TOWN OF EAGLE HARBOR, MARYLAND ORDINANCE

OF

THE BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR

ORD. NO. 3-15

AN ORDINANCE OF THE BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR AMENDING RECENTLY PASSED ORDINANCE 2-15 BY READOPTING AND AMENDING ARTICLE 4 (BUILDING REGULATIONS) OF THE GENERAL ORDINANCES OF THE TOWN OF EAGLE HARBOR BY MODIFYING OR ADDING TO SECTIONS 8 AND 9 OF SAID ARTICLE THEREBY REQUIRING THE ANNUAL REGISTRATION OF CERTAIN VACANT AND UNIMPROVED LOTS BY SEPTEMBER 30TH; PROVIDING FOR CERTAIN EXCEPTIONS TO THE REQUIREMENTS, AND PROVIDING FOR THE PAYMENT OF CERTAIN FEES, AND ESTABLISHING CERTAIN PENALTIES BY MUNICIPAL INFRACTION OR MISDEMEANOR FOR VIOLATIONS OF SAID ORDINANCE, AND BY DECLARING CERTAIN COSTS AND PENALTIES TO BE A LIEN ON THE PROPERTY COLLECTIBLE IN THE SAME MANNER AS REAL ESTATE TAXES; AND, GENERALLY RELATING TO LOTS, PROPERTY MAINTENANCE AND THE REGULATION THEREOF.

Introduced By: Mayor James D. Crudup, Sr. Date: April 4, 2015

WHEREAS, The Town of Eagle Harbor is an incorporated municipality governed pursuant to Article XI-E of the Constitution of Maryland; and

WHEREAS, pursuant to LG Art., § 5-202 of said State Code, the Board of Town Commissioners has the authority to pass such ordinances as it deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, to secure persons and property from danger and destruction, and to promote the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, the legislative body of the Town may establish and collect reasonable fees and charges for franchises, licenses, or permits granted by the municipality; or, associated with the exercise of a governmental or proprietary function exercised by a municipality; and

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WHEREAS, pursuant to LG Art., § 5-205(d)(2) of said State Code, and Art. III, § 2(33) of the Town Charter, the legislative body of the Town is further empowered to pass ordinances to provide that any valid charge made against any real property within the municipality shall be considered liens upon such property to be collected in the same manner as municipal taxes are collected; and

WHEREAS, the Town Commissioners find that the security and improvement of property values in areas that contain unsightly and ill-kept parcels or lots of vacant land is reduced by their presence, and that vacant land may have a blighting effect upon the local environment if it is poorly maintained or it may serve as a harborage for nuisances, and may in some cases prove to be a burden otherwise harmful to the health, safety and welfare of the adjacent population and the valuation of nearby properties; and

WHEREAS, the Town Commissioners further find that it is in the best interest of the Town to amend Ord. 2-15 regarding vacant lots to ensure the health and safety of the general public while regulating vacant lots by mandating that such owners register or file the names and contact information of responsible persons to serve as local agents and thereby readily communicate with Town officials regarding emergencies, code violations, trespasses, public safety matters, and other municipal matters.

Section 1.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR, that Article 4 – Building Regulations of the General Ordinances of the Town of Eagle Harbor is hereby amended, readopted or changed by adding and striking language as written herein below and said article shall henceforth read as follows:

ARTICLE 4-BUILDING REGULATIONS

* * *

§8. Penalties REGISTRATION OF VACANT LOTS

[Any person, persons, or corporation guilty of erecting or removing any building or making structural alterations or additions on any building before first obtaining a permit therefore or doing any such work after obtaining a permit not in conformity with the plans and specifications approved by the Building committee shall upon conviction be subject to a fine not less than one hundred (\$100.00) dollars, or on default in the payment thereof be imprisoned in

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A. DEFINITIONS.

- (1) LOCAL AGENT MEANS A NATURAL PERSON OVER THE AGE OF EIGHTEEN (18) AND A RESIDENT OF THIS STATE DESIGNATED BY THE OWNER OF RECORD AND CONSENTING TO SERVE AS AN AGENT OR REPRESENTATIVE OF THE OWNER REGARDING A VACANT LOT REQUIRED TO BE REGISTERED PURSUANT TO THIS ORDINANCE.
- (2) LOT MEANS AN AREA OF LAND DESIGNATED AS A SEPARATE PARCEL OR UNIT OF LAND ON A LEGALLY RECORDED SUBDIVISION PLAT OR DEED FILED AMONG THE LAND RECORDS OF PRINCE GEORGE'S COUNTY AND ASSIGNED A PROPERTY TAX ACCOUNT IDENTIFICATION NUMBER THAT IS ASSIGNED TO ONE OR MORE SUCH UNITS OR PARCELS OF LAND.
- (3) OWNER MEANS THE RECORD PROPERTY OWNER OF THE VACANT LOT, BUT DOES NOT INCLUDE A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY.
- (4) RESIDENT AGENT MEANS AN INDIVIDUAL RESIDING IN THIS STATE OR A MARYLAND CORPORATION OR LIMITED LIABILITY COMPANY WHOSE NAME, ADDRESS, AND DESIGNATION AS A RESIDENT AGENT ARE FILED OR RECORDED WITH THE TOWN, AND THE DEPARTMENT OF ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THIS ORDINANCE AND THE PROVISIONS OF THE CORPORATIONS AND ASSOCATION ARTICLE OF THE MD ANN. CODE. IN CASES WHERE A REGISTERED VACANT LOT IS OWNED BY AN ENTITY HAVING A RESIDENT AGENT REGISTERED WITH THE STATE, THE RESIDENT AGENT MAY ALSO SERVE AS THE LOCAL AGENT UNDER THIS SECTION.
- (5) VACANT LOT MEANS A LOT WITHOUT A BUILDING OR OTHER VALID AND APPROVED IMPROVEMENT WHICH HAS AN ASSESSED VALUE FOR TAXATION PURPOSES AS DETERMINED BY THE STATE OF MARYLAND, DEPARTMENT OF ASSESSMENTS AND TAXATION.
- B. REGISTRATION REQUIRED.
- (1) OWNER TO REGISTER ANNUALLY. BY [JULY 1] SEPTEMBER 30TH OF EACH YEAR, BEGINNING [JULY 1, 2015] SEPTEMBER 30, 2015, EACH OWNER OF A VACANT LOT OR LOTS SHALL FILE A VACANT LOT REGISTRATION

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STATEMENT WITH THE TOWN ON A FORM PROVIDED BY THE MAYOR OR HIS DESIGNEE.

- (2) <u>REGISTRATION FEE. EXCEPT AS PROVIDED HEREIN</u>, THE ANNUAL REGISTRATION FEE IS [\$75.00] \$50.00 FOR ONE OR MORE VACANT LOTS WITH AN ADDITIONAL [\$25.00] \$15.00 FOR EACH ADDITIONAL CONTIGUOUS VACANT LOT SHARING THE SAME PROPERTY TAX ACCOUNT IDENTIFICATION NUMBER WITH THE ADJOINING LOT OR LOTS, TO BE PAYABLE AT THE TIME OF REGISTRATION. ANY FEES REQUIRED BY THIS SECTION MAY BE MODIFIED FROM TIME TO TIME BY WRITTEN RESOLUTION OF THE BOARD OF TOWN COMMISSIONERS.
- (3) <u>PURCHASER REQUIRED TO REGISTER UPON ACQUISITION</u>. A NEW OWNER OF A VACANT LOT MUST FILE A REGISTRATION STATEMENT WITHIN 30 DAYS OF THE ACQUISITION AND PAY THE ANNUAL REGISTRATION FEE, UNLESS THAT FEE WAS ALREADY PAID BY THE PRIOR OWNER.
- (4) WHEN OWNER FAILS TO REGISTER WHEN REQUIRED. PROVIDED THE SUBJECT PROPERTY MEETS THE DEFINITION OF A VACANT LOT UNDER THIS SECTION, AND SHOULD AN OWNER FAIL TO REGISTER WITH THE TOWN BY THE DEADLINE AS REQUIRED BY THIS SECTION, THE MAYOR OR HIS DESIGNEE SHALL INCLUDE SAID VACANT LOT AND ALL OTHER VACANT LOTS FOUND WITHIN THE TOWN ON THE TOWN'S LIST OR REGISTER OF VACANT LOTS AND MAY COLLECT THE REGISTRATION FEE IN THE SAME MANNER AS DELINQUENT OR ACCRUED REAL PROPERTY TAXES PURSUANT TO THIS SECTION AND SECTION 9 OF THIS ARTICLE.
- (5) BILLING. THE TOWN COMMISSIONERS MAY ELECT TO BILL OR COLLECT ANY FEES CHARGED UNDER THIS SECTION BY ENGAGING THE SERVICES OF A PRIVATE VENDOR TO COLLECT THE FEES OR BY CAUSING THE COUNTY OFFICE OF FINANCE TO INCLUDE SAID FEES FOR BILLING ON THE COUNTY (TREASURY DIVISION'S) ANNUAL CONSOLIDATED TAX BILL ISSUED IN JULY. BY THE COUNTY, WITH PAYMENT DUE BY SEPTEMBER 30TH.
- C. INFORMATION REQUIRED WITH REGISTRATION.
- (1) A DESCRIPTION OF THE VACANT LOT BY STREET ADDRESS, PROPERTY TAX ACCOUNT IDENTIFICATION NUMBER, AND ANY OTHER INFORMATION REQUIRED IN ORDER TO ACCURATELY IDENTIFY THE VACANT LOT;

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- (2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PROPERTY OWNER OF RECORD, AND IN ADDITION, IF THE OWNER IS NOT A RESIDENT OF THE STATE OF MARYLAND, OR IS A CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER BUSINESS ENTITY, THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE LOCAL AGENT OR THE RESIDENT AGENT ALSO SERVING AS THE LOCAL AGENT, AND, IF THE OWNER IS A PARTNERSHIP OR OTHER ENTITY NOT HAVING A RESIDENT AGENT, THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ALL PARTNERS, OWNERS OR OFFICERS OF THE OWNER AND THE AUTHORIZED AGENT OF THE OWNER;
- (3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNER'S AUTHORIZED PROPERTY MANAGEMENT AGENT IF SUCH AN AGENT HAS BEEN DESIGNATED BY THE OWNER;
- (4) FILING OF THE LOCAL AGENT'S NAME AND CONTACT INFORMATION. THE NAME, ADDRESS AND OTHER CONTACT INFORMATION (I.E., TELEPHONE NUMBER AND/OR EMAIL ADDRESS) AS THE MAYOR PRESCRIBES OF THE LOCAL AGENT SHALL BE FILED IN WRITING WITH THE TOWN CLERK-TREASURER UPON FILING A REGISTRATION STATEMENT AS REQUIRED HEREIN OR FROM TIME TO TIME. THE LEGAL OWNER OF RECORD SHALL NOTIFY THE TOWN CLERK-TREASURER IN WRITING OF ANY CHANGES WITH RESPECT TO THE LOCAL AGENT WITHIN FIFTEEN (15) DAYS OF SUCH CHANGES;
- (5) A POST OFFICE BOX DOES NOT SUFFICE AS AN ADDRESS FOR THE PURPOSES OF THE REGISTRATION STATEMENT;
- (6) THE MAYOR OR HIS/HER DESIGNEE SHALL BE NOTIFIED WITHIN FIFTEEN (15) DAYS OF ANY CHANGE IN THE AGENT DESIGNATED BY THE OWNER OR ANY CHANGE IN THE ADDRESS OF THE OWNER OR AGENT; AND
- (7) THE MAYOR OR HIS DESIGNEE SHALL MAINTAIN THE TOWN'S REGISTRY OF VACANT LOTS AND INCLUDE AS MUCH INFORMATION AS CAN BE REASONABLY [ATTAINED] OBTAINED IN THE PUBLIC RECORD OR BY COMPLIANCE WITH THIS SECTION.
- D. <u>EXCEPTION TO VACANT LOT REGISTRATION REQUIREMENT.</u> NO REGISTRATION OF A VACANT LOT IS REQUIRED IN THE FOLLOWING CIRCUMSTANCES:

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- (1) THE VACANT LOT IS ZONED AS RESIDENTIAL AND THE OWNER OCCUPIES A RESIDENCE ON A LOT CONTIGUOUS TO THE VACANT LOT;
- (2) THE VACANT LOT IS CONTIGUOUS TO A LOT WITH AN OCCUPIED BUILDING AND BOTH LOTS ARE UNDER COMMON OWNERSHIP; [OR]
- (3) THE VACANT LOT IS BEING UTILIZED AS A PARKING LOT IN COMPLIANCE WITH THE COUNTY ZONING ORDINANCE AND OTHER APPLICABLE LAWS[*]:
- (4) THE VACANT LOT IS OWNED BY A PERSON WHO ALSO OWNS AN IMPROVED LOT OR LOTS LOCATED ELSEWHERE WITHIN THE CORPORATE LIMITS OF THE TOWN: OR
- (5) IN CASES WHERE THE BOARD OF TOWN COMMISSIONERS DETERMINES THAT COLLECTING THE FEE WOULD IMPOSE AN UNDUE BURDEN OR HARDSHIP UPON THE OWNER IN LIGHT OF THE CIRCUMSTANCES INCLUDING BUT NOT LIMITED TO AN OWNER WHO QUALIFIES OR IS OTHERWISE ELIGIBLE FOR A SENIOR TAX CREDIT OR OTHER REAL PROPERY TAX EXEMPTION PROVIDED UNDER STATE LAW. SAID DETERMINATION SHALL BE MADE BY THE COUNCIL BY WRITTEN RESOLUTION OR BY RECORDING AN APPROPRIATE MOTION IN THE JOURNAL OF SAID BODY'S PROCEEDINGS AND SHALL REMAIN IN EFFECT UNTIL CHANGED BY SAID BODY OR TITLE OWNERSHIP CHANGES. AS A CONDITION TO ANY EXCEPTION GRANTED UNDER THIS PARAGRAPH, THE COUNCIL MAY REQUIRE THE OWNER TO PROVIDE ALL OR A PORTION OF THE INFORMATION ENUMERATED IN SUBSECTION C OF THIS SECTION AND ANY OTHER INFORMATION THE COUNCIL DEEMS RELEVANT.
- E. OTHER ENFORCEMENT. THE REGISTRATION OF A VACANT LOT OR ABSENCE THEREOF SHALL NOT PRECLUDE ACTION BY THE TOWN TO OBTAIN A COURT ORDER TO FORCE ABATEMENT, MAINTENANCE OR REMOVAL OF A PUBLIC NUISANCE OR ANY OTHER VIOLATION FOUND ON ANY VACANT LOT PURSUANT TO ANY OTHER PROVISIONS OF THIS CODE OF ORDINANCES OR OTHER LAW. THE TOWN SHALL HAVE THE RIGHT TO REMOVE LITTER, TRASH, NOXIOUS WEEDS, TALL GRASS, UNSANITARY OR FLAMMABLE WASTE MATERIALS AND TO DO SUCH OTHER MAINTENANCE OR WORK AS IS NECESSARY TO BRING THE PROPERTY INTO COMPLIANCE WITH THE GENERAL ORDINANCES OF THE TOWN OF EAGLE HARBOR. THE COST OF THESE ACTIONS SHALL BE PAID FOR BY THE OWNER. THE TOWN SHALL SEND THE OWNER AN INVOICE OR BILL FOR THE COSTS OF SUCH WORK BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY REGULAR MAIL TO THE OWNER'S LAST KNOWN

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ADDRESS OR BY ANY OTHER MEANS REASONABLY CALCULATED TO BRING THE BILL TO THE OWNER'S ATTENTION. SHOULD THE OWNER FAIL TO PAY THE BILL WITHIN ONE (1) MONTH AFTER IT IS PRESENTED OR MAILED, THE COSTS SHALL BE CONSIDERED A LIEN AGAINST THE PROPERTY AND MAY BE COLLECTED IN THE SAME MANNER AS REAL PROPERTY TAXES. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE TOWN FROM SEEKING ANY OTHER LEGAL DAMAGES OR EQUITABLE AND DECLARATORY RELIEF PERMITTED BY LAW TO ENFORCE THIS CODE OF ORDINANCES IN A COURT OF GENERAL JURISDICTION IN THIS STATE.

SERVICE OF COMPLAINT FOR MUNICIPAL INFRACTION. NOTICE OF A COMPLAINT OR MUNICIPAL INFRACTION WITH RESPECT TO PREMISES REQUIRED TO BE REGISTERED UNDER THIS SECTION MAY BE BROUGHT BY SERVICE UPON THE APPLICABLE OWNER OF RECORD OF THE PROPERTY, OR UPON THE LOCAL SERVICE ON THE OWNER OF THE PROPERTY SHALL BE DEEMED APPROPRIATE IF MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. TO THE OWNER AT HIS OR HER LAST KNOWN ADDRESS AS PROVIDED ON THE REGISTRATION STATEMENT OR IN THE COUNTY LAND RECORDS. IN THE EVENT THAT THE CERTIFIED MAIL IS RETURNED UNCLAIMED FOR ANY REASON, SERVICE MAY BE AFFECTED BY POSTING A SIGN WITH THE NOTICE ON THE PREMISES OR ON A SIGN ERECTED CONSPICUOUSLY WITHIN THE CLOSEST UNIMPROVED RIGHT OF WAY IN PROXIMITY TO THE SUBJECT PROPERTY. SERVICE MAY ALSO BE AFFECTED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LOCAL AGENT AS DESIGNATED AND AUTHORIZED BY THE OWNER. PERSONAL SERVICE ON EITHER THE LOCAL AGENT OR THE OWNER SHALL ALSO BE DEEMED APPROPRIATE SERVICE. IN THE EVENT THE CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND REQUIRES A BUSINESS ENTITY TO REGISTER A RESIDENT AGENT WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, AND A CURRENTLY SERVING AND DULY APPOINTED RESIDENT AGENT IS FOUND THAT CONFLICTS OR VARIES WITH THE LOCAL AGENT LISTED ON FILE WITH THE TOWN, SAID NOTICE OF A COMPLAINT OR MUNICIPAL INFRACTION SHALL BE DELIVERED OR SERVED UPON THE RESIDENT AGENT OR BOTH AGENTS IF THEY ARE NOT THE SAME PERSON.

§9. PENALTIES; LIEN

A. <u>MISDEMEANOR</u>. ANY PERSON, PERSONS, OR CORPORATION GUILTY OF ERECTING OR REMOVING ANY BUILDING OR MAKING STRUCTURAL ALTERATIONS OR ADDITIONS ON ANY BUILDING BEFORE FIRST OBTAINING A PERMIT THEREFORE OR DOING ANY SUCH WORK AFTER OBTAINING A PERMIT

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NOT IN CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE BUILDING COMMITTEE SHALL UPON CONVICTION BE SUBJECT TO A FINE NOT LESS THAN FIVE HUNDRED (\$500.00) DOLLARS, OR ON DEFAULT IN THE PAYMENT THEREOF BE IMPRISONED IN THE COUNTY JAIL NOT EXCEEDING TWENTY-FIVE (25) DAYS.

B. MUNICIPAL INFRACTION. THE FAILURE OF AN OWNER OF A VACANT LOT TO FILE A REGISTRATION STATEMENT OR APPLICATION WHEN IT IS DUE OR AS OTHERWISE REQUIRED BY THIS ARTICLE, TO PAY THE REGISTRATION FEE ON OR BEFORE [JULY 1] SEPTEMBER 30, TO PROVIDE ALL INFORMATION REQUIRED WITH REGISTRATION OR TO OTHERWISE FULLY OBSERVE THE DUTIES AND REQUIREMENTS OF SECTION 8 OF THIS ARTICLE SHALL BE A MUNICIPAL INFRACTION CARRYING A FINE OF \$500. EACH ADDITIONAL THIRTY (30) DAYS THAT A VIOLATION EXISTS OF SECTION 8 SHALL BE DEEMED A SEPARATE VIOLATION SUBJECT TO AN ADDITIONAL \$500 FINE. ALL OTHER REPEAT OFFENDERS FOUND PURSUANT TO THIS ARTICLE MAY BE ASSESSED A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH REPEATED OFFENSE. THIS PENALTY SHALL APPLY TO ALL VIOLATIONS UNDER SECTION 8 (REGISTRATION OF VACANT LOTS) OF THIS ARTICLE REGARDLESS OF WHETHER THE TOWN ON ITS OWN ACCORD REGISTERS THE PROPERTY OR IS SUCCESSFUL IN COLLECTING THE PRESCRIBED REGISTRATION FEE FROM THE OWNER AS PART OF THE CONSOLIDATED TAX BILLING PROCESS OR ANY OTHER METHOD USED TO COLLECT TOWN TAXES OR FEES.

C. <u>LIEN ON REAL PROPERTY</u>. ALL REGISTRATION FEES, WHEN <u>ACCRUED OR</u> OVERDUE, OR ANY CORRECTIVE ACTION TAKEN BY THE TOWN PURSUANT TO THIS ARTICLE AND COURT ORDER, AND ANY PENALTIES ASSESSED HERETO SHALL BE CONSIDERED A LIEN IN FAVOR OF THE TOWN ON THE APPLICABLE PROPERTY AND MAY BE COLLECTED AND ENFORCED IN THE SAME MANNER AS DELINQUENT OR ACCURED REAL PROPERTY TAXES.

* * *

Section 2.

AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect twenty-one (21) calendar days following adoption by the Board of Town Commissioners, having been passed by the required yea and nay votes of the Commissioners of the Town of Eagle Harbor.

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Section 3.

AND BE IT FURTHER ORDAINED AND ENACTED, that upon passage, the Town Clerk-Treasurer shall cause the exact text of this ordinance to be posted on a bulletin board in the Town office for twenty (20) successive days following its passage.

Section 4.

AND BE IT FURTHER ORDAINED AND ENACTED, that by June 1, 2015, the Town Clerk-Treasurer shall cause to be prepared a preliminary list or registry of all vacant lots subject to this ordinance and required to be registered with the Town along with names and addresses of the owners of record as indicated on the tax rolls or other records maintained by the Department of Assessments and Taxation or the Town, and that said town official shall 1.) send a notice and fair summary of this Ordinance along with information on how to obtain a registration statement or form to be completed and returned that complies with the requirements of this Ordinance to each lot owner by no later than September 30, 2015, or 2.) shall post said fair summary in a conspicuous place within the Town as indicated in Section 3 above, and may further published it in a newspaper of general circulation in the Town, the Town newsletter or Town website.

HAVING BEEN INTRODUCED AND HAVING BEEN READ as an ordinance and passed by a yea and nay vote of the Board of Town Commissioners of Eagle Harbor with the affirmative votes of a majority of the whole number of members elected to the Town Commission at a Public Meeting of Town Commission held on this day of day of , 2015, at :00 o'clock p.m., in the Town of Eagle Harbor, Maryland.

ATTEST:

BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR, TOWN OF EAGLE HARBOR

Bertha A. Guerra, Clerk-Treasurer

By: James D. Crudy &

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