

CHARTER

OF THE

Town of Barton

ALLEGANY COUNTY, MARYLAND

*As found in the Public Local Laws of Allegany County
1963 Edition, 1973 Supplement, as amended*

(Reprinted November 2008)

The Department of Legislative Services
General Assembly of Maryland
prepared this document.

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: (410-946-5400) Washington Area: (301-970-5400)
Other Areas: (1-800-492-7122)
TTY: (410-946-5401) (301-970-5401)
TTY users may also contact the
Maryland Relay Service to contact the General Assembly

E-mail: libr@mlis.state.md.us
Home Page: <http://mlis.state.md.us>

The Department of Legislative Services does not discriminate on the basis of race, color, national origin, sex, religion, or disability in the admission or access to its programs or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at Library and Information Services of the Department of Legislative Services.

CONTENTS

General Corporate Powers

Section

1. Incorporated; general powers.

Corporate Limits

2. Described.

The Council

3. Powers; defined.
4. Election; term.
5. Qualifications of Mayor and Councilmen.
6. Salary of Mayor and Councilmen.
7. Meetings of the Council.
8. Council to be judge of qualifications of its members.
9. President of the Council.
10. Quorum.
11. Procedure of Council.
12. Vacancies on the Council.
13. Ordinances.
- 13-1. Files of ordinances.

The Mayor

- 13-2. Powers and duties.

General Powers

- 13-3. General powers.
- 13-4. Exercise of powers.
- 13-5. Enforcement.

Registration, Nominations, and Elections

- 13-6. Voters.
- 13-7. Board of Supervisors of Elections.
- 13-8. Same; removal.
- 13-9. Same; duties.
- 13-10. Notice of elections.
- 13-11. Registration.

- 13-12. Appeals.
- 13-13. Nominations.
- 13-14. Election of the Mayor and Councilmen.
- 13-15. Conduct of elections.
- 13-16. Special elections.
- 13-17. Vote count.
- 13-18. Preservation of ballots.
- 13-19. Absentee voting.
- 13-20. Regulation and control.
- 13-21. Penalties.

Finance

- 13-22. Fiscal year.
- 13-23. Budget.
- 13-24. Budget adoption.
- 13-25. Appropriations.
- 13-26. Transfer of funds.
- 13-27. Over-expenditures forbidden.
- 13-28. Appropriations lapse after one year.
- 13-29. Checks.
- 13-30. Taxable property.
- 13-31. Budget authorizes levy.
- 13-32. Notice of tax levy.
- 13-33. When taxes are overdue.
- 13-34. Sale of tax delinquent property.
- 13-35. Fees.
- 13-36. Audits.
- 13-37. Tax anticipation borrowing.
- 13-38. Authorization to borrow money.
- 13-39. Payment of indebtedness.
- 13-40. Same; previous issues.
- 13-41. Purchasing.

Personnel

- 13-42. Clerk.
- 13-43. Treasurer.
- 13-44. Town Attorney.
- 13-45. Authority to employ personnel.
- 13-46. Retirement system.
- 13-47. Compensation of employees.
- 13-48. Employee benefit programs.

Public Ways and Sidewalks

- 13-49. Definition of public ways.
- 13-50. Control of public ways.
- 13-51. Public ways; powers.
- 13-52. Sidewalks; powers.

Water, Sanitary Sewers and Storm Drainage

- 13-53. Powers.
- 13-53A. Additional powers.
- 13-54. Placing structures in public ways.
- 13-55. Obstructions.
- 13-56. Entering on county public ways.
- 13-57. Connections.
- 13-58. Charge for connections.
- 13-59. Improper uses.
- 13-60. Private systems.
- 13-61. Extensions beyond boundaries.
- 13-62. Right of entry.
- 13-63. Pollution of water supply.
- 13-64. Contracts for water or sewage removal.
- 13-65. Charges.

Special Assessments

- 13-66. Powers; special assessments.
- 13-67. Procedure.

Town Property

- 13-68. Acquisition, possession, and disposal.
- 13-69. Condemnation.
- 13-70. Town buildings.
- 13-71. Protection of town property.

General Provisions

- 13-72. Oath of office.
- 13-73. Official bonds.
- 13-74. Liability for damages.
- 13-75. Prior rights and obligations.
- 13-76. Misdemeanors.
- 13-77. Effect of charter on existing ordinances.
- 13-78. Gender.
- 13-79. Separability.

BARTON

General Corporate Powers

Section 1. Incorporated; general powers.

The inhabitants of the Town of Barton within the corporate limits legally established from time time [to] time are hereby constituted and continued a body corporate by the name of "The Town of Barton" 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. (Res., March 9, 1965, sec. 1.)

Corporate Limits

Section 2. Described.

(a) *Filing; inspection.* 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 Allegany County, the Commissioner of the Land Office, the Director of the Department of Legislative Reference [Services] and in the office of the Mayor or of the Clerk. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

(b) *Described.* The boundaries of the Town of Barton are as follows:

Beginning at a point marked "B" on the retaining wall along the East side of the C. & W. Electric Railway and at the Northwest corner of the County Bridge, said point being the beginning of the present boundary of the Town of Barton, and running with the following courses and distances:

(1) North 18° 30' East 1,440 feet to a stake.

(2) North 49° 30' East 1,200 feet to a large white oak tree, marked with 3 notches, standing Northeast of the Moscow and George's Creek Coal Mining Company shop, this being also the end of the first line of the present boundary of the Town of Barton, and running with the lines of the present boundary as follows:

(3) South 84° 11' West 654 feet to a locust tree, marked with 3 notches, said tree stands on the Northeast side of the Moscow and George's Creek Coal Mining Company plane.

(4) South 43° 28' West 1,388 feet to a large sugar tree marked with 3 notches.

- (5) South 89° 45' West 650 feet to a stake.
- (6) South 16° 30' West 2,440 feet to a stake, said stake stands North 73° 00' West 44 feet from a large white oak tree marked with 3 notches.
- (7) South 00° 19' East 400 feet to a stake near a large white oak tree marked with 3 notches.
- (8) South 6° 50' East 540 feet to a stake on the 7th line of the present boundary, then leaving said 7th line.
- (9) South 78° 00' East 370 feet to a point near the Old Potomac Coal Company tipple and running with same course along the Old Potomac Coal Company tram road.
- (10) South 78° East 775 feet to a cucumber tree.
- (11) North 28° 30' East 500 feet to a large white oak tree, marked with 12 notches, at the end of the 11th line of the present boundary of the Town of Barton, and running with the following lines of said present boundary.
- (12) North 5° 30' East 333.8 feet to a hickory tree marked with 12 notches.
- (13) North 24° 30' East 536 feet to a stake near a large white oak stump.
- (14) North 30° 12' East 406.5 feet to a beech tree marked with 12 notches.
- (15) North 19° 00' West 895 feet to the place of beginning, true meridian courses and horizontal distances being used throughout. (Res., March 9, 1965, sec. 2.)

(c) 1997 Annexations.

BEGINNING at a point 372 feet more or less on the 2nd line of the present boundary of the Town of Barton where the division line between Lots 24 & 25 extended of the Seaber and Robertson Addition to the Town of Barton intersects said 2nd line, THENCE with and binding on the said extended division line in a Southeasterly direction 235 feet more or less to the southerly right of way limits of Main Street;

THENCE with and binding on said right of way limits in a Northeasterly direction 180 feet more or less to the division line between Lots 53 and 52 of said Addition;

THENCE with and binding on said division line in Southeasterly direction 150 feet more or less to the northerly right of way limits of Maple Street;

THENCE running across said Maple Street in a Southeasterly direction 40 feet more or less to the division line between Lots 80 and 81 of said Addition;

THENCE with and binding on said division line in a Southeasterly direction 150 feet more or less to the northerly right of way limits of Oak Street;

THENCE running across said Oak Street in a Southeasterly direction 40 feet more or less to the division line between Lots 101 and 102 of said Addition;

THENCE with and binding on said division line in a Southeasterly direction 80 feet more or less to the west edge of Georges Creek;

THENCE with and binding on side west edge in a Southwesterly direction 1200 feet more or less to a point where said west edge intersects with the 1st line of said present boundary of the Town of Barton;

THENCE with and binding on part of said 1st line reversed South 18 degrees 30 minutes 00 seconds West 510 feet more or less to a point marked "B" on the retaining wall along the East side of the C & W Electric Railway and at the Northwest corner of the County Bridge, said point being the beginning of the present boundary of the Town of Barton;

THENCE with and binding on the entire 15th through 3rd lines reversed and part of the 2nd line reversed of the present boundary of the Town of Barton the following 14 courses and distances South 19 degrees 00 minutes 00 seconds East 895 feet to a Beech tree marked with 12 notches;

THENCE South 30 degrees 12 minutes 00 seconds West 406.5 feet to a stake near a large White Oak Stump;

THENCE South 24 degrees 30 minutes 00 seconds West 536 feet to a Hickory tree marked with 12 notches;

THENCE South 05 degrees 30 minutes 00 seconds West 333.8 feet to a large White Oak tree marked with 12 notches;

THENCE South 28 degrees 30 minutes 00 seconds West 500 feet to a Cucumber tree;

THENCE running along the Old Potomac Coal Company tram road North 78 degrees 00 minutes 00 seconds West 775 feet to a point near the Old Potomac Coal Company tipple;

THENCE North 78 degrees 00 minutes 00 seconds West 370 feet to a stake;

THENCE North 06 degrees 50 minutes 00 seconds West 540 feet to a stake near a large White Oak tree marked with 3 notches;

THENCE North 00 degrees 19 minutes 00 seconds West 400 feet to a stake, said stake stands North 73 degrees 00 minutes 00 seconds West 44 feet from a large White Oak tree marked with 3 notches;

THENCE North 16 degrees 30 minutes 00 seconds East 2440 feet to a stake;

THENCE North 89 degrees 45 minutes 00 seconds East 650 feet to a large Sugar tree marked with 3 notches;

THENCE North 43 degrees 28 minutes 00 seconds East 1388 feet to a locust tree marked with 3 notches, said tree stands on the Northeast side of the Moscow and Georges Creek Coal Mining Company plane;

THENCE North 84 degrees 11 minutes 00 seconds East 654 feet to a large White Oak tree marked with 3 notches standing Northeast of the Moscow and Georges Creek Coal Mining Company shop;

THENCE South 49 degrees 30 minutes 00 seconds West 828 feet more or less to the point of beginning, true meridian courses and horizontal distances being used throughout. (Two unnumbered resolutions, effective May 23, 1997.)

The Council

Section 3. Powers; defined.

All legislative and policy-making powers of the Town of Barton shall be vested in a Council consisting of a Mayor and four Councilmen. As used in this Charter, the terms “council” and “members of the council” shall be deemed to include the Mayor, while the term “councilmen” shall refer only to those elected as such and shall not include the Mayor. (Res., March 9, 1965, sec. 3.)

Section 4. Election; term.

The Mayor and the four Councilmen shall be elected as hereinafter provided and shall hold office for the term of four years or until their successors are elected and qualified. The newly-elected Mayor and Councilmen shall take office on the second Tuesday in July following their election. (Res., March 9, 1965, sec. 4.; Res., April 30, 2008.)

Section 5. Qualifications of Mayor and Councilmen.

The Mayor and Councilmen shall have resided in the Town for at least one year immediately preceding their election and shall be registered voters of the Town. The Mayor and Councilmen shall maintain a permanent residence in the Town during their term of office. (Res., March 9, 1965, sec. 5.)

Section 6. Salary of Mayor and Councilmen.

The Mayor and Councilmen shall receive an annual salary which shall be equal for all 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 member of the Council takes office shall not be changed during the period for which that member was elected. The ordinance making any change in the salary paid to the member Councilmen or Mayor, 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. (Res., March 9, 1965, sec. 6.)

Section 7. Meetings of the Council.

The newly elected Council shall meet at 7:30 p.m. on the second Tuesday following its election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meeting (See note (2)) shall be called by the Clerk upon the request of the Mayor or at least three members of the Council. All meetings of the Council shall be open to the public, 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. (Res., March 9, 1965, sec. 7.)

Section 8. Council to be judge of qualifications of its members.

The Council shall be the judge of the election and qualifications, as contained in Section 4, of its members. (See note (2)) (Res., March 9, 1965, sec. 8.)

Section 9. President of the Council.

The Mayor shall serve as President of the Council. He shall be a member of the Council, may take part in any discussion and shall have the right to vote on all matters. 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 or disability of the President of the Council. (Res., March 9, 1965, sec. 9.)

Section 10. Quorum.

A majority of the Council shall constitute a quorum for the transaction of business, and a majority of those present shall decide any question except that (1) no ordinance shall be approved and (2) no payment of municipal obligations, except salaries, shall be made without the favorable vote of at least three members of the Council. (Res., March 9, 1965, sec. 10.)

Section 11. Procedure of Council.

The Council shall determine its own rules and order of business. It shall keep minutes of its proceedings and enter therein the yeas, nays, or abstentions upon final action of any question, resolution, or ordinance, or at any other time if required by any one member. The minutes shall be open to public inspection. (Res., March 9, 1965, sec. 11.)

Section 12. Vacancies on the Council.

(a) *Appointments.* In event of a vacancy on the Council for any reason, the Council shall appoint some person, qualified in accordance with Section 4, (See note (3)) to fill such vacancy for the remainder of the unexpired term.

(b) *Procedure.* A vacancy shall be filled by the favorable votes of a majority of the remaining members of the Council and the results of such vote shall be recorded in the minutes of the Council. (Res., March 9, 1965, sec. 12.)

Section 13. Ordinances.

(a) *Passage.* 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 (6) nor more than sixty (60) 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 specific future date. This requirement may be suspended by affirmative votes of at least four (4) members of the Council.

(b) *Effect.* Every ordinance shall become effective at the expiration of twenty (20) calendar days following passage by the Council. An ordinance declared to be an emergency ordinance shall become effective on the date specified in the ordinance.

(c) *Publication.* A summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation in the Town of Barton. (Res., March 9, 1965, sec. 13.)

Section 13-1. Files of ordinances.

Ordinances shall be permanently filed by the Clerk and shall be kept available for public inspection. (Res., March 9, 1965, sec. 14.)

The Mayor

Section 13-2. Powers and duties.

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

(b) *Appointments.* 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 and department heads shall serve at the pleasure of the Mayor and Council. All subordinate officers and employees of the offices and departments of the Town government

shall be appointed and removed by the Mayor and Council in accordance with rules and regulations in any merit system which may be adopted by the Council.

(c) *Reports and recommendations.* 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 welfare of the Town.

(d) *Finances; budget.* 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.

(e) *Other powers and 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. (Res., March 9, 1965, sec. 15.)

General Powers

Section 13-3. General powers.

(a) *General.* The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein.

(b) *Specific powers.* The Council shall have, in addition, the power to pass ordinances, not contrary to the Constitution and laws of the State of Maryland, for the following specific purposes:

(1) *Administrative.* To create, change, or abolish offices and departments and to assign additional functions to offices and departments, but not including the power to create, change, abolish or discontinue any office or department or to transfer any function of an office or department established by this Charter. To provide for advertising for the purposes of the Town, for printing and publishing statements as to the business of the Town. To provide for the codification of all ordinances which have been or may hereafter be passed. To purchase, lease, borrow, install, and maintain voting machines for use in Town elections.

(2) *Animals.* 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; to regulate the keeping of dogs in the Town and to provide, wherever Allegany County does not license or tax dogs, for the

licensing and taxing of the same and to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(3) *Billboards and signs.* To license, regulate, restrain or prohibit the erection or maintenance of billboards, 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.

(4) *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, plumbing code, and electrical code and to provide for inspections and enforcement of such codes 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, (See note (2)) insecure, and to require that such buildings and structures be made safe or be taken down; to require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(5) *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.

(6) *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 functions. 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 purpose, agreeably to the conditions under which the gifts or grants were made.

(7) *Dangerous conditions—Bonding.* 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.

(8) *Finances.* To have general management and control of the finances of the Town; to levy, assess, and collect ad valorem property taxes; 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; to appropriate municipal monies for any purpose within the powers of the Council; to borrow money in accordance with the provisions of this Charter.

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

(10) *Franchises.* To grant and regulation [regulate] franchises to water companies, electric light companies, gas 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 and Article 78 of the Annotated Code of Maryland (1957 Edition, as amended). No franchise shall be granted for a longer period than fifty (50) years.

(11) *Health.* To protect and preserve the health of the Town and its inhabitants; to regulate, inspect, and abate any buildings, structures, or places which cause or may cause any unsanitary conditions or conditions detrimental to health; to formulate a housing code and to appoint a housing inspector and to provide for the enforcement thereof. 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. To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries. Provided, however, that the exercise of these powers shall not be construed to affect in any manner any of the powers and duties of the State Board of Health and Mental Hygiene and the Health Officer of Allegany County.

(12) *Licenses.* Subject to any restriction imposed by the public general laws of the State (in particular Article 2B and Article 56 of the Annotated Code of Maryland, 1957 Edition, as amended), 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 license, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the Town; to license, regulate, or restrain theatrical or other public amusements when in the interest of public welfare; to license auctioneers and regulate the sale of all kinds of property at auction within the Town; to license, tax and regulate public hackmen, taxicab men, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(13) *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.

(14) *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; 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.

(15) *Parking.* To license and regulate and to establish, obtain by purchase, lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off-street parking. To install parking meters on the streets and public places of the Town and 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 or Allegany County must be approved by the Commission or the county governing body.

(16) *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.

(17) *Planning and zoning.* To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland (1957 Edition, as amended), subject, however, to the limitations and provisions of said article. 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.

(18) *Police force.* To establish, operate, and maintain a police force. All Town policemen shall, within the municipality, have the powers and authority of constables in this State. 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 purpose.

(19) *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. To prohibit the youth of the Town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night. To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns. To regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.

(20) *Property.* To acquire by conveyance, purchase or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the Town and its inhabitants; 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.

(21) *Public utilities.* To establish, construct, purchase, own, lease, control, operate, maintain, or manage any utilities, including a water supply system, a sewage disposal system, and a refuse collection and disposal system.

(22) *Refuse.* To prevent the deposit of any unwholesome substance such as garbage, refuse, ashes or other waste either on private or public property, and to compel its removal to designated points. 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.

(23) *Refuse collection.* To require, regulate, or provide for the collection, removal, and disposal of refuse, garbage, rubbish, filth, or any other matter or thing that is or may become injurious to the health or comfort of the inhabitants of the Town, and to provide whether the expense, if any, shall be borne by individual owners or tenants or shall be paid for in whole or in part by the Town.

(24) *Regulations.* To adopt and enforce within the corporate limits police, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter. To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(25) *Sidewalks.* To regulate the use of sidewalks and all 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. 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.

(26) *Streets.* To control the public ways of the Town; to erect and maintain bridges; to provide for the lighting of the Town.

(c) *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the Town to the several subjects mentioned. (Res., March 9, 1965, sec. 16.)

Section 13–4. 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. (Res., March 9, 1965, sec. 17.)

Section 13–5. Enforcement.

To insure the observance of the ordinances of the Town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not exceeding one hundred dollars (\$100) or imprisonment not exceeding

thirty (30) days, or both such fine and imprisonment. Any person subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within thirty (30) days to the Circuit Court of Allegany County in which the fine, forfeiture, or penalty was imposed. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Res., March 9, 1965, sec. 18.)

Registration, Nominations, and Elections

Section 13–6. Voters.

Any person shall be eligible to register as a voter and vote in municipal elections who is a citizen of the United States, and at least eighteen (18) years of age at the time of the next municipal election. (Res., March 9, 1965, sec. 19; Res. No. 1, April 11, 1972.)

Section 13–7. Board of Supervisors of Elections.

There shall be a Board of Supervisors of Elections, consisting of three (3) members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in March in every second odd-numbered year. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in March in the year in which they are appointed and shall run for four (4) years. Members of the Board of Supervisors of Elections shall be registered voters of the Town and shall not hold or be candidates for any elective office during their term of office. The board shall appoint one of its members as Chairman. Vacancies on the board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the Council. (Res., March 9, 1965, sec. 20.)

Section 13–8. Same; removal.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten (10) days after receiving the written copy of the charges against him. (Res. March 9, 1965, sec. 21.)

Section 13–9. Same; duties.

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations, and all Town elections. The Board may appoint election clerks or other employees to assist it in any of its duties. (Res., March 9, 1965, sec. 22.)

Section 13–10. Notice of elections.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice both (a) of the last day for registration of voters prior to any Town election and (b) of every election by an advertisement published in at least one newspaper of general circulation in the Town and by posting a notice thereof in some public place or places in the Town. (Res., March 9, 1965, sec. 23; Res. No. 3, April 30, 1986.)

Section 13–11. Registration.

(a) There shall be registration of qualified voters not registered to vote at the Town hall at any time Town hall is open for business. If necessary for the performance of registration or the convenience of the citizens of the Town, the Mayor may designate additional times and places for registration. There shall be no registration, however, for a period of forty (40) calendar days prior to any Town election. (Res. No. 3, April 30, 1986.)

(b) *Permanent.* Registration shall be permanent, and no person shall be entitled to vote in Town elections unless he is registered. It shall be the duty of the Board of Supervisors of Elections to keep the registration lists up to date by striking from the lists persons known to have died or to have moved out of Town.

(c) *Powers by ordinance.* The Council is hereby authorized to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration, and to provide for a re-registration when necessary, such action shall be by ordinance. (Res., March 9, 1965, sec. 24.)

Section 13–12. Appeals.

If any person shall feel aggrieved by the action of the Board of Supervisors of Elections 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 Allegany County, such appeal must be made within thirty (30) days of the decision or action of the Council. (Res., March 9, 1965, sec. 25.)

Section 13–13. Nominations.

(a) *Certificate.* Persons shall be nominated for elective office in the Town by filing a certificate of nomination with the Board of Supervisors of Elections on or before the first Monday in May next preceding the Town election.

(b) *Same; contents.* Such certificate shall state the following:

- (1) The office which the candidate is seeking.
- (2) The name and signature of the candidate.

(3) Signatures of twenty registered voters of the Town indicating their support of the nomination of said candidate.

(c) *Restriction.* No persons shall file for nomination to more than one elective Town office or hold more than one elective Town office at any one time. (Res., March 9, 1965, sec. 26.)

Section 13–14. Election of the Mayor and Councilmen.

On the first Monday in June, 2008 and every four years thereafter, the registered voters of the Town shall elect four persons as Councilmen to serve for a term of four years. On the first Monday in June, 2008 and every four years thereafter, the registered voters of the Town shall elect one person as Mayor to serve a term of four years. The terms of the Mayor and Council members whose current terms of office extend beyond the first Monday in June, 2008 election shall nevertheless conclude on the second Tuesday in July, 2008 on which date the Mayor and four Councilmen elected on the first Monday in June, 2008 shall take office. (Res., March 9, 1965, sec. 27; Res., April 30, 2008.)

Section 13–15. Conduct of elections.

(a) *Ballots.* Elections shall be on a non–partisan basis. The ballots and/or voting machines 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.

(b) *Equipment.* It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines.

(c) *Hours.* The Board of Supervisors of Elections shall keep the polls open from 10:00 a.m. to 12:00 noon and 5:00 p.m. to 7:00 p.m. on election days or for longer hours if the Council requires it. (Res., March 9, 1965, sec. 28.)

Section 13–16. Special elections.

All special Town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular Town elections. (Res., March 9, 1965, sec. 29.)

Section 13–17. Vote count.

Immediately after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Clerk of the Town who 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 five (5) (See note (4)) candidates for councilman with the highest number of votes in the general election shall be declared elected as Councilmen. (Res., March 9, 1965, sec. 30.)

Section 13–18. Preservation of ballots.

All ballots and records used in any Town election shall be preserved for at least six (6) months from the date of the election. (Res., March 9, 1965, sec. 31.)

Section 13–19. Absentee voting.

The Council shall have the authority to establish, by ordinance, provisions for absentee voting by any qualified voter of the Town of Barton who, by reason of his physical condition or necessary absence from the Town of Barton is unable to go to the polls on a day on which a general or special election is to be held. (Res., March 9, 1965, sec. 32.)

Section 13–20. Regulation and control.

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 elections and for the prevention of a fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (Res., March 9, 1965, sec. 33.)

Section 13–21. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this subtitle or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this subtitle or any ordinances passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or election, shall be deemed guilty of a misdemeanor. Any officer or employee of the Town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Res., March 9, 1965, sec. 34.)

Finance

Section 13–22. 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. (Res., March 9, 1965, sec. 35.)

Section 13–23. Budget.

The Mayor, on such date as the Council shall determine, but at least thirty–two (32) 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 open to public inspection by anyone during normal business hours. (Res., March 9, 1965, sec. 36.)

Section 13–24. Budget adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two (2) weeks' notice thereof in some newspaper or newspapers having general circulation within the Town. 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 prepared and adopted in the form of an ordinance. A favorable vote of at least three (3) members of the Council shall be necessary for adoption. (Res., March 9, 1965, sec. 37.)

Section 13–25. 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. (Res., March 9, 1965, sec. 38.)

Section 13–26. Transfer of funds.

Any transfer of funds between appropriations for different purposes proposed by the Mayor must be approved by the Council before becoming effective. (Res., March 9, 1965, sec. 39.)

Section 13–27. Over-expenditures forbidden.

No officer or employee shall during any budget year expend or contract to expand [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 section 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. (Res., March 9, 1965, sec. 40.)

Section 13–28. 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. (Res., March 9, 1965, sec. 41.)

Section 13–29. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Treasurer and shall be counter signed by the Mayor. In the absence or disability of the Mayor or the Treasurer, any other member of the Council is authorized to sign checks in lieu of the absent or disabled official specified above. Payment of all municipal obligations, except salaries, shall be approved by at least three members of the Council. (Res., March 9, 1965, sec. 42.)

Section 13–30. Taxable property.

All real property and all 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, shall be subject to taxation for municipal purposes. Provided, however, that household furniture and effects held for household use of the owners or members of his family, and not held or employed for the purposes of profit or in connection with any business, profession, or occupation shall not be subject to taxation for municipal purposes. The assessment used for municipal taxation 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. (Res., March 9, 1965, sec. 43.)

Section 13–31. 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. (Res., March 9, 1965, sec. 44.)

Section 13–32. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Clerk shall give notice of the making of the levy by posting a notice thereof in some public place or places in the Town. He 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. (Res., March 9, 1965, sec. 45.)

Section 13–33. When taxes are overdue.

The taxes provided for in Section 13–30 of this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the

first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum (0.5%) for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in Section 13-34. (Res., March 9, 1965, sec. 46.)

Section 13-34. Sale of tax delinquent property.

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 13-33 of this Charter shall be turned over by the 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. (Res., March 9, 1965, sec. 47.)

Section 13-35. 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. (Res., March 9, 1965, sec. 48.)

Section 13-36. Audits.

The financial books and accounts of the Town shall be audited annually in a manner determined by the Council but not contrary to applicable State law. (Res., March 9, 1965, sec. 49.)

Section 13-37. Tax anticipation borrowing.

During the first six (6) 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 no later than six (6) 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 issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (Res., March 9, 1965, sec. 50.)

Section 13-38. Authorization to borrow money.

The town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, notes, or other certificates of indebtedness in a manner prescribed in Sections 31 to 37, both inclusive, of Article

23A of the Annotated Code of Maryland (1957 Edition, as amended), title "Municipal Corporations," subtitle "Creation of Municipal Public Debt." (Res., March 9, 1965, sec. 51.)

Section 13–39. Payment of indebtedness.

The power and obligation of the Town to pay any and all bonds, notes, or other evidences of indebtedness issued by it 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 interest thereon, without limitation of amount. The faith and credit of the Town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance. (Res., March 9, 1965, sec. 52.)

Section 13–40. Same; previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the Town previous to April 29, 1965, 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. (Res., March 9, 1965, sec. 53.)

Section 13–41. Purchasing.

(a) *How made.* Purchases for the Town government shall be made by the Clerk and in the absence of the Clerk, the Treasurer, under the direction of the Mayor. The Council shall have the power to provide by ordinance for rules and regulations regarding purchasing procedures such as the use of competitive bids.

(b) *Bids; contracts.* All expenditures for supplies, materials, equipment, construction of public improvements, or contractual services involving more than one thousand dollars (\$1,000) shall be made utilizing competitive bids and written contracts. The Clerk shall be required to advertise for sealed bids in such manner as may be prescribed by ordinance. The contract, in writing, 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 Council 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.

(c) *Exceptions.* All contracts involving professional services such as accounting, architecture, auditing, engineering, law, planning, and surveying shall not be on a bid basis, but shall be negotiated by the Council. (Res., March 9, 1965, sec. 54.)

Personnel

Section 13-42. Clerk.

(a) *Appointment.* There shall be a Clerk appointed by the Mayor with the approval of the Council. He shall serve at the pleasure of the Mayor and Council, and may be removed from office only on the affirmative vote of three (3) members of the Council.

(b) *Duties.* Under the supervision of the Mayor the Clerk shall have authority and be required to:

(1) Attend all meetings of the Council and keep a full and accurate record of their proceedings.

(2) Prepare at the request of the Mayor an annual budget to be submitted by the Mayor to the Council.

(3) Maintain a general accounting system for the Town in such form as the Council may require not contrary to State law.

(4) Ascertain that all taxable property within the Town is assessed for taxation.

(5) Collect all taxes, special assessments, license fees, liens, and 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.

(6) Do such other things in relation to fiscal or financial affairs of the Town as the Mayor or the Council may require or as may be required elsewhere in this Charter. (Res., March 9, 1965, sec. 55.)

Section 13-43. Treasurer.

(a) *Appointment.* There shall be a Treasurer appointed by the Council. He shall serve at the pleasure of the Council.

(b) *Duties.* Under the supervision of the Council, the Treasurer shall have authority and be responsible to:

(1) Verify the accounts and records of the Clerk.

(2) Sign all checks, notes, bonds, or other obligations due by the Town.

(3) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(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) Have custody of all public monies, 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. (Res., March 9, 1965, sec. 56.)

Section 13-44. Town Attorney.

There shall be a Town Attorney appointed by the Mayor with the approval of the Council. He shall serve at the pleasure of the Mayor and Council. His compensation shall be determined by the Council. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal advisor of the Town and shall perform such duties in this connection as may be required by the Mayor or the Council. The Town shall have the power to employ other legal consultants as it deems necessary from time to time. (Res., March 9, 1965, sec. 57.)

Section 13-45. 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. (Res., March 9, 1965, sec. 58.)

Section 13-46. 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 all or part of the cost of any such retirement or pension system out of the general funds of the Town. (Res., March 9, 1965, sec. 59.)

Section 13-47. Compensation of employees.

The compensation of all officers and employees of the Town (exclusive of the Mayor and Councilmen) shall be set from time to time by the Council. (Res., March 9, 1965, sec. 60.)

Section 13-48. 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. (Res., March 9, 1965, sec. 61.)

Public Ways and Sidewalks

Section 13–49. Definition of public ways.

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys. (Res., March 9, 1965, sec. 62.)

Section 13–50. Control of public ways.

The Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the State Roads Commission of Maryland or Allegany County. 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. (Res., March 9, 1965, sec. 63.)

Section 13–51. Public ways; 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. (Res., March 9, 1965, sec. 64.)

Section 13–52. Sidewalks; 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 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. (Res., March 9, 1965, sec. 65.)

Water, Sanitary Sewers and Storm Drainage

Section 13-53. 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. (Res., March 9, 1965, sec. 66.)

Section 13-53A. Additional powers.

The Town of Barton shall have full power and authority:

(a) To enter into contracts or agreements with the Allegany County Sanitary District, Inc., a public corporation, with other municipal authorities, or with county, State or federal authorities, with respect to obtaining a supply of water or the collection, disposal or treatment of sewage, drainage or refuse, or with respect to any other matter deemed advisable or necessary for

the proper and economical construction, establishment, use, maintenance, or operation of a water supply, or a sewerage, drainage, disposal or treatment system.

(b) To assess, charge and collect such service rates, water rents, sewage or other charges as may be necessary for water supplied, and for the removal and treatment of sewage, including drainage and refuse, and for the payment of all costs, expenses, and other obligations incurred under any of the aforesaid contracts or agreements, or in connection with providing such water or sewage collection, disposal and treatment, with all such charges to be liens on the property against which they are assessed, and to be collectible in the same manner as Town taxes. (Char. Amend. Res. No. 2, October 29, 1980.)

Section 13-54. Placing 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. (Res., March 9, 1965, sec. 67.)

Section 13-55. 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 provided in Section 13-75. (See note (5)) Any violation of this section shall be a misdemeanor. (Res., March 9, 1965, sec. 68.)

Section 13-56. Entering on county public ways.

The Town may enter upon or do construction in, on, or over any county public way 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. (Res., March 9, 1965, sec. 69.)

Section 13-57. 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. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res., March 9, 1965, sec. 70.)

Section 13–58. Charge for connections.

The Town may make a charge, the amount to be determined by the Council, for each connection made to the Town's water or sewer mains. This charge shall be uniform 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. (Res., March 9, 1965, sec. 71.)

Section 13–59. 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 or improper use. (Res., March 9, 1965, sec. 72.)

Section 13–60. 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 method 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. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res., March 9, 1965, sec. 73.)

Section 13–61. Extensions beyond boundaries.

The Town shall have the power to extend its water or sewerage systems beyond the Town limits. The Council shall have the power to determine the conditions under which this may be done. (Res., March 9, 1965, sec. 74.)

Section 13–62. 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, upon proper identification, 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. (Res., March 9, 1965, sec. 75.)

Section 13-63. 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. Any violation of the provisions of this section shall be a misdemeanor. (Res., March 9, 1965, sec. 76.)

Section 13-64. Contracts for water or sewage removal.

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. (Res., March 9, 1965, sec. 77.)

Section 13-65. 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 and if bills are unpaid within thirty (30) 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. (Res., March 9, 1965, sec. 78.)

Special Assessments

Section 13-66. Powers; special assessments.

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 mains, 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. (Res., March 9, 1965, sec. 79.)

Section 13-67. Procedure.

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

(1) The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.

(2) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom.

(3) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(4) All special assessment charges shall be levied by the Council by ordinance. Before levying any special assessment charges, the Council shall hold a public hearing. The Clerk shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the Town. The Clerk-Treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the Clerk shall have completed publication and service of notice as provided in this section. Following the hearing the Council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(5) Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Allegany County within thirty (30) days after the levying of any assessment by the Council.

(6) Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed forty (40) years, and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

(7) All special assessment installments shall be overdue six (6) months after the date on which they become due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as Town taxes or by suit at law.

(8) All special assessments shall be billed and collected by the Clerk. (Res., March 9, 1965, sec. 80.)

Town Property

Section 13–68. Acquisition, possession, and disposal.

The Town may acquire real, personal, or mixed property within or without the corporate 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 April 29, 1965, are vested in the Town, subject to the terms and conditions thereof. (Res., March 9, 1965, sec. 81.)

Section 13–69. 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 or without 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 Article 33A of the Annotated Code of the Public General Laws of Maryland (1957 Edition, as amended), title “Eminent Domain.” (Res., March 9, 1965, sec. 82.)

Section 13–70. 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. (Res., March 9, 1965, sec. 83.)

Section 13–71. Protection of town property.

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. (Res., March 9, 1965, sec. 84.)

General Provisions

Section 13–72. Oath of office.

(a) *Required; how taken.* Before entering upon the duties of their offices, the Mayor, the Councilmen, the Clerk, the members of the Board of Supervisors of Elections, 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 of, according to the Constitution and Laws of this State.”

(b) *Same; Mayor.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Allegany 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. (Res., March 9, 1965, sec. 85.)

Section 13–73. Official bonds.

The Clerk and 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. (Res., March 9, 1965, sec. 86.)

Section 13–74. Liability for damages.

(a) *Notice required.* Before the Town of Barton shall be liable for damages of any kind, the person injured, or someone in his behalf, must give the Clerk notice in writing of the injury within thirty (30) days after the injury has been received, stating specifically when, where and how the injury occurred and the extent of the injury.

(b) *Liability.* The Town of Barton shall never be liable on account of damage or injury to any person or property arising from or occasioned by any public way or public grounds or any defect thereon, any accumulation of ice or snow, or any public work of the Town unless the specific defect or accumulation of snow or ice causing the damage or injury shall have been brought to the attention of the Mayor and Council by notice in writing at least twenty–four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been used to correct the defect or cause said accumulation of snow or ice to be removed after called to the attention of the Mayor and Council as aforesaid. (Res., March 9, 1965, sec. 87.)

Section 13–75. Prior rights and obligations.

All right, title, and interest held by the Town or any other person or corporation on April 29, 1965, 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 April 29, 1965. 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. (Res., March 9, 1965, sec. 88.)

Section 13-76. Misdemeanors.

Every act or omission which is made a misdemeanor under the authority of this Charter, unless otherwise provided shall be punishable upon conviction before any trial magistrate or in the Circuit Court for the county within which the offense is committed by a fine not exceeding one hundred dollars (\$100.00) or imprisonment for thirty (30) days in the county jail, or both, in the discretion of the court or trial magistrate. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State. Where the act of omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Res., March 9, 1965, sec. 89.)

Section 13-77. Effect of charter on existing ordinances.

(a) *Not in conflict.* All ordinances, resolutions, rules, and regulations in effect in the Town on April 29, 1965, 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 in the Town on April 29, 1965, which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict. (Res., March 9, 1965, sec. 90.)

Section 13-78. Gender.

Whenever the masculine gender has been used in this Charter, it shall be construed to include the feminine gender. (Res., March 9, 1965, sec. 91.)

Section 13-79. 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. (Res., March 9, 1965, sec. 92.)

NOTES

(1) The charter of the Town of Barton was completely revised by a charter resolution adopted on March 9, 1965, and effective on April 29, 1965.

(2) Thus in the Resolution of March 9, 1965.

(3) Thus in the Resolution of March 9, 1965. See also sec. 5 above.

(4) Thus in the Resolution of March 9, 1965. See sec. 3, above.

(5) The Resolution of March 9, 1965, made a cross reference to sec. 88, which is sec. 13-75 in this Supplement. The cross reference probably should have been to sec. 82, which is sec. 13-69 in this Supplement.

