cleanup is planned for next week and the work in the marina today.

Public Comments/Questions

Bart Johnson, Charlotte Avenue had several questions:

- The appeal for Lywood Electric – what is that for? – A variance to zoning regulations
- Engineer for Aquacon is Rauch Inc. – Does he not work for town anymore? – No, GMB is now the town engineer.
- Who is the DNR rep? – Darryl Kennedy with DNR Ecotourism
- Has anyone contacted DNR – Yes, they are aware and fisheries and land acquisition – Chuck Stents, DNR fisheries would be a good contact.
- What’s the deal with the bi-centennial and sturgeons? – People have purchased a fiberglass sturgeon and will have them decorated and put on display for the bi-centennial event. The FHS can display their fish in museum they can or leave on public display.

Gentleman from audience – how much info does the town have on irrigation in Chambers Park? – Not much – Chris Parks told Mayor Abner about it. The Town would like to get more info about it. It is understood that the pipes weren’t properly drained and they froze and bust.

Allen Gerard – Researched Mr. Tony Redman, Chief of Fisheries DNR – Tony submitted a couple letters about discharge, etc. – the comment period closes Oct 17th. He encouraged people to think about answers to questions – communicate any questions or comments to DNR – it will help tony and DNR.

Pam Ayers – was the land where the fish farm is proposed, annexed into town? – Has it been purchased by Aquacon? – Yes it was annexed into town and Aquacon has purchased it. It is actually 3 separate parcels, the Schmick and Paul farms.

So the building would be built right on the highway? – No plans have been submitted to date. The original site plan showed the building to sit farther back away from the road with nearly 100 acres between the road and highway. No official plans have been presented to Planning and Zoning to date. No final decisions have been made regarding this project. MDE has permitting requirements and rules that must be followed. They may have to redesign based on those requirements, and then they will come to the Town for approvals. The project is no where near ready for approvals.

The Town has only annexed property into town limits, granted an access roadway from the existing Industrial Park and begun to run water/sewer calculations. These are only part of the procedures that they will have to adhere to.

All info regarding the Salmon Farm is available on the town’s website.

Pam Ayers – it appears to the public that Aquacon is dictating to town? – The Town has had very little interaction with them. The Town also has lots of questions and now they don't have to answer yet, but they will eventually. The Town is not forcing anything because they are still working through the kinks and aren't communicating with us yet.

Closed Session – Personnel Matters

Councilmember Willoughby made a motion seconded by Councilmember Phillips and unanimously passed by a vote of five to zero to go into closed session at 7:24 pm to discuss personnel matters.

The meeting reconvened at 7:57 pm. There was no action taken in closed session.

Adjournment

There being no further business, Councilmember Willoughby made a motion seconded by Councilmember Phillips and unanimously passed by a vote of five to zero to adjourn the meeting at 7:58 pm

Respectfully submitted,

Kristy L. Marshall
Clerk-Treasurer

TO: Mayor & Council Members
FR: Larry DiRe, Town Manager
DT: October 3, 2022
RE: Request to End Municipal Trash Collection Services – Laurel Grove Acres

A request to end once weekly municipally contracted trash collection service was received by the town on September 6, 2022 (attached). The management company making the request is a current town rate payer for municipally contracted trash collection on a weekly basis. They believe more frequent service best serves their interest and wish to opt out of town service to be replaced by a private residential trash collection contractor. Laurel Grove Acres is a seventy-three-unit residential apartment complex with fenced in pens holding a variety of trash receptacles. The pens are sufficiently sized and located to make use of dumpsters rather than cans. The apartment complex functions more like a commercial facility than a single-family residential unit in the need for and access to large scale volume and on-site trash hauling. Staff understands the interest supporting this request and recommend granting the request since the property can receive an equal or better level of current service from a contractor hired by the management company.

Pending further discussion, provide direction to staff.



Laurel Grove Acres Apartments I, II, III
Email: laurelgrove@pbhboard.com

RECEIVED

SEP 6 2022

3460 Laurel Grove Road, Federalsburg, MD 21632 phone: 410-754-5513 fax: 410-754-5071

TO: Town of Federalsburg
FROM: Sherita Cottom, Regional Director
DATE: September 6, 2022
RE: Opting out of Trash Services

Per our conversation in regards to Laurel Grove Acres Apartments opting out of the Town of Federalsburg's trash services.

The Town of Federalsburg trash services are not accommodating to the needs of Laurel Grove Acres Apartments, a 73-unit apartment complex. We need more trash containers, and at least two trash pickups per week, instead of once per week. In addition, in the last three months, trash collection has not been picked up on a regular schedule, creating an unsanitary situation in the community. It is not fair to the tenants, owners, and staff to see this daily or pick up trash that is blowing everywhere on each property. Trash is overflowing in all the trash containers attracting rodents, and other animals.

We ask that you consider this request for Laurel Grove Acres Apartments to opt out of the city's trash collection and billing.

Thank you,

Sherita D. Cottom

certified mail: 7015 1520 0000 0589 3628

Gateway Management Services, L.L.C.



ORDINANCE NO. 2022-07

Introduced by: _____

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF
FEDERALSBURG TO REPEAL IN ITS ENTIRETY AND REENACT
CHAPTER 65 OF THE FEDERALSBURG TOWN CODE TO PROVIDE
ETHICS PROVISIONS APPLICABLE TO THE LOCAL ELECTED
OFFICIALS, EMPLOYEES, AND APPOINTEES TO THE BOARDS AND
COMMISSIONS OF THE TOWN OF FEDERALSBURG**

WHEREAS, pursuant to Md. Code Ann. Local Government Article § 5-202, the Mayor and Council have the authority to adopt ordinances to protect the health, comfort and convenience of the residents of the municipality; and

WHEREAS, in 2010 the Maryland General Assembly required local governments to adopt conflict of interest, financial disclosure and lobbying provisions to local ethics ordinances; and

WHEREAS, on December 8, 2011, the Town was granted a partial exemption pursuant to COMAR 19A.04.03.03 which exempts the Town from adopting lobbying provisions; and

WHEREAS, on November 5, 2012, the Mayor and Council adopted Ordinance 2012-14, adopting a revised Ethics Code to provide conflict of interest and financial disclosure ethics provisions; and

WHEREAS, in 2017, the General Assembly passed House Bill 879 which made amendments to the Maryland Public Ethics Law; and

WHEREAS, during the 2021 General Assembly session, House Bill 363 and House Bill 1058 were enacted which made multiple modifications to the State Ethics Law, including new conflict of interest provisions and additional disclosures for State elected officials that local governments must incorporate into their ethics ordinances; and

WHEREAS, to comply with the changes to the State Ethics Law, the Mayor and Council have determined that it is desirable and in the public interest to repeal Chapter 65 of the Federalsburg Town Code in its entirety and to adopt a new ethics ordinance which contains the required conflict of interest and financial disclosure requirements.

Section 1. The Federalsburg Town Code, Chapter 65 is repealed in its entirety and reenacted as attached hereto as **Exhibit A.**

Section 2. In accordance with Section C3-10, of the Federalsburg Town Charter, this Ordinance shall take effect and be in full force and effect twenty (20) days from and after the date of its final passage and adoption.

Yea/Nay

Kimberly Abner	_____
Debra Sewell	_____
Edward H.Windsor	_____
Robert Willoughby	_____
Scott Phillips	_____

I hereby certify that the above Ordinance was passed by a yea and nay vote of the Council this _____ day of _____, 2022.

Kimberly Abner, Mayor

Delivered by the Mayor and recorded by me in the Minute Books of the Mayor and Council of Federalsburg this ____ day of _____, 2022.

Kristy Marshall, Town Clerk

Date Introduced: _____

Date Amendments Introduced: _____

Date Passed: _____

Effective Date: _____

CHAPTER 65 – ETHICS PROVISIONS

§ 65-1. Applicability.

The provisions of this chapter apply to all Town elected officials, employees, and appointees to boards and commissions of the Town of Federalsburg.

65-2. Definitions.

In this chapter, the following terms have the meanings indicated.

(a) (1) *"Business entity" means a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.*

(2) *Business entity does not include a governmental entity.*

(b) *"Commission" means the Federalsburg Ethics Commission established under this chapter.*

(c) (1) *"Compensation" means any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered.*

(2) *For the purposes of §8 of this chapter, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.*

(c-1) *"Designated second home" means:*

(1) *If an individual owns one second home, the individual's second home; or*

(2) *If an individual owns more than one second home, any one second home the individual identifies to the Commission as the individual's designated second home.*

(d) *"Doing business with" means:*

(1) *Having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of \$5,000 or more of Town of Federalsburg controlled funds;*

(2) *Being regulated by or otherwise subject to the authority of the Town of Federalsburg; or*

(3) *Being registered as a lobbyist under this chapter.*

(e) (1) *"Elected official" means any individual who holds an elective office of the Town of Federalsburg.*

(2) *"Elected official" does not include the Sheriff, State's Attorney, Register of Wills, or Clerk of the Court.*

(f) (1) *"Employee" means an individual who is employed by the Town of Federalsburg.*

(2) "Employee" does not include an elected local official.

(3) "Employee" does not include an employee of:

(i) The offices of the Sheriff, State's Attorney, Register of Wills, or Clerk of the Court;

(ii) The County Health Department; or

(iii) The County Department of Social Services.

(g) "Financial interest" means:

(1) Ownership of any interest as the result of which the owner has received, within the past 3 years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

(2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a Town official or employee, or the spouse of an official or employee.

(h) (1) "Gift" means the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration.

(2) "Gift" does not include a contribution as defined in Election Law Article, Annotated Code of Maryland.

(h-1) "Home address" means the address of an individual's:

(1) Principal home; and

(2) Designated second home, if any.

(i) "Immediate family" means a spouse and dependent children.

(j) (1) "Interest" means a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.

(2) For purposes of this chapter, "interest" includes any interest held at any time during the reporting period.

(3) "Interest" does not include:

(i) An interest held in the capacity of a personal agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) An interest in a time or demand deposit in a financial institution;

(iii) An interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or a specified period;

(iv) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code;

(v) A college savings plan under the Internal Revenue Code; or

(vi) A mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.

(k) "Lobbyist" means a person required to register and report expenses related to lobbying under §8 of this chapter.

(l) "Lobbying" means:

(1) Communicating in the presence of a Town official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a Town official or employee with the intent to influence that official or employee.

(m) "Official" means an elected official, an employee of the Town, or a person appointed to or employed by the Town or any Town agency, board, commission, or similar entity:

(1) Whether or not paid in whole or in part with Town funds; and

(2) Whether or not compensated.

(n) "Person" includes an individual or business entity.

(n-1) "Principal home" means the sole residential property that an individual occupies as the individual's primary residence, whether owned or rented by the individual.

(o) "Qualified relative" means a spouse, parent, child, brother, or sister.

(p) "Quasi-governmental entity" means an entity that is created by State statute, that performs a public function, and that is supported in whole or in part by the State but is managed privately.

(q) "Second home" means a residential property that:

(1) An individual occupies for some portion of the filing year; and

(2) Is not a rental property or a time share.

§ 65-3. Ethics Commission.

A. There is a Town Ethics commission that consists of three members appointed by the Mayor and Council.

B. The Commission shall:

- (1) Devise, receive, and maintain all forms required by this chapter;
- (2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;
- (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and
- (4) Conduct a public information program regarding the purposes and application of this chapter.

C. The Town Attorney shall advise the Commission.

D. The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the Town is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

E. The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the Town Council for enactment.

F. The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

§ 65-4. Conflicts of Interest

A. In this section, "qualified relative" means a spouse, parent, child, or sibling.

B. All Town elected officials, officials appointed to Town boards and commissions subject to this chapter, and employees are subject to this section;

C. Participation prohibitions.

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

- (a) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

- (b) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
- [1] A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
 - [2] A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
 - [3] A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;
 - [4] If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;
 - [5] An entity, doing business with the Town, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or
 - [6] A business entity that:
 - [a] The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
 - [b] As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.
- (2) A person who is disqualified from participating under paragraphs (1) or (2) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

- (a) The disqualification leaves a body with less than a quorum capable of acting;
 - (b) The disqualified official or employee is required by law to act; or
 - (c) The disqualified official or employee is the only person authorized to act.
- (3) The prohibitions of Subsection C(1)(a) and (b) of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

D. Employment and financial interest restrictions.

- (1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
 - (a) Be employed by or have a financial interest in any entity:
 - [1] Subject to the authority of the official or employee or the Town agency, board, commission with which the official or employee is affiliated; or
 - [2] That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
 - (b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) This prohibition does not apply to:
 - (a) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
 - (b) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;
 - (c) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of

interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

- (d) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

E. Post-employment limitations and restrictions.

- (1) A former official or employee may not assist or represent any party other than the Town for compensation in a case, contract, or other specific matter involving the Town if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) ~~Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the Town Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.~~ ***A former member of the Town Council may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year after the elected official leaves office.***

F. Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the Town.

G. Use of prestige of office.

- (1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.
- (2) This subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

H. Solicitation and acceptance of gifts.

- (1) An official or employee may not solicit any gift.
- (2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

- (3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:
- (a) Is doing business with or seeking to do business with the Town office, agency, board, or commission with which the official or employee is affiliated;
 - (b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
 - (c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
 - (d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.
 - (e) ***Is an association, or an entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.***
- (4) Subsection H(5) of this section does not apply to a gift:
- (a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
 - (b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or
 - (c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.
- (5) Notwithstanding subsection H(3) of this subsection, an official or employee may accept the following:
- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - (b) Ceremonial gifts or awards that have insignificant monetary value;
 - (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;

- (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
- (e) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
- (f) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature;
- (g) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or
- (h) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official's or employee's official position.

I. Disclosure of confidential information. Other than in the discharge of official duties, an official or employee *or former official or employee* may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position *or former public position* and that is not available to the public, for the economic benefit of the official or employee or that of another person.

J. Participation in procurement.

- (1) An individual or a person that employs an individual who assists a Town agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.
- (2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

K. An official or employee may not retaliate against an individual for reporting or participating in an investigation of a potential violation of the local ethics law or ordinance.

§ 65-5. Financial disclosure – local elected officials and candidates to be local elected officials.

A. Applicability; filing deadlines.

- (1) This section applies to all local elected officials and candidates to be local elected officials.
- (2) Except as provided in subsection B of this section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this section:
 - (a) On a form provided by the Commission;
 - (b) Under oath or affirmation; and
 - (c) With the Commission.
- (3) Deadlines for filing statements.
 - (a) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.
 - (b) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.
 - (c) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office. The statement shall cover:
 - [1] The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
 - [2] The portion of the current calendar year during which the individual held the office.

B. Candidates to be local elected officials.

- (1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file under a financial disclosure statement

each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

- (2) A candidate to be an elected local official shall file a statement required under this section:
 - (a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;
 - (b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
 - (c) In all other years for which a statement is required, on or before April 30.
- (3) A candidate to be an elected official:
 - (a) May file the statement required under § 65-5B(2)(a) of this chapter with the Town Clerk or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and
 - (b) Shall file the statements required under § 65-5B(2)(b) and (c) with the Commission.
- (4) If a candidate fails to file a statement required by this section after written notice is provided by the Town Clerk or Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
- (5) The Town Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.
- (6) Within 30 days of the receipt of a statement required under this section, the Town Clerk or Board of Election Supervisors shall forward the statement to the Commission or the office designated by the Commission.

C. Public record.

- (1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.
- (2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

- (3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:
 - (a) The name and home address of the individual reviewing or copying the statement; and
 - (b) The name of the person whose financial disclosure statement was examined or copied.
- (4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.
- (5) ***The Commission or office designated by the Commission shall not provide public access to information related to consideration received from:***
 - (a) ***The University of Maryland Medical Systems;***
 - (b) ***A governmental entity of the State or a local government in the State; or***
 - (c) ***A quasi-governmental entity of the State or local government in the State.***
- (6) ***For statements filed after January 1, 2019, the Commission or the office designated by the Commission may not provide public access to an individual's home address that the individual has designated as the individual's home address.***

D. Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

E. An individual who is required to disclose the name of a business under this section shall disclose any other names that the business is trading as or doing business as.

FE. Contents of statement.

- (1) Interests in real property.
 - (a) A statement filed under this section shall include a schedule of all interests in real property wherever located.

- (b) For each interest in real property, the schedule shall include:
- [1] The nature of the property and the location by street address, mailing address, or legal description of the property;
 - [2] The nature and extent of the interest held, including any conditions and encumbrances on the interest;
 - [3] The date when, the manner in which, and the identity of the person from whom the interest was acquired;
 - [4] The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - [5] If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
 - [6] The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

- (a) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability company, regardless of whether the corporation or partnership does business with the Town.
- (b) For each interest reported under this paragraph, the schedule shall include:
 - [1] The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
 - [2] The nature and amount of the interest held, including any conditions and encumbrances on the interest;
 - [3] With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the

consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

[4] With respect to any interest acquired during the reporting period:

[a] The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

[b] The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(c) An individual may satisfy the requirement to report the amount of the interest held under item (b)[2] of this paragraph by reporting, instead of a dollar amount:

[1] For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

[2] For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the Town.

(a) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the Town, other than interests reported under Subsection E(2) of this subsection.

(b) For each interest reported under this paragraph, the schedule shall include:

[1] The name and address of the principal office of the business entity;

[2] The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

[3] With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the

consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

- [4] With respect to any interest acquired during the reporting period:
 - [a] The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - [b] The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

- (a) A statement filed under this section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the Town ***or from an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.***
- (b) For each gift reported, the schedule shall include:
 - [1] A description of the nature and value of the gift; and
 - [2] The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with the Town.

- (a) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the Town.
- (b) For each position reported under this paragraph, the schedule shall include:
 - [1] The name and address of the principal office of the business entity;

- [2] The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - [3] The name of each Town agency with which the entity is involved.
- (6) Indebtedness to entities doing business with the Town.
 - (a) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the Town owed at any time during the reporting period:
 - [1] By the individual; or
 - [2] By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
 - (b) For each liability reported under this paragraph, the schedule shall include:
 - [1] The identity of the person to whom the liability was owed and the date the liability was incurred;
 - [2] The amount of the liability owed as of the end of the reporting period;
 - [3] The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - [4] The security given, if any, for the liability.
- (7) A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the Town in any capacity at any time during the reporting period.
- (8) Sources of earned income.
 - (a) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate

family received earned income, at any time during the reporting period.

- (b) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(9) *Relationship with University of Maryland Medical System, State or Local Government, or Quasi-Governmental Entity.*

(a) *An individual shall disclose the information specified in General Provisions Article §5-607(j)(1), Annotated Code of Maryland, for any financial or contractual relationship with:*

- i. The University of Maryland Medical System;*
- ii. A governmental entity of the State or a local government in the State; or*
- iii. A quasi-governmental entity of the State or local government in the State.*

(b) *For each financial or contractual relationship reported, the schedule shall include:*

- i. A description of the relationship;*
- ii. The subject matter of the relationship; and*
- iii. The consideration.*

- (9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

GF. For the purposes of § 65-5E(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

- (1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
- (2) ~~An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.~~ ***An interest held, at any time during the applicable period, by:***

(a) A business entity in which the individual held a 10% or greater interest;

(b) A business entity described in subsection (a) of this section in which the business entity held a 25% or greater interest;

(c) A business entity described in section (b) of this section in which the business entity held a 50% or greater interest; and

(d) A business entity in which the individual directly or indirectly, through an interest in one or a combination of other business entities, holds a 10% or greater interest.

(3) An interest held by a trust or an estate in which, at any time during the reporting period:

(a) The individual held a reversionary interest or was a beneficiary; or

(b) If a revocable trust, the individual was a settler.

HG. Compliance and enforcement.

(1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The Town Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

§ 65-6. Financial disclosure – employees and appointed officials.

A. This section only applies to all appointed Town officials and all employees who have decision-making and/or policy responsibilities, or are involved in the commitment of municipal public funds.

B. A statement filed under this section shall be filed with the Commission under oath or affirmation.

C. On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the Town, including the name of the donor of the gift and the approximate retail value at the time of receipt.

D. An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action

by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

E. The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in § 65-5C and D of this chapter.

§ 65-7. Exemptions and modifications.

The Commission may grant exemptions and modifications to the provisions of §§ 65-3 and 65-4 of this chapter to employees and to appointed members of the Town Board of Commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this chapter, and the application of this chapter would:

- A. Constitute an unreasonable invasion of privacy; and
- B. Significantly reduce the availability of qualified persons for public service.

65-8. Lobbying Disclosures.

A. Any person who personally appears before any Town official, Board or employee, with the intent to influence that person in performance with his or her official duties, and in connection with such intent, expends or reasonably expects to expend in a given calendar year, in excess of \$250 on food, entertainment or other gifts for such officials, shall file a registration statement with the Commission not later than January 15 of the calendar year or within five days after making these appearances.

B. The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts, and the subject matter on which the registrant proposes to make these appearances.

C. Registrants under this Section shall file a report within 30 days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to a Town official or Town employee. When a gift or series of gifts to a single official or employee exceeds \$50 in value, the official or employee shall also be identified.

D. The registrations and reports filed pursuant to this Section shall be maintained by the Commission for four years as public records available for public inspection and copying.

§ 65-9. Enforcement.

- A. The Commission may:

- (1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely file a financial disclosure statement required under §§ 65-4 or 65-5 of this chapter;
- (2) Issue a cease and desist order against any person found to be in violation of this chapter.

B. Upon a finding of a violation of any provision of this chapter, the Commission may:

- (1) Issue an order of compliance directing the respondent to cease and desist from the violation;
- (2) Issue a reprimand; or
- (3) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

A. Petition for relief.

(1) Upon request by the Commission, the Town Attorney may file a petition for injunctive or other relief in the circuit court of Caroline County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) The court may:

- (a) Issue an order to cease and desist from the violation;
 - (b) Except as provided in Subsection C(3) of this section, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or
 - (c) Impose a fine of up to \$5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.
- (3) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

D. In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

- (1) Is subject to termination or other disciplinary action; and
- (2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

E. A Town official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

F. A finding of a violation of this chapter by the Commission is public information.

TO: Mayor & Council Members
FR: Larry DiRe, Town Manager
DT: October 3, 2022
RE: Discussion of and Approval to Submit Comments Regarding the Proposed AquaCon Facility's Draft Discharge Permit to the Maryland Department of the Environment

Summary and Analysis

Staff finds the draft permit lacking on three significant operational features: groundwater appropriation and use permit/town permit process and approval for use of private wells for industrial use; location, construction, operation, maintenance, and monitoring of water discharge pipeline; and nutrient offset plan. All are at present incomplete and unsubstantiated by necessary documentation.

First, this is a water discharge permit for an amount of water, groundwater, that has not received an appropriation permit from MDE, or a town industrial well use permit as required by Section 239-12 of the Code of the Town of Federalsburg;

Second, this is a water discharge permit for a land-locked facility four-tenths of a mile from the receiving waters meaning the physical infrastructure - the pipe - is necessary to move the effluent discharge and there is no information about that pipe, or the masonry riprap, or the constructed wetlands (the level spreader) as shown in AquaCon's applications to the US Environmental Protection Agency, and the Maryland Department of the Environment;

Third, this is a water discharge permit predicated on the nutrient offset from salmon farming production activities being credited to another permittee, that is the town wastewater treatment plant, and the town has received no formal request or documentation to send to George, Miles, and Buhr, LLC (GMB), the town's consulting engineering firm, for review and recommendation, with public procurement process to follow. Given the vast number of nutrient load and nutrient offset related questions coming into MDE, any offset requirement associated with the AquaCon discharge permit should be uncoupled from the town's permit renewal process. Should a town wastewater treatment plant permit modification be required in the future the town can deal with that when AquaCon has fully released relevant information and engaged the mayor and council in discussion of a thorough design, operation, and maintenance nutrient offset program with a competent engineer's life cycle costing plan.

Conclusion - this permit application does not represent a cohesive project since other essential aspects required to meet the functionality of the permit are absent. And, therefore, provides nothing by way of a site plan for the planning commission to consider prior to commencing the building permitting process.

Staff recommends mayor and council, prior to close of the October 17, 2022 comment period, provide written comment to the Maryland Department of the Environment

expressing the concerns cited by staff in this report. At this time the draft permit issued by MDE lacks sufficient operational direction and makes assumptions about the nutrient offset plan, groundwater appropriation permits, and discharge pipeline right of way access, construction, maintenance and monitoring not granted by the appropriate regulatory authorities. Pending discussion provide direction to staff.

TO: Mayor & Council Members
FR: Larry DiRe, Town Manager
DT: October 3, 2022
RE: Informational Report on Town Industrial Well Use Permit Process, Industrial Water and Sewer Connection Process to Include Fee Structure, and Related Matters

The proposed AquaCon industrial salmon grow and processing facility project has raised a great deal of interest in the town's water and sewer utilities' processes and regulations. While all this information is posted on the town's website (www.townoffederalsburg.org) finding the information may not be easy for those unfamiliar with the site or with municipal services in general. Indeed, residents of other jurisdictions would not need to visit the town's website except for a particular reason or interest. And the proposed AquaCon development certainly classifies as a particular reason or interest.

Attachment A is Chapter 235 of the Code of the Town of Federalsburg (Code) and addresses water and sewer service in the broadest terms, including providing definitions and fee structures. While this is not an ordinance review, itself a valuable exercise, several features of the Code section are notable regarding the proposed AquaCon development. Article II (sections 235-11 to 235-21) defines the town's cross-connection and backflow regulatory and inspection processes. As stated therein, the purpose of this article is to ensure the public drinking water supply is not and cannot be tainted or infiltrated by any pollutant or contaminant from any user's onsite operations or process waste removal. While AquaCon has not provided any preliminary engineering plans or design drawings of its operations, it is understood that a vast amount of water will be present in the building at any given time. In discussions with the town's consulting engineering firm the requirement for a full set of the proposed facility's plumbing design drawings will be required as any part of plan review before the issuing of any town building permit. Additionally, this chapter can be generally strengthened through text amendment giving the town's engineer/engineering consulting firm a more active role in review and providing formal technical-based findings to staff and the mayor and town council as required. That remains for another day.

Attachments B, and C are specific to the role of the mayor and town council in issuing a groundwater use permit for private wells as water source for industrial process. Attachment B are from the Code Chapter 239 (sections 239-12 and 239-8) defining the requirement for a town permit, the process involved and the permit fee structure. Attachment C is the letter dated May 22, 2020, one of the town's earliest correspondences with AquaCon leadership, clearly stating any groundwater appropriation is subject to permit application and approval by both the state and the town. To this date, a full twenty-eight months later, AquaCon has taken no action in this town permitting process.

Attachment D is the letter dated October 9, 2020 from the town attorney to Caroline County requesting amendment to the county's Comprehensive Water and Sewerage Plan. At that date, an amendment totaling 80,000 gallons per day of domestic and some process wastewater going to the town's wastewater treatment plant was requested and

ultimately approved by the county commissioners. Since that amendment, AquaCon has indicated that the amount of wastewater treated at the town plant was reduced to 50,000 to 60,000 gallons per day. In any event the plan was amended and the plant has more than enough capacity to treat that flow. This letter to amend the county plan and corresponding action to do so represent the only request the town has formally received from AquaCon regarding access to the town's treatment plant. While conceptually the treatment plant can be upgraded to accommodate a phosphorous and nitrogen treatment load offset for any other facility discharging into the Marshy Hope Creek, the town has not been requested to do so, no preliminary engineering report has been provided to the town for review, no operations and maintenance program has been provided to the town, there is no life-cycle costing estimate from a competent professional engineer, and no documentation requesting the town plant and permit as appropriate for an offset has been provided to the Maryland Department of the Environment.

Provided for information only at this time. Pending further discussion, provide direction to staff.

Town of Federalsburg, MD
Wednesday, September 28, 2022

Chapter 235. Water and Sewers

[HISTORY: Adopted by the Mayor and Council of Federalsburg as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Sewers and drainage systems — See Ch. 164.

Private sewage disposal — See Ch. 167.

Sewerage systems — See Ch. 170.

Sewer use — See Ch. 173.

Stormwater management — See Ch. 193.

Water emergencies — See Ch. 231, Art. I.

Private water systems — See Ch. 239.

Article I. Connections

[Effective 11-4-1991 by Ord. No. 168]

§ 235-1. Title.

The short title of this article shall be the "Water and Sewer Ordinance."

§ 235-2. Definitions.

For the purposes of this article, the following rules of definition and interpretation shall, apply unless expressly stated to the contrary.

- A. Interpretation.
- (1) The present tense shall include all other simple and perfect tenses that may grammatically apply.
 - (2) The masculine gender shall include the feminine and the neutral gender.
 - (3) The singular shall include the plural, and the plural shall include the singular.
 - (4) The words "shall" and "will" are always mandatory.
 - (5) Terms not expressly defined herein shall have their commonly accepted meanings.
- B. The following meanings and definitions shall apply:

ABUTTING PROPERTY

Any property or portion thereof which touches, borders on, or has a boundary which is conterminous with any public way.

AVAILABILITY OF SYSTEM

Water or sewer system lines shall be deemed "available" if they are present and operable in an abutting public way (within 50 feet from the nearest lot line of an affected property).

COMMERCIAL UNIT

A building or portion thereof designed, occupied, or intended to be occupied by an individual business entity or enterprise, except for those units which are specifically defined as industrial.

CONNECTION TO PUBLIC SYSTEM

The joining of a privately owned water or sewer system's lines to the publicly owned water or sewer system lines, and any piping, fixtures or mechanical apparatus necessary to that joining which lie within the boundaries of a public way, as defined herein.

DWELLING UNIT

One or more rooms designed, occupied or intended to be occupied as separate self-contained living quarters for a single-family household unit.

INACTIVE

A unit is considered inactive provided no occupancy or usage occurs for 30 consecutive days or more during a billing period, upon request by the property owner, notified in advance.

INDUSTRIAL UNIT

A single point of water intake or sewer discharge serving a property whose design, use or intended use is industrial as defined in Chapter 245, Zoning.

MIXED USE

Any single building or facility which contains or is intended to contain two or more units of different types or classes defined by this article.

MULTIPLE-UNIT DEVELOPMENT

Any building, group of buildings or facility which is designed to contain, occupied by, or intended to be occupied by two or more units of any one type or class defined by this article (usually residential).

PRIVATE SYSTEM

Any privately owned water or sewer system, including without limitation, septic tanks, cesspools, wells or privies, owned and maintained by the owner or owners of private property for the collection, treatment and disposal of wastes and the furnishing of potable water for that property or adjoining properties under the same ownership.

PUBLIC SYSTEM

The system of pipes, treatment facilities, wells and all appurtenances and apparatus owned and operated, or intended to be owned and operated, by the Town of Federalsburg for the collection, treatment and disposal of wastes and the furnishing of potable water.

PUBLIC WAY

Any property, right-of-way, easement or other right of use or ownership held by the Town of Federalsburg and dedicated or intended to be dedicated for public use for facilities including, without limitation, streets, water, sewer drainage systems. The boundaries of such public ways shall generally be construed as:

- (1) The lines formed by the juncture of the outside edge of sidewalk and inside edge of curb;
or
- (2) The front lot line of the property or properties abutting such public way; or
- (3) Other such boundaries as described in the deed, right-of-way or other official land record, where applicable.

§ 235-3. Connection required.

- A. Within six months of the effective date of this article, all units within the Town's corporate limits which are located on properties or portion of properties abutting a public way where water or sewer lines are available, as such term is defined herein, shall be required to connect to that public water or sewer line if not already so connected as of that effective date.
- B. All such connections must be made under Town permit and to Town specifications which may be set separately from this article, and may be changed from time to time. The Town may require plans, specifications, and any necessary information or engineering opinion in its discretion for the purpose of evaluating the permit application.
- C. All costs and expenses incidental to the installation of the building water and sewer service shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be caused by the installation of utility service. A licensed plumber shall be used for all installation of water and sewer lines and said lines shall be inspected by a Town representative before any coverage takes place.
- D. When the property owner or private contractor has completed utility installation, all such installation must be inspected and approved by the Town's authorized representative prior to any backfilling or covering of the fixtures, pipes, lines or other apparatus installed.
- E. A separate and independent building water service shall be provided for every building, except as hereinafter provided in Subsection F or except where one building stands at the rear of another on an interior lot, and no private water service is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In the latter case the building service from the front building may be extended to the rear building and the whole considered as one building service and provided that this shall only apply when both buildings have the same ownership.
- F. The owner of a property housing mobile homes, trailer units, and/or multifamily dwellings presently used for commercial or residential purposes and having domestic water and/or sanitary facilities therein shall have the options of (1) connecting all units or dwelling units to the public water main via a single building water service, (2) connecting all units or building units to the public water main via two or more building water services, or (3) considering each unit or dwelling unit as a separate entity and connecting each unit or dwelling unit to the public water main via a separate and independent building water service. The water rate structure established for use of the Town's public water mains will be such that revenue required from a property owner choosing either option (1) or (2) above will be equal to the revenue secured had each unit or dwelling unit been required to have its own separate and independent building water service. The creation of any new units, or multidwellings shall be required to have a single building water service. Any new unit created will be obligated to pay for meter installation and the motor and individual services shall be installed. Each unit shall be billed on all individual basis. The developer shall pay for the water meter, which shall then become the property of the Town and shall be maintained by the Town of Federalsburg. Multifamily units shall be separately billed on a per-unit basis and all meters must meet Town specifications.
- G. Upon determination that an existing unit or property is using a private system as defined by § 235-2 of this article, that is injurious, detrimental or dangerous to public health and safety, or to that of the occupants of the unit or property, the Town may require that such system be abandoned, filled, removed or otherwise made safe and connection to the public system be made within a specified time period. That time period will begin on the date of issuance of a written notice to the property owner, and will expire at such time as is specified in that notice.
- H. The determination of health and safety hazard will be made by the authorized representatives of the Town of Federalsburg and shall be based on the standards set by the State of Maryland, Caroline County, and any other applicable laws, ordinances or regulations related to health standings, and any on-site inspection shall be at the discretion of the Town for the purpose of the protection of the health and safety of the public.

§ 235-4. Charges for connection.

- A. A system impact fee will be charged for each individual or unit connection to the public system. The amount the fee will be uniform within each class or type of unit, but may be varied between the types or classes or the system impact to be expected for that type of unit. The fee for each type or class of unit will be set by the Mayor and Council by resolution.
- B. All fees, costs, and/or charges associated with an individual unit or property connection must be paid prior to service connection and start of service unless otherwise deferred by the Mayor and Council.
- C. No occupancy permit for new construction or conversion will be issued until all fees and costs associated with the property's connections have been paid, and satisfactory evidence of such payment presented to the Town representative responsible for issuing that permit. This restriction shall also apply to any other permits or approvals which come under the Town's direct jurisdiction.
- D. Fees, costs and charges incurred during the connection of a unit or property shall include, without limitation, connection fee for each system, time and materials associated with the Town-performed installation or extension of the public system, and all permit, application and approval fees payable to the Town of Federalsburg.

§ 235-5. Maintenance of system and connections.

- A. The Town's responsibility for maintenance, repair or replacement of any water or sewer fixture, connection or other apparatus shall be limited to those apparatus which are a part of the public system or are located within the boundaries of a public way, as those are defined by this article.
- B. The Town shall not be responsible for the installation, maintenance, repair or replacement of any water or sewer line, fixture, connection, or other apparatus that is located on private property, nor will the Town perform any of the aforementioned services at the property owner's or tenant's request, excepting the operation of water meters as addressed under Subsections **D**, **E** and **F** of this section.
- C. It shall be the responsibility of the Town of Federalsburg to maintain public system lines in the public ways within the corporate limits of the Town of Federalsburg, as the term "public ways" is defined in § **235-2**.
- D. It shall be the responsibility of the Town to verify and replace any water or sewage flow meter found to be faulty or inaccurate whether such meter is located on public or private property when a verification of that meter has been requested by the property owner or tenant.
- E. In the event that a meter verification is requested by the owner or tenant and the meter in question is found to be operating properly, the water or sewer account for that property shall be charged a fee for the testing and verification performed. Such fee may be set and amended by the Mayor and Council from time to time in the course of setting or amending water and sewer user and/or connection charges.
- F. There shall be no charge to the property owner or tenant when a meter test, repair or replacement is initiated by the Town or its representatives.

§ 235-6. Billing for water service.

- A. Residential and commercial properties and units will be billed on a quarterly basis for the amount of water used as determined by the Town's periodic reading of the water meter for each individual property or unit account.
- B. Industrial properties and units will be billed on a monthly basis for the amount of water used as determined by the Town's periodic reading of the water meter for each individual property or unit account.

- C. The Mayor and Council shall establish from time to time by resolution the minimum gallons to be charged for each individual residential, commercial, and industrial account and may vary the minimums and charges for each class of account. Such minimum charge to be billed regardless of the lesser amount used as determined by the meter reading. The bill shall also be established for the gallons used in excess of the minimum for each class and account.
- D. Any mixed use properties shall be billed on the same rate as residential and commercial properties and shall be billed quarterly according to the charges set by resolution by the Mayor and Council.
- E. Recognizing that shortfall and operational expenses as well as full faith and credit borrowing power are expenses paid by the taxpayers within the incorporated municipality, the rates for out-of-town units or properties will be charged at an increased prorated basis. The out-of-town rate will be established by resolution by the Mayor and Council.
- F. Accounts determined to be inactive by the Town will be prorated for a billing period charged for that time which they are determined to be active.

§ 235-7. Billing for sewer service.

- A. Except where water service is not present, billing for sewer services shall be on the same cycle as the water billing for each unit type, and charges for sewer service shall be stated on the same billing document as the charges for water service.
- B. The Mayor and Council shall establish rates to be charged for each class and use of property by resolution.

§ 235-8. Delinquent payments.

- A. All charges for water and/or sewer service shall be due and payable 30 days from the date of billing. Any bill which remains unpaid beyond the thirty-day period of time shall be subject to a disconnection which may take place at any time 15 days after the due date for such bill and charge. Disconnection is authorized at any time that there is outstanding and unpaid water or sewer service charge, or an outstanding and unpaid delinquent assessment, and the fifteen-day grace period has expired.
- B. Delinquent accounts will be assessed a late charge of \$5 for each thirty-calendar-day period, or portion thereof, in which the account is delinquent.
- C. The property owner shall be ultimately responsible for the payment of all bills and charges, and failure to receive a bill or notice from the occupant or tenant of a property is no excuse for not paying all charges, interest and penalty. It is the responsibility of the property owner at all times to maintain knowledge of the billing status. The Mayor and Council is not required to provide any further notices prior to a disconnection.
- D. A reconnection charge will be assessed on all individual accounts that are disconnected for nonpayment. The charge shall be assessed for each individual account, regardless of the number of properties under the same ownership. The reconnection charges shall be set by the Mayor and Council by resolution.
- E. All service usage, late charges and disconnection charges must be paid in advance of reconnection to service.

§ 235-9. Unauthorized use and connection; access to water meters.

[Amended 6-5-2017 by Ord. No. 2017-08]

- A. No one shall tamper with, connect, disconnect or reconnect public water or sewer system lines, fixtures or other apparatus to a unit or property without the prior written approval of the Town.
- B. No one shall turn on or turn off public water or sewer service to a unit or property without the prior written approval of the Town.
- C. No person shall obstruct a water meter or fail to provide access to a meter by an authorized Town employee for purposes of reading, repairing or replacing the meter. Where the meter is unable to be read or fails to register the total amount of water used, the customer shall pay for such period an estimated amount based upon the average consumption in similar periods.
- D. Violation of this section shall constitute a municipal infraction, and any person convicted of such by a court of competent jurisdiction shall be subject to the penalties for municipal infractions as set by the Mayor and Council from time to time in Chapter 1, Article I. This remedy shall not be exclusive and any violations of this section may also be charged with any appropriate criminal and civil penalties and laws of the State of Maryland, Caroline County, and any violation may be subject to payment of any fees and costs that might be assessed by the appropriate court.

§ 235-10. Conflict with other laws and regulations.

If any provision of this article is found to be in conflict with the provisions of any other federal, state, county or other law or regulations, the more restrictive provision shall apply.

Article II. Cross-Connection Control

[Adopted 1-7-2002 by Ord. No. 02-005]

§ 235-11. Purpose.

The purposes of this article are:

- A. To protect the public potable water supply served by the Town from the possibility of contamination of pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.
- B. To promote the elimination or control of existing cross-connections, actual or potential, between its customers in-plant potable water system, and nonpotable systems.
- C. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination of all potable water systems by cross-connection.

§ 235-12. Authority.

The Federal Safe Drinking Water Act of 1974 stipulates that the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

§ 235-13. Definitions.

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

AUXILIARY WATER SUPPLY

Any water supply on or available to the premises other than the purveyor's approved public potable water supply.

BACKFLOW

The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTER

A device or means designed to prevent backflow or back-siphonage, most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

A. AIR GAP

A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system, physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch.

B. ATMOSPHERIC VACUUM BREAKER

A device which prevents back-siphonage by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

C. BAROMETRIC LOOP

A fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.

D. DOUBLE CHECK VALVE ASSEMBLY

An assembly of two independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

E. DOUBLE CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT

A device having two spring-loaded check valves separated by an atmospheric vent chamber.

F. HOSE BIBB VACUUM BREAKER

A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

G. PRESSURE VACUUM BREAKER

A device containing one or two independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shutoff valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

H. REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTER

An assembly consisting of two independently operating check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

I. RESIDENTIAL DUAL CHECK

An assembly of two spring-loaded, independently operating check valves without tightly closing shutoff valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.

BACKPRESSURE

A condition in which the owners system pressure is greater than the suppliers system pressure.

BACK-SIPHONAGE

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

CONTAINMENT

A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.

CONTAMINANT

A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

CROSS-CONNECTION

Any actual or potential connection between the public water supply and a source of contamination or pollution.

FIXTURE ISOLATION

A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

OWNER

Any person who has legal title to, or license to operate or inhabit in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

POLLUTANT

A foreign substance, that if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

WATER SERVICE ENTRANCE

That point in the owner's water system beyond the sanitary control of the Town, generally considered to be the outlet end of the water meter and always before any unprotected branch.

§ 235-14. Inspection of systems for hazards; responsibilities of owners.

A. Town.

- (1) On new installations, the Town will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permit, and perform inspection and testing. In any case, a minimum of a dual check valve will be required in any new construction.
- (2) For premises existing prior to the start of this program, the Town will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, 90 days will be allowed; however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.
- (3) The Town will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.
- (4) The Town shall inform the owner by letter of any failure to comply by the time of the first reinspection. The Town will allow an additional 15 days for the correction. In the event the

owner fails to comply with the necessary correction by the time of the second reinspection, the Town will inform the owner by letter that the water service to the owner's premises will be terminated within a period not to exceed five days. In the event that the owner informs the Town of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Town but in no case will it exceed an additional 30 days.

- (5) If the Town determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
- (6) The Town shall have on file a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.
- (7) The Town will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this article by the Town, during the calendar year 2002. Initial focus will be on high-hazard industries and commercial premises.

B. Owner.

- (1) The owner shall be responsible for the elimination or protection of all cross-connections on his premises.
- (2) The owner, after having been informed by a letter from the Town, shall at his expense install, maintain, and test, or have tested, any and all backflow preventers on his premises.
- (3) The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
- (4) The owner shall inform the Town of any proposed or modified cross-connections and also any existing cross-connections of which the owner is aware but has not been found by the Town.
- (5) The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing the device(s) must supply additional devices necessary to allow testing to take place.
- (6) The owner shall install backflow preventers in a manner approved by the Town.
- (7) The owner shall install only backflow preventers approved by the Town.
- (8) Any owner having a private well or other private water source must have a permit if the well or source is cross-connected to the Town's system. The owner shall be required to install a backflow preventer at a service entrance if a private water source is maintained, even if it is not cross-connected to the Town's system.
- (9) In the event the owner installs plumbing to provide potable water for domestic purposes which is on the Town's side of the backflow preventer, such plumbing must have its own backflow preventer installed.
- (10) The owner shall be responsible for the payment of all fees for permits, annual or semiannual device testing, retesting in the case that the device fails to operate correctly, and second reinspections for noncompliance with Town requirements.

§ 235-15. Permits; fees.

The Town shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

- A. Cross-connection permits that are required for each backflow prevention device are obtained from the Town. A fee of \$75 will be charged for the initial permit and \$50 for the renewal of each permit.
- B. Town permits shall be renewed every one year and are nontransferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-

connection or degree of hazard associated with the service.

- C. A permit is not required when fixture isolation is achieved with the utilization of a nontestable backflow preventer.

§ 235-16. Existing in-use backflow prevention devices.

Any existing backflow preventer shall be allowed by the Town to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device, or a reduced pressure principle device must be installed in the event that no backflow device was present.

§ 235-17. Periodic testing.

- A. Reduced pressure principle backflow devices shall be tested and inspected at least semiannually.
- B. Periodic testing shall be performed by a certified tester. This testing will be done at the owner's expense.
- C. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be retested at the owner's expense to insure correct operation. High-hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the owner insuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- D. Backflow prevention devices will be tested more frequently than specified Subsection **A** above in cases where there is a history of test failures and the Town feels that, due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be borne by the owner.

§ 235-18. Fees and charges.

The Town will publish a list of fees or charges for the following services or permits:

- A. Testing fees.
- B. Fee for reinspection.
- C. Inspection fees.

§ 235-19. Residential dual check.

- A. Effective the date of the acceptance of this cross-connection control program for the Town of Federalsburg, all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted as time and cost permit. This retrofit shall be completed by the Town.
- B. The owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, provisions may have to be made by the

owner to provide for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

§ 235-20. Strainers.

The Town strongly recommends that all new retrofit installations of reduced pressure principle devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

§ 235-21. High-hazard uses.

[Added 3-4-2002]

- A. Any establishment, classified as a high-hazard use, shall be required to install suitable protection devices to prevent backflow or back siphonage. "High-hazard use" means any establishment where backflow or back siphonage could contaminate the public water supply.
- B. These devices shall be tested and maintained to ensure proper operation on a continual basis. Water connections installed after March 4, 2002, and all existing water connections where a curb stop, cutoff valve or metering device and its hardware is replaced after March 4, 2002, shall include a double check valve backflow prevention device of a type and design specified by the Town.
- C. If, in the opinion of a Town of Federalsburg Public Works Director, effective measures have not been taken, the Town shall take such measures, as it may deem necessary to ensure the community water distribution system is protected from contamination. Such action may include the installation of a backflow prevention device, consistent with the degree of hazard at the service connection, or discontinuation of the water service. The cost for installation of any such backflow prevention device will be at the expense of the property owner.

Article III. Service Extension Outside Town

[Adopted 8-4-2003 by Res. No. 2003-08]

§ 235-22. Policy established.

The extension of water and sewer service outside of the corporate limits of the Mayor and Council of Federalsburg shall be governed by the following policy.

§ 235-23. Water not to be provided outside Town.

As a general rule, the Mayor and Council of Federalsburg shall not provide water and/or sewer service to properties outside of the corporate limits of the Town.

§ 235-24. Exceptions.

The only exceptions to the above referenced rule shall be:

- A. The outlying property has a failing water and/or septic system, thereby creating a health risk. The extension of water and/or sewer service in such a situation shall be limited and remedial in nature. It shall be for existing uses only and is not intended as a mechanism to provide service to undeveloped property or for additional hookups; or
- B. The property is subject to an annexation agreement.

§ 235-25. Requirements for extensions outside Town limits.

All extensions of water and/or sewer service outside of the corporate limits pursuant to § 235-24 shall be subject to the requirements that:

- A. The property owner must agree in writing to be annexed into the Town if the Town requests it at any point in the future;
- B. The property owner shall be responsible for all fees and expenses related to the extension of water and/or sewer service; and
- C. The rate for water and/or sewer outside of the corporate limits shall be 150% of the rate charged to municipal users.

Article IV. Water and Sewer Rates

[Adopted 2-7-2005 by Ord. No. 2005-02^[1]]

[1] *Editor's Note: This ordinance also repealed former Art. IV, Water and Sewer Rates, adopted 3-1-2004 by Res. No. 2004-05.*

§ 235-26. Establishment of districts.

- A. A water and sewer district is hereby established to include all of the property located within the corporate limits of the Town of Federalsburg.
- B. A water and sewer district is hereby established to include all of the property that is now or in the future becomes served by water and/or sewer service of the Town of Federalsburg and is not within the corporate limits of the Town of Federalsburg.

§ 235-27. Water rates.

The Mayor and Council of Federalsburg shall be empowered by resolution to adopt rates for water service, said resolution to be adopted by majority vote under the normal powers of the municipal corporation subject only to the requirement that said resolution must be adopted after a public hearing of the Mayor and Council. The Mayor and Council may set such rates as part of their normal budgetary process and the resolution or ordinance adopting the budget shall be sufficient to meet the requirements of this section.

- A. There shall be a meter rate established for all residential usage of water as measured by the water meter. "Residential use" shall be defined as any occupancy and use which is primarily for purposes of residence and the establishment of a domicile.
- B. There shall be separate rates established for the water and sewer district containing properties within the corporate boundaries and for the water and sewer district containing properties without the corporate boundaries for meter billing.
- C. There shall be separate rates established for commercial and industrial users.

- D. Unoccupied or vacant properties shall be assessed the flat fee.
- E. The water rates shall be as set forth in § 235-28.1.
[Amended 6-1-2009 by Ord. No. 2009-08; 10-3-2011 by Ord. No. 2011-10; 10-1-2012 by Ord. No. 2012-13]
- F. These rates shall continue in effect until changed by the Mayor and Council.

§ 235-28. Sewer rates.

The Mayor and Council shall be empowered by resolution to adopt rates for sewer service, said resolution to be adopted by majority vote under the normal powers of the municipal corporation subject only to the requirement that said resolution must be adopted after a public hearing of the Mayor and Council. The Mayor and Council may set such rates as part of their normal budgetary process and the resolution or ordinance adopting the budget shall be sufficient to meet the requirements of this section.

- A. There shall be separate rates established for the water and sewer district containing properties within the corporate boundaries and for the water and sewer district containing properties without the corporate boundaries.
- B. There shall be separate rates established for commercial and industrial users.
- C. Unoccupied or vacant properties shall be assessed the debt service portion of the fee.
- D. The sewerage rates shall be as set forth in § 235-28.1.
[Amended 10-3-2011 by Ord. No. 2011-10; 10-1-2012 by Ord. No. 2012-13]
- E. These rates shall continue in effect until changed by the Mayor and Council.

§ 235-28.1. Water and sewer rates.

[Added 10-1-2012 by Ord. No. 2012-13; amended 1-7-2013 by Ord. No. 2012-17; 10-7-2013 by Ord. No. 2013-9; 11-13-2014 by Ord. No. 2014-8; 6-5-2017 by Ord. No. 2017-10^[1]]

The following water and sewer rates are hereby established for properties that receive Town water and/or sewer services. Water and sewer billing will be based on water usage as measured by the water meter. For all vacant lots that currently do not have water and sewer connections, the property owners shall pay the water and sewer debt fees per lot based upon the zoning for such lot.

Quarterly Water and Sewer Billing Rates Fiscal Year 2017-2018

In-Town Rates	Water Usage	Sewer Usage	Water Debt	Sewer Debt
	(per thousand gallons)	(per thousand gallons)		
Residential rate	\$3.15	\$5.27	\$21.20	\$109.89
Commercial rate	\$3.15	\$5.27	\$21.20	\$109.89
Industrial rate	\$3.47	\$6.59	\$23.32	\$137.36
Vacant lots	-	-	\$5.29	\$27.47

Out-of-Town Rates	Water Usage	Sewer Usage	Water Debt	Sewer Debt
	(per thousand gallons)	(per thousand gallons)		
Residential rate	\$4.73	\$7.90	\$31.80	\$164.90
Commercial rate	\$4.73	\$7.90	\$31.80	\$164.90
Industrial rate	\$4.73	\$7.90	\$31.80	\$164.90

- [1] *Editor's Note: This ordinance also provided that the charges would become effective 7-1-2017 for commercial and residential users and 10-1-2017 for industrial users.*

§ 235-29. Capital connection charges.

The water and sewer capital connection charges shall be \$2,500 for each water connection and \$2,500 for each sewer connection whether within or without the Town limits. This fee is in addition to any labor and material that is physically done by the municipality in connection with the installation.

§ 235-30. Termination of water service.

- A. The water supply may be shut off from any premises for which the water bill remains unpaid for a period of 45 days after the bill is rendered and mailed. When water is shut off, water shall be turned on upon the payment of any outstanding fees or charges.
- B. If a unit owner desires to terminate service for any reason during a quarter, then there will be a termination fee of \$50. If the unit has used less than the minimum charge at a meter reading at the time of termination, then there will be no additional charge for water or sewer. If the reading at the time of termination is for the minimum or more, then the unit owner will be obligated to pay for the water and sewer service plus the termination fee of \$50.

§ 235-31. Rates and charges to be liens upon property.

The rates and charges provided in this article are hereby declared to be liens upon the property used or serviced by said water supply system or sewer system until paid, and said water rent and sewer charges shall be collectible as other municipal taxes are now collectible in the Town of Federalsburg as prescribed by law.

§ 235-32. Water meters required; exceptions.

All premises using the water supply of the Mayor and Council must be equipped with an adequate water meter. The only exemptions to this article are churches, Town properties, nonmetered or metered unimproved property, firehouses, ballfields, and the carnival grounds. All other accounts will be metered and required to pay the portion of the fees attributed to debt service even if service is terminated.

§ 235-33. Leaks; adjustments in bill.

If a leak is detected in a water line, and the leak is repaired in a timely manner, the property owner affected by the leak may request an adjustment to his or her bill. Such request must be in writing and directed to the Mayor and Council. The Mayor and Council will decide whether or not to make sure adjustment on an individual basis after considering the circumstances of the request.

§ 235-34. Rules and regulations.

The Mayor and Council of Federalsburg may formulate rules and regulations to implement the policies contained herein by resolution.

Chapter 239. Water Systems, Private

§ 239-12. Use of private wells for industrial purposes.

- A. Notwithstanding any of the provisions of this chapter, the use or replacement of existing private wells for industrial purposes may be permitted only upon specific prior approval of the Mayor and Council after formal application thereto and hearing thereon at one or more regular meetings of the Mayor and Council. Such Mayor and Council approval shall be evidenced by a resolution adopted by the Mayor and Council and spread upon its minutes. Such resolution shall set forth in precise terms the exact size, location, depth, use or uses and all other pertinent details with respect to the particular private well approved.
- B. It shall be the intent of this section to permit the use of an existing well or to replace an existing well with one of equal depth, size and capacity but not to permit increased well capacity, except for uses permitted by this section. In the Mayor and Council's sole discretion, such resolution also may specify initial permit fees and annual permit renewal fees greater than those provided in § 239-8, but such fees in no event shall exceed five times the amounts specified in such section.
- C. No well shall be permitted nor used, if in the judgment of the Mayor and Council based upon the advice of its engineering firm, the use of the well shall adversely affect the public water supply and operation of the water system of the Mayor and Council of Federalsburg.

Chapter 239. Water Systems, Private

§ 239-8. Application; fee; drawings and specifications.

Any person contemplating the construction of a private well for domestic use, outside irrigation purposes, refrigeration cooling purposes or the filling of swimming pools shall, previous to the beginning of any construction, make a formal application. The permit fee shall be \$25 for each well. Applications for such permit, except wells referred to in Subsection C of this section, shall be in a form provided by the Codes Inspector. Whenever in the opinion of the Codes Inspector complete plans and specifications are needed to show definitely the desired installation for which the application is made, the applicant shall furnish such drawings and specifications. These drawings and specifications shall be drawn to scale and submitted in duplicate. If approved, one set shall be returned to the applicant marked approved, and one set shall be retained and filed as a permanent record in the office of the Codes Inspector.



118 NORTH MAIN STREET
P. O. BOX 471
FEDERALSBURG, MARYLAND 21632

410-754-8173

May 22, 2020

VIA EMAIL to ht@aquacon.as

Henrik Tangen
AquaCon AS

Re: Proposed Development and Annexation

Dear AquaCon:

On behalf of the Mayor and Council of Federalsburg, I am writing this letter to advise of the Town's support for the development of the property that borders the Frank Adams Industrial Park, Maryland Route 318, and Wright Road which includes the property known as the "Schmick Farm" and hereinafter referred to as the "Property". Specifically, we are pleased to support your plans to build a 15,000 metric ton land-based salmon farming plant at the property and welcome the property's annexation into the Town of Federalsburg.

As we previously discussed, a project of this scale would bring many jobs and significant revenue to the Town. Therefore, the project as presented to the Town in March, 2020, has immense support from the Mayor and Council as well as the Federalsburg Economic Development Committee, and the Caroline County Economic Development Office.

As you know, the property you are proposing to purchase and develop is outside of the Town's incorporated boundary. Therefore, you will be required to seek annexation of the property to bring it into the Town limits for the Town to provide municipal services and to develop the property under the jurisdiction and zoning of the Town. Depending on the specific use at the time of annexation, you may also need to rezone the property. Although we cannot guarantee the annexation of the property into the Town, we can guarantee our support for such annexation and potential rezoning of the property and believe that the annexation will not be controversial as the property has been in the Town's growth area for years as established by the Town of Federalsburg Comprehensive Plan and the Caroline County Comprehensive Plan.

As part of its municipal services, the Town of Federalsburg provides municipal water and sanitary sewer services to all Town residents, businesses, and industries. Connection to and use of the Town's water and sewer will be subject to current municipal rates and fees for connection and supply, including capital connection charges, and in accordance with the standards and specifications of the Town's Public Works Department and under the Town's direction and

Letter to AquaCon
Re: Development Proposal
May 22, 2020
p. 2

supervision. In addition, the costs, fees, and expenses associated with constructing and extending water and sewer will be the responsibility of the property owner.

As we understand it, you intend to use a private well on the property for industrial purposes. The Town permits the use of private wells for industrial purposes upon approval of the Mayor and Council. We have reviewed and discussed your preliminary plans and do not foresee any issues. Of course, any approval will also be subject to approval by the Maryland Department of the Environment.

In addition, any extension of Town services would be contingent upon available capacity. The Town has taken a preliminary review of the Town wastewater treatment plant to determine whether there is sufficient capacity for your proposed development. The Town's wastewater treatment plant is permitted for treatment and disposal of 750,000 gallons per day in flow. The current flow rate at the plant is approximately 250,000 gallons per day. Therefore, we believe there will be sufficient capacity to serve the property once annexed. We also understand from your presentation that you plan to recycle as much of the process water as you feasibly can, thereby reducing the required flow to the Town's plant by using a recirculation technology. The Town is excited about the potential opportunity to be a part of this new technology and believes it will have positive environmental impacts.

For all of the reasons stated above, and based on the information that you have provided to the Town of your plans to develop the Property to provide a 15,000 metric ton land-based salmon farming plant, the Town strongly encourages AquaCon to proceed with the planning process and undertake the necessary steps to annex the property into the Town of Federalsburg for its ultimate development. The Town supports the project as proposed and is committed to working with AquaCon throughout this process to ensure that the development meets the necessary Town, County, State, and Federal rules, regulations, and zoning requirements. While we cannot definitively say that the project meets all Town regulations without having a more formal concept plan, we can guarantee that we are committed to this project and will work with you to bring this beneficial project to the Town of Federalsburg.

On behalf of the Town of Federalsburg, we look forward to working with AquaCon and are excited about the possibility of bringing this industry to our community. If you have any questions or wish to discuss further, please don't hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Kimberly Jahnigen Abner". The signature is written in a cursive, flowing style.

Kimberly Jahnigen Abner, Mayor

ATTACHMENT D

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*ADMITTED IN MD & DC

October 9, 2020

VIA EMAIL AND FIRST CLASS MAIL

Leslie Grunden, AICP
Assistant Director of Planning
Caroline County Dept. of Planning and Codes
403 S. Seventh Street Suite 210
Denton, MD 21629

Re: Town of Federalsburg Support for Proposed CWSP Amendment
AquaCon Maryland LLC Salmon Production Facility

Dear Ms. Grunden:

On behalf of the Mayor and Council of Federalsburg, I am sending this letter to advise you that they support the map and text amendments to the Caroline County Comprehensive Water and Sewerage Plan proposed by AquaCon Maryland LLC ("AquaCon") to designate 211.649 acres west of Wright Road (the "Property") as S-2/W-2. Therefore, the Mayor and Council request that the County Commissioners approve the proposed amendment.

The Town of Federalsburg owns and operates a 0.75 MGD ENR wastewater treatment plant ("WWTP") and a municipal water system for potable water. The current average wastewater flow at the WWTP is approximately 300,000 gallons per day. AquaCon proposes to discharge an average of 80,000 gallons, or 320 EDU's, of wastewater per day to the WWTP. In addition, AquaCon intends to periodically discharge additional demands of approximately 7,000,000 gallons when conditions make it necessary to drain their individual process lines. The method by which the additional capacity will be discharged by AquaCon will be determined by the Town and will be set forth in an annexation agreement.

The municipal water system has a total design capacity of 1,350,000 gallons per day and

is supplied by four municipal wells and two elevated storage tanks with a total capacity of 550,000 gallons. There is sufficient capacity in the Town's water system to serve the development of the property. The reservation of allocation and connection to the municipal system will be contingent upon and pursuant to an annexation agreement between the Town and developer.

In addition to available capacity in the water and sewer systems, on October 8, 2020, the Federalsburg Planning Commission discussed the Comprehensive Water and Sewerage Plan amendment at their Meeting, at which time the Commission Members found that the proposed amendment is consistent with the Federalsburg Comprehensive Plan for the following reasons:

- The Property is designated as part of the Town's Planned Growth Area as "Planning Area 5". See Federalsburg Comprehensive Plan, p. 74.
- Area 5 is designated as an area where residential development should not be allowed. See Federalsburg Comprehensive Plan, p. 80.
- Area 5 is designated by the Plan as a "primary location for Industrial Park expansion" and is consistent with the Plan's objectives to "[e]ncourage the Town's physical expansion into areas within the Planning Area" and "promote...industrial expansion". See Federalsburg Comprehensive Plan, p. 49, 62, 80.
- The land use plan component of the Comprehensive Plan indicates that the Property should be developed as an industrial use.
- The Land Use and Growth Section of the Plan encourages expansion into areas within the Planning Area.
- The Plan specifically states, "[a]nnexation of agricultural areas is explicitly intended to form part of our growth management strategy." See Federalsburg Comprehensive Plan, p. 61.
- The development of the Property is consistent with the eight visions as stated in the Comprehensive Plan, including:
 - Concentrated development.
 - Promotes controlled and compact development patterns that reflect good design practices, make efficient use of available land, and locate development where public facilities, services, and amenities can be provided in the most efficient manner.
- It has always been the goal of the Town to serve the areas annexed pursuant to a policy of planned growth, as well as existing infill properties, with water and sewer facilities.

In furtherance of finding Consistency with the Federalsburg Comprehensive Plan, the Members found that sufficient water and sewer capacity is available to serve the development of the Property and additional sewer capacity will be available for development of the Property consistent with an annexation agreement that will be entered into between the developer and the Town of Federalsburg.

Therefore, the Town supports the proposed amendment. Should you have any questions regarding the Town's position on the proposed amendments, please feel free to call me at your convenience.

Sincerely yours,

Lyndsey Ryan
Town Attorney for the Town of Federalsburg

cc: Federalsburg Mayor and Council
Ryan Showalter