

CHARTER

OF THE

Town of Accident

GARRETT COUNTY, MARYLAND

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ACCIDENT

General Corporate Powers

Section 1-1. General powers.

The inhabitants of the Town of Accident within the corporate limits legally established from time to time are hereby continued a body corporate by the name of “The Town of Accident” with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated.

Corporate Limits

Section 1-2. Description of corporate boundaries.

The Limits of the Town of Accident Shall Be as They Existed Immediately Prior to the Date of this Charter, Subject to All Rights, Reservations, Limitations and Conditions as May Be Set Forth in All Prior Resolutions of Annexation and in the Charter of the Town in Effect Immediately Prior to this Charter, and as May Be Hereafter Amended as Provided by Law.

Section 1-3. Public filing of corporate boundaries.

The courses and distances showing the exact corporate limits of the town shall be filed at all times with the clerk of the circuit court for Garrett County and the director of the department of legislative services of the Maryland General Assembly. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the town in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

Mayor and Council

Section 1-4. Number; selection; term.

All legislative powers of the Town shall be vested in a Council consisting of a Mayor and four Councilmembers who shall be elected as hereinafter provided and who shall hold office for a term of two years or until the succeeding Council takes office. The regular term of the Mayor and Councilmembers shall expire when their successors in office shall be sworn into office. The successors in office shall be sworn into office at the next regularly scheduled meeting of the Council following election. The Mayor and Councilmembers holding office on the effective date of this charter shall continue to hold office for the term for which they were elected and until the succeeding Mayor and Councilmembers take office under the provisions of this Charter.

Section 1–5. Qualifications.

The Mayor and Councilmembers shall have resided in the Town for at least one year immediately preceding their election and shall be registered voters of the Town.

Section 1–6. Salary.

(a) *Salary of Mayor.* The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. Provided, however, that no change shall be made in the salary for any Mayor during the term for which he was elected. The ordinance making any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding Mayor, and shall take effect only as to the next succeeding Mayor.

(b) *Salary of Councilmember.* Each Councilmember shall receive an annual salary which shall be equal for all Councilmembers and shall be as specified from time to time by an ordinance passed by the council in the regular course of its business; provided, however, that the salary specified at the time any council takes office shall not be changed during the period for which that council was elected. The ordinance making any change in salary paid to the Councilmembers either by way of increase or decrease, shall be finally ordained prior to the municipal election for the members of the next succeeding council and shall take effect only as to the members of the next succeeding council.

Section 1–7. Meetings.

The newly elected Council shall meet at a time and date as determined by the Council. Special meetings shall be called by the Clerk–Treasurer upon the request of the Mayor or three Councilmembers. All meetings of the Council shall be open to the public unless closed by the Council in accordance with state law, and the rules of the Council shall provide that residents of the Town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question.

Section 1–8. Judge of qualifications of members.

The Council shall be the judge of the election and qualifications of its members.

Section 1–9. President of Council.

The Mayor shall serve as President of the Council and be a member of the Council. The Mayor may take part in all discussions, and the Mayor shall have a vote. The Council shall elect a Vice–President of the Council from among its members who shall act as President of the Council in the absence of the President of the Council.

Section 1–10. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of at least three members of the Council.

Section 1–11. Procedure.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection.

Section 1–12. Vacancies.

Vacancies in the Council shall be filled as provided in Section 1–31 of this Charter.

Section 1–13. Removal of Mayor or Councilmember.

A Mayor or a Councilmember may be removed from office by an affirmative vote of not less than four votes after a public hearing and a finding of misfeasance, malfeasance, or nonfeasance in office or a finding of mental or physical disability that substantially impairs the member's ability to perform the duties of office. The decision to remove a Mayor or Councilmember may, within 10 days of removal, be appealed to the Circuit Court for Garrett County by petition of the removed Mayor or Councilmember. Upon filing of the petition, the court may stay the removal pending the court's decision. Upon appeal, the court shall make a *de novo* determination of fact.

Section 1–14. Ordinances.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the above requirement may be suspended by the affirmative votes of four members of the Council. An ordinance shall become effective on the date specified in the ordinance. A summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation within the Town of Accident.

Section 1–15. Same; file.

Ordinances shall be permanently filed by the Clerk–Treasurer and shall be kept available for public inspection during normal business hours.

Section 1–16. Powers and duties of Mayor.

(a) *Chief executive officer.* The Mayor shall see that the ordinances of the Town are faithfully executed and shall be the chief executive officer, and the head of the administrative branch of the Town government.

(b) *Appointments and removals.* The Mayor, with the approval of the Council, shall appoint the heads of all offices and departments of the Town government as established by this Charter or by ordinance. All office, department, and agency heads shall serve at the pleasure of the Mayor. All subordinate officers and employees of the offices and departments of the Town government shall be appointed and removed by the Mayor, in accordance with rules and regulations in any merit system which may be adopted by the Council.

(c) *Reports.* The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the Town.

(d) *Voting.* The Mayor shall have the power to vote on all matters coming before the Mayor and Council.

(e) *Finances.* The Mayor shall have complete supervision over the financial administration of the Town government. He shall prepare or have prepared annually a budget and submit it to the Council. He shall supervise the administration of the budget as adopted by the Council. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(f) *Other duties.* The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him by the Council, not inconsistent with this Charter.

General Powers

Section 1–17. Powers.

(A) In addition to all the powers granted to the Council by this Charter or any other provision of law, the Council may exercise any power or perform any function which is not now or hereafter denied to it by the Constitution of Maryland, this charter or any applicable law passed by the General Assembly of Maryland. The enumeration of powers and functions in this charter or elsewhere shall not be deemed to limit the power and authority granted by this paragraph.

(B) The Council shall have the power to pass ordinances for the following specific purposes:

(1) *Advertising.* To provide for advertising, printing and publication of materials relating to the business of the Town, including financial and legal notices required by law or this charter.

(2) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements.* To provide in the interest of the public welfare, for licensing, regulating, or restraining theatrical or other public amusements.

(4) *Appropriations.* To appropriate municipal monies for any purpose within the powers of the Council.

(5) *Auctioneers.* To regulate the sale of all kinds of property at auction within the Town and to license auctioneers.

(6) *Billboards.* To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the Town, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the Town.

(7) *Boards, commissions and committees.* To appoint such boards, commissions and committees as may be necessary to the health, welfare and safety of the citizens. The authority and responsibility for each such group appointed shall be prescribed in the ordinance which creates it.

(8) *Bridges.* To erect and maintain bridges.

(9) *Buildings.* To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the Town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(10) *Cemeteries.* To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(11) *Codification.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(12) *Community services.* To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the Town.

(13) *Cooperative activities.* To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental function.

(14) *Curfew.* To restrict the times during which people may be in the streets, lanes, alleys, or public places of the Town.

(15) *Dangerous conditions.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) *Departments.* To create, change, and abolish offices and departments, other than the offices and departments established by this Charter; to assign additional functions or duties to offices or departments established by this Charter, but not including the power to discontinue or assign to any other office or department any function or duty assigned by this Charter to a particular office or department.

(17) *Disorderly houses.* To suppress bawdy houses, disorderly houses and houses of ill fame.

(18) *Dogs.* To regulate the keeping of dogs in the Town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(19) *Explosives.* To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(20) *Filth.* To compel the occupant of any premises, building or outhouse situated in the Town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(21) *Finances.* To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the Town.

(22) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the Town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of Town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the Town.

(23) *Food.* To inspect and, if unhealthy, require the condemnation of food products; and to regulate the sale of any food products.

(24) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the Town, subject, however, to the limitations and provisions of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty years.

(25) *Gambling.* To restrain and prohibit gambling.

(26) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(27) *Grants-in-aid.* To accept gifts and grants of Federal or of State funds from the Federal or State governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(28) *Hawkers.* To license, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the Town, and to revoke such licenses for cause.

(29) *Health.* To protect and preserve the health of the Town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the Town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(30) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the Town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(31) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the Town or to use the County jail for such purposes.

(32) *Licenses.* Subject to any restriction imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent

business in the Town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(33) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the Town shall be liens upon such property, to be collected as municipal taxes are collected.

(34) *Lights.* To provide for the lighting of the Town.

(35) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(36) *Markets.* To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the Town.

(37) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares, and merchandise.

(38) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(39) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the Town which are so defined at common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the Town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the Town may regulate, prohibit, control the location of, or require the removal from the Town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(40) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the Town.

(41) *Parades.* To regulate the holding of meetings, processions and parades in town streets, parks, or other public places.

(42) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off street parking.

(43) *Parking meters.* To install parking meters on the streets and public places of the Town in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by the Commission.

(44) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the Town.

(45) *Police force.* To establish, operate, and maintain a police force in order to maintain peace and order within the Town, including the power to make arrests and restrain and detain persons who are in violation of the ordinances of the Town or the laws of the state of Maryland.

(46) *Police powers.* To prohibit, suppress, and punish within the Town all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness.

(47) *Property.* To acquire by conveyance, purchase or gift, real or leasable property for any public purpose; to erect buildings and structures thereon for the benefit of the Town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the Town.

(48) *Public ways and sidewalks.* To regulate the use of Town streets, roads, alleys, and sidewalks, and all other structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions and prescribe hours for cleaning sidewalks.

(49) *Regulations.* To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(50) *Sweepings.* To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the Town.

(51) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(52) *Voting machines.* To purchase, lease, borrow, install, and maintain voting machines for use in Town elections.

(53) *Zoning.* To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland.

Section 1–18. Exercise of powers.

For the purpose of carrying out the powers granted in this subtitle or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the Town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 1–19. Enforcement.

To ensure the observance of the Charter and ordinances of the Town, the Council shall have the power to provide that a violation of the Charter or an ordinance shall be a misdemeanor or a municipal infraction and may affix penalties that do not exceed the maximum penalties prescribed by law.

Registration, Nominations, and Elections

Section 1–20. Voters.

Every person who (1) is a citizen of the United States, (2) is at least eighteen years of age, (3) has resided in the State of Maryland for at least thirty days next preceding any Town election, (4) has resided within the corporate limits of the Town for thirty days next preceding any Town election, and (5) is registered in accordance with the provisions of this Charter, shall be a registered voter of the Town. Every registered voter of the Town shall be entitled to vote in any or all Town elections.

Section 1–21. Election duties.

The Clerk–Treasurer shall be in charge of receiving nominations, certifying candidates, conducting all Town elections, and certifying election results. The Council may appoint election clerks or other employees to assist in election duties.

Section 1–22. Notice.

The Clerk–Treasurer shall give at least two weeks' notice of every registration day and every election by an advertisement published in at least [least] one newspaper of general circulation in the Town and by posting a notice thereof in some public place or places in the Town.

Section 1–23. Registration.

(a) Provided that persons meet the voter qualifications enumerated in this Charter, registration to vote by the Garrett County Board of Elections shall be deemed registration for

Town elections and the Town Board of Supervisors of Elections shall accept the list of registered voters provided by the Garrett County Board of Elections as a valid registration list for the Town. County voter registration forms shall be made available at the municipal town offices during normal business hours.

(b) The Town shall maintain supplemental registration list [lists] for voters who choose not to register with the County. The Council, by ordinance, shall adopt and enforce any provisions necessary to establish and maintain a system of permanent supplemental registration and provide for re-registration when necessary. The Clerk-Treasurer shall keep the supplemental registration lists up to date by striking from the lists any persons who have died, moved out of the town, or not voted in a town election within the preceding five calendar years.

(c) No person shall be entitled to vote in a Town election unless he/she is duly registered to vote at least thirty (30) days prior to that election.

Section 1-24. Appeals.

If any person shall feel aggrieved by the action of the Clerk-Treasurer in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the Council. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for Garrett County within thirty days of the decision or action of the Council.

Section 1-25. Nominations.

(a) *Date.* Candidates for Town elections shall be chosen at a Town Convention held on the first Tuesday in February of every election year.

(b) *Voters.* Only registered voters of the Town may participate in the Town Convention.

(c) *Procedure.* The procedure of the Town Convention shall be as follows:

(1) The Mayor shall act as Temporary Chairman of the Town Convention and call the convention to order. The first order of business of the Convention shall be the election of a Convention Chairman who shall be a registered voter of the Town, and who shall be elected by a majority of the registered voters present and voting on the question.

(2) In every odd numbered year the Convention Chairman shall receive nominations from the Convention assembled for the Office of Mayor.

(i) If not more than two names have been placed in nomination there shall be no balloting at the Convention for candidates for Mayor. In such instances those nominated for Mayor shall be considered as nominees and their names shall be placed on the ballots at the general election on the first Tuesday in March.

(ii) If more than two persons have been nominated by the Convention assembled for the office of Mayor, the Convention shall ballot, either by a show of hands or by paper ballot, and the two nominees receiving the highest number of votes cast shall be named and considered as nominees and their names shall be placed on the ballot at the general election on the first Tuesday in March.

(3) The Convention Chairman shall then receive nominations from the Convention assembled for the Office of Councilmember.

(i) If not more than four names have been placed in nomination there shall be no balloting at the Convention for candidates for Councilmembers. In such instances those nominated for Councilmembers shall be considered as nominees, and their names shall be placed on the ballot at the general election on the first Tuesday in March.

(ii) If more than four persons have been nominated by the Convention assembled for the office of Councilmember[,] the Convention shall ballot either by a show of hands or by paper ballot; and the four nominees receiving the highest number of votes cast shall be named and considered as nominees and their names shall be placed on the ballots at the general election on the first Tuesday in March.

(4) Only those persons who meet the qualifications for Mayor and Councilmembers may be placed in nomination by the Convention assembled. A qualified person's name may be placed in nomination by a motion from the floor of the Convention assembled and properly seconded from the floor of the Convention.

Section 1–26. Elections.

On the first Tuesday in March in odd numbered years the registered voters of the Town of Accident shall elect one person as Mayor and two persons as Councilmembers to serve for terms of two (2) years. On the first Tuesday in March in even numbered years the registered voters of the Town of Accident shall elect two persons as Councilmembers to serve for terms of two (2) years.

Section 1–27. Same; conduct.

It shall be the duty of the Clerk–Treasurer to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots. The ballots shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Clerk–Treasurer shall keep the polls open from 4:00 p.m. to 8:00 p.m. on election days or for longer hours if the Council requires it. Any qualified voter of the Town of Accident by reason of illness, disability, military duty, or absence because of business, travel, or school attendance on the day of election, may vote by absentee ballot. Application for an absentee ballot shall be made to the Clerk–Treasurer. The ballot must be received prior to the closing of the polls. The Clerk–Treasurer will be responsible for issuing and receiving absentee ballots.

Section 1–28. Special elections.

All special Town elections shall be conducted by the Clerk–Treasurer in the same manner and with the same personnel, as far as practicable, as regular Town elections.

Section 1–29. Vote count.

Within four (4) hours after the closing of the polls, the Clerk–Treasurer shall determine the vote cast for each candidate or question, shall certify the results and shall record the result in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The two candidates for Councilmember with the highest number of votes in the general election shall be declared elected as Councilmember.

Section 1–30. Preservation of ballots.

All ballots used in any Town election shall be preserved for at least six months from the date of the election.

Section 1–31. Vacancies.

In case of a vacancy on the Council for any reason, the Council shall elect some qualified person to fill such vacancy for the unexpired term. In case of a vacancy in the office of Mayor for any reason, the Council shall elect some qualified person to fill the vacancy for the remainder of the unexpired term. Any vacancies on the Council or in the office of Mayor shall be filled by the favorable votes of a majority of the remaining members of the Council. The results of any such vote shall be recorded in the minutes of the Council.

Section 1–32. Control of elections.

The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

Finance

Section 1–33. Clerk–Treasurer.

(A) There shall be a Clerk–Treasurer appointed by the Mayor with the approval of the Council. The Clerk–Treasurer shall be selected through an application process with the Personnel Committee identifying the top candidates by reviewing candidate applications. The top candidates shall be interviewed by the Personnel Committee. Following the interviews, the Personnel Committee shall select one candidate and submit the name of the candidate to the Mayor and Mouncil [Council] for approval.

(B) The Clerk–Treasurer shall serve at the pleasure of the Mayor. The Clerk–Treasurer’s compensation shall be determined by the Council. The Clerk–Treasurer shall be the chief financial officer of the Town. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the Clerk–Treasurer under the direct supervision of the Mayor.

Section 1–34. Same; powers and duties.

Under the supervision of the Mayor, the Clerk–Treasurer shall have authority to:

- (1) Prepare at the request of the Mayor an annual budget to be submitted by the Mayor to the Council.
- (2) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the Town in such form as the Council may require, not contrary to State law.
- (4) Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the Mayor.
- (5) Ascertain that all taxable property within the Town is assessed for taxation.
- (6) Arrange for the collection of all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the Town, and all other revenues for whose collection the Town is responsible, and receive any funds receivable by the Town.
- (7) Have custody of all public moneys, belonging to or under the control of the Town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the Town.
- (8) Do such other things in relation to the fiscal or financial affairs of the Town as the Mayor or the Council may require or as may be required elsewhere in this Charter.

Section 1–35. Same; bond.

The Clerk–Treasurer shall provide a bond with such corporate surety and in such amount as the council by ordinance may require.

Section 1–36. Fiscal year.

The Town shall operate on an annual budget. The fiscal year of the Town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year.

Section 1–37. Budget.

The Mayor, at least thirty–two days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Clerk–Treasurer, open to public inspection by anyone during normal business hours.

Section 1–38. Same; adoption.

(A) Before adopting the budget the Council shall hold a public hearing on the proposed budget.

(B) The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be adopted by resolution. A favorable vote of at least three members of the Council shall be necessary for adoption.

Section 1–39. Appropriations.

No public money may be expended without having been appropriated by the Council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

Section 1–40. Amendments after budget adoption.

(A) *Supplemental appropriations.* If during the Fiscal Year there are available for appropriation revenues in excess of those estimated in the budget, the Council may make supplemental appropriations for the year up to the amount of such excess.

(B) *Emergency appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the Council may make emergency appropriations by emergency ordinance in accordance with the provisions of section 1–14 of this charter.

(C) *Transfer of funds.* Any transfer of funds between major appropriations for different purposes must be approved by the Council before becoming effective.

(D) *Procedure.* The authorization of supplemental and emergency appropriations or transfer of funds shall require a two–thirds vote of the entire Council in accordance with state law.

Section 1–41. Over–expenditure forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

Section 1–42. Appropriations lapse after one year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section 1–43. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Clerk–Treasurer and shall be countersigned by the Mayor. In either person’s absence, a member of the Council with the approval of a majority of the Council may sign or countersign a check.

Section 1–44. Taxable property.

All real property shall, and all tangible personal property within the corporate limits of the Town, or personal property which may have a situs there by reason of the residence of the owner therein, may be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

Section 1–45. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year.

Section 1–46. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Clerk–Treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the Town. The Clerk–Treasurer shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or

account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property.

Section 1-47. Tax Discounts and Penalties.

The taxes provided for in Section 1-45 of this Charter shall be due and payable as provided in the Tax-property Article of the Annotated Code of Maryland and shall be overdue and in arrears as provided in that Article. Taxes shall bear interest while in arrears and shall be subject to additional penalties as authorized by state law. Any interest or penalty rates to be imposed by the Town shall be established by ordinance. All taxes not paid and in arrears one year after the date on which they are due and payable shall be collected as provided in section 1-48.

Section 1-48. Tax sales.

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 1-47 of this Charter shall be turned over by the Clerk-Treasurer to the official of the County responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall if necessary be sold for taxes by this county official, in the manner prescribed by State Law.

Section 1-49. Fees.

All fees received by an officer or employee of the Town government in his official capacity shall belong to the Town government and be accounted for to the Town.

Section 1-50. Audits.

The financial books and accounts of the Town shall be audited annually in a manner determined by the Mayor and Council.

Section 1-51. Tax anticipation borrowing.

During the first six months of any fiscal year, the Town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the Town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be

authorized by ordinance before being used. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 1-52. Other authority to borrow money.

(A) *General obligation bonds.* The Town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds. The power and obligation of the Town to pay any and all general obligation bonds, notes, or other evidences of indebtedness issued by it under this authority shall be unlimited and the Town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes or other evidences of indebtedness and interests thereon, without limitation of amount. Except as otherwise provided, the faith and credit of the town is hereby pledged for the payment of the principal of the interest on all general obligation bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the general obligation bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance.

(B) *Revenue bonds.* The Town shall have the power to issue revenue bonds for one or more revenue-producing projects that serve a proper public. Prior to issuance of revenue bonds, the Council shall enact an ordinance stating the public purpose for which the proceeds of the revenue bonds are to be expended. Revenue bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds derived from the project or projects for which they were issued. The faith and credit of the Town shall not be pledged for the payment of revenue bonds.

Section 1-53. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the Town, prior to the effective date of this Charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

Section 1-54. Purchases and contracts.

All purchases and contracts for the Town government shall be made by the Clerk-Treasurer. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all Town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual service involving more than five thousand (\$5,000) shall be made on written contract. The Clerk-Treasurer shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. All such written contracts shall be approved by the Council before becoming effective. The Clerk-Treasurer shall have the right to reject all bids and readvertise. The Town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or

readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the Town may require.

Personnel

Section 1-55. Clerk to the Council.

The Clerk-Treasurer shall serve as Clerk to the Council. The Clerk-Treasurer shall attend every meeting of the Council and keep a full and accurate account of the proceedings of the Council. The Clerk-Treasurer shall keep such other records and perform such other duties as may be required by this Charter or the Council.

Section 1-56. Town attorney.

The Mayor with the approval of the Council may appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal adviser of the Town and shall perform such duties in this connection as may be required by the Council or the Mayor. Compensation shall be determined by the Council. The Town shall have the power to employ such legal consultants as it deems necessary from time to time.

Section 1-57. Authority to employ personnel.

The Town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and to operate the Town government.

Section 1-58. Retirement system.

The Town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Town.

Section 1-59. Compensation of employees.

The compensation of all officers and employees of the Town shall be set from time to time by an ordinance passed by the Council, subject to the restrictions imposed upon establishing the salaries of the Councilmembers and Mayor.

Section 1-60. Employee benefit programs.

The Town is authorized and empowered, by ordinance, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public monies of the Town for such programs.

Public Ways and Sidewalks

Section 1–61. Public ways; definition.

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys.

Section 1–62. Same; control.

The Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town.

Section 1–63. Same; powers.

The Town shall have the power:

- (1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any Town public way or part thereof, bridges, curbs and gutters.
- (2) To grade, lay out, construct, open, extend, and make new Town public ways.
- (3) To grade, straighten, widen, alter, improve, or close up any existing Town public way or part thereof.
- (4) To pave, surface, repave, or resurface any Town public way or part thereof.
- (5) To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any Town public way or part thereof.
- (6) To construct, reconstruct, maintain, and repair bridges.
- (7) To name Town public ways.
- (8) To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.

Section 1–64. Sidewalks.

The Town shall have the power:

(1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on Town property along any public way or part thereof.

(2) To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on Town property along any public way or part thereof.

(3) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions.

(4) To require and order the owner of any property abutting on any public way in the Town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the Town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are Town taxes or by suit at law.

Water and Sewers

Section 1-65. Powers.

The Town shall have the power:

(1) To construct, operate, and maintain a water system and water plant.

(2) To construct, operate, and maintain a sanitary sewerage system and a sewage treatment plant.

(3) To construct, operate, and maintain a storm water drainage system and storm water sewers.

(4) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems.

(5) To have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

(6) To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.

Section 1-66. Structures in public ways.

Any public service corporation, company, or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe, or other structure in the public ways of the Town, shall submit plans to the Town and obtain written

approval upon such conditions and subject to such limitations as may be imposed by the Town. Any public service corporation, company, or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe, or other structure interferes with the operation of the water, sewerage, or storm water systems, the Town may order it removed.

Section 1–67. Obstructions.

All individuals, firms, or corporations having mains, pipes, conduits, or other structures in, on, or over any public way in the Town or in the County which impede the establishment, construction, or operation of any Town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the Town. If necessary to carry out the provisions of this section, the Town may use its condemnation powers.

Section 1–68. Entering on county public ways.

The Town may enter upon or do construction in, on, or over any county public ways for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant, or storm water sewers provided for in this Charter. Unless required by the county, the Town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

Section 1–69. Connections.

The Town shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the Town, all abutting property owners after reasonable notice shall connect all fixtures with the water or sewer main. The Town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains, and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed.

Section 1–70. Same; charge.

The Town may make a charge, the amount to be determined by the Council, for each connection made throughout the Town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

Section 1–71. Improper uses.

In order to prevent any leakage or waste of water or other improper use of the Town's water system or sewage disposal system, the Town may require such changes in plumbing, fixtures, or connections as it deems necessary to prevent such waste [waste] or improper use.

Section 1-72. Private systems.

The Town may by ordinance provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private methods of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the Town.

Section 1-73. Extensions beyond boundaries.

The Town shall have the power to extend its water or sewerage systems beyond the Town limits.

Section 1-74. Right of entry.

Any employee or agent of the Town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the Town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the Town or in the county served by the Town's water or sewage disposal system. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor.

Section 1-75. Pollution of water supply.

No person shall do anything which will discolor, pollute, or tend to pollute any water used or to be used in the Town water supply system.

Section 1-76. Contracts for water.

The Town, if it deems it advisable, may contract with any party or parties, inside or outside the Town, to obtain water or to provide for the removal of sewage.

Section 1-77. Charges.

The Town shall have the power to charge and collect such service rates, water rents, ready-to-serve charges, or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the Clerk-Treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as Town taxes or by suit at law.

Special Assessments

Section 1–78. Powers.

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of water mains, sanitary sewer main, storm water sewers, curbs, and gutters and by the construction and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the project.

Town Property

Section 1–79. Acquisition; possession; disposal.

The Town may acquire real, personal, or mixed property within or without the limits of the Town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the Town (by whatever prior name known) on the effective date of this charter are vested in the Town, subject to the terms and conditions thereof.

Section 1–80. Condemnation.

The Town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the Town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any other State law applicable to the Town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in state law.

Section 1–81. Town buildings.

The Town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Town government.

Section 1–82. Protection.

The Town shall have the power to do whatever may be necessary to protect Town property and to keep all Town property in good condition.

General Provisions

Section 1–83. Oath of office.

(a) *Provisions.* Before entering upon the duties of their offices, the Mayor, the Councilmembers, the Clerk–Treasurer, and all other persons elected or appointed to any office of profit or trust in the Town government shall take and subscribe the following oath or affirmation: “I,, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office, according to the Constitution and Laws of this State.”

(b) *Taking.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Garrett County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor.

Section 1–84. Official bonds.

The Clerk–Treasurer and such other officers or employees of the Town as the Council or this Charter may require, shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the Town.

Section 1–85. Prior rights and obligations.

All right, title, and interest held by the Town or any other person or corporation, at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the Town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing on the effective date of this Charter. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this Charter had not become effective.

Section 1–86/87. Enforcement of Ordinance.

The Mayor and Town Council may provide that violations of any Town Ordinance shall be a “municipal infraction” as defined by Article 23A, Section 3 of the Annotated Code of Maryland unless the violation is declared to be a felony or misdemeanor by State Law. All “municipal infractions” shall be considered civil offenses and shall be handled in accordance with the procedure set forth in Article 23A, Section 3 of the Annotated Code of Maryland or any amendments thereto. The Mayor and Council shall from time to time by resolution establish the level of fines to be imposed for all such “municipal infractions”. Nothing contained in this

section shall prohibit or prevent the town from seeking other legal remedies such as injunctions, criminal prosecution, or damages in a civil action pursuant to Section 3 of Article 23A or Section 7.01 of Article 66B Annotated Code of Maryland as amended.

Section 1–88. Effect of charter on existing ordinances.

(a) *Not in conflict.* All ordinances, resolutions, rules, and regulations in effect, at the time this charter becomes effective, which are not in conflict with the provisions of this Charter, shall remain in effect until changed or repealed according to the provisions of this Charter.

(b) *In conflict.* All ordinances, resolutions, rules, and regulations in effect, at the time this charter becomes effective, which are in conflict with the provisions of this Charter, are repealed to the extent of such conflict.

Section 1–89. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.