

CHARTER

OF THE

Town of Poolesville

MONTGOMERY COUNTY, MARYLAND

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POOLESVILLE

Section 82-1. Town incorporated; general powers.

The citizens of the Town of Poolesville are created a body corporate by the name of "The Commissioners of Poolesville," with all the powers and privileges of a body politic and corporate, and by said corporate name may have perpetual succession, sue and be sued, plead and be impleaded in any court of law or equity in said county, and may have and use a common seal.

Section 82-2. Corporate boundaries.

A description of the corporate boundaries of the town shall at all times be on file with the Town Clerk and shall be attached to this Charter as a supplement thereto.

Section 82-3. Commissioners – Election; qualification; compensation; fees.

The registered voters of the Town of Poolesville shall elect five (5) Commissioners as hereinafter provided at the biennial General Election for the Representatives in the Congress of the United States to be held in November, 1972 and their successors at every such election thereafter as hereinafter provided.

A candidate for Commissioner must be twenty-one (21) years of age, a registered voter of the Town, have resided continuously within said corporate limits for at least six (6) months next preceding his or her election, must continuously reside within said corporate limits during his or her term of office and must have not been convicted of a felony. The term of office for the three (3) receiving the highest number of votes at said election shall be four (4) years; the term of office for the remaining elected Commissioners shall be two (2) years. The term of office for each Commissioner elected thereafter shall be four (4) years. The number of candidates for the office of Commissioner, corresponding to the number of seats to be filled, with the highest number of votes in the election shall be declared elected as Commissioner.

In the event of a tie vote, affecting the outcome of the election, there shall be a further election between or among those having received the highest equal number of votes until such tie is broken. In the event of such a tie vote, only those persons who were validly registered to vote in the first such election shall be entitled to vote in the further election. The Commissioners shall serve until their successors are sworn into office. In the event of a vacancy in the office of Commissioner for any reason, a majority of the remaining Commissioners shall, within thirty (30) days, elect some qualified person to fill such vacancy until the next general election provided there is less than one year between the occurrence of the vacancy and the next general election. If the Commissioners fail to elect some qualified person within thirty (30) days to fill a vacancy occurring less than one year before the next general election or if the vacancy occurs one year or more before the next general election, it shall be filled by a special election which shall be held within sixty (60) days of the occurrence of the vacancy.

The Commissioners shall receive no pay for their services, except that they shall be entitled to receive reimbursement for reasonable expenses incurred in the performance of their official duties as approved in the budget of the Town of Poolesville.

Any person desiring to be a candidate for the office of Commissioner shall file his or her name with the Clerk to the Commissioners and shall pay a fee of Ten Dollars (\$10.00) not less than thirty (30) days before the next election, along with a petition of twenty-five (25) residents who meet the requirements of the first sentence of this Section, requesting their candidacy. (Res. 001-84, 7-24-84; Res. 001-89, 11-21-89; Res. 004-06, 05-23-06.)

Section 82-4. Same – Election of President and Vice President.

The five (5) Commissioners elected shall choose one of their number President and another of their number as Vice President who shall perform the duties of the President in the event of the temporary absence or disability of the President.

In the event of a vacancy in the office of President, the Vice President shall act as President and perform all the duties of that office until the remaining Commissioners shall choose one of their number as President.

The President shall preside as a voting member at all meetings of the Commissioners of Poolesville. The President shall make sure that the ordinances adopted by the Commissioners are faithfully executed and shall be the chief executive officer and head of the executive branch of the Town Government. The President shall, with the approval of three (3) of the other Commissioners, appoint, remove and fix the compensation of the heads of all offices, departments and agencies of Town Government and all other officers and employees of the Town except as otherwise specified by State law or this Charter.

The President shall prepare or have prepared annually a budget and submit it to the Commissioners for adoption. Except in emergency situations as defined by ordinance, no expenditures of Town funds shall be made in excess of the total amount established and approved annually by the Commissioners at the time the budget is adopted without the approval of four of the Commissioners.

In addition to the powers and duties enumerated in this Section, the President shall have such emergency powers as prescribed by ordinance. (Res. 002-84, 7-24-84; Res. 004-06, 05-23-06.)

Section 82-4A. Recall vote of an elected Commissioner.

A. *Cause for Recall.* Any Commissioner of Poolesville may be recalled and removed from office in accordance with the following procedure by the qualified voters of the Town for one or more of the following reasons:

- (1) failure to uphold the oath of office;

- (2) malfeasance (wrongdoing or misconduct) in office;
- (3) misfeasance (the performance of a lawful action in an illegal or improper manner) in office;
- (4) nonfeasance (failure to act or do what ought to be done) in office;
- (5) conviction of a criminal offense of a felony category;
- (6) engaging in illegal conduct involving moral turpitude, fraud or deceit;
- (7) engaging in conduct involving mismanagement or misappropriation of public funds, a gross abuse of public authority or a substantial and specific danger to public health, safety or welfare;
- (8) coercion of any Town employee into taking illegal or improper action or taking any retaliatory action against any Town employee because of that employee's disclosure of information relating to illegal and improper action in the Town Government;
- (9) gross negligence or incompetence in the performance of public duties;
- (10) engaging in personal conduct injurious to the reputation and well-being of the Government of this Town and its citizens;
- (11) failing or refusing to perform, or acting contrary to, an official duty or obligation imposed by the Town's Charter or duly enacted law or ordinance;
- (12) the inability or incapacity to properly perform public duties due to a permanent or chronic physical or mental ailment or other incapacitating defect.

B. *Petition.* No recall petition shall be filed against any person until that person shall have been in office for at least three (3) months, nor shall any recall petition deal with more than one public official. A petition signed by not less than thirty (30) percent of the qualified registered voters of the Town shall be presented to the Board, setting forth that the officeholder in question has violated one or more of the items listed in paragraph 1 and specifying the instances of such failure and requesting an election or vote upon the recall of the officeholder.

(1) The registered Town voters signing the petition shall sign the same as their names appear on the Town's election books, and across from each shall print each petitioner's name and address. A minor variation in the signature of a petition between his signature on a petition and that on the town's voter registration records shall not invalidate the signature. The invalidation of one signature on a petition shall not serve to invalidate any others. At the bottom of each page of the petition, the individual circulating the petition shall sign the same and make an affidavit before a notary public that they circulated the petition and saw each individual whose name appears thereon sign the same in their presence. All pages comprising said petition shall be assembled and filed as one instrument.

(2) The petition shall be addressed to the Commissioners of Poolesville and filed with the Town Clerk.

(3) The Town Clerk shall immediately notify the Chairman of the Board of the filing of a recall petition, and shall deliver the petition to the Board. Within fifteen (15) days of the recall petition's filing, the Board shall ascertain whether or not the petition is signed by the requisite number of voters registered with the Town, and shall attach a dated certificate showing the results of its examination and whether or not the petition is sufficient, and forward them to the Town Clerk.

(I) If the certificate shows the petition is insufficient, the Town Clerk shall:

- (i) immediately notify the President of the Commission;
- (ii) send written notification within three (3) days to those designated on the petition as filing the same that the petition is insufficient.

(II) If the certificate shows the petition to be sufficient, the Town Clerk shall:

- (i) immediately notify the President of the Commissioners of Poolesville;
- (ii) submit the petition and certificate to the Commissioners of Poolesville for action at its next regularly scheduled meeting, if such a meeting is scheduled within fifteen (15) days of the date of certification. If the next regularly scheduled Commissioners of Poolesville meeting is scheduled for sixteen (16) or more days from the date of certification, the Town Clerk shall schedule a Recall Election Town Commissioner meeting to be held within fifteen (15) days of the date of certification.

C. *Public Hearings and Recall Election.*

(1) Upon receipt of a properly certified, sufficient recall petition, the Commissioners of Poolesville shall order a recall election to be held on a date not less than thirty (30) days and not more than sixty (60) days from the date of the certification by the Board of Elections; unless:

- (I) the elected official, who is the subject of the recall petition
 - (i) resigns immediately; or
 - (ii) the official's term is scheduled to expire within ninety (90) days of the Board's certification and the Commissioners of Poolesville agree to allow the official's term to expire without conducting a recall; or

(II) Town Election is to occur within ninety (90) days of the Board's certification; the Commissioners of Poolesville may order the recall be included on the general election ballot;[.]

(2) At the Recall Election Town Commissioner meeting, the Commissioners shall schedule a public hearing to take place no later than fourteen (14) days prior to the recall election at which time the person(s) petitioning for the recall of a Commissioner, as well as the Commissioner who is the subject of the recall, and those supporting him may present any evidence and arguments they may have to urge or refute the evidence presented by the other party. After setting the dates for the public hearing, the Commissioners shall post public notice thereof at Town Hall, advertise same in a newspaper of general circulation in the Town of Poolesville and undertake such other and further measures to notify the Town residents of the hearing as they may deem appropriate.

(3) The Commissioners of Poolesville shall make or cause to be made a publication of notice and all arrangements for holding such an election.

(4) The recall election shall be conducted, returned and the results thereof declared, in all respects as are other Town elections.

(5) The official whose recall is sought shall continue to serve pending the results of the recall election, but shall recuse himself or herself from all Town Commissioner actions in connection with his or her recall.

(6) The recall election ballot shall read: "Shall (name of official) be continued in the office as a Commissioner of Poolesville?" Following this question shall be the words "Yes" and "No" which the voter shall use to vote for or against recall. The question of recall shall be decided by a simple majority of the votes cast.

D. *Results of the election.* The official's term of office shall immediately terminate upon receipt by the Town Clerk of the Board's certification that the official has been recalled.

E. *Successor to serve an unexpired term.* The successor of any official removed by recall shall be selected as provided by this Charter and hold office during the unexpired term of his predecessor. Any person sought to be removed may not be a candidate to succeed himself or herself. (Res. 004-06, 05-23-06.)

Section 82-5. Same – Meetings.

The Commissioners shall meet in some convenient place in said town, on or before the first Monday in the month next succeeding their appointment, and as often thereafter as may be necessary, to discharge the duties of their office. (Res. 004-06, 05-23-06.)

Section 82-6. Conduct of Elections.A. *QUALIFIED VOTERS.*

All persons who have been properly registered as hereinafter provided shall be qualified voters of the Commissioners of Poolesville, referred to in this Chapter as the “Town of Poolesville”.

B. *DEFINITIONS.*

An *election* shall mean the process by which voters of the municipal corporation known as The Commissioners of Poolesville vote for any public officer or any municipal law, act or proposition pursuant to this Section.

Poolesville Board of Supervisors of Elections or Board means the Supervisors of Elections as a body, exercising the powers and responsibilities conferred on them by the Charter and Town Code.

C. *BOARD.*

The Commissioners of Poolesville, on the first day of April of every even-numbered year, shall appoint a Board, consisting of at least five (5) and up to eight (8) qualified voters of the Town of Poolesville, who do not hold any other office thereof, who shall act as registration officials and judges of election in any elections held during the two (2) years succeeding their appointment, and until their successors qualify. However, failure to appoint or maintain in office at least five (5) Board [Supervisors] shall not affect the validity of any election. Upon the appointment of the Board or upon making an appointment to fill a vacancy, the Commissioners shall provide the appointees with copies of all applicable election laws and ordinances and shall schedule an appointment for each such appointee with the Town Attorney to review such election laws and ordinances. The Supervisors shall certify in writing to the Commissioners that they have read the election laws and ordinances.

The Board shall appoint one of their members as chairman. The Board may designate other individuals to act under their immediate supervision as registration officials and judges of elections. The Board is authorized to promulgate rules and regulations to implement the provisions of the Charter and Poolesville Code for the conduct of Town elections. At any meetings of the Board, a majority of the appointed board members at the time of the meeting shall constitute a quorum.

Any of the Board may be removed for good cause by the Commissioners, if in the judgment of the Commissioners the member is not properly performing or will not properly perform the duties of the position. Before removal, the member of the Board to be removed shall be given a written copy of the charges against him or her and shall have a public hearing on them before the Commissioners if he or she so requests within ten (10) days after receiving the written copy of the charges. The removal power provided for in this Section shall not be construed to

invalidate the results of an election in which a Board member is alleged to have not properly performed the duties of the position.

D. REGISTRATION OF VOTERS.

The Board, or their designees, shall provide for continuous registration of the voters of the Town of Poolesville, at the same time, at least weekly, or more often should the Commissioners so direct, up to and including twenty one (21) days prior to any election or vote held in conjunction with municipal activities of the Town of Poolesville or for the election of the Commissioners. Residents of the Town may also register for Town elections with the Montgomery County Board of Elections as provided in Election Law Article, § 3-401 et Seq., Annotated Code of Maryland.

E. QUALIFICATION OF VOTER.

A resident of the Town of Poolesville may become registered to vote if the individual meets the requirements for voter registration stated in Election Law Article, § 3-102, Annotated Code of Maryland.

F. APPLICATION FOR REGISTRATION.

The voter registration application shall require the signature of the applicant, subject to the penalties of perjury, by which the applicant swears or affirms under the penalties of perjury that the information contained in the registration application is true and that the applicant meets all the qualifications to become a registered voter. The registration form shall state the qualifications to become a registered voter of the Town of Poolesville and the penalties stated in Subsection J of this Section.

G. APPLICATION.

The format for application for registration shall be substantially in compliance with that provided in Sections 3-201 et seq. of the Maryland Elections Article, and as those sections may be amended from time to time, except that there shall be no reference to district, precinct or party affiliation. (Res. No. 012-03, 2-24-04.)

H. RESPONSIBILITIES OF REGISTRATION OFFICIALS.

It shall be the duty of the Board to determine, by majority vote, which applicants do not qualify as voters. They shall conduct such elections at such time as the Commissioners of Poolesville shall direct. They shall further receive all returns of election and certify to the Commissioners of Poolesville the results thereof.

I. CONDUCT OF ELECTIONS.

The Board shall prepare a list of qualified voters of the Town of Poolesville at least fourteen (14) calendar days before any election. At such election, each qualified voter will be

required to affix his or her signature in the space provided on said list adjacent to his or her name prior to voting.

J. CHALLENGE OF VOTERS.

Any time prior to five (5) calendar days before an election, any voter may file with the Board a request to add or delete a voter from the registration list who has been erroneously omitted or improperly registered. (Res. No. 013-03, 2-24-04.)

K. REGULATION AND CONTROL: PENALTIES.

The Commissioners 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. Ordinances heretofore adopted by the Commissioners pertaining to such matters shall remain in force and effect until repealed or amended by the Commissioners but only as to such provisions as are not inconsistent with the provisions of this Charter.

Any person who (1) in any manner willfully or corruptly violates any of the provisions of this Charter on elections or any ordinances passed thereunder, or (2) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or Town election, is guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both. In addition to the foregoing penalties, any officer or employee of the Town Government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Res. No. 014-03, 3-23-04; Res. No. 004-06, 5-23-06.) (See note (2)).

Section 82-7. Clerk; appointment, duties.

The Commissioners shall appoint a clerk, who shall keep the minutes of their proceedings in a well-bound book, which shall be open to the inspection of all persons interested therein, and shall perform such other duties as the commissioners may assign him or her.

Section 82-8. Clerk's compensation.

The Commissioners shall allow their chief clerk, such compensation as they shall think proper.

Section 82-9. Oath of office.

The Commissioners and all other officers of the corporation, before entering upon the duties of their office, shall make oath that they will diligently and faithfully, to the best of their skill and judgment, perform the duties of their office, and shall file a certificate thereof of the officers before whom the same was made, among the records of the corporation.

Section 82–10. Surety bonds.

The clerk and such other officers and employees as the Commissioners shall designate shall give bond to the commissioners, in such penalties and with such securities as said commissioners may require, conditioned for the faithful performance of the duties of his or her offices.

Section 82–11. Decisions on election matters; appeals.

The Commissioners shall receive all returns of election, and determine all questions arising thereon; but any person feeling himself or herself aggrieved by such decision may appeal therefrom to the circuit court for Montgomery County, which court shall hear and determine such appeal, and decide who shall pay the costs thereof.

Section 82–12. Powers of Commissioners enumerated.

(1) *General powers.* – The Commissioners shall have all legislative power which may be exercised by the Town under the Constitution and laws of Maryland including the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as they may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the town.

(2) *Specific powers.* – The Commissioners shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the specific purposes provided in the remaining subsections of this section.

(3) *Advertising.* – To provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

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

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

(6) *Audits.* – To provide for the appointment of an auditor or accountant to audit the books and accounts of all municipal officers collecting, handling or disbursing funds belonging to the town.

(7) *Appropriations.* – To appropriate municipal moneys for any purpose within the powers of the commissioners.

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

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

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

(11) *Bridges.* – To erect and maintain bridges.

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

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

(14) *Codification of ordinances.* – To provide for the codification of all ordinances.

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

(16) *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.

(17) *Curfew.* – To prohibit the youth of the town from being in the streets, lanes, alleys or public places at unreasonable hours of the night.

(18) *Dangerous improvements.* – 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.

(19) *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.

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

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

(22) *Explosives and combustibles.* – 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.

(23) *Filth.* – To compel the occupant of any premises, building, or outhouse situated in the town, if 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 the property, making it collectible by taxes or against the occupant or occupants.

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

(25) *Fire.* – To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain 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.

(26) *Food.* – To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

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

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

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

(30) *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 any action or threat of action by such a licensee in the course of his occupation which causes or threatens harm or injury to inhabitants of the town or to their welfare or happiness.

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

(32) *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 moneys.

(33) *Inspections.* – To authorize and require the inspection of gas pipes, water pipes, plumbing apparatus, electric lines and wires, and drainage and sewage systems on private property, and to compel repairs thereon.

(34) *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.

(35) *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.

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

(37) *Lights.* – To provide for the lighting of the town.

(38) *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.

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

(40) *Merit system.* – To establish a merit system in connection with the appointment of all municipal officials and employees not elected or appointed under the Constitution or laws of the State and to request and avail themselves of the facilities of the Commissioner of State Employment and Registration for the administration of such merit system without unnecessary expense.

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

(42) *Noise.* – To regulate or prohibit unreasonable noise.

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

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

(45) *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.

(46) *Parking meters.* – To install parking meters on the streets and public places of the town in such places as by ordinance they determine, and by ordinance to prescribe rates and provisions for the use thereof; but the installation of parking meters on any street or road maintained by the State Highway Administration must first be approved by the Administration.

(47) *Parking Regulations.* – To adopt by resolution parking regulations which provide for the erection of signs limiting the hours of parking; establish no parking zones and emergency or temporary no parking zones; prohibit parking in violation of official signs or during snow accumulation; prohibit parking of commercial vehicles or buses in specified areas; prohibit repairing or leaving vehicles on public streets for repairs; prohibit parking on the public streets and roads longer than certain specified periods of time or within specified distances of

intersections, driveways, fire hydrants or other roadways or structures; provide for impounding of illegally parked vehicles; prohibit parking so as to obstruct entrances to public or private driveways and establish penalties for violations of parking regulations.

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

(49) *Pensions.* – To provide a retirement or pension system or group insurance plan for its officers and employees or for including its officers and employees in any retirement or pension system operated by or in conjunction with the State.

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

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

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

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

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

(55) *Removals and Suspensions.* – To remove or temporarily suspend from office any person who has been appointed to any municipal office and who after due notice and hearing is adjudged to have been guilty of inefficiency, malfeasance, misfeasance, nonfeasance, misconduct in office, or insubordination; and to fill the vacancy caused by such removal or suspension.

(56) *Special elections.* – To provide for special elections for municipal purposes at such time, and places as may be determined; and subject to the provisions of this charter.

(57) *Sidewalks.* – To construct and regulate the use of sidewalks and all structures in, under, or above them; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(58) *Streets and roads.* – To open and close streets, lanes and alleys; grade and pave the same and remove nuisances and obstructions therefrom.

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

(60) *Taxicabs.* – To license, tax, and regulate public hackmen, taxicabmen, draymen, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations.

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

(62) *Weeds.* – To adopt by ordinance regulations prohibiting the generalized growth of weeds and grass on private property and authorizing the town to cut such weeds and grass after proper notice to the owner of such property and place the costs of cutting on such owner's tax bill.

(63) *Voting machines.* – To purchase, lease, borrow, install, and maintain voting machines for use in town elections.

(64) *Penalties.* – To provide that violations of ordinances and resolutions shall be punishable as misdemeanors subject to the penalties provided in Section 3(a) of Article 23A of the Annotated Code of Maryland or as municipal infractions as provided in Section 3(b) of Article 23A.

(65) *Zoning.* – To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject to the limitations and provisions of said article.

(66) *Commercial or industrial redevelopment projects.* – To make use of Federal or State financial assistance for commercial or industrial redevelopment projects, for the purpose of making grants, loans or guaranteeing loans to private entities; provided that the authority granted by this subsection may be used only for commercial or industrial redevelopment projects and may not be used for residential or leasing projects.

(67) *Saving clause.* – The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

Section 82–13. Quorum and Enactment of Ordinances.

Three Commissioners shall constitute a quorum for the transaction of business, and, unless otherwise specified in this Charter or in an ordinance passed thereunder, action may be taken by the affirmative vote of two Commissioners. The Commissioners shall enact ordinances only after public hearing upon reasonable notice. No ordinance shall be enacted by the Commissioners unless it receives the affirmative vote of three of the Commissioners. Ordinances shall be permanently filed by the town clerk and shall be kept available for public inspection.

Section 82–13A. Preparation of Budget and Proposed Tax Rate; Referendum.

(See note (1))

Not less than one hundred and twenty (120) days prior to the beginning of the fiscal year for the town, the Commissioners of Poolesville shall prepare and make available for public inspection a proposed budget for the coming fiscal year as well as a proposed property tax rate.

Not less than fifteen (15) nor more than (30) days thereafter, the Commissioners of Poolesville shall hold a public hearing on the proposed budget and proposed tax rate and shall advertise the same in a newspaper of general circulation within the town for not less than two (2) successive weeks prior to said hearing.

Not less than fifteen (15) nor more than thirty (30) days after the public hearing, the Commissioners of Poolesville shall adopt a proposed budget and property tax rate.

D. If the property tax revenue to be generated by applying the adopted tax rate for the next taxable year to the estimated assessment of all property in the Town is estimated to exceed the property tax revenue generated from the current taxable year by an amount in excess of seven (7) percentum thereof then, and in said event, the adopted tax rate may be subject to a referendum of the qualified voters of the Town as provided for herein. This limit does not apply to revenue from newly constructed property.

If, within thirty (30) days from the adoption of said tax rate, a petition requesting a referendum vote on the tax rate signed by no less than twenty percent (20%) of the persons who are qualified to vote in the general elections of the Town of Poolesville, indicating the name and residence address of each person, is received by the Commissioners of Poolesville, the Commissioners of Poolesville shall establish a date for a special referendum to be conducted not less than fifteen (15) days nor more than twenty (20) days from the receipt of said petition.

The special referenda election shall be advertised for two (2) successive weeks prior to the special referenda election in a newspaper of general circulation in the town. If a majority of those voting at the special referendum election vote no to the proposed tax rate, then the Commissioners shall promptly after said election prepare and adopt a budget and a tax rate for the town which, when applied to the estimated assessment of all property in the town shall generate revenue not exceeding by an amount of seven (7) percentum thereof the revenue generated for the preceding taxable year. (Res. No. 003–05, 9–27–05.)

Section 82–14. Adoption of Budget and Tax Levy Resolution.

No budget or tax levy resolution shall be adopted by the Commissioners of Poolesville for the town unless it receives the affirmative vote of three of the Commissioners.

Section 82–14A. Adoption of Plans.

No plan or plan amendment described in Article 66B of the 1957 Annotated Code of Maryland, as amended, shall be adopted by the Commissioners of Poolesville for the town unless it receives the affirmative vote of three of the Commissioners.

Section 82–15. Rules and order of business; journal.

The Commissioners shall determine their own rules and order of business. They shall maintain a journal of their proceedings which shall be kept by the clerk as required by Section 82–7 of this Charter. There shall be entered therein the yeas and nays upon final action on any question, resolution, or ordinance. The journal shall be open to public inspection.

Section 82–16. Further powers of commissioners.

They may pass such ordinances as they may deem necessary for the preservation of the health of the town, and remove all nuisances from, or prohibit all such business within the corporate limits thereof, as shall, in their opinion, injuriously affect the sanitary condition thereof.

Section 82–17. Powers of commissioners as to water and sewerage systems.

In addition to any powers the Commissioners of Poolesville may presently have, from whatever source derived:

- (a) The Commissioners shall have the power:
 - (1) To construct, operate, and maintain a water system and water plant;
 - (2) To construct, operate, and maintain a sanitary sewerage system and a sewage treatment plant;
 - (3) To construct, operate, and maintain a storm water drainage system and storm water sewers;
 - (4) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems;
 - (5) To have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof;

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

(b) The commissioners shall require a connection with water and sanitary sewer mains for all property abutting on any public right of way in which a sanitary sewer or water main is laid. Each connection shall be extended as required, from the water main or sewer to the property line of the abutting property. When any water main or sanitary sewer is declared ready for operation by the commissioners, the Commissioners shall require all abutting property owners to connect all fixtures with the water or sewer main within six months from the date such water or sewer main is declared ready for operation by the Commissioners. The preceding connection requirement shall also be applicable to properties developed after January 6, 1981, and no such property shall be developed on a well or septic system where a public water main or sanitary sewer abuts such property and has been declared ready for operation by the Commissioners. In any case where an abutting property owner is required by the Commissioners to connect all fixtures on such property with the water main, such abutting property owner shall thereafter be prohibited from in any way connecting any well on such property with the water system of the Commissioners of Poolesville. The Commissioners may grant exceptions to the foregoing connection requirements where an existing well or septic system on any such abutting property does not constitute a menace to public health and where the fixtures are at such a distance from the water main or sanitary sewer as to make connection economically infeasible or where the fixtures serve a structure which fronts on a public way other than the one in which the water main or sanitary sewer is located. The commissioners may require that, if they consider existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains, and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to public health shall be used only for fire protection, civil defense, car washing, lawn, garden or similar outdoor watering. Any violation of an ordinance passed under the provisions of this paragraph may be made a misdemeanor. (Res. No. 001-85, 3-12-86.)

(c) The commissioners may make a charge, the amount to be determined by the commissioners, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

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

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

commissioners. Any violation of an ordinance passed under the provisions of this paragraph may be made a misdemeanor.

(f) The commissioners shall have the power to extend the water or sewerage system beyond the town limits.

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

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

(i) The commissioners shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction, of water mains, sanitary sewer mains, storm water sewers, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessments. The Commissioners shall have the additional power, which shall be exercised by resolution, to abate, cancel, compromise or rebate any taxes levied in the form of such special assessments in order to correct erroneous and improper assessments and to prevent injustice or inequity. 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 assessment, a reasonable charge for the services of the administrative staff of the commissioners, and any other item of cost which may reasonably be attributed to the project.

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

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

(2) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by

the commissioners and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

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

(4) All special assessment charges shall be levied by the commissioners by ordinance. Before levying any special assessment charges, the commissioners shall hold a public hearing. The clerk to the commissioners shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the commissioners and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The clerk to the commissioners 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 clerk of the commissioners shall have completed publication and service of notice as provided in this section. Following the hearing the commissioners, in their discretion, may vote to proceed with the project and may levy the special assessment.

(5) Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to [appeal] the circuit court for the county within ten days after the levy of any assessment by the commissioners.

(6) Special assessment may be made payable in annual or more frequent installments over such period of time, not to exceed twenty (20) years, and in such manner as the commissioners may determine. The commissioners 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 commissioners.

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

(8) All special assessments shall be billed and collected by the town clerk.

Section 82–18. Borrowing power of commissioners.

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

(a) The Commissioners of Poolesville shall have the power and authority from time to time to borrow money and incur indebtedness for any proper public purpose, including but not limited to, the financing of the acquisition, purchase, establishment, design, construction, reconstruction, expansion, extension[,] alteration or repair of a sewerage system and water supply and distribution system, within or beyond the corporate limits of the Commissioners of Poolesville, including all sites, property rights, equipment and appurtenances necessary thereto and costs in connection therewith.

(b) Such borrowing or indebtedness shall be evidenced by the issuance of bond anticipation notes or general obligation bonds (hereinafter collectively referred to as “bonds”), the same to be issued, sold and delivered in accordance with the terms and conditions of an ordinance or ordinances passed in conformity with and pursuant to the authority of sections 31 through 37, inclusive, of Article 23A of the Annotated Code of Maryland, 1957 Edition, as amended, title “Corporations–Municipal,” subtitle “Home Rule,” subheading “Creation of Municipal Public Debt”; provided, however, that:

(1) No referendum shall be necessary for any issue of bonds made pursuant to the authority contained in this section.

(2) If the ordinance or ordinances authorizing the issuance of said bonds shall so specify, said bonds may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids.

(c) The issuance of said bonds shall constitute a pledge of the full faith and credit of the Commissioners of Poolesville, notwithstanding the provisions of section 82–19, entitled “Assessments; annual levy,” of this Charter, or of any other law, the prompt payment of the principal of and interest on said bonds shall be made from unlimited ad valorem taxation and other revenues, which may be described in the authorizing ordinance or ordinances. The maturing principal of and interest on said bonds may be paid, in whole or in part, from the proceeds of such benefit assessments, or connection charges, or service charges, or any combination thereof, as the Commissioners of Poolesville may properly, from time to time, impose and collect, power and authority so to do being hereby specifically granted, notwithstanding any limitation contained in any other law; but, in any event, the Commissioners of Poolesville shall annually levy upon all property subject to taxation within its corporate limits ad valorem taxes sufficient to provide for the payment of the maturing principal of and interest on such bonds, without limitation as to rate or amount, notwithstanding the limitation contained in section 82–19, entitled “Assessments; annual levy,” of this Charter or in any other law.

(d) Without in any way limiting the generality of the foregoing provisions of this section, it is expressly found, determined and recognized that the term “proper public purpose”

for which bond anticipation notes or general obligation bonds may be issued pursuant to such foregoing provisions includes the permanent financing of the costs of all or any part of a sewerage system and water supply and distribution system in any case where the obligations initially issued or incurred by the commissioners of Poolesville to finance such projects had a term of ten years or less (or in the absence of a stated term, the period during which such obligation is outstanding and unpaid is ten years or less), such permanent financing to include (without limitation) the refinancing (by refunding in advance of the stated maturity of such outstanding obligations or otherwise) of five hundred fifty thousand dollars aggregate principal amount of nine percent general obligation bonds issued by the commissioners of Poolesville in November, 1969 and thereafter and maturing in November, 1974 and related obligations not exceeding one hundred fifty thousand dollars incurred to pay costs of the Poolesville sewerage system and water supply and distribution system; provided, however, that

(1) The sum of (a) the original term (or in the absence of a stated term, the period during which such obligation is outstanding and unpaid) of the obligations being refinanced and (b) the term of the refinancing bonds shall not exceed the maximum term permitted for bonds of the Commissioners of Poolesville under public general law and

(2) In all other respects such refinancing bonds shall be authorized, issued, sold and delivered as provided in this section.

Section 82-19. Assessments; annual levy.

The Commissioners of Poolesville may, as often as they may deem advisable, cause an assessment to be made of all the real and personal property within said town, or the corporate limits thereof, by a person to be appointed and paid by them, which assessment shall not exceed the assessment of the same for County purposes, and they may levy a tax thereon not exceeding ninety cents on each one hundred dollars (\$100.00) worth of assessable property, provided, however, that the Commissioners of Poolesville shall not levy a tax rate in excess of the constant yield tax rate without first complying with requirements of Section 232C of Article 81 of the 1957 Annotated Code of Maryland (1975 Replacement Volume and 1979 Cum. Supp.), as amended, and any other applicable provisions of the State law. Nothing contained in this Section shall in any way affect or impair any pledge of the full faith and credit and unlimited taxing power of the Commissioners of Poolesville made under Section 82-18 entitled, "Borrowing Power of Commissioners", of this Charter or under any other law in connection with the issuance of general obligation bonds of the Town of Poolesville.

Section 82-20. Collection of taxes – By town clerk.

Whenever the commissioners shall levy a tax, they shall cause to be made out an alphabetical list of the persons charged therein, and shall cause to be fixed thereto the respective sums to be collected from such persons, and a warrant to the town clerk to collect the same.

Section 82–21. Same – Proceeds; tax sales.

The town clerk shall within ten days after the receipt of such list and warrant render to each person named therein an account or tax bill showing the amount due by him, if he be a resident of the town, and if he be a nonresident of the town, and in consequence thereof cannot conveniently be served with said account or tax bill, the town clerk shall publish such account or tax bill in some newspaper printed and published in Montgomery County stating the amount thereof, at the cost of the said taxpayer, and unless said taxes and costs are paid within thirty days after the service of said tax bill or publication of said account or tax bill where advertisements may be had, then the said town clerk shall proceed to advertise the property named in said list upon which taxes have not been paid for sale, and to sell the same at public auction for the amount of taxes, interest and costs, due on each piece or parcel of property, whether the same be due for one tax levy or more, and after publication and notice of the name and place of sale in some newspaper printed and published in Montgomery County for at least three weeks. The notice of sale shall state the time and place of sale, the name or names of persons to whom each piece of property is assessed, and the total amount of taxes and penalties and costs due from each person computed to the day of sale. Subdivided property shall be designated by lot, block and subdivision. Property not subdivided shall be briefly described so as to identify the land to be sold.

Section 82–22. Tax–sale property conveyances.

The President of the commissioners shall execute and deliver to the purchaser a deed of property so sold, and such deed shall convey to the purchaser the said property, and shall be presumptive evidence that all the requirements of law have been complied with in making such sale and deed.

Section 82–23. Town Clerk – To collect taxes within six months.

The town clerk shall make all collections required of him, and pay the same into the town treasury within six months from the time the tax bill is placed in his hands.

Section 82–24. Collection of fines and penalties.

Any fines, penalties and forfeitures imposed by this subtitle of this article, or by any ordinance of the commissioners, may be collected by proceedings in the name of the commissioners, before the District Court of Maryland; and the said offender shall, upon conviction, be committed to the county jail on failure to pay such fines and forfeitures until the same shall be paid with costs.

Section 82–24A. Restrictions on Use and Accounting of Development Impact Fee Funds.

The funds collected by reason of establishment of a development impact fee must be used solely for the purpose for which the development impact fee was established. The Commissioners of Poolesville must ensure that such fees are disbursed only for the purposes for which they have been imposed. The Commissioners of Poolesville must maintain and keep

adequate financial records for all impact fees received which must (1) show the source and disbursement of all revenues, (2) account for all monies received and (3) ensure that the disbursement of funds is used exclusively for the purposes for which the fee was imposed. (Char. Amend. Res. No. 001-93, 4-13-94.)

Section 82-25. Jurisdiction of various officials; annual payment by county for street maintenance.

All state and county officers shall have, hold and exercise their offices and jurisdiction in said town as if this Charter had not been granted; and the county council of Montgomery County shall on or before the first day of January in each year shall pay over to the Commissioners of Poolesville that proportion of the entire county levy that the levy for the repair of roads which the total real property assessed within the limits of the Town of Poolesville bears to the whole amount of assessed property in Montgomery County, so that the Commissioners of Poolesville may receive and disburse for the repair and maintenance of the streets of said town the amount levied upon the real property within the corporate limits of the Town of Poolesville for the repair of roads by the said county council of Montgomery County.

Section 82-26. Building lines; power to establish, etc.

The commissioners shall have power to establish building lines on all the streets in said town, or which shall hereafter be opened therein, and to compel all persons hereinafter erecting buildings in said town to conform thereto.

Section 82-27. Commissions and Boards.

The commissioners shall have the authority to establish by ordinances such commissions and boards in addition to those established in this Charter as they may be [be] necessary. Any person appointed to a commission or board established by this Charter or by ordinance shall have continuously resided in the town for six (6) months immediately preceding his or her appointment. The commissioners may appoint from among their members commissioners to serve as ex officio members of commissions and boards created by this Charter or any ordinance except as otherwise provided by State law or this Charter. It shall be the duty of any such commissioner so appointed to assist the commission or board to which appointed in carrying out its duties and responsibilities and to act as liaison between such commission or board and the Commissioners.

Section 82-27A. Resignation from Commissions and Boards.

A vacancy on any commission or board established by this Charter or by ordinance shall exist upon written notification from a commission or board to the President of the Commissioners of the written resignation of a member or the absence of a member from twenty-five percent (25%) or more of the scheduled meetings or hearing [hearings] of the commission or board during any six month period. Scheduled meetings or hearings shall mean meetings or hearings for which at least seven-days' advance notice was given. It shall be the duty of the presiding officer of the commission or board to notify expeditiously the President of

The Commissioners of any Member [member] who has so resigned and to include in such notification any known extenuating circumstances. Such resignation shall become effective thirty (30) days after notification is forwarded to the appointing authority. Copies of the notification shall be sent to all members of the commission or board. It shall be within the discretion of the President of The Commissioners of Poolesville, with the advice and consent of the other Commissioners, following such notice to waive such resignation for good cause such as illness, emergency situations or other extenuating circumstances. The individual shall be notified in writing by the President of The Commissioners of Poolesville whether or not a waiver has been granted. If a waiver has not been granted, a successor shall be appointed to complete the unexpired term in the manner prescribed by law.

Section 82–28. Planning Commission.

A. *DEFINITIONS.*

1. *COMMISSION.* The body of five members which shall constitute the Planning Commission of the Town of Poolesville as constituted hereunder in subsection B.

2. *COMMISSIONERS.* Commissioners shall mean the executive and legislative body of the municipal corporation known as The Commissioners of Poolesville as elected pursuant to Section 82–3, as amended, id.

3. *DEVELOPMENT.* Development means any activity, other than normal agricultural activity, which materially affects the existing condition or use of any land or structure.

4. *PLAN.* Plan means the policies, statements, goals, and inter-related plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area's future development. For the purposes of this definition the word "plan" shall include general plan, master plan, comprehensive plan, community plan, and the like as adopted in accordance with Article 66B of the Annotated Code of Maryland.

5. *SUBDIVISION.* Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

B. *APPOINTMENT OF PLANNING COMMISSION.*

The Commissioners of Poolesville shall appoint five persons to the Town Planning Commission including one of their number to serve in an ex officio capacity. The term of office of each member of the Planning commission shall be five years except the term of the member of the commission who is also a Commissioner of Poolesville which shall terminate upon the expiration of his or her term as a commissioner of Poolesville. Members of the commission other than the member who is also a Commissioner of Poolesville shall serve until their successors are appointed and have qualified. Appointments shall be made on or before April 1st of the year in which any appointment is made and terms of office shall begin as of that date. The members of

the commission in office immediately prior to July 21, 1981 shall remain in office for the remainder of the term for which they were appointed. Any vacancy occurring prior to the expiration of the term for which a member of the Commission is appointed shall be filled in a like manner for the remainder of the unexpired term for which his predecessor was appointed. All members of the Commission shall serve at such rate of compensation as the Commissioners of Poolesville may, by Resolution, hereafter determine. After a public hearing, any member of the Planning Commission may be removed from office by the affirmative vote of three of the Commissioners of Poolesville upon a finding that the member is guilty of inefficiency, neglect of duty or malfeasance in office.

C. CHAIRPERSON.

The Commission shall elect a Chairperson from among its members. The term of the Chairperson shall be for one year. The Chairperson shall be eligible for re-election.

D. DUTIES.

The Commission shall have the duties and powers specifically provided for in Article 66B of the Annotated Code of Maryland and any other powers implicitly [implicitly] delegated therein now or as said Article may hereafter be amended.

E. MASTER PLAN.

In accordance with Article 66B of the Annotated Code of Maryland, the Commission, after public hearing and proper referral to other required jurisdictions, shall prepare for and submit to the Commissioners for approval a Master Plan of Zoning and Highways. Thereafter, it shall make an annual report, the requirements of which are set forth in Article 66B of the Annotated Code of Maryland, and submit it to the Secretary of State Planning and the Commissioners.

F. SUBDIVISION REGULATIONS.

After the Master Plan of Zoning and Highways has been adopted by the Commissioners and shall have been filed, by certified copy, with the Clerk of the Circuit Court for Montgomery County, Maryland, it shall be the duty of the Commission to prepare and submit to the Commissioners of Poolesville for adoption subdivision regulations of the Town of Poolesville as its Subdivision Regulations with such additions, amendments or deletions as it may deem necessary. Thereafter, subject to the provisions of Article 66B of the Annotated Code of Maryland, no subdivision or plat hereof shall be approved without the consent of the Commission.

G. MEETING.

The Commission shall meet no less than once a month at such time and place as its Chairperson may designate.

H. *APPEALS.*

Any person aggrieved by a decision of the Planning Commission approving or denying a subdivision plan or plat may appeal such decision to the Circuit Court for Montgomery County in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure. (Res. No. 002-85, 3-12-86.)

Section 82-29. Board of Recreation and Parks.

(a) The Commissioners of Poolesville shall appoint seven residents of the town to the Board of Recreation and Parks who shall hold no other office in town government. One such member shall be appointed by the Commissioners of Poolesville from among their number to serve in an ex officio capacity. The term of office of each member shall be four (4) years except the term of the member of the Board of Recreation and Parks who is also a Commissioner of Poolesville which shall terminate upon the expiration of his or her term as a Commissioner of Poolesville. Members shall serve until their successors are appointed and have qualified. Appointments shall be made on or before July 1st of the year in which any appointment is made and terms of office shall begin as of that date. The members of the Board of Recreation and Parks in office immediately prior to July 21, 1981, shall remain in office for the remainder of the terms for which they were appointed. No member shall receive any compensation for his or her service.

(b) *Duties.* Duties of the board shall be to:

(1) Advise the Commissioners of Poolesville, Town Manager and the Planning Commission of the Town of Poolesville as to the acquisition of, development of, and maintenance of parks and recreational areas.

(2) Exercise, under the authority of the Commissioners of Poolesville, certain functions of control of parks and recreational areas and facilities, such as, but not limited to, regulations for use, scheduling of use, deportment and the like.

(3) Provide recommendations to the Town Manager and the Commissioners of Poolesville concerning recreational programs.

(4) Consult with and offer suggestions to the Planning Commission of the Town of Poolesville as to the acquisition of parks and recreational land by the Commissioners of Poolesville and as to suitability of a proposed facility for park or recreational use.

(5) Coordinate with the Commissioners of Poolesville, the Town Manager and the Planning Commission concerning parks and recreational areas and provide recommendations on preliminary subdivision plans which include parks or recreational areas.

(6) Develop an overall long range recreational plan for the Town of Poolesville in coordination with the Town Manager.

(7) Make budget recommendations to the Town Manager for the needed expenditures for recreational facilities, both for maintenance and needed personnel.

(8) Act as an advisory board to the Commissioners of Poolesville and the Town Manager as to the expenditure of budgeted funds for parks and recreational activities.

(9) Act in an advisory capacity to the Town Manager regarding the beautification of town recreation and park property.

(10) Adopt any needed rules and regulations to govern parks and recreational areas and the conduct of the board.

(c) *Chairperson.* At each scheduled meeting subsequent to July 1st of each year, the members of the Board of Recreation and Parks shall elect from their number a person to serve as chairperson who shall have the customary powers and privileges established under Roberts' Rules of Order. The Chairperson shall be eligible for re-election.

(d) *Meetings.* The Board of Recreation and Parks shall hold a public meeting at least once a month or more often, as it may deem necessary, or at the call of its chairperson. (Res. 2-92, 2-9-93.)

Section 82-30. Board of Zoning Appeals.

The President of the Commissioners of Poolesville shall appoint three residents of the town to the Board of Zoning Appeals, subject to confirmation by the Commissioners of Poolesville. The term of office of each member of the board shall be three years. Members shall serve until their successors are appointed and have qualified. Members of the Board of Zoning Appeals holding office on July 21, 1981, shall remain in office for the remainder of the terms for which they were appointed. Thereafter, appointments shall be made upon the expiration of the term of each member of the board. Members of the board may be removed from office by the President of the Commissioners for cause, upon written charges and after public hearing with the approval of the Commissioners of Poolesville. The President of the Commissioners of Poolesville shall make appointments to fill vacancies for the remainder of an unexpired term subject to confirmation by the Commissioners of Poolesville. Members of the board may receive such compensation as the Commissioners of Poolesville deem appropriate.

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall make a transcript of all proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the board and shall be a public record.

General Powers. – The Board of appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto.

(2) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinances.

(3) To authorize upon appeal in specific cases a variance from the terms of the ordinance.

Appeals; Transmission Of Record. – Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Stay of Proceedings on Appeal. – An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals after notice of appeal shall have been filed with him or her that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

Hearing on Appeal. – The board of appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Decision of Board. – In exercising the above-mentioned powers such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Appeals to the Courts. – Decisions of the board of appeals shall be appealable to the Courts as provided in Section 4.08 of Article 66B of the 1957 Annotated Code of Maryland, as amended.

Section 82–31. Sign Advisory Board.

The President of the Commissioners of Poolesville shall appoint three residents of the town to the Sign Advisory Board subject to confirmation by the Commissioners of Poolesville. One such member, if possible, shall be an architect licensed to practice architecture in the State

of Maryland and at least one member, if possible, shall be the operator of a business in the town. The term of each member of the board shall be three years. Members shall serve until their successors are appointed and have qualified. Members of the Sign Advisory Board holding office on July 21, 1981, shall remain in office for the remainder of the terms for which they were appointed. Thereafter, appointments shall be made upon the expiration of the term of each member of the board. The President of the Commissioners shall make appointments to fill vacancies for the remainder of an unexpired term subject to confirmation by the Commissioners of Poolesville. Members of the board shall receive such compensation as the Commissioners of Poolesville may prescribe except that any architect appointed to the board shall not be entitled to receive compensation. The board shall have such powers and duties as the Commissioners shall prescribe by ordinance.

Section 82-32. Severability.

The provisions of this Charter are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Charter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Charter would have been enacted if such illegal, invalid or unconstitutional provisions, sentence, clause, section or part had not been included therein, and if the person or circumstances to which the Charter or any part thereof is inapplicable had been specifically exempted therefrom.

NOTES

(1) Section 82-13A is included pursuant to the passage of Question B at the referendum held November 3, 1992. Question B was put on the ballot by action of a petition and was properly submitted to the Commissioners of Pooleville on July 1, 1991. The effective date of the new Section 82-13A is December 9, 1992.

(2) Resolution 004-06, effective May 23, 2006, amended, among other sections, Section 82-6. That section, as set forth in the resolution as existing law differed from the existing section as set forth in this *Compilation of Municipal Charters*. In accordance with direction from the Town, Section 82-6 has been amended to reflect the law as set forth in the resolution.