

PROCEDURES FOR ANNEXATION



This pamphlet is designed as a guide to explain the process of annexation for those who may be interested in having their property become part of the Town of Emmitsburg.

**Town of Emmitsburg
300A South Seton Avenue
Emmitsburg, MD 21727
301-600-6300**

BEGINNING THE PROCESS

The annexation process is governed by Maryland State law. These laws can be found in Title 4, Subtitle 4, of the Local Government Article of the Annotated Code of Maryland. While an annexation can be initiated by the Mayor and the Board of Commissioners (Board), most annexations are initiated by petition of the private landowner. This guide is geared towards petitions of private property owners.

An important preliminary step in the annexation process is to meet with the Town Planner to discuss the general parameters of the annexation, a tentative time schedule can be discussed concerning the filing of the petition and introduction of an annexation resolution to the Board, advertising requirements, and necessary hearings.

In order for a property to be considered for annexation it must be adjacent or contiguous to existing property already within the Town and within the municipal growth area on the Town's Comprehensive Plan. The property may not create an enclave or island of unincorporated property.

An individual property owner may also find it advantageous to work with neighboring property owners who may also desire annexation. Because there will likely be both survey and legal fees involved in the process, a shared effort may do much to reduce individual costs. Becoming "adjacent" to the Town might also be achieved in this manner.

It should be noted that any and all costs associated with the annexation of any property into the Town must be paid by the petitioner(s).

I. PREPARING THE PETITION AND SUPPORTING INFORMATION

The next step in the annexation process is filing the petition with the Town by submitting it to the Town Planner. The petition is a small portion of a "package" of materials that needs to be assembled for both the Board and the many agencies involved in the petition review. Thirty (30) copies of the following items should be completed for filing of the petition. In addition, one copy of the complete package should be submitted electronically.

1. PETITION FOR ANNEXATION.

Normally an attorney prepares a Petition for Annexation making the annexation request of the Board and containing the information required by law.

It is important that the petition for annexation be signed by at least 25% of the registered voters and 25% of the owners of assessed valuation of real property in the area to be annexed.

2. METES AND BOUNDS DESCRIPTION

A complete metes and bounds description of the subject property accompanies the petition. It is usual for this description to be prepared by a certified surveyor.

3. ANNEXATION / SURVEY PLAT OF SUBJECT PROPERTY

Accompanying the metes and bounds description is a plat showing, in detail, the subject property and supplying part of the information requested in Part 4 below. It must show where the area to be annexed is contiguous to existing Town limits and the location of public facilities (water & sewer) on neighboring properties.

4. COUNTY COMPREHENSIVE PLAN GROWTH AREA MAP / SUBJECT PROPERTY

A site map showing the location of the subject property on the Frederick County Comprehensive Plan Growth Area Map should also be submitted. This map may be used to illustrate boundaries of the subject property contiguous to Town limits.

5. REQUEST FOR RELEASE OF COUNTY ZONING

In certain cases where the proposed zoning in Town would permit a land use or density for the property different than the zoning in Frederick County prior to the annexation, such development of the land may not be allowed for five (5) years unless express approval is granted by the County Council.

6. APPLICATION FOR ZONING

A request to zone the property to be annexed may be made in the annexation petition. Any Town Code separate requirements for zoning shall be met. Costs associated with publishing or posting zoning notices, mailing costs, legal review fees, and all other costs associated with the zoning request shall be the responsibility of the petitioner(s) and shall be treated the same as other annexations costs.

7. FEASIBILITY STUDY

A study shall be made at the petitioner's expense determining the fiscal impact the annexation of the subject property will have on the Town of Emmitsburg. The scope of the study will be dependent upon the size and nature of the annexation request.

For the annexation of a small parcel of land for residential use, a study prepared by the attorney may be sufficient. A larger parcel with planned multiple residences or uses, may require preparation of a study done by a land planning or engineering firm. Details of the study should include how the annexation will affect the water, sewer, roads, police, fire, EMS, libraries, schools, and recreation.

8. RESOLUTION

A draft Town Board annexation resolution shall be submitted with the petition for annexation. This document states in resolution form many of the facts of the petition. It may also contain other conditions and agreements made between the petitioning party and the Town of Emmitsburg. Legal counsel for the Town will review the resolution.

9. COSTS & FEES

The Town's current annexation fee is \$1,000.00 plus \$50.00 per acre or \$0.00 if initiated by the Town. All costs incurred by the Town in processing an annexation request, the petition, and any application for zoning shall be the obligation of the petitioner and is non-refundable. Petitioner and/or related parties shall agree to the payment of such costs in writing at the outset.

II. PROCESSING THE PETITION TIME FRAME / OTHER REQUIREMENTS

1. INTRODUCTION.

When all the materials for the petition have been reviewed for completeness and legal sufficiency by the Town, the petition is presented to the Town Mayor & Board. The resolution may be introduced at the same time or when it is otherwise ready for introduction. The introduction of the resolution by the Town Mayor & Board starts in motion the process of review, public notice, and public hearing leading to Board action on the resolution and the acceptance (or rejection) of the annexation.

Neither the acceptance of the petition for annexation nor the introduction of a resolution binds the municipality in any manner. Approval or disapproval is subject of the legislative process and solely within the discretion of the Town.

2. ANNEXATION PLAN – LOCAL GVT. 4-415.

At least thirty (30) days before the public hearing, the Town Board is required to adopt an Annexation Plan for the area to be annexed. The petitioner may be asked to provide studies or other information to create and support the Annexation Plan.

The Annexation Plan must include detail on the following:

- a) Description of proposed land use pattern;
- b) Schedule for extending municipal services to the area considered for annexation;
- c) Method of financing the extension of services;

- d) Land available for public facilities which may be required for the proposed land use, including schools, water, sewage treatment, libraries, recreation, fire, EMS, and police services; and
- e) Explanation as to how the proposal is consistent with the municipal growth element of the Town's Comprehensive Plan.

3. PUBLIC HEARING.

Following petition acceptance by the Board and introduction of the resolution, the Town shall publish at least four (4) times or two (2) times if the proposed annexation is 25 acres or less in size, at not less than weekly intervals an advertisement of the proposed annexation. After a period no sooner than fifteen (15) days following the final advertisement, the Town shall hold a public hearing on the petition for annexation, and the Board may act at or following the hearing to accept or reject the resolution.

4. ANNEXATION AGREEMENT.

An Annexation Agreement or other agreement is sometimes used to address unique or individual circumstances or conditions relating to the annexation. This may be negotiated during the process. It is typically executed before enactment of the resolution.

5. ACTION ON RESOLUTION / REFERENDUM.

If the Board enacts the resolution for annexation, it cannot take effect until at least forty-five (45) days after its enactment.

During these forty-five (45) days from the enactment of the resolution by the Board, a petition for referendum may be filed with the Town which, if it meets the filing requirements, would suspend the effectiveness of the annexation resolution by Town proclamation. This petition for referendum may come from three possible sources:

- A. A minimum of twenty percent (20%) of the qualified voters of the Town;
- B. A minimum of twenty percent (20%) of the registered voters who are residents in the area to be annexed; or
- C. Two-thirds (2/3) vote of the County governing board.

If such petition for referendum is received, the Town must publish a notice of referendum two (2) times at not less than weekly intervals and hold a referendum election no sooner than fifteen (15) and no later than ninety (90) days after the notices

are published. The results of the public referendum are binding on a decision to annex or not to annex.

6. REPORTING OF RESOLUTION.

Once an annexation resolution becomes final and effective, a copy with the new Town boundaries is sent to the Town Planner, the Clerk of the Circuit Court for Frederick County, and the Maryland Department of Legislative Services.

ANNEXATION MAILING LIST

Initial Petition Packet

Mayor and Board of Commissioners	6
Town Manager	1
Planner / Zoning Administrator	2
Director of Public Works	1
Sewer / Water Superintendent	1
Town Attorney Leslie A. Powell Powell, LLC. 19 North Court Street, Suite 201 Frederick, Maryland 21701	1
Frederick County Planning Commission 30 North Market Street Frederick, Maryland 21701	8
Frederick County Executive & Council Winchester Hall 12 East Church Street Frederick, MD 21701	8
Maryland Office of Planning 301 West Preston Street, Suite 1101 Baltimore, Maryland 21201	1

Metropolitan Washington Council of Governments 1
777 North Capitol Street NE, Suite 300
Washington, DC 20002

TOTAL # OF COPIES 30

Adopted Annexation

Maryland Department of Legislative Reference (include signed annexation resolution & annexation plat)

Department of Legislative Reference
90 State Circle
Annapolis, Maryland 21404

Frederick County Clerk of the Court
100 West Patrick Street
Frederick, Maryland 21701

Courtesy Copy

Maryland Department of Transportation 1
State Highway Administration
PO Box 717
Baltimore, MD 21203-0717

ANNEXATION CHECKLIST

1. Filing of petition to Town Planner. Date: _____

2. Mayor shall cause verification of signatures. Date: _____

Petition initiated by Town - Consent of at least 25% of registered voters and 25% of owners of assessed valuation of property.

OR

Petition initiated by owners – Petition is signed by at least 25% of registered voters and 25% of owners of assessed valuation of property.

3. Petition presented to Mayor and Town Board. Date: _____

4. Introduction of resolution to Mayor & Town Board. Date: _____

5. Provide Petition to Frederick County Executive & Council at least sixty (60) days prior to public hearing. Date: _____

6. Send out annexation package for review: **(45-day review period)**.

Mayor and Board of Commissioners Date: _____

Town Manager Date: _____

Planner / Zoning Administrator Date: _____

Director of Public Works Date: _____

Sewer / Water Superintendent Date: _____

Town Attorney Date: _____

Frederick County Planning Commission Date: _____

Frederick County Executive & Council Date: _____

Maryland Office of Planning Date: _____

7. Provide Annexation Plan at least 30 days prior to the public hearing to:

1) The Town Mayor & Board Date: _____

2) Frederick County Executive & Council Date: _____

3) Regional & State Planning Agencies Date: _____

8. Publication of Notice of Hearing four (4) times, or two (2) times if less than 25 acres, at weekly intervals in the Frederick News Post. 1st Date: _____
2nd Date: _____
3rd Date: _____
4th Date: _____

9. Immediately after the first publication, provide to the County governing body, to the regional planning agency where applicable, and the Maryland Office of Planning, a copy of the first hearing notice. Date: _____

10. Public hearing to be held not less than 15 days after Last publication. Date: _____

11. Annexation Resolution is rejected, annexation fails. Date: _____

12. Annexation Resolution is enacted, subject to 45-day referendum period. Date: _____

13. Resolution becomes effective after 45 days, if no referendum. Date: _____

14. In the event of receipt of a petition for referendum:
A. Verify that the petition for referendum meets statutory criteria: Date: _____

i. 20% of qualified voters of the municipality;

ii. 20% of the registered voters in the area to be annexed; OR

iii. A vote of at least two-thirds of the members of the County governing board.

B. Issue proclamation suspending the effectiveness of the annexation resolution pending the results of the referendum. Date: _____

C. Set date for referendum not less than 15 nor more than 90 days after publication of notices of referendum. Date: _____

D. Publish notice of referendum twice at not less than weekly intervals. Date: _____

E. Conduct referendum. Date: _____

F. If annexation resolution is upheld on referendum, then it becomes effective on the 14th day after the referendum, and then report and register boundaries as indicated below. Date: _____

15. Send annexation information within 10 days after effective date to:

Emmitsburg Town Planner Date: _____

Maryland Department of Legislative Reference Date: _____

Clerk of the Circuit Court of Frederick County Date: _____

[SAMPLE]

A RESOLUTION APPROVING THE ANNEXATION OF PARCEL(S) # _____

BE IT RESOLVED, ENACTED AND ORDAINED, this ___ day of _____ 20___, by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, do approve the annexation of Parcel(s) # _____ into the Town of Emmitsburg.

WHEREAS, the Town of Emmitsburg (the "Town") is authorized by the Town Charter and provisions of Title 4, Subtitle 4 of the Local Government Article of the Annotated Code of Maryland (the "Maryland Code") to expand its municipal boundaries by annexing lands which are adjoining and contiguous; and

WHEREAS, the property to be annexed will consist of ___ parcels of land (Parcel(s) # _____) totaling _____ acres, more or less, contiguous and adjoining to the existing _____ and _____ corporate boundaries of the Town, and more particularly described herein below (the "Annexation Property"); and

WHEREAS, the Local Government Article, § 4-403 of the Maryland Code states that "[b]efore an annexation resolution is introduced, the legislative body shall obtain consent from: (1) at least 25% of the registered voters who are residents in the area to be annexed; and (2) the owners of at least 25% of the assessed valuation of real property in the area to be annexed . . ."; and

WHEREAS, the Annexation Property is described in the metes and bounds legal description contained herein; and

WHEREAS, a proposed Annexation Plan consistent with the requirements of Section 4-415 of the Local Government Article, of the Annotated Code of Maryland has been prepared and submitted to the Town and made available for public review and discussion; a copy of the Annexation Plan has been provided to the County Executive of Frederick County, Frederick County Council, Frederick County Planning Commission, Metropolitan Washington Council of Governments, and the Maryland Department of State Planning at least thirty (30) days prior to the date of public hearing to be conducted on this Resolution; and

WHEREAS, all requirements of the Laws of the State of Maryland, Frederick County, and the Charter and laws of the Town of Emmitsburg regarding initiation of this annexation by the Town's legislative body have been satisfied, and the Town has determined that it is desirable to initiate by resolution the annexation process for the benefit of the Town.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE BOARD OF COMMISSIONERS OF THE TOWN OF EMMITSBURG the following:

Section 1. Modification of Town Boundaries. The municipal boundaries of the Town of Emmitsburg, Maryland, shall be and are hereby amended to incorporate into the Town of Emmitsburg the Annexation Property, as described in the metes and bounds legal description of parcels of land referenced herein below.

Section 2. Amendment of Town Charter. Pursuant to the authority of Article XI-E of the Constitution of Maryland and the Local Government Article of the Maryland Code, the Charter of the Town of Emmitsburg is hereby amended in Section 2 by adding the following subsection containing the metes and bounds description of the Annexation Property:

...

Section 2c. _____ (year) Annexation.

(Insert metes & bounds description here)

Section 3. Application of Town Charter and Ordinance. Upon the effective date of this Resolution, the provisions of the Charter and Code of Ordinances of the Town of Emmitsburg, and any local public laws enacted or to be enacted affecting the Town of Emmitsburg, shall be effective within the Annexation Property except to the extent that any law, this Resolution or the Annexation Plan provides otherwise.

Section 4. Zoning Classification. The Annexation Property is under the land use jurisdiction of the Frederick County Planning Commission. The Annexation Property is currently zoned _____ pursuant to the County Zoning Ordinance. Subject to the appropriate laws and administrative requirements, the Annexation Property shall be zoned to the Town's _____ zoning classification. In the event that the Town's _____ zoning classification for the Property permits a land use substantially different from the use for the land specified in the zoning classification in effect at the time of the Annexation, the Town will cooperate in all regards and make all reasonable efforts to secure approval of said requested zoning classification and the requested annexation, including seeking the grant of a waiver of zoning consistency from Frederick County, if required.

Section 5. Annexation Plan. The applicant has prepared an Annexation Plan with regard to the Annexation Property. The Annexation Plan is attached hereto as Exhibit A, but is not part hereof and the Town reserves the right to amend the Annexation Plan prior to final adoption of this Resolution in a manner consistent with Local Government Article, Section 4-415 of the Maryland Code. The Annexation Plan may not be construed in any way as an amendment to this Resolution. A copy of the Annexation Plan has been provided to the County Executive of Frederick County, Frederick County Council, Frederick County Planning Commission, Metropolitan Washington Council of Governments, and the Maryland Department

of State Planning at least thirty (30) days prior to the date of the public hearing conducted by the Mayor and Commissioners on this Resolution.

Section 6. Public Hearing and Public Notice. A public hearing, as required by the provisions of Local Government Article, Section 4-406 of the Maryland Code, shall be held by the Town at a time to be determined by the Mayor and Commissioners, and duly advertised according to the provisions of that statute. Public notice of the proposed public hearing shall be given at least _____ times, at no less than weekly intervals, in a newspaper of general circulation in Emmitsburg, Maryland, the last day of which public notice shall precede the public hearing by at least fifteen (15) days, all in accordance with the provisions of Section 4-406 of the Local Government Article of the Maryland Code.

Upon the first publication of the public notice a copy thereof, including exhibits, shall be provided to:

- (a) the County Executive of Frederick County,
- (b) Frederick County Council,
- (c) Frederick County Planning Commission,
- (d) Metropolitan Washington Council of Governments, and
- (e) the Maryland Department of State Planning.

Section 7. Registration of Boundaries. Within ten (10) days of the effective date of this Resolution, in accordance with the provision of the Local Government Article, Sections 4-414 and 4-308 of the Maryland Code, the Mayor, or his designee, shall promptly forward a copy of this Resolution with the new municipal boundaries to the Town Clerk, the Clerk of the Circuit Court for Frederick County, Maryland, and to the Maryland Department of Legislative Services. Each such official or agency shall hold this Resolution with the new municipal boundaries on record and available for public inspection.

Section 8. Effective Date. This Resolution shall be deemed “finally enacted” on the date on which the Mayor and Commissioners indicate their approval of the Resolution by affixing their signatures hereto. This Resolution shall become effective forty-five (45) days after final enactment, unless it is subject to a petition for referendum by at least 20% of the qualified voters of the municipality, whereas should said petition come to pass and be verified to be in compliance with law, the Mayor shall suspend this Resolution by proclamation pending the results of the referendum.

NOW, THEREFORE, BE IT HEREBY enacted this ____ day of _____, 20__ by the Mayor and Board of Commissioners, that Resolution Number 20__ - __R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

Petitioner: _____

Annexation #: _____

STATEMENT OF PETITION FOR ANNEXATION RELATED FEES

TO THE TOWN OF EMMITSBURG MAYOR AND BOARD OF COMMISSIONERS:

The Petitioner is responsible for all expenses associated with the annexation and zoning process. These expenses include cost of administrative review by Town staff, postage costs, advertising costs, copying costs, legal fees of the Town Attorney, costs of preparation of Annexation Plan, costs of statutory compliance and notice, recording fees, transcription fees, engineering or consulting fees, and such other necessary costs.

I / We hereby submit a deposit towards these costs in the amount of \$_____. The Town shall periodically invoice these costs to the Petitioner. The excess above this initial deposit which shall be promptly paid by the Petitioner. In the event of an unpaid invoice, the Town may suspend processing and approvals.

I / We hereby understand and certify that the Petitioner is responsible for the payment of costs as described above, and I / we do hereby guarantee payment to the Town of Emmitsburg within thirty (30) days from the receipt of a statement of such costs. I / We understand that these fees are non-refundable.

Signature of Petitioner

Witness