

CHARTER

OF THE

City of Gaithersburg

MONTGOMERY COUNTY, MARYLAND

As found in a 1980 edition, as amended

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CONTENTS

Section

1. Incorporation; city body politic; power to sue and be sued; common seal; perpetual succession.
2. Corporate limits.
3. Council—Legislative authority of city; number of council members; term of office of council members.
4. Same—Qualifications of councilmen.
5. Same—Salary of councilmen.
6. Same—Regular and special meetings.
7. Same—Judge of election and qualifications of members.
8. Same—Mayor to serve as president; vice-president.
9. Same—Quorum; vote required for adoption of ordinances.
10. Same—Rules and order of business; journal.
11. Ordinances—Procedure for adoption; veto power of mayor; effective date; emergency ordinances; publication of notice of adoption; certain actions to be by ordinance only.
12. Referendum.
13. Same—Filing; public inspection.
14. Mayor—Term of office; when term begins.
15. Same—Qualifications.
16. Same—Salary.
17. Repealed.
18. City manager.
19. Enumeration of powers of council.
20. Penalty for violations of ordinances; appeals from convictions under ordinances; continuing violations.
21. Repealed.
22. Recall of elected officials.
23. Board of supervisors of elections—Composition; appointment; term of office; qualifications and compensation of members; chairman; filling of vacancies.
24. Same—Removal of members.
25. Same—Duties; appointment of election clerks and other employees.
26. Same—Notice of elections.
27. Qualifications of voters; Registration.
28. Appeals from refusal to register, striking name from registration list, etc.
29. Filing for elected office.
30. General elections.
31. When election for mayor and council members held.
32. Election places; ballots or voting machines; hours polls open.
33. Counting of votes; runoff elections.
34. Preservation of ballots or records of votes.
35. Filling of vacancies in office of mayor or councilman.
36. Use of gender specific terms.

37. Council may provide for other matters regarding the function of the board of supervisors of elections.
38. Penalty for violation of election, registration, etc., provisions.
39. Fiscal year, tax year, budget year and accounting year; annual budget required.
40. Budget—Submission to council; balance required; public record.
41. Same—Public hearing; changes; vote required for adoption.
42. Same—Appropriation required for expenditure; approval of budget constitutes appropriation; transfer of funds within budget.
43. Overexpenditures.
44. Disposition of unexpended appropriations at end of budget year.
45. Amendment of budget to allow expenditure of excess revenue.
46. Signatures on checks.
47. Property subject to taxation.
48. Levy of ad valorem taxes.
49. to 51. Repealed.
52. City officers and employees to account for fees received.
53. Annual audit of city books and records.
54. Borrowing in anticipation of taxes and revenues.
55. Borrowing power of City generally; tax levy for payment of indebtedness; bond authorization ordinances; procedure for borrowing; pledging of faith and credit of City.
56. Ratification of previous debt.
57. Purchasing and contracts.
58. City attorney; legal consultants.
59. Personnel regulations; merit system; classified and unclassified service may be established.
60. Composition of classified and unclassified service.
61. Prohibitions and restrictions regarding persons in classified service.
62. Retirement or pension system for city officers and employees.
63. Insurance and other benefit and welfare plans for city officers and employees.
64. “Public ways” defined.
65. Control of public ways.
66. Powers of council as to public ways.
67. Powers of council as to storm sewers.
68. Approval required for installation of pipes, etc., in public ways.
69. Removal of obstructions from public ways.
70. Right of city to enter upon county and state public ways.
71. Regulation of septic systems.
72. Right of entry of city employees and agents.
73. Special assessments—Authority to levy; purposes for which assessments may be levied; costs which may be included in assessments.
74. Same—Procedure.
75. Acquisition, possession and disposal of property by city.
76. Condemnation authority of city.
77. Protection and maintenance of property by city.
78. Oath of office for certain city officers.

79. Prior rights and obligations.
80. Lien on property for actions of city regarding such property.
81. Penalty for violation of ordinances; appeals from convictions under ordinances; continuing violations.
82. Continuation of ordinances, resolutions, etc.; repeal of conflicting ordinances, resolutions, etc.
83. Severability of provisions.
84. Continuation of laws, etc., applicable to city.
85. Hearings on proposed Charter amendments.

GAITHERSBURG

Section 1. Incorporation; city body politic; power to sue and be sued; common seal; perpetual succession.

The inhabitants within the corporate limits heretofore legally established as and for the City of Gaithersburg are hereby continued as a body corporate to be known as the “City of Gaithersburg,” with all of 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.

Section 2. Corporate limits.

The corporate limits of the city shall continue to be the limits as they exist on the effective date of this Charter until they be hereafter amended as provided by law. (See note (1))

Section 3. Council—Legislative authority of city; number of council members; term of office of council members.

All legislative powers of the city shall be vested in a council consisting of five council members who shall be elected as hereinafter provided and who shall hold office for a term of four years or until their successors shall take office. The regular term of each council member shall expire on the first Monday following the election of his successor. Subject to the provisions of Section 31 of this Charter, two council members shall be elected in 1986, then in 1989 and in every fourth year thereafter and three council members shall be elected in 1988, then in 1991 and in every fourth year thereafter. (Ord. No. CA-1-74, § 1; Reso. No. CA-1-86.)

Section 4. Same—Qualifications of councilmen.

No person shall be eligible for election to the office of councilman unless that person is domiciled in the city immediately preceding their election and unless that person is also a qualified voter of the city at the time of their election. All council members must continue their domicile in the city during their term of office. (Ord. No. CA-2-74, § 1; Reso. No. CA-2-87, 1-26-88.)

Section 5. Same—Salary of Members of the Gaithersburg City Council.

The members of the city council for the City of Gaithersburg, Maryland, shall be paid an annual salary of Six Thousand Dollars (\$6,000.00), except as hereinafter provided. Council members elected to office in the calendar year 2005 shall receive an annual salary of Ten Thousand Dollars (\$10,000.00) for the term commencing November 2005. Council members elected to office in the calendar year 2007 shall receive an annual salary of Ten Thousand Dollars (\$10,000.00) for the term commencing in November of 2007. Council members elected anytime after November 2007 shall receive an annual salary of Ten Thousand Dollars (\$10,000.00). (Reso. No. CA-8-79; Reso. No. CA-1-05, 5-10-05.)

Section 6. Same—Regular and special meetings.

In accordance with the laws of the State of Maryland, the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All regular meetings of the council except as otherwise provided by the laws of the State of Maryland shall be open to the public and residents of the city shall have a reasonable opportunity to be heard at any regular meeting in regard to any municipal question, provided that this shall not be construed to require the council to permit additional evidence in any matter with respect to which the record has been closed. Special meetings may be called by the mayor or the vice-president of the council and shall be called by the mayor or the vice-president of the council or the city manager upon request of a majority of the members of the council. Such special meetings may, but need not be, open to the public. (Ord. No. CA-3-74; Reso. No. CA-98, 2-9-99.)

Section 7. Same—Judge of election and qualifications of members.

The council shall be the judge of the election and qualification of its members. (Ord. No. CA-4-74, § 1.)

Section 8. Same—Mayor to serve as president; vice-president.

The mayor shall serve as president of the council. He may take part in all discussions of the council, but shall have no vote on any decision by the council. The council shall elect a vice-president of the council from among its members who shall act as president in the absence of the president who shall be entitled to vote on any decision by the council. At any meeting at which the president and vice-president shall both be absent the council may elect one of its members to act as president pro tem who shall be entitled to vote on any decision by the council. (Ord. No. CA-5-74.)

Section 9. Same—Quorum; vote required for adoption of ordinances.

A majority of the members of the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved, except an ordinance adopting the annual budget, without the favorable votes of a majority of the whole number of members elected to the council.

Section 10. Same—Rules and order of business; journal.

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

Section 11. Ordinances—Procedure for adoption; veto power of mayor; effective date; emergency ordinances; publication of notice of adoption; certain actions to be by ordinance only.

The procedure for the adoption of ordinances by the council shall be as follows:

(a) A proposed ordinance may be introduced by a majority of the members of the council present and voting. Each proposed ordinance shall be the subject of a public hearing. Notice of the hearing and a summary of the substance of the proposed ordinance shall be published in one or more newspapers of general circulation in the city at least once, not less than ten days prior to the hearing.

(b) Each ordinance adopted by the council shall within three days after adoption, be delivered by the city manager to the mayor for his approval or veto. If the mayor approves any ordinance, he may sign it. If he vetoes any ordinance, he shall deliver to each member of the council, within seven days after delivery of such ordinance to him, a statement of his reason for the veto of the ordinance. If the mayor shall neither approve an ordinance nor veto it within the time required herein, such ordinance shall be deemed to have been approved by the mayor on the seventh day following delivery of such ordinance to the mayor. An ordinance vetoed by the mayor shall not become effective unless subsequently passed by a favorable vote of four councilmen within thirty-five days after the date of delivery of such statement of disapproval. No further hearing shall be required with reference to such ordinance.

(c) An ordinance shall become effective at the expiration of twenty calendar days following approval by the mayor or passage by the council over his veto unless such ordinance shall have been designated as an emergency ordinance by the council, in which event it shall become effective on the date of approval by the mayor or the date of passage of such ordinance by the council over his veto.

(d) A notice of the adoption of and a summary of each ordinance which shall hereafter become effective pursuant to the terms of this section 11 shall be published at least once in a newspaper or newspapers of general circulation in the city, within eleven days after the date of approval by the mayor or the date of passage by the council over his veto.

(e) The following actions may be taken by the council only by ordinance, as that word is used in sections 9, 11, 12 and 13 of this Charter:

(1) Adoption of the budget and fixing of the ad valorem tax rate.

(2) Adoption of any regulation which authorizes a fine, a jail sentence or other penalty or which authorizes relief by way of injunction or other equitable relief.

(3) Any action which is required by this Charter, or any applicable statute or Constitution to be done by ordinance. (Ord. No. CA-6-74; Ord. No. CA-7-74.)

Section 12. Referendum.

(a) If, before the expiration of twenty calendar days following approval of any ordinance by the mayor or passage of any ordinance over the mayor's veto, a petition is filed with the city manager containing the signatures of not less than twenty per centum of the qualified voters of the city and requesting that the ordinance, or any part thereof, be submitted to

a vote of the qualified voters of the city for their approval or disapproval, the council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the city at the next regular city election or, in the council's discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question; except, that an emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, then the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part thereof, levying ad valorem property taxes, or to any ordinance, or part thereof, adopting the annual budget. The provisions of this section shall be self-executing, but the council may adopt ordinances in furtherance of these provisions and not in conflict with them.

(b) The council may, at the time of adoption of an ordinance, require that it be submitted to a vote of the qualified voters at a general or special election in the same manner as provided in section 12(a).

Section 13. Same—Filing; public inspection.

Ordinances shall be permanently filed by the city manager and shall be kept available for public inspection.

Section 14. Mayor—Term of office; when term begins.

The mayor shall be elected as hereinafter provided and accept [except] as hereinafter provided shall hold office for a term of four years or until his successor shall take office. Each mayor hereafter elected shall take office on the first Monday following his election. The next election for the office of mayor shall take place in 1986 with a subsequent election in 1989 and every fourth year thereafter. (Ord. No. CA-1-74, § 2; Reso. No. CA-1-86.)

Section 15. Same—Qualifications.

No person shall be eligible for election to the office of mayor unless that person is domiciled in the city for at least one year immediately preceding their election and unless that person is also a qualified voter of the city at the time of their election. The mayor shall continue to be domiciled in the city during the mayor's term in office. (Ord. No. CA-2-74, § 2; Reso. No. CA-2-87, 1-26-88.)

Section 16. Same—Salary.

The mayor shall be paid an annual salary of Seven Thousand Five Hundred Dollars (\$7,500.00), except as hereinafter provided. The person elected to the office of mayor in 2005 shall receive an annual salary of Twelve Thousand Five Hundred Dollars (\$12,500.00). Anyone elected to the office of mayor after November 2005 shall receive an annual salary of Twelve Thousand Five Hundred Dollars (\$12,500.00). (Reso. No. CA-1-05, 5-10-05.)

Section 17.

(Repealed by Ord. No. CA-8-74.)

Section 18. City manager.

(a) The council shall appoint an officer of the city who shall have the title of city manager and shall have the powers and perform the duties in this Charter provided and as may be otherwise assigned to him, not inconsistent with this Charter. Neither the mayor nor any member of the council shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

(b) The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. He need not be a resident of the city.

(c) The city manager shall receive such compensation as the council shall fix from time to time.

(d) The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least thirty days before such removal shall become effective, the council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for his removal. The city manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the city manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next two calendar months following adoption of the preliminary resolution.

(e) Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from office by the city manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinates of the city manager either publicly or privately.

(f) The city manager shall see that the ordinances of the city are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the city government.

(g) The city manager shall be responsible to the mayor and council for the proper administration of all affairs of the city and, to that end, subject to the personnel ordinance of the city, he shall have power and shall be required to:

(1) Appoint and, when necessary for the good of the service, suspend or remove all officers and employees of the city, except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint, suspend or remove subordinates in such department or office;

(2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption;

(3) Perform such other duties as may be prescribed by ordinance, or required of him by the mayor and council, not inconsistent with this Charter.

(h) (1) In the event of the suspension, removal, resignation or death of the city manager, the council may by resolution, designate an officer of the city as acting city manager to perform the duties of the city manager for such period as may be necessary.

(2) In the event of temporary absence or disability of the city manager, the city manager may designate an officer of the city as acting city manager to perform his duties during his temporary absence or disability. In the event of failure of the city manager to make such designation, or, if the council shall not concur in the designation by the city manager, the council may, by resolution, appoint an officer of the city to perform the duties of the city manager until he shall return or his disability shall cease.

(3) Where designation of an acting city manager by the council is provided for above, the mayor may designate such acting city manager to serve until the next meeting of the council. (Ord. No. CA-9-74.)

Section 19. Enumeration of powers of council.

The council shall have the following powers to the extent that their exercise is not specifically prohibited by Constitution or statute:

(1) To provide for advertising for the purposes of the city.

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

(3) To provide for licensing, regulating, or restraining theatrical or other public amusements.

(4) To appropriate municipal monies for any purpose within the powers of the council.

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

(6) To establish a municipal band, symphony orchestra, or other musical or cultural organization, and to regulate by ordinance the conduct and policies thereof.

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

(8) To regulate the erection, construction, repair or reconstruction of buildings in the city and to require building permits for the same; 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.

(9) To regulate or prohibit the operation of cemeteries and the interment of bodies within the city.

(10) To codify, or recodify, in permanent or looseleaf form, from time to time, any or all of the laws and ordinances of the city, and the City Charter, and such other laws or ordinances as they may deem appropriate for inclusion in such codification, and to publish periodic supplements to any such codification. In the process of codification or recodification, the council shall have the power to amend or repeal any or all of the ordinances or resolutions of the city heretofore or hereafter adopted, by changes, alterations, amendments or deletions in any codification, or any supplement thereto. Except as may otherwise be required, by law, no notice of any such amendment or repeal shall be required, other than notice of the adoption or approval of such codification, recodification, or supplement thereto.

(11) 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 city.

(12) To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performances of or for cooperation in the performance of any governmental functions.

(13) To prohibit the youth of the city from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(14) To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned on the payment of all damages resulting from such work which may be sustained by any persons or property.

(15) To regulate the keeping of dogs in the city and to provide 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.

(16) To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(17) 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.

(18) To compel the occupant of any premises, building or structure situated in the city, 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 city.

(19) 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 city except to the extent that responsibility therefor is delegated by this Charter to the city manager.

(20) 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 city; 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 city 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 city.

(21) To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(22) To grant and regulate franchises to electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, community antenna television companies and any other which may be deemed advantageous and beneficial to the city. No such franchise shall be granted for a longer period than fifty years.

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

(24) To accept gifts and grants of funds from the federal, state or county governments or any agency thereof, or any other source and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(25) To license, tax, regulate, or prohibit pawnbrokers, fortunetellers, hawkers, itinerant dealers and peddlers, and all other persons selling any article on the streets of the city.

(26) To protect and preserve the health of the city 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 city; 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.

(27) 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 city.

(28) To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the city or to use the county jail for such purpose.

(29) To license and regulate all persons beginning to conduct transient or permanent business in the city 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 licenses and permits issued under the authority of this Charter.

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

(31) To provide for the lighting of the city.

(32) To regulate and prohibit the running at large of cattle, 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.

(33) To obtain by lease, own, construct, purchase, operate and maintain public markets within the city.

(34) 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.

(35) To regulate or prohibit unreasonable ringing of bells, crying of goods, sounding of whistles and horns, or other noises.

(36) To prevent or abate by appropriate ordinance all nuisances in the city 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, prohibit, control the location of, or require the removal from the city and 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; to regulate, prohibit, control the location of, or require the removal from the city of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies; this listing is by way of enumeration, not limitation.

(37) 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 city.

(38) 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.

(39) To install parking meters on the streets and public places of the city and to prescribe rates and provisions for the use thereof.

(40) 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 city.

(41) To establish, operate and maintain a police force which shall have, within the city all the power and authority of police officers and deputy sheriffs generally within the scope of the police functions and powers in this state. Such police force and members thereof shall also be authorized to act outside the city to the extent necessary to transport prisoners to or from trial or to or from places of incarceration, or to engage in the pursuit of fleeing offenders, or to cooperate in the exercise of police functions by agreements between the city and other governmental jurisdictions. (Reso. No. CA-1-88, 10-4-88.)

(42) To prohibit, within the city, 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.

(43) To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome material into any public way or onto any public or private property in the city.

(44) To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations.

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

(46) To purchase, lease, borrow, install, and maintain voting machines for use in city elections.

(47) In addition to all 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.

(48) To encourage and establish programs, take actions and provide assistance for orderly economic and industrial development in the City and foster employment opportunities for inhabitants of the City. (Reso. No. CA-1-87, 11-10-87.)

Section 20. Penalty for violations of ordinances; appeals from convictions under ordinances; continuing violations.

To insure the observance of the ordinances of the city, 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 thousand dollars (\$1,000.00) or imprisonment for not exceeding six (6) months, or by both such fine and imprisonment. As an alternative, the council may designate violations of specific ordinances as municipal infractions with fines not to exceed the maximum amount authorized pursuant to Article 23A of the Annotated Code of Maryland. 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 conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Reso. No. CA-2-98, 2-9-99.)

Section 21.

(Repealed by Ordinance No. CA-7-77.)

Section 22. Recall of elected officials.

Any elected official of the city may be recalled and removed from office in accordance with requirements and procedures hereafter established by ordinance as part of the Code of the city. (Reso. No. CA-6-79.)

Section 23. Board of supervisors of elections—Composition; appointment; term of office; qualifications and compensation of members; chairman; filling of vacancies.

There shall be a board of supervisors of elections, consisting of five members and one alternate who shall be appointed by the mayor with the approval of the council on or before the first Monday in March of 1978. The terms of three members of the board shall begin on the first Monday in March, 1978, and shall run for five years. The terms of the other two members of the board and the alternate shall begin on the same day and shall run for three years. The resolution of appointment shall state which appointees shall serve which terms. After the expiration of

those terms, the terms of members of the board appointed in 1981 and thereafter shall begin on the first Monday in March in the year in which they are appointed and shall run for four years. The term of every member of the board present or future, shall run until his successor is appointed. Each member of the board shall be a qualified voter of the city and shall not hold or be a candidate for any elective office during his 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. In the absence of any of the five members of the board, the alternate member shall be authorized to act in the place of the absent member. (Ord. No. CA-6-77.)

Section 24. Same—Removal of members.

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 days after receiving the written copy of the charges against him.

Section 25. Same—Duties; appointment of election clerks and other employees.

The board of supervisors of elections shall be in charge of all city elections which includes, but is not limited to, the registration of voters, nominations, verification of eligible candidates, recommending to the council the number and location of polling places, ensuring that candidates for office are residents of the city and the ability to investigate, hold hearings and make determination on any alleged violations of the Charter pertaining to elections or Elections Ordinance. The City Manager will designate staff to assist and support the board of supervisors of elections in its official duties. (Reso. No. CA-3-98, 2-10-99.)

Section 26. Same—Notice of elections.

The board of supervisors of elections shall give at least two weeks notice of every election by an advertisement published in at least one newspaper of general circulation in the city and by posting a notice thereof in some public place or places in the city.

Section 27. Qualifications of voters; Registration.

(a) Any person who has his domicile in the city and is qualified by law to vote in Montgomery County elections shall be qualified to vote in city elections. Any person who will be eighteen years of age on or before the day of the next succeeding regular or special city election shall be qualified to vote in said election.

(b) Registration of qualified voters shall be permitted in the city offices during regular office hours every day such offices are open, and at such other times and places as the council may establish from time to time by resolution; except, that registration shall not be permitted within thirty days immediately prior to any general or special city election, excluding

runoff elections, in which case the same voter registration list used in the regular general or special election causing the runoff election shall be used. In addition to registration at the city offices, any person who has his domicile within the city may register to vote in city elections by registering to vote in Montgomery County elections; provided, that such registration must reflect that the registrant has a residential address located within the incorporated limits of the city on voting registration records with Montgomery County more than thirty days prior to the date of the city election at which such person seeks to vote. The board of supervisors of elections is authorized to strike from the registration lists any person who has died, or who has become ineligible to vote in city elections, or who has not voted in a city election, general, primary, special or referendum, within the five preceding calendar years. Registration of any person shall be permanent until stricken pursuant hereto. Every person who has his domicile in the city and has registered to vote in city elections pursuant to this section shall be a qualified voter of the city. (Ord. No. 0-10-71; Ord. No. CA-1-73, § 2; Ord. No. CA-1-77; Reso. No. CA-5-79; Reso. No. CA-3-86.)

Section 28. Appeals from refusal to register, striking name from registration list, etc.

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 circuit court for Montgomery County. Such appeal must be filed within thirty (30) days of the date of the decision of the board of supervisors of elections and may thereafter be further appealed to the appellate courts of Maryland pursuant to the Maryland Rules of Procedure. (Reso. No. CA-4-98, 2-9-99.)

Section 29. Filing for elected office.

A person may file for elected office in the city by filing a petition signed by not less than one hundred (100) qualified voters of the city asking that his name be placed upon the ballot for the office which he seeks. Said petition shall be filed at the office of the board of supervisors of elections on or before the close of business on the forty-fifth (45th) day preceding the next general election. No person shall seek election to more than one elected city public office at any one time. The council shall, by ordinance, establish procedures to implement this section and to determine compliance with this section and sections 4 and 15 of the Charter. (Ord. No. CA-3-77; Reso. No. CA-1-82; Reso. No. CA-1-94, 2-7-95.)

Section 30. General elections.

(a) Elections shall be conducted as specified in this Charter. Candidates' names shall appear in alphabetical order for the office sought on the ballots or on the voting machine labels, with no party designations of any kind.

(b) Candidates must receive the votes of more than forty percent of the total qualified registered voters who cast votes in a contested general election in order to be declared elected pursuant to section 33 of this Charter. If the number of candidates receiving the votes of more than forty percent of the qualified voters who cast votes in a contested general election is greater than the number of positions to be filled, then the candidates receiving the greatest number of

qualified votes shall be declared elected; provided, however, if the number of candidates receiving the votes of more than forty percent of the qualified voters who cast votes in a contested general election is less than the number of positions to be filled, then those candidates receiving the votes of more than forty percent of the qualified voters who cast votes in a contested general election shall be declared elected, and a runoff election involving no more candidates than twice the number of remaining unfilled seats shall be held pursuant to the provisions of this Charter between those runoff candidates receiving the highest vote. (Reso. No. CA-4-79; Reso. No. CA-2-82.)

Section 31. When election for mayor and council members held.

On the first Tuesday after the first Monday in November 2001 and every fourth year thereafter the qualified voters of the City shall elect a Mayor and two (2) Council members. The term of office for the Mayor and two (2) Council members so elected shall expire on the second Monday following the election held in November 2005 and every fourth year thereafter.

On the first Tuesday after the first Monday in November 2003 and every fourth year thereafter, the qualified voters of the City shall elect three (3) Council members. The term of office of the three (3) Council members so elected shall expire on the second Monday following the election held in November 2007 and every fourth year thereafter.

Those incumbents in office as of the effective date of this amendment shall continue in office beyond their existing respective term until the terms of office consistent with this charter amendment commence.

Should a runoff election be required pursuant to provisions of the Charter, then such runoff election shall be held not more than fourteen (14) days thereafter and the term of any incumbent involved in said runoff election shall be extended until the first Monday following the runoff. (Reso. No. CA-3-79; Reso. No. CA-1-86; Res. No. CA-1-00, 11-7-00.)

Section 32. Election places; ballots or voting machines; hours polls open.

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 or voting machines. The ballots 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. The board of supervisors of elections shall keep the polls open from 7:00 A.M. to 7:00 P.M. unless the council, by resolution, shall fix longer or shorter hours.

Section 33. Counting of votes; runoff elections.

Within forty-eight hours after the closing of the polls, the board of supervisors of elections shall determine the votes cast for each candidate or question and shall certify the results of the election to the city manager, who shall record the results in the records of the council. Subject to the provisions of sections 30 and 31 of this Charter, the candidate for mayor with the

highest number of votes shall be declared as mayor. The number of candidates for council member, corresponding with the number of seats to be filled, with the highest number of votes in the general election or, if required, in a runoff election, shall be declared elected as council members, subject to the provisions of sections 30 and 31 of this Charter.

When required by the provisions of section 30 and 31 of this Charter or, in the case of a tie in the highest number of votes for mayor or for the last remaining city council position(s), there shall be a run-off election between the candidates so affected to be held not more than fourteen (14) days after the date of the regular election. If the run-off election shall result in a tie, the winner shall be selected by lot.

Where the election includes an election to fill the remainder of an unexpired term of a council member, pursuant to section 35 of the Charter, then the persons receiving the two highest number of votes in April, 1986 and April, 1989 and every four years thereafter and the persons receiving the three highest number of votes in April, 1988 and April, 1991 and every four years thereafter shall be declared elected to four year terms and the next highest after them shall be declared elected to the unexpired term or terms as the case may be. If it shall be unclear who is entitled to a four year term and who to a two year term because of a tie vote, the winner of the four year term shall be determined by lot. If the lowest winning total number of votes for councilman shall be tied, the winner shall be determined by a run-off election between the candidates receiving the tie votes to be held not more than fourteen (14) days after the regular election. (Ord. No. CA-1-76; Reso. No. CA-2-79; Reso. No. CA-3-82; Reso. No. CA-1-86; Reso. No. CA-5-98, 2-9-99.)

Section 34. Preservation of ballots or records of votes.

All ballots or records relating to the votes cast on voting machines shall be preserved for at least six months after the election to which they relate.

Section 35. Filling of vacancies in office of mayor or councilman.

In case of a vacancy in the office of mayor or councilman for any reason, a majority of the remaining members of the council shall elect some qualified person to fill such vacancy. The person appointed by the remaining members of the council shall continue in office until the next general election provided no public petition for a special election is received within thirty (30) days of such appointment. A public petition requesting that a special election be held shall contain the signatures of at least twenty percent (20%) of the registered voters of the City and must be received within thirty (30) days of an appointment by the remaining members of the council. A special election shall be held within forty-five (45) days from the date that the petition is certified as conforming to the requirements of this section and other applicable election laws and regulations. Where a special election is held, the appointed person shall continue to serve provisionally. In the event that the term of the person originally elected to the office which has become vacant shall not expire at the next general election, then the remainder of that term shall be filled by election at the next general election. (Reso. No. CA-2-86.)

Section 36. Use of gender specific terms.

Whenever the masculine gender has been used as to any registering, voting, or holding city offices, it shall be construed to include the feminine gender. (Reso. No. CA-6-98, 2-9-99.)

Section 37. Council may provide for other matters regarding the function of the board of supervisors of elections.

The council shall have the power to provide, by ordinance, in every respect not covered by this Charter, for other matters regarding the function of the board of supervisors of elections which includes, but is not limited to, the establishment of a system of permanent registration, for nominations for elected city officers, for voting by absentee ballot and for the conduct of elections, the prevention of fraud or irregularity in connection therewith, the enforcement of elections laws, resolving complaints filed with the board on matters of elections practices and other matters within the jurisdiction of the board, the designation and duties of poll watchers and challengers, and for recount of ballots. (Ord. No. CA-1-73, § 3; Reso. No. CA-1-79; Ord. No. CA-7-98, 2-9-99.)

Section 38. Penalty for violation of election, registration, etc., provisions.

Any person who (a) fails to perform any duty required of him under the provisions of this Charter relating to elections, or any ordinances passed thereunder, or (b) willfully or corruptly does anything which will tend to affect fraudulently any registration, nomination, or city election, shall be deemed guilty of a misdemeanor and may be fined not to exceed one thousand dollars (\$1,000.00), or imprisoned not to exceed six (6) months, or both, unless violations of such ordinance has been specifically designated a municipal infraction by Ordinance of the Mayor and City Council. Any officer or employee of the city 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. (Reso. No. CA-8-98, 2-9-99.)

Section 39. Fiscal year, tax year, budget year and accounting year; annual budget required.

The city shall operate on an annual budget. The fiscal year of the city 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 40. Budget—Submission to council; balance required; public record.

The city manager, on such date as the council shall determine, but at least sixty 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 revenue shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the city office, open to public inspection by anyone during normal business hours.

Section 41. Same—Public hearing; changes; vote required for adoption.

Before adopting the budget, the council shall hold a public hearing thereon after fifteen days' notice thereof in some newspaper or newspapers of general circulation within the city. 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 levy taxes which shall be sufficient, with other anticipated revenues, to equal such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of a majority of the councilmen present and voting shall be necessary for adoption.

Section 42. Same—Appropriation required for expenditure; approval of budget constitutes appropriation; transfer of funds within budget.

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. The council shall have the power, after the adoption of the budget, to approve transfers of funds from one purpose to another.

Section 43. Overexpenditures.

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 44. Disposition of unexpended appropriations at end of budget year.

All appropriations for operating expenses shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. All appropriations for capital expenditures, to the extent that they shall not have been expended or lawfully encumbered at the end of the budget year, shall be deemed to be re-appropriated without inclusion in the budget for the subsequent year unless the council shall specifically provide that such appropriations are not re-appropriated. Any unexpended and unencumbered appropriations for operating expenses shall be considered surplus at the end of the budget year for which they were appropriated and shall be included among the anticipated revenue for the next succeeding budget year. (Ord. No. 0-11-71.)

Section 45. Amendment of budget to allow expenditure of excess revenue.

The council shall have the power at any time, by ordinance, notwithstanding any other provision of this Charter, to amend the budget to include, and to permit the expenditure of, any revenue in excess of the revenues anticipated at the time of adoption of the budget.

Section 46. Signatures on checks.

All checks issued in payment of city obligations shall be signed by such persons as shall be designated from time to time by resolution of the council, provided that if the council shall fail to designate any such person, all checks shall be signed by the mayor and counter-signed by the city manager, and provided further that the council by resolution may authorize the use of facsimile signatures or mechanically produced signatures on such checks. (Ord. No. CA-5-77.)

Section 47. Property subject to taxation.

All real property and all tangible personal property within the corporate limits of the city, 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, and the assessment used shall be the same as that for state and county taxes.

Section 48. Levy of ad valorem taxes.

The ordinance adopting the budget shall contain a specific provision levying such ad valorem tax as shall be required to produce the revenues required by such budget, exclusive of funds available from other sources.

Sections 49 to 51.

(Repealed by Ordinance No. CA-1-78.)

Section 52. City officers and employees to account for fees received.

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

Section 53. Annual audit of city books and records.

The books, accounts, records and reports of the city shall be examined at least once during each fiscal year as provided by article 19, section 40 of the Annotated Code of Maryland (1957 ed., as amended).

Section 54. Borrowing in anticipation of taxes and revenues.

In addition to any other borrowing power which the City may presently have, from whatever source derived, and notwithstanding any other provision or limitation of public general

or public local law, the City shall have the power to borrow money and incur indebtedness, from time to time, for any public purpose, in anticipation of the collection of taxes or revenues, or both, direct or indirect, and to issue tax anticipation notes, notes in the nature of commercial paper or other evidences of indebtedness (hereinafter collectively referred to as “notes”) which shall be a first lien upon the proceeds of such taxes and revenues. All notes shall be authorized by ordinance, which ordinance shall not be subject to the referendum provision of Section 12 of this Charter and shall be fully effective upon its final passage. The council shall have the power to determine by such ordinance the form and terms and all other matters concerning the issuance and sale of notes, including, without limitation:

- (a) the manner of sale of such notes, which may be by private negotiation without notice of sale or solicitation of competitive bids;
- (b) the purchase price for such notes, which may be at, above or below the par value thereof;
- (c) the medium of payment therefor, which may be cash or other consideration;
- (d) the rate or rates of interest payable thereon, which may vary from time to time; such notes may be non-interest bearing;
- (e) the date or dates of maturity of such notes, provided, however, that no notes shall mature later than eighteen months from their respective dates of issue; and
- (f) any additional security for such notes, including, but not limited to, a trust indenture with a corporate trustee or trustees, which may be any trust company or a bank having the powers of a trust company within or without the State, a letter of credit, line of credit or any other credit arrangement with a bank or lending institution. (Reso. No. CA-4-82.)

Section 55. Borrowing power of City generally; tax levy for payment of indebtedness; bond authorization ordinances; procedure for borrowing; pledging of faith and credit of City.

In addition to any other borrowing power which the City may presently have, from whatever source derived, and notwithstanding any other provision or limitation of public general or public local law:

- (a) The City may borrow money and incur indebtedness, from time to time, for any public purpose, and evidence that borrowing or indebtedness by the issue and sale of its general obligation bonds, notes issued in anticipation thereof, or other evidences of indebtedness (hereinafter collectively referred to as “bonds”).
- (b) All bonds shall be authorized by ordinance, which ordinance shall not be subject to the referendum provisions of Section 12 of this Charter and shall be fully effective upon its final passage. The Council shall have the power to determine by such ordinance the form and terms and all other matters concerning the issuance and sale of the bonds, including, without limitation:

(1) the manner of sale of such bonds, which may be by private negotiation without notice of sale or solicitation of competitive bids;

(2) the purchase price for such bonds, which may be at, above or below the par value thereof;

(3) the medium of payment therefor, which may be cash or other consideration;

(4) the rate or rates of interest payable on such bonds, which may vary from time to time; such bonds may be non-interest bearing; and

(5) the date or dates of maturity of such bonds.

(c) The City may pay the maturing principal of and interest on bonds, to the extent practicable, from the revenues, if any, of the particular project or improvement for which the bonds were issued, notwithstanding any limitation contained in any other law.

(d) In addition to any other sources of payment for the principal of and interest on the bonds, the City may also pay the maturing principal of and interest on such bonds, in whole or in part, from the proceeds of such capital contribution charges, connection charges (including area connection charges related to the cost of base plant construction as well as the actual cost of connection), ready to serve charges, service charges, charges for upkeep, and any other charges or impositions as the City may levy, impose and collect from time to time during the life of such bonds, the power and authority so to do being hereby specifically granted, notwithstanding any limitation contained in any other law.

(e) In addition to any other sources of payment for the principal of and interest on such bonds, the City may also pay the maturing principal of and interest on such bonds, in whole or in part, from the proceeds of such benefit assessments as the City may levy, impose and collect from time to time during the life of such bonds, the power and authority so to do being hereby specifically granted, notwithstanding any limitation contained in any other law.

(f) If the bonds issued pursuant to this section are in the form of bond anticipation notes, the principal of and interest on such notes shall be payable to the bearer or registered holder thereof out of the first proceeds of sale of the bonds in anticipation of which such notes were issued, or from tax or other revenues which shall have been previously determined and applied to the payment of the notes and the interest thereon.

(g) The issuance of such bonds shall constitute a pledge of the full faith and credit of the City to the payment of the principal of and interest on such obligations when due; the prompt payment of the principal of and interest on such bonds shall be made from unlimited ad valorem taxation and other revenues lawfully available for the purpose described in the authorizing ordinance or ordinances. In any event, the City shall annually levy upon all property subject to taxation within its corporate limits ad valorem taxes sufficient to provide, together

with any other funds lawfully available for the purpose, for the payment of the maturing principal of and interest on such bonds, without limitation as to rate or amount.

(h) Nothing contained in this section shall be deemed or construed to impair the terms or conditions of any bonds of the City issued prior to the effective date of this section. (Reso. No. CA-5-82.)

Section 56. Ratification of previous debt.

All bonds, notes, or other evidences of indebtedness validly issued by the city previous 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 57. Purchasing and contracts.

All purchases and contracts for the city shall be made on written contract. The city manager shall be required to advertise for sealed bids for all contracts or purchases in excess of five thousand dollars; provided, that the council may, by resolution, permit negotiation without sealed bids of contracts for professional services, insurance coverage or other services or products, where, in the opinion of the council, the interests of the city would be best served by negotiated contracts. All contracts or purchases in excess of five thousand dollars shall be approved by resolution of the council; provided, however, in any public emergency declared by the chief executive officer of the state, Montgomery County or the City to protect and preserve inhabitants or property within the City or the carrying out of obligations under any mutual assistance agreement between jurisdictions, the City Manager is authorized to expend any appropriated and unencumbered funds for this purpose without approval by council resolution. The council may, by ordinance establish further regulations for city purchases and contracts not inconsistent herewith. (Ord. No. 0-12-71; Reso. No. CA-2-88.)

Section 58. City attorney; legal consultants.

The mayor, with the approval of the council, may appoint a city attorney and one or more assistant city attorneys, all of whom shall be admitted to practice by the Maryland Court of Appeals. The city attorney and his assistants shall be the legal advisers of the city and shall perform such duties in this connection as may be required by the council or the mayor. Their compensation shall be determined by the council. The city attorney and his assistants shall be subject to removal by a majority of the council at any time without cause. The council shall have the power to employ such legal consultants as it deems necessary from time to time and to fix their compensation. (Ord. No. 0-12-74, § 1.)

Section 59. Personnel regulations; merit system; classified and unclassified service may be established.

The council shall have the power to adopt personnel regulations governing the employees of the city which may include the establishment of a merit system. Among other things these rules and regulations may provide for competitive examinations, the use of eligible lists, a

classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations. If such merit system be established, the employees and officers of the city shall be divided into the classified service and the unclassified service.

Section 60. Composition of classified and unclassified service.

(a) The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

- (1) The mayor, the councilmen, and persons appointed to fill vacancies in these positions.
- (2) The city manager, the city attorney and the assistant city attorney.
- (3) The heads of all offices, departments, and agencies and members of city boards and commissions.
- (4) Part-time, temporary, and unpaid offices and positions.

(b) The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted. (Ord. No. 0-12-74, § 2.)

Section 61. Prohibitions and restrictions regarding persons in classified service.

(a) If a merit system is adopted, no person in the classified service of the city or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this Charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with his appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the city; no person holding a position in the classified service of the city shall make any contribution to the campaign fund of any political party or any candidate for public office or take any part in the management affairs or political campaign of any political party or candidate for public office, further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

(b) Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the city service, and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.

Section 62. Retirement or pension system for city officers and employees.

The city 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 city.

Section 63. Insurance and other benefit and welfare plans for city officers and employees.

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

Section 64. "Public ways" defined.

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

Section 65. Control of public ways.

The city shall have control of all public ways in the city except such as may be under the jurisdiction of the Maryland State Roads Commission. The city may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the city.

Section 66. Powers of council as to public ways.

The council shall have power:

(a) To regulate the grades, dimensions, materials and manner of installation of any pavement, bridge, curb, gutter, sidewalk or other improvement constructed in a public way.

(b) To establish and name public ways or widen or extend existing public ways.

(c) To grade and pave public ways and construct, install, repair or reconstruct therein, bridges, streets, curbs, gutters, sidewalks, drains and other necessary or desirable facilities.

(d) To require the owners of any property abutting on a sidewalk in a public way to keep that sidewalk clear of ice, snow and other obstruction.

Section 67. Powers of council as to storm sewers.

The council shall have the power:

- (a) To plan, design, construct, acquire, repair, reconstruct, operate and maintain within and without the city, facilities for the handling of storm waters and other surface waters.
- (b) To regulate the construction, repair, reconstruction, operation and maintenance by others of such facilities.

Section 68. Approval required for installation of pipes, etc., in public ways.

No person or company shall construct or place or change the location of any main, conduit, pipe or other facility in the public ways of the city without first obtaining written approval thereof from the city upon such conditions, and subject to such limitations as may be imposed by the city. Any person or company, violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe, or other structure be constructed, placed or relocated in violation of this section, the city may order it removed or remove it at the expense of the person or company who violated this section.

Section 69. Removal of obstructions from public ways.

Any person or company having mains, pipes, conduits, or other structures, in, on, or over any public way in the city or in the county which impede the establishment, construction, or operation of any city storm water sewer shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the city.

Section 70. Right of city to enter upon county and state public ways.

The city may enter upon or do construction in, on, or over any county or state public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the storm water sewers provided for in this Charter. Unless required by the county, or state, the city need not obtain any permit or pay any charge for these operations, but it must notify the county or state 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 71. Regulation of septic systems.

The council may regulate the installation of septic systems, and may require their abandonment on properties which are adequately served by public sewage disposal systems.

Section 72. Right of entry of city employees and agents.

Any employee or agent of the city, while in the necessary pursuit of his official duties, shall have the right of entry 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 city. Any restraint or hinderance offered to such entry by any owner, tenant, or persons in possession, or the agent of any of them may, by ordinance, be made a misdemeanor. (See note (2))

Section 73. Special assessments—Authority to levy; purposes for which assessments may be levied; costs which may be included in assessments.

The city 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, construction, repair, reconstruction or leasing of bridges, water lines, sewer lines, storm or surface water lines, street paving, curbs, gutters, sidewalks, street lighting, parking facilities, parks or recreation facilities 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 city and any other item of cost which may reasonably be attributed to the project. (Ord. No. 0-13-71.)

Section 74. Same—Procedure.

The procedure for special assessments, shall be as follows:

(a) 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.

(b) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessment levied by the city and outstanding against any improved property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the improved property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(c) 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.

(d) 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 city manager shall cause notice to be given stating the nature and extent of the proposed project, the kind of material 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 persons in whose names the property is proposed to be assessed are assessed for ad valorem taxation and by publication of a

copy of the notice at least once in a newspaper of general circulation in the city. The city manager 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 and not more than thirty days after the city manager 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.

(e) The city manager shall, promptly after the adoption of an ordinance levying a special assessment, mail a copy thereof for each property assessed, to the person in whose name such property is assessed for ad valorem taxation purpose.

(f) Any person whose property is assessed pursuant to this section shall have a right of appeal from such assessment to the Circuit Court for Montgomery County within thirty days after the date of mailing such copy of such ordinance.

(g) Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten 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.

(h) All special assessment installments shall be overdue six 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 city taxes or by suit at law.

Section 75. Acquisition, possession and disposal of property by city.

The city may acquire real, personal, or mixed property within or without the city 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 city. All municipal property, funds, and franchises of every kind belonging to or in the possession of the city (by whatever prior name known) at the time this Charter becomes effective are vested in the city subject to the terms and conditions thereof. The City may, in connection with the powers conferred by this Charter, issue, execute and hold mortgages, deeds of trust, notes and other financing or security instruments in connection with the acquisition, possession and disposal of property. (Reso. No. CA-6-82.)

Section 76. Condemnation authority of city.

The city 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 city for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any other state law applicable to the city 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).

Section 77. Protection and maintenance of property by city.

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

Section 78. Oath of office for certain city officers.

(a) Before entering upon the duties of their offices, the mayor, the councilman, the city manager and the members of the board of supervisors of elections 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 [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) The mayor shall take and subscribe this oath or affirmation before the clerk of the Circuit Court for the 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. (Ord. No. CA-4-74, § 2.)

Section 79. Prior rights and obligations.

All right, title and interest held by the city 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 city 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 at the time this Charter becomes effective. 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 80. Lien on property for actions of city regarding such property.

Whenever, by this Charter or any ordinance or other regulation of the city, there is imposed upon any property owner a duty to take certain action with reference to his property and upon his failure to do so the city is authorized to take such action and charge the cost thereof to said property owner, said cost shall become a lien upon said property and may be collected by the city in the same manner as delinquent ad valorem taxes.

Section 81. Penalty for violation of ordinances; appeals from convictions under ordinances; continuing violations.

Every act or omission which, by ordinance is made a misdemeanor under the authority of this Charter, unless otherwise provided by this Charter or by ordinances, shall be punishable,

upon conviction, by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for six (6) months, or both in the discretion of the court. The party aggrieved shall have the right to defend and appeal as is now provided under the general laws of the state or ordinances of the city, whichever shall be applicable. Where the act or 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. (Ord. No. CA-8-77; Reso. No. CA-9-98, 2-9-99.)

Section 82. Continuation of ordinances, resolutions, etc.; repeal of conflicting ordinances, resolutions, etc.

(a) All ordinances, resolutions, rules, and regulations in effect in the city 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) All ordinances, resolutions, rules, and regulations in effect in the city at the time this Charter becomes effective which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict.

Section 83. Severability of provisions.

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.

Section 84. Continuation of laws, etc., applicable to city.

Any and all laws and authorizations accruing to the City of Gaithersburg pursuant to the provisions of article XI-E of the Constitution of the State of Maryland, the Public General Laws of Maryland and the Public Local Laws of Maryland, which may not be specifically included within the provisions of this Charter, are hereby declared to remain applicable to the City of Gaithersburg, unless in contravention to the specific provisions of this Charter, until the same may be hereafter abrogated or repealed.

Section 85. Hearings on proposed Charter amendments.

Hereafter, every proposal to amend this Charter shall be the subject to a public hearing by the council. Notice of the hearing and a summary of the substance of the proposed amendment shall be published in one or more newspapers of general circulation in the city at least once, not less than fifteen days prior to the hearing.

NOTES

(1) The boundaries of the city are not set out in this volume. They are on file in the office of the city manager.

(2) For cases restricting right of entry of city officials, see *Camara v. Municipal Court*, 387 U. S. 523, 18 L. Ed 2d 930, 87 S. Ct. 1727 (1967) and *See v. Seattle*, 387 U. S. 541, 18 L. Ed 2d 943, 87 S. Ct. 1737 (1967).

