

CHARTER

OF THE

Town of Laytonsville

MONTGOMERY COUNTY, MARYLAND

Adopted: April 5, 2005
Effective: May 26, 2005

(Reprinted November 2008)

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

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LAYTONSVILLE

ARTICLE I Corporate Name

Section 101. Corporate Name.

This Charter is the municipal corporation Charter of the Town of Laytonsville, the corporate name of which is “The Mayor and Council of Laytonsville”.

Section 102. Definitions.

- (a) “Councilmember” means each elected officer of the Town, except the Mayor.
- (b) “Inhabitants of the Town of Laytonsville” means persons residing within the Town limits.
- (c) “Mayor and Council” means the “Mayor and Council of Laytonsville”.
- (d) “Town,” “municipality,” or “municipal corporation” means the Mayor and Council of Laytonsville.

ARTICLE II General Corporate Powers

Section 201. Enumeration.

The inhabitants of the Town of Laytonsville, within the corporate limits legally established from time to time, are hereby constituted and continued as a body corporate by the name of the “Mayor and Council of Laytonsville” with all the privileges of a body corporate by that name to sue and be sued, to plea 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.

ARTICLE III Corporate Boundaries

Section 301. Description of Corporate Boundaries.

The limits of the Town shall be as they existed immediately prior to the date of this Charter, subject to all rights, reservations, limitations and conditions as may be set forth in all

prior resolutions of annexation and in the Charter of the Town in effect immediately prior to this Charter, and as may be hereafter amended as provided by law.

Section 302. Public Filing of Corporate Boundaries.

The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court for Montgomery County and the Director of the Department of Legislative Reference [Services] of the Maryland General Assembly. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the Town in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

ARTICLE IV The Governing Body

Section 401. Number and Term.

All legislative and executive powers of the Town are vested in five elected officers, a Mayor and four Councilmembers, who shall be known as the Mayor and Council of Laytonsville. The Mayor and Council shall be elected as hereinafter provided and each elected officer shall hold office for a term of two years, or until their successors take office. The regular term of an elected officer shall expire on the first Tuesday in July following the election of his/her successor. The elected officers holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected or until their successors take office under the provisions of this Charter.

Section 402. Qualifications for Office.

Elected officers shall be at least eighteen (18) years of age, shall have resided in the Town for at least six months immediately preceding their election and shall be a qualified voter of the Town.

Section 403. Salaries of Elected Officers.

No elected officer shall receive a salary for services rendered. Elected officers may be reimbursed for expenses incurred by such officers on behalf of the Town pursuant to Rules adopted by resolution of the Mayor and Council.

Section 404. Meetings of the Mayor and Council.

(a) The Mayor and Council shall meet for the purpose of organization on or before the first Tuesday in August following elections held pursuant to Section 708 of this Charter, after which the Mayor and Council shall meet from time to time but not less frequently than once each month. Special meetings shall be called by the Town Clerk/Treasurer upon the request of the Mayor or a majority of Councilmembers.

(b) All meetings of the Mayor and Council shall be open to the public unless closed in accordance with State law. The rules of the Mayor and Council shall provide that residents shall have an opportunity to be heard at any public meeting in regard to any municipal question; provided that the official record of the matter has not been closed.

Section 405. Suspension of Elected Officers.

Any elected officer may be suspended from office and the office shall be temporarily filled in accordance with the Constitution and laws of the State of Maryland and the provisions of this Charter.

Section 406. Vacancies in Office.

(a) A vacancy occurs when an elected officer, prior to the expiration of the term for which elected, shall die, resign from office, forfeit office, or be removed from office.

(b) A temporary vacancy exists when an elected officer, prior to the expiration of the term for which elected, is called to active military service and is unavailable to perform the duties of office.

(c) Except as provided in Section 715 of this Charter, a vacancy or temporary vacancy in an elective office shall be filled by appointment made by the then remaining elected officers.

(d) The term of office for a person appointed to fill a temporary vacancy shall expire when the person who vacated office is available to perform the duties of elective office or the term of office of the person who vacated office expires.

Section 407. Forfeiture of Office.

Any elected officer who, during his/her term of office, ceases to be a legal resident of the Town or is convicted of a crime constituting a felony offense shall immediately forfeit office.

Section 408. Removal from Office.

An elected officer may be removed from office by an affirmative vote of not less than three elected officers after a public hearing and a finding based upon a preponderance of the evidence of one of the following: misfeasance, malfeasance, or nonfeasance in office, a finding of mental or physical disability that substantially impairs the officer's ability to perform the duties of office, or other than a temporary vacancy for absence from three or more consecutive meetings of the Mayor and Council. The decision to remove an elected officer may, within 10 days of removal, be appealed to the circuit court for Montgomery County by petition of the removed officer. Upon filing of the petition, the court may stay the removal pending the court's decision. Upon appeal, the court shall make a de novo determination of fact. Any decision of the Circuit Court may be appealed to the Appellate Courts of the State.

Section 409. Vice-President of the Council.

The Mayor and Council shall elect a Vice-President of the Council from among the elected officers, who shall act as President of the Council in the absence of the Mayor.

Section 410. Quorum.

Three elected officers shall constitute a quorum for the transaction of business.

Section 411. Procedure of Mayor and Council.

The Mayor and Council shall determine their own rules and order of business. They shall keep a journal or official minutes of its proceedings and enter therein yeas and nays upon final action on any question, resolution or ordinance, or at any other time if required by any one elected officer. The journal or official minutes shall be open to public inspection. No action requiring a vote of the Mayor and Council shall be taken except at a public meeting unless taken in a meeting closed pursuant to State Law.

Section 412. Procedure for Enactment of Resolutions and Ordinances.

(a) Definitions

(1) “Resolution” shall mean a formal expression of opinion, will or intent adopted by a vote of the Mayor and Council and, unless otherwise required by law, shall not have the force of an ordinance.

(2) “Regulation” shall mean any regulatory measure adopted in a manner prescribed for the adoption of an Ordinance and shall have the full force of law.

(3) “Ordinance” shall mean a legislative enactment adopted in a manner prescribed by this section that shall have the full force of law.

(b) At any public meeting of the Mayor and Council, a proposed ordinance, proposed regulation or proposed resolution may be introduced by any elected Town officer.

(c) The Mayor and Council shall not vote on the passage or the amendment of any proposed ordinance or regulation at the meeting in which it is introduced. The Mayor and Council shall hold a public hearing on the proposed ordinance or regulation within 60 days following the public meeting at which the ordinance was introduced. At least 10 days prior to the public hearing, notice of the public hearing shall be given one or more times by publication in a newspaper of general circulation in the Town, or by posting notice in one or more public places in the Town, or by both publication and posting. The notice shall set forth the time and place of the public hearing and the complete text or a fair summary of the proposed ordinance, regulation or amendment. If the notice sets forth only a fair summary of the proposed ordinance, regulation or amendment, it shall state where a copy of the complete text may be obtained.

(d) Following the public hearing, the Mayor and Council may

- (1) pass,
- (2) amend and pass,
- (3) reject, or

(4) defer consideration of a proposed ordinance or amendment. Every ordinance or amendment passed by the Mayor and Council must be signed by the Mayor and attested by the Town Clerk/Treasurer before it becomes effective.

(e) Except as otherwise provided in this Charter, every ordinance shall become effective at the expiration of 21 calendar days following adoption by the Mayor and Council unless a later effective date has been specified therein.

(f) In cases of emergency, the requirement that an ordinance or regulation may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of all elected officers present. An emergency ordinance may be enacted when it is necessary for the immediate preservation of the public peace, health, safety, or welfare. No action shall be taken unless at least three elected officers are present. An emergency ordinance may become effective immediately upon adoption or at a later date as specified therein. No emergency ordinance shall levy any tax or authorize borrowing except as provided in Section 805 of this Charter; abolish any office; change the compensation, term, or duty of any officer; grant any franchise or special privilege; sell any public property or land; or create any vested right or interest. Every emergency ordinance shall be plainly designated as such and shall announce the emergency in clear and specific terms. Upon adoption, a fair summary of the emergency ordinance shall be immediately published in a newspaper of general circulation in the Town and/or posted at one or more public places in the Town. All emergency ordinances shall have a date of termination not to exceed one (1) year after enactment.

Section 413. File of Ordinances.

Ordinances in effect shall be permanently filed by the Clerk and kept available for public inspection at the Town Hall during the hours when the Town Hall is open for regular business.

ARTICLE V
The Mayor

Section 501. Powers and Duties.

(a) *Generally.* The Mayor shall represent the Town government at official events within and outside the Town, except in judicial matters and proceedings delegated to the Town Attorney.

(b) *Council Meetings.* The Mayor shall serve as presiding officer at all meetings of the Mayor and Council. The Mayor may participate in all discussions and may vote on all questions before the Mayor and Council.

(c) *Other powers and duties.* The Mayor shall have such other powers and perform such other duties as may be prescribed or necessarily implied by this Charter or as may be required by the Mayor and Council, or by ordinances or regulations of the Town or resolutions adopted by the Mayor and Council not inconsistent with this Charter.

ARTICLE VI

Powers of the Mayor and Council

Section 601. General Powers.

In addition to all the powers granted to the Mayor and Council by this Charter or any other provision of law, the Mayor and Council may exercise any power or perform any function which is not now or hereafter denied to them 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.

Section 602. Enumeration of Specific Powers.

The Mayor and Council shall have in addition to any power expressed in Article 23A, Section 2 of the Annotated Code of Maryland, the power to pass ordinances and regulations for the following specific purposes:

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

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

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

(4) *Animals.* To regulate the keeping of and provide for the licensing of all animals in the Town; and, to authorize the impounding, keeping, sale, destruction, or redemption of homeless animals on which no license fee is paid.

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

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

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

(8) *Billboards.* To license, tax or regulate, restrain, and prohibit the erection or maintenance of billboards within the Town, and 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.

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

(10) *Buildings.* To make reasonable regulations in regard to buildings, structures, lighting and signs to be erected, constructed, or reconstructed in the Town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector, and 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.

(11) *Codification of Ordinances.* To provide for the codification of all ordinances.

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

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

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

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

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

(17) *Fees and Charges.* To establish and collect fees and charges for all franchises, licenses, and permits issued by the Town and for all governmental or proprietary functions of the Town.

(18) *Filth.* To compel the occupant of any premises or building in the Town, when it 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 a lien on property collectible by taxes or against the occupant or occupants.

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

(20) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to inspect building [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 condition of Town fire-hazard regulations are met; to install and maintain fireplugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the Town.

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

(22) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, cable television companies, and any others which may be deemed advantageous and beneficial to the Town, subject to Maryland law. No franchise shall be granted for a longer period than fifty (50) years.

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

(24) *Grants-in-Aid.* To accept gifts and grants of Federal, State or County funds from the Federal, State or County governments or any agency thereof, or from any private foundation or donor and to expend the same for any lawful public purpose.

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

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

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

(28) *Insurance.* To purchase insurance for any public purpose and to expend public funds to reimburse officers for all claims and charges, including attorney's fees, and litigation costs rising out of the performance of official duties.

(29) *Jail.* To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the Town or to use the County jail for such purpose.

(30) *Licenses.* Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services; to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(31) *Liens.* To provide that any valid charges, penalties, fees, taxes or assessments made against any real property or the owners thereof within the Town shall be liens upon the property to be collected in the same manner as municipal taxes or ordinary debts are collected.

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

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

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

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

(36) *Noise and lighting.* To regulate or prohibit unreasonable noise and lighting which may constitute a nuisance or impair the reasonable use and enjoyment of private or public property.

(37) *Nuisances.* To prevent, prohibit 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; to regulate or prohibit all trading, possession, handling, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort, safety or health.

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

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

(40) *Parking Meters.* To install parking meters on the streets and public places of the Town in such places as they shall by ordinance determine, and to prescribe by ordinance rates and provisions for the use thereof.

(41) *Parks and Recreation.* To establish and maintain public parks, gardens, playgrounds, and other recreational facilities, services and programs to promote the health[,] welfare, and enjoyment of the inhabitants of the Town.

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

(43) *Property.* To acquire by any conveyance, purchase, gift, or condemnation, real or leasable property, including easements and rights-of-way, for any public purposes; to erect buildings, structures and facilities 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 (20) days public notice of the proposed conveyance or condemnation; and to control, maintain and protect public buildings, grounds and property of the Town.

(44) *Public Ways and Sidewalks.* To regulate the acceptance, construction, maintenance, repair, use and closing of Town streets, roads, alleys, and sidewalks, and all other

structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions and prescribe hours for cleaning sidewalks.

(45) *Quarantine.* To establish quarantine regulations in the interest of the public health.

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

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

(48) *Taxicabs.* To license, tax and regulate public hackers, taxicab drivers, porters and all other persons pursuing like occupations.

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

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

(51) *Zoning.* For the purpose of guiding and accomplishing a coordinated, comprehensive and systematic development of the Town -- to regulate and provide standards for the use of land, the location, height, bulk, and size of buildings and other structures, building lines, minimum frontage, depths, and areas of lots, percentages of lots which may be occupied, sizes of lots, yards, and open spaces, and the uses of land, buildings, and other structures for trade, industry, residence, recreation, agriculture, public activities or other purposes. Any such ordinance may divide the Town into districts or zones of such number, shape or area as the Mayor and Council may determine, and within such districts or zones may regulate the uses of land and the erection, construction, reconstruction, alteration, and uses of buildings and structures.

(52) *Subdivision Control.* To regulate and provide standards for the subdivision of land in the Town for the purpose of providing for the harmonious development thereof; for the coordination of roads within each subdivision with other existing, planned, or platted roads or with other features of the Town; for adequate open spaces for traffic, recreation, light and air; and for the reservation of lands for schools, other public buildings, parks[,] playgrounds and other public purposes. Any such ordinance may require and establish procedures for the submission, approval, and recordation of plats for all subdivisions. As used herein the term "subdivision" shall mean the division of one parcel of land into two or more lots, parcels, or other divisions for the purpose of sale or development, whether immediate or future. The term

shall include resubdivision, and when appropriate shall relate [to] the process of subdividing or to the land or area subdivided.

(53) *Streets and Roads.* To regulate and provide standards for the opening, laying out, construction, improvement, repair, maintenance and closing of public streets and roads and all other public rights-of-way, and to provide the manner in which the costs thereof shall be paid and/or financed.

(54) *Regulating Septic Systems.* To regulate the installation and maintenance of septic systems and require their abandonment on properties which are adequately served by a public sewage disposal system.

(55) *Remedies and Penalties.* To provide appropriate administrative and judicial remedies, sanctions, and proceedings for the administration and enforcement of any ordinance or regulation adopted under this Chapter [Charter], including administrative remedies to prevent violations of any such ordinance or regulation[,] actions to restrain and enjoin the same, and provisions that violations shall be misdemeanors, subject to fine, imprisonment or both.

Section 603. Exercise of Powers.

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

Section 604. Enforcement.

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

ARTICLE VII

Registration, Nomination, and Elections

Section 701. Qualifications of Voters.

Every person who

- (a) is a citizen of the United States,
- (b) is at least eighteen (18) years of age,

(c) has resided within the corporate limits of the Town for not less than thirty (30) consecutive days, and

(d) is registered to vote in the Town in accordance with provisions of this Charter, is a qualified voter of the Town.

Section 702. Judges of Elections.

(a) The Mayor and Council shall appoint three Judges of Elections on [or] before the first Monday of May prior to a Town election. The terms of the Judges of Elections shall begin on the first Monday in May in the year in which they are appointed and shall run for one year. Vacancies shall be filled by the Mayor and Council for the remainder of the unexpired term. A Judge of Elections may be reappointed by the Mayor and Council.

(b) Judges of Elections shall be qualified voters of the Town pursuant to Section 701 of this Charter. No Judge of Elections shall hold or be a candidate for any elective Town office during his or her term of office. Compensation provided Judges of Elections, if any, shall be determined by the Mayor and Council.

Section 703. Same — Removal of Judges of Elections.

Any Judge of Elections may be removed by the Mayor and Council for inefficiency, malfeasance, misfeasance, nonfeasance, or misconduct in office. Before removal, the Judge of Elections to be removed shall be given a written copy of the charges and shall have a public hearing before the Council, if requested within ten days after receiving a written copy of the charges.

Section 704. Same — Duties.

Judges of Elections shall conduct all municipal elections and referendum according to the laws of Maryland and the provisions of this Charter and relevant municipal ordinances.

Section 705. Notice of Elections.

At least fourteen (14) days prior to each Town election, Judges of Elections shall provide notice of the upcoming election at least once a week for two successive weeks in a newspaper of general circulation in the Town or by posting a notice thereof in some public place or places in the Town for two weeks prior to the election.

Section 706. Registration.

(a) Provided that persons meet the voter qualifications enumerated in this Charter, registration to vote by the Montgomery County Board of Elections shall be deemed registration for Town elections and Judges of Elections shall accept the list of registered voters provided by the Montgomery County Board of Elections as a valid registration list for the Town. County

voter registration forms shall be made available at the Town offices during normal business hours.

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

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

Section 707. Appeal from Action of Judges of Elections.

If any person is aggrieved by any action of the Judges of Elections, such person may appeal to the Mayor and Council. Any decision or action of the Mayor and Council upon such appeals may be appealed to the Circuit Court for the county within five (5) business days from receipt of the decision or action of the Mayor and Council.

Section 708. Election of Mayor and Councilmembers.

On the first Monday of May in odd-numbered years, qualified voters of the Town shall elect a Mayor and two (2) persons to serve as Councilmembers. On the first Monday of May in even-numbered years, qualified voters of the Town shall elect two (2) persons to serve as Councilmembers.

Section 709. Conduct of Elections.

It shall be the duty of the Judges 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. The ballots and/or voting machines shall show the name of each candidate nominated for elective office and a description of any referendum in accordance with the provisions of this Charter, arranged in alphabetical order by office, and with no party designation of any kind. The Judges of Elections shall keep the polls open from three o'clock p.m. to eight o'clock p.m. on election days. The Mayor and Council may fix by resolution, adopted prior to the first publication or posting of the required notice of an election or referendum, other hours for opening and closing of the polls. In any case, the polls shall be open for not less than four continuous hours between the hours of eight o'clock a.m. and nine o'clock p.m.

Section 710. Absentee Voting.

Any qualified voter is entitled to vote in any election by absentee ballot under conditions set by the Mayor and Council. It shall be the duty of the Judges of Elections to transmit and receive applications for absentee ballots and to provide ballots, envelopes, instructions, and printed matter to enable absentee voters to vote in a manner prescribed by law.

Section 711. Special Elections.

(a) All special Town elections shall be conducted by the Judges of Elections in the same manner and with the same personnel, as far as practicable, as regular Town elections.

(b) Whenever required by this Charter, it shall be the duty of the Judges of Elections to order a special election at a date not less than fourteen (14) days from the date an office is declared vacant or the date an election results in a tie vote, or where a referendum is required at a time other than regular Town elections.

(c) Following a special town election, any Mayor or Councilmember elected pursuant to this section shall take office at the next meeting of the Mayor and Council.

Section 712. Vote Count.

(a) Within twenty-four hours after the closing of the polls, the Judges of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Town Clerk/Treasurer, who shall record the results in the minutes of the Mayor and Council. The candidate for Mayor with the highest number of votes shall be declared elected as Mayor. The two candidates for Councilmember with the highest number of votes shall be declared elected as Councilmembers.

(b) In the event of a tie between any candidates for an elected seat in which the tie has a bearing on who shall be declared elected, those candidates shall participate in a special election pursuant to Section 711 of this Charter. The same procedure shall be used for any tie vote on a referendum issue.

Section 713. Preservation of Ballots.

Judges of Elections shall be responsible for preserving all ballots used in any Town election for at least four months from the date of the election.

Section 714. Regulation and Control by Mayor and Council.

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

Section 715. Three or More Simultaneous Vacancies in Elective Office.

If three or more vacancies occur simultaneously in elective office, upon notice by the remaining elected officers, or by the Town Clerk/Treasurer if no elected officer remains, a special election shall be called to fill the vacancies as prescribed in Section 711 of this Charter.

ARTICLE VIII Finance

Section 801. Fiscal Year.

The Mayor and Council shall operate on an annual budget. The fiscal year of the Mayor and Council shall begin on the first day of July and shall end on the last day of June of the following year. The fiscal year shall constitute the tax year, the budget year, and the accounting year.

Section 802. Proposed Budget.

The Mayor and Council shall prepare and begin deliberation on a proposed budget by such date as the Mayor and Council shall determine but at least thirty-two (32) days before the beginning of any fiscal year. 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 proposed budget is a public record and is open to public inspection during normal business hours in the Town Hall.

Section 803. Budget Adoption.

The Mayor and Council shall hold a public hearing on the proposed budget after giving at least two (2) weeks' notice of such hearing by posting the notice in one or more public places or by publication of the notice in a newspaper of general circulation in the Town, or by both the posting and publication of the notice. At any time after the public hearing, the Mayor and Council may adopt the budget with or without amendment. The Mayor and Council shall not be required to provide public notice or conduct additional public hearings in the event that the proposed budget is amended after the public hearing. In amending the budget, the Mayor and Council may insert new items, or increase or decrease the items of the budget. Where the Mayor and 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 a majority of all elected officers shall be necessary for adoption.

Section 804. Appropriations.

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

(b) The Mayor and Council shall not expend or contract to expend in any one year more money than the amounts receivable from taxes and other sources for the year, plus the amount of surplus on hand at the beginning of the year.

Section 805. Amendments After Adoption of Budget.

(a) *Supplemental Appropriations.* If during the fiscal year there are available for appropriation revenues in excess of those estimated in the budget, the Mayor and Council may make supplemental appropriations for the year up to the amount of such excess.

(b) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the Mayor and Council may make emergency appropriations by emergency ordinance in accordance with the provisions of Section 412 of this Charter.

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

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

Section 806. Over-expenditure Forbidden.

No officer or employee shall, during any budget year, expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section, 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, for 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 807. Lapse of Appropriations.

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

Section 808. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Town Clerk/Treasurer and shall be countersigned by the Mayor. In either person's absence or incapacity, a Councilmember with the approval of a majority of all elected officers may sign or countersign a check.

Section 809. Taxable Property.

All real property and all tangible personal property within the corporate limits of the Town, or personal property[,] is subject to taxation for municipal purposes. The assessment used shall be the same as that for State and County taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by State law.

Section 810. Tax Levy.

(a) *Rate.* The Mayor and Council annually may levy such taxes upon assessable real and personal property within the corporate limits as it deems necessary and shall set the tax rates by resolution prior to adoption of the annual budget.

(b) *Notice of Tax Levy.* Immediately after the tax levy is made by the Mayor and Council in each year, the Town Clerk/Treasurer shall give notice of the making of the levy by posting a notice thereof in one or more public places in the Town.

(c) *Taxes Constitute Lien.* All taxes levied under this section shall be a lien on any and all property of the person, corporation, or entity against whom they are levied.

Section 811. Collection of Taxes.

Taxes owed the Mayor and Council pursuant to Section 810 of this Charter shall be collected by the Tax Collector of Montgomery County. The Town Clerk/Treasurer, or any other person designated by the Mayor and Council, shall prepare and submit to the Tax Collector of Montgomery County such information as may be needed to collect the taxes owed the Mayor and Council.

Section 812. When Taxes Are Overdue.

The taxes provided for in Section 810 of this Charter shall be due and payable as provided in the Tax – Property Article of the Annotated Code of Maryland and shall be overdue and in arrears as provided in that article. Taxes shall bear interest while in arrears and shall be subject to additional penalties as authorized by State law. Any interest or penalty rates to be imposed by the Town shall be the same as the penalty or interest rates imposed for the same taxable year by Montgomery County. All taxes not paid and in arrears one year after the date on which they are due and payable shall be collected as provided in Section 813.

Section 813. Sale of Tax-Delinquent Property.

A list of all property on which taxes have not been paid and which are in arrears as provided by Section 812 of this Charter shall be turned over by the Town Clerk/Treasurer to the County official responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall, if necessary, be sold for taxes by this County official in the manner prescribed by State law.

Section 814. Fees.

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

Section 815. Audit.

The financial books and accounts of the Mayor and Council shall be audited each fiscal year as required by State law.

Section 816. Tax Anticipation Borrowing.

During the first six months of any fiscal year, the Mayor and Council shall have the power to borrow in anticipation of the collection of the property taxes levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six (6) months after 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 percent (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 Mayor and Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 817. Authority to Borrow Money.

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

(b) *Revenue Bonds.* The Mayor and Council shall have the power to issue revenue bonds for one or more revenue-producing projects that serve a proper public purpose. Prior to issuance of revenue bonds, the Mayor and Council shall enact an ordinance stating the public purpose for which the proceeds of the revenue bonds are to be expended. Revenue bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and

funds derived from the project or projects for which they were issued. The faith and credit of the Town shall not be pledged for the payment of revenue bonds.

(c) The Mayor and Council are authorized to retain appropriate bond counsel and other professional persons in the issuance of those bonds provided for in this section of the Charter.

Section 818. Previous Issues.

All bonds, notes, or other evidences of indebtedness validly issued by the Mayor and Council prior to adoption 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 819. Purchasing and Contracts.

The Mayor and Council may provide by ordinance for rules and regulations regarding the use of competitive bidding for purchases and contracts including the level and type of expenditures for which competitive bids are not required.

ARTICLE IX

Personnel

Section 901. Clerk to Mayor and Council.

The Mayor and Council shall appoint a Town Clerk/Treasurer who shall serve as clerk to the Mayor and Council. The Town Clerk/Treasurer shall serve at the pleasure of the Mayor and Council, and the compensation of the Town Clerk/Treasurer shall be determined by the Mayor and Council. The Town Clerk/Treasurer shall attend meetings of the Mayor and Council and keep a full and accurate account of the proceedings of the Mayor and Council in a well-bound book. The Town Clerk/Treasurer shall serve as custodian of all official records. The Town Clerk/Treasurer shall keep such other records and perform such other duties as may be required by this Charter or the Mayor and Council.

Section 902. Town Attorney.

The Mayor and Council shall appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal advisor of the Town and shall perform such duties in this connection as may be authorized by the Mayor and Council. The Mayor and Council shall also have the power to retain such other legal consultants and representation as it deems necessary from time to time.

Section 903. Authority to Employ Personnel.

The Mayor and Council shall have the power to employ such officers, employees[,] and independent contractors as it deems necessary to execute the powers and duties provided by this Charter or other State law and to operate the government.

Section 904. Merit System Authorized.

The Mayor and Council may provide by ordinance for appointments and promotions in administrative service on the basis of merit and fitness. To carry out this purpose the Mayor and Council may adopt such rules and regulations governing the operation of a merit system as they deem desirable or necessary. 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.

Section 905. Retirement System.

The Mayor and Council shall have the power to create and maintain a retirement or pension system and include its officers and employees within any retirement system or pension system and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Town.

Section 906. Compensation of Employees.

The compensation of all officers and employees shall be set from time to time by resolution passed by the Mayor and Council.

Section 907. Employee Benefit Programs.

The Mayor and Council are authorized and empowered to provide for or participate in employee benefit programs.

ARTICLE X
Public Ways and Sidewalks

Section 1001. 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.

Section 1002. Control of Public Ways.

The Mayor and Council shall have control of all public ways in the Town except those under the jurisdiction of the Maryland State Highway Administration or the Montgomery County

government. Subject to the laws of the State of Maryland, this Charter and the Ordinances and regulations of the Town, the Mayor and Council may do whatever it deems necessary to establish, operate, maintain, close, or otherwise regulate the use of public ways in the Town.

Section 1003. Public Ways; Powers.

The Mayor and Council shall have the power:

- (a) 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.
- (b) To grade, lay out, construct, open, extend, and make new Town public ways.
- (c) To grade, straighten, widen, alter, improve, or close any existing Town public way or part thereof.
- (d) To pave, surface, repave, or resurface any Town public way or part thereof.
- (e) To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any Town public way or part thereof.
- (f) To name Town public ways.
- (g) To have surveys, plans, specifications, and estimates made for any of the above activities, projects, or parts thereof.
- (h) To regulate the use and parking upon Town public ways and drainage thereon.

Section 1004. Sidewalks; Powers.

The Mayor and Council shall have the power:

- (a) To establish, regulate[,] and change from time to time the use, grade lines, width, and construction materials [of] any sidewalk or part thereof on Town property along any public way or part thereof.
- (b) To grade, layout, construct, reconstruct, pave, repave, repair, extend, or otherwise alter a sidewalk on Town property along any public way or part thereof.
- (c) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions.
- (d) To require and order the owner of any property abutting on any public way in the Town to perform any project 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.

ARTICLE XI

Special Assessments

Section 1101. Power.

The Mayor and Council may levy and collect taxes in the form of special assessments 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, paving of public ways and sidewalks[,] or parts thereof[,] and public parking areas and facilities, and it may provide for the payment of all or any part of the above projects out of the proceeds of the 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.

Section 1102. Procedure.

The procedure for special assessments shall be established by ordinance.

ARTICLE XII

Town Property

Section 1201. Acquisition, Possession[,] and Disposal.

The Mayor and Council may acquire real, personal, easement[,] or mixed property within 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 or easement 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) at the time this Charter becomes effective are vested in the Town, subject to the terms and conditions thereof.

Section 1202. Condemnation.

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

Section 1203. Town Buildings.

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

Section 1204. Protection of Town Property.

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

ARTICLE XIII General Provisions

Section 1301. Oath of Office.

(a) Before entering upon the duties of their offices, the Mayor and Councilmembers, the Town Clerk/Treasurer, Judges 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 may [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 Montgomery County or before one of the sworn deputies of the Clerk. All others [other] persons taking and subscribing the oath shall do so before the Mayor.

Section 1302. Official Bonds.

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

Section 1303. Prior Rights and Obligations.

All rights, titles, and interests held by the Mayor and Council or any other persons or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the Town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability[,] or penalty whatever existing 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 1304. Misdemeanors.

(a) Unless otherwise explicitly provided, a violation of a Town ordinance shall be a misdemeanor.

(b) 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 of Montgomery County by a fine, imprisonment, or both, not to exceed the maximum misdemeanor penalty prescribed by State law.

(c) A party found guilty of a misdemeanor shall have the right to appeal to the extent provided for by State law.

(d) 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.

Section 1305. Municipal Infractions.

(a) The Mayor and Council may declare that a violation of a Town ordinance or regulation shall be a municipal infraction, unless that violation is declared to be a felony by State law or other ordinance, and affix penalties thereto not to exceed the maximum penalty for a municipal infraction prescribed by State law. For purpose of this Section, a municipal infraction is a civil offense.

(b) Any person receiving a citation for a municipal infraction may choose to stand trial for the infraction in a manner prescribed by State law.

(c) Each day a violation continues shall constitute a separate offense.

Section 1306. Effect of Charter on Existing Ordinances.

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

(c) Any ordinance, or part thereof, disapproved by the voters shall stand repealed. The provisions of this Section shall be self-executing, but the Mayor and Council may adopt ordinances in furtherance of these provisions and not in conflict with them.

Section 1307. Separability.

If any section or part of a 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 any part of the section so held invalid shall appear.