

CHARTER

OF THE

City of Frostburg

ALLEGANY COUNTY, MARYLAND

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FROSTBURG

ARTICLE I General Corporate Powers

Section 101. Body Corporate.

The citizens of the City of Frostburg in Allegany County, Maryland are hereby constituted and continued a body corporate by the name of “The City of Frostburg”, and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and have all powers and privileges incident to or that may attach to a municipal corporation. As used herein “City” shall mean The City of Frostburg. (Res. No. 46, 6-4-2017.)

ARTICLE II Corporate Limits

Section 201. Boundaries.

The Corporate limits of the City 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 prior to this Charter, as may be hereafter amended as provided by law.

Section 202. Public Filing of Corporate Boundaries.

The course and distances showing the exact corporate limits of the City shall be filed at all times with the Clerk of the Circuit Court of Allegany County and the Director of the Department of Legislative Services. A copy of the courses and distances describing the corporate boundaries shall be on file in the Office of the Mayor in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours. (Res. No. 46, 6-4-2017.)

ARTICLE III The Council

Section 301. Legislative Powers Vested in Council.

All legislative and policy-making powers of the City of Frostburg shall be vested in a Council consisting of a Mayor and four (4) Councilmembers. As used in this Charter, the term “Council” shall include the Mayor, while the term “Councilmember” shall refer only to those elected as such and shall not include the Mayor. (Res. No. 46, 6-4-2017.)

Section 302. Election, Term.

Councilmembers will be elected for two-year terms. New elections for the Councilmembers will be held the first Tuesday in June of that election year. The regular terms of the Councilmembers shall expire the first meeting in July following the election of their successors. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 303. Qualifications of Councilmembers.

The Councilmembers shall be citizens of the United States of America and shall have resided in the City for at least two (2) years immediately preceding their election and shall be qualified voters in the City, and shall in no way be employed by the City. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 304. Salary of Councilmembers.

Each Councilmember shall receive an annual salary which shall be equal for all Councilmembers and shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business. The salary specified at the time any Council takes office shall not be changed during the period for which that Council was elected.

Section 305. Meetings of the Council.

Newly elected Councilmembers shall take office at the first meeting of the Council to be held in July following their election. The Council thereafter shall meet in regular session each month and at such other times as may be prescribed by its rules. Special meetings may be called in writing by the Mayor or by a majority of the members of the Council as often as necessary for the transaction of business. All meetings of the Council shall be open to the public unless closed by the Council in accordance with State law. The rules of the Council shall provide that residents of the City shall have a reasonable opportunity to be heard at any such meeting in regard to any matter. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 306. Quorum.

A majority of the Council shall constitute a quorum for the transaction of business, and a majority of those present shall decide any question unless otherwise provided in this Charter.

Section 307. Procedure of Council.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon any question, resolution, or ordinance. The journal shall be open to public inspection.

Section 308. Vacancies on the Council.

- a. A vacancy occurs when a member of the Council, prior to the expiration of the term for

which he or she was elected, dies, resigns, or forfeits office or as provided for in Section 607 of this Charter.

b. In the event of a vacancy on the Council, the Council shall appoint some qualified person to fill such vacancy for the unexpired term. In the event of a vacancy in the Office of the Mayor, the Council shall fill the vacancy for the unexpired term from among the Councilmembers. All vacancies shall be filled by a majority vote of the remaining members of the Council. (Res. No. 36, 9-3-04; Res. No. 48, 10-6-2017.)

Section 309. Judge of Qualifications of Members.

The Council shall be the judge of the election and qualifications of its members, but the decision of the Council in any such case shall be subject to review by the courts.

Section 310. Mayor as Member of Council.

The Mayor shall be a member of the Council. The Mayor may take part in any discussion and shall have the right to vote on all matters. The Mayor shall serve as the President of the Council. In the absence of the President, the Council shall appoint an Acting President who shall have all the powers of the President of the Council. (Res. No. 46, 6-4-2017.)

Section 311. Ordinances.

a. No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council, held not less than fifteen (15) nor more than sixty (60) days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended or rejected, or its consideration deferred to some specified future date.

b. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty (20) calendar days following its passage by the Council.

c. Ordinances, when passed by the Council, shall be signed by the Mayor. All ordinances shall be kept available for public inspection during normal business hours.

d. When an emergency requires the passage of an emergency ordinance, the provisions of paragraphs (a) and (b) of this section do not apply. An emergency ordinance may be enacted when it is necessary for the immediate preservation of the public peace, health, safety, or welfare. No emergency ordinance shall levy any tax or authorize borrowing except as provided in Section 705 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. Notwithstanding Section 306 of this Charter, no action on an emergency ordinance shall be taken unless at least four members of the Council are present. An emergency ordinance may become effective immediately upon adoption or on a later date as specified therein. Every emergency ordinance shall be plainly designated as such and shall describe the emergency in clear and specific terms. Upon adoption, a fair summary of the emergency ordinance shall be immediately posted on an official bulletin board to be maintained by the Council in a public place.

All emergency ordinances shall have a date of termination not to exceed one (1) year after enactment. In cases of emergency, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of all the Councilmembers present. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017.)

ARTICLE IV

The Mayor

Section 401. Term.

The Mayor will be elected for a two-year term. New elections for the Mayor and Councilmembers will be held the first Tuesday in June of that election year. The regular term of the Mayor shall expire the first meeting in July following the election of a successor. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 402. Qualifications of Mayor.

The Mayor must have resided in the City of Frostburg for at least three (3) years immediately preceding his or her election, and shall be a qualified voter of the City, and shall be at least twenty-five (25) years of age. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 403. Salary of the Mayor.

The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. The salary specified at the time any Mayor takes office shall not be changed during the period for which that Mayor was elected.

Section 404. Powers and Duties.

a. *General.* The Mayor shall be recognized as the head of the City government for all ceremonial purposes and by the Governor for purposes of military law.

b. *Council Meetings.* The Mayor shall act as President of the Council and preside over Council Meetings.

c. *City Hall Personnel.* The Mayor shall see that all ordinances of the City are faithfully executed and shall exercise general supervision over the administrative branch and staff of the City government.

d. *Special Boards and Commissions.* The Mayor shall act as special liaison to any special boards and commissions which shall be appointed by the Council.

e. *Emergencies.* In order to deal with any emergency as defined in Md. Pub. Safety Code Ann. § 14-101, the Mayor may order or proclaim a local state of emergency and shall coordinate

all local emergency functions that may arise in response to the emergency. In accordance with State law, the emergency declared under this subsection may not be continued or renewed for a period in excess of seven (7) days except with the consent of a majority of the Councilmembers. Any order or proclamation declaring, continuing, or terminating a local state of emergency shall be publicized in accordance with State law. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

ARTICLE V General Powers

Section 501. General Powers.

In addition to all the powers granted to the Council by the Charter or any other provision of law, the Council may exercise any power or perform any function that is not now or hereafter denied to it by the Constitution of Maryland, this Charter or any applicable law passed by the General Assembly of Maryland. The enumeration of powers and functions in this Charter or elsewhere shall not be deemed to limit the power and authority granted by this section. (Res. No. 46, 6-4-2017.)

Section 502. Enumeration of Specific Powers.

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

- (1) *Advertising.* To provide for advertising, printing and publication of materials relating to the business of the City, 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, and places of amusement in the City and to regulate the construction and operation of doors and egress therefrom.
- (3) *Amusements.* To provide, in the interests of the public welfare, for the licensing, regulating, or restraining of theatrical or other public amusement.
- (4) *Animals.* To regulate the keeping of and provide for the licensing of all animals in the City and to authorize the impounding, keeping, sale, destruction, or redemption of homeless animals for 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 City and to license auctioneers.
- (7) *Band.* To establish, maintain, support, and control a municipal band.

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

(9) *Boards, Commissions and Committees.* To appoint such Boards, Commissions and Committees as may be necessary for 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) *Bridges.* To erect and maintain bridges.

(11) *Buildings.* To make reasonable regulations in regard to buildings to be erected in the City, and to require and to grant a building code and a plumbing code and to appoint a building inspector and a plumbing inspector; and to require reasonable charges for permits and inspections; to regulate and restrict the construction materials, height, number of stories, and size of buildings and other structures, the size of yards, courts, and open spaces, and the location and use of buildings, structures, and land for trade, industry, or residence; to establish the distance buildings or any part thereof, fences, or walls shall be erected from inner curb of street line; to direct in what part of the City wooden buildings shall not be erected or constructed; 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 taken down; to remove or cause to be removed buildings or other structures that may be dangerous to persons passing along or over any of the public ways or sidewalks of the City, and to make a charge to the property or persons for such expenses as the City may incur for such purpose.

(12) *Cemetery.* To purchase, accept as a gift, establish, operate and maintain a cemetery.

(13) *Codification.* To provide for the ongoing codification of all ordinances which have been or may hereinafter be passed. A printed copy of any such systematic codification, issued under the authority of the Council, shall be legal evidence of the passage of the ordinances contained therein in any court of law or equity in this State.

(14) *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 City.

(15) *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.

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

(17) *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 that may be sustained by any persons or property.

(18) *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.

(19) *Dogs.* To help regulate the keeping of dogs in the City and to provide, wherever the County does not, license or tax dogs for the licensing and taxing of the same.

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

(21) *Exits.* To regulate the construction and maintenance of exits from places of amusement and all public buildings, and to prohibit the obstruction thereof.

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

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

(24) *Filth.* To compel the occupant of any premises or building in the City, 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 collectible by taxes or against the occupant or occupants.

(25) *Finances.* To levy, assess, and collect taxes, and to borrow money within the limits provided by this Charter; to expend municipal funds for any purpose deemed to be public and to affect the safety, health, and general welfare of the City and its inhabitants; to have general management and control of the finances of the City.

(26) *Fire.* To suppress fires and prevent the dangers thereof and to establish, maintain, control, and subsidize a fire department; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire hazardous buildings and structures permanently or until the conditions of City fire hazard regulations are met; and to take all other measures necessary to control and prevent fires in the City.

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

(28) *Franchises.* To grant and regulate franchises to electric light companies, telegraph companies, transit companies, taxi-cab companies, television cable companies, and any others which may be deemed advantageous and beneficial to the City; subject to Maryland law.

(29) *Garbage.* To require, regulate, and/or provide for the collection and removal of filth, garbage, or any matter or thing that is or may become injurious to the health or comfort of the inhabitants of the City, and to provide whether the expense, if any, shall be borne by individual property owners or tenants or shall be paid for in whole or in part by the City.

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

(31) *Hawkers.* To regulate and provide for the issuing of licenses or permits for hawking, peddling, and vending of wares and merchandise of every description upon the public ways of the City, and to regulate and provide for the issuing of licenses or permits to all persons who may go from house to house to vend or sell any wares or merchandise; to regulate and provide for the issuing of licenses to all traveling persons who dispense medicines or medical advice.

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

(33) *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 City at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(34) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the City, and to make provision for the use of the Allegany County Detention Center.

(35) *Licenses.* Subject to any restrictions imposed by the public general laws of the State to issue licenses to any and all persons entering into or beginning transient business in the City for the sale of goods, wares, or merchandise; to license and regulate all restaurants, pawnbrokers, junk dealers, fire and slaughter sales, auctioneers and auctions sales; to license and regulate any business, calling, trade, or place of amusement. 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 City shall be liens upon the property to be collected as municipal taxes are collected.

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

(38) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, 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 City.

(40) *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.

(41) *Noise.* To regulate or prohibit unreasonable noise.

(42) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the City which are so defined by common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, restrain, or prohibit the keeping or running at large in the City of all animals and fowl; to regulate, to prohibit, to control the location of, or to require the removal from the City 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 City may regulate, prohibit, control the location of, or require the removal from the City of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, renderies, and livery stables. This listing is by way of enumeration, not limitation.

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

(44) *Parking Lots.* To license, regulate, establish, operate, own and maintain parking lots and other facilities for offstreet parking.

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

(46) *Parks and Recreation.* To establish and maintain public parks, swimming pools, playgrounds, and other recreational facilities for the health, welfare, and enjoyment of the inhabitants of the City.

(47) *Planning.* To plan the City in accordance with State law.

(48) *Police Force.* To establish, operate, and maintain a police force.

(49) *Police Powers.* To prohibit and suppress within the City, Allegany County, and the State of Maryland all vice, gambling, and games of chance, street walkers and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, and drunkenness, and to enforce all lawful ordinances of said City.

(50) *Public Property.* To acquire property, real or personal, within or without the boundaries of the City for any public purpose by purchase, gifts, bequest, devise, or lease; to construct and maintain all buildings necessary for the operation of the City government; to control and protect the public grounds and property of the City.

(51) *Public Utilities.* To establish, own, purchase, control, operate, maintain, manage, or regulate a water supply system and a sewage disposal system. This listing is by way of enumeration, not limitation.

(52) *Public ways and sidewalks.* To regulate the use of City 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.

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

(54) *Regulations.* To adopt and enforce within its 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.

(55) *Sweepings.* To regulate and prevent the throwing of sweepings, dust, ashes, offal garbage, paper, handbills, dirty liquids, snow or other unwholesome materials into any public way or on to any public or private property in the City.

(56) *Swimming Pool.* To own, operate, maintain, and repair a swimming pool.

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

(58) *Vehicles.* To regulate, license, and tax taxicabs and any other vehicles used in the City for transporting goods or persons for hire.

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

(60) *Zoning.* To zone the City in accordance with State law. (Res. No. 46, 6-4-2017.)

Section 503. Enforcement.

To ensure the observance of the Charter and ordinances of the City, the Council shall have the power to provide that a violation of the Charter or an ordinance shall be a misdemeanor or a municipal infraction and may affix penalties that do not exceed the maximum penalties prescribed by law. (Res. No. 46, 6-4-2017.)

Section 504. Exercise of Powers.

For the purpose of carrying out the powers granted in this article or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the City shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. (Res. No. 46, 6-4-2017.)

ARTICLE VI

Registration, Nomination, and Elections

Section 601. Voter's Qualifications.

Every person who (a) is a citizen of the United States, (b) is at least eighteen (18) years of age, (c) resides in the City of Frostburg and (d) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the City. Every qualified voter of the City shall be entitled to vote in any or all City elections. Notwithstanding the foregoing, an individual is not qualified to vote in such elections if the individual:

- (1) Has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction;
- (2) Is under guardianship for mental disability; or
- (3) Has been convicted of buying or selling votes. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008; Res. No. 46, 6-4-2017.)

Section 602. Board of Elections, hereafter referred to as "Board".

On or before the third Thursday in February preceding every other municipal election, the Council shall appoint three (3) persons to serve as the Board of Elections for terms of four (4) years or until their successors are appointed and qualified. Members of the Board shall be qualified voters of the City and shall not hold or be candidates for any elective City office during the time that they are members of said Board. The Board shall appoint one (1) of its members as the Chair. Vacancies on the Board shall be filled by persons appointed by the Council for the remainder of the unexpired term. The compensation of the members of the Board, if any, shall be determined by the Council.

The Board shall be responsible for the registration of voters, candidate filing, ballot preparation and all other matters related to the conduct of general or special elections in accordance with the provisions of the City Charter and City Code. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008; Res. No. 46, 6-4-2017.)

Section 603. Removal of Members of Board of Elections.

Any member of the Board may be removed by the Council for incompetence, misconduct or other good cause. Before removal, the member of the Board to be removed shall be provided with a written copy of the charges and shall have a public hearing before the Council, if a written request for such a hearing is submitted to the City Administrator within ten (10) days after the Board member's receipt of the written copy of the charges. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008; Res. No. 46, 6-4-2017.)

Section 604. Date of Elections.

On the first Tuesday in June 2006, and every two (2) years thereafter, the qualified voters of the City shall elect a Mayor and four (4) Councilmembers to serve for terms of two (2) years or until their terms expire as provided for in Article III, Section 302 of this Charter. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008; Res. No. 46, 6-4-2017.)

Section 605. Procedure of Elections.

It shall be the duty of the Board to provide for each general and/or special election a suitable place in each polling site for voting, said polls to remain open from 7:00 a.m. until 7:00 p.m., or for a longer period of time if required by the Council by ordinance. It shall also be the duty of the Board to provide absentee ballots to those qualified voters who make application for the same in the manner prescribed by the ordinance passed by the Council. The Council, by ordinance, shall establish the procedures to be followed with respect to voting by absentee ballot. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008.)

Section 606. Vote Count and Certification.

Within forty-eight (48) hours after the closing of the polls, the Board shall determine the number of votes cast for each candidate or question and shall certify the results of the election to the City Administrator, who shall notify the candidates who have been elected and record the results in the minutes of the Council. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008.)

Section 607. Tie Votes.

If, at any election, any two (2) or more candidates for the Offices of Mayor or Councilmember shall have the highest and an equal number of votes, a new election shall be held after six (6) weeks' public notice, said notice to be provided in the manner prescribed by Ordinance passed by the Council. All registered voters shall be eligible to vote in the special (runoff) election irrespective of whether they voted in the general election. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008; Res. No. 46, 6-4-2017.)

Section 608. Nonpartisan Elections.

All City elections shall be nonpartisan. Candidates' party affiliations shall not be set forth in the ballots. (Res. No. 36, 9-3-04; Res. No. 39, 2-26-2008.)

ARTICLE VII

Finance

Section 701. Fiscal Year.

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

Section 702. Budget.

At least two (2) calendar months prior to the beginning of a new fiscal year, department heads shall submit projected departmental budgets to the Finance Commissioner, which shall contain estimates of anticipated revenues and proposed expenditures for the coming year. At least one (1) calendar month before the beginning of the fiscal year, the Finance Commissioner shall incorporate all budgets into one (1) proposed City budget. The proposed City budget shall provide a complete financial plan for the budget year and shall include estimates of anticipated revenues and proposed expenditures for the coming year. The total anticipated revenues shall equal the total proposed expenditures. The proposed City budget shall be a public record in the office of the City Administrator, open to public inspection by anyone. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 703. Budget Adoption.

Before adopting the budget, the Council may hold a public hearing thereon. The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures, it shall also increase the total anticipated revenue to at least equal such total proposed expenditures. The budget shall be prepared and adopted in the form of a resolution. A favorable vote of at least a majority of the total membership of the Council shall be necessary for adoption.

Section 704. Appropriations.

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

b. The Fire Department must submit annually to the Council a budget to justify operating and capital expenditures. The Council shall appropriate a minimum of ten percent (10)

of the net tax receipts from real property taxes to the Frostburg Fire Department for their operating and capital expenditures. (Res. No. 32, 10–28–82.)

Section 705. Amendments after Adoption of Budget.

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

(B) *Emergency Appropriations.* To meet a public emergency affecting life, health, property, or the public peace, the Council may make emergency appropriations by emergency ordinance in accordance with the provisions of Section 311 of this Charter.

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

(D) *Procedure.* The authorization of supplemental and emergency appropriations or transfer of funds shall require a two-thirds vote of the entire Council in accordance with State law. (Res. No. 36, 9–3–04; Res. No. 48, 10–6–2017.)

Section 706. 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 the general classification 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, or the making of contracts of lease or for the services for a period exceeding the budget year in which the contract is made, when such contract is permitted by law.

Section 707. Appropriations Lapse After One Year.

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

Section 708. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Director of Finance and counter-signed by the City Administrator. (Res. No. 36, 9–3–04; Res. No. 48, 10–6–2017.)

Section 709. Public Utility Revenues.

All revenues from water operations and from any other public services which the City may operate or provide shall be put into a separate fund to be used for the current operating expenses of these services, replacement and extension of facilities, payment of interest and principal on bonds issued for these purposes and any other expenses of these utilities. If these revenues are not sufficient, the deficit shall be made up from the general funds of the City. If these revenues exceed the amounts needed for the above purposes, the surplus may be used for the general governmental purposes of the City.

Section 710. Property Subject to Taxation.

All real and tangible personal property within the limits of the City, or which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment for said purpose shall be the same as that for State and County purposes. (Res. No. 46, 6-4-2017.)

Section 711. Manufacturers' Tax Exemption.

To encourage industrial expansion in the City, it may exempt from taxation the real and personal property or capital stock of any manufacturing company newly established within the taxable corporate limits of the City. Such exemption shall in no case exceed a maximum of ten (10) years. (Res. No. 46, 6-4-2017.)

Section 712. Budget Authorized Levy.

The Council may increase the levy annually up to twenty-five (\$00.25) cents per one hundred dollars for the general operation purposes of the City. In addition to the tax levied for the general operation purposes, the Council may levy a tax on assessable property necessary and sufficient for the liquidation and payment of the indebtedness of the City or any bonds thereof or any interest thereon, issued or to be issued under the authority of State law or this Charter. (Res. No. 46, 6-4-2017.)

Section 713. When Taxes Are Overdue.

The tax year shall be July 1st to June 30th. The taxes provided for in Section 712 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 City shall be established by ordinance. All taxes not paid and in arrears one year after the date on which they are due and payable shall be collected as provided in Section 714. The Council, by ordinance, may provide for discounts for prompt payment of tax bills.

Section 714. Tax Sales.

All taxes and water and sewer charges levied by the Council shall be liens upon the property on which the taxes and water and sewer charges are levied. When the taxes and water and sewer charges have not been paid and are in arrears as provided in Section 713 of this Charter, they may be collected by judgment, by attachment, or by sale of the tax delinquent property. A list of all property on which City taxes and water and sewer charges have not been paid and which are in arrears shall be turned over by the City Administrator to the official of Allegany County responsible for the sale of tax delinquent property as provided by public general or public local law, and be prominently posted in City Hall. All property listed thereon shall, if necessary, be sold for taxes and water and sewer charges by this County official in the manner prescribed by public general or public local law. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017.)

Section 715. Fees.

All fees received and all money collected by an officer or employee of the City in his or her official capacity shall belong to the City and be accounted for to the City. (Res. No. 46, 6-4-2017.)

Section 716. Audits.

The financial books and accounts of the City shall be audited annually by a competent person or persons meeting the qualifications of State law and appointed by the Council. The audit shall be presented to the Council within ninety (90) days after the end of the fiscal year. Section 720 shall apply to this section. (Res. No. 46, 6-4-2017.)

Section 717. Tax Anticipation Borrowing.

During the first six (6) months of any fiscal year, the City shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six (6) months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences shall be issued which will cause the total tax anticipation indebtedness of the City 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 resolution before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (Res. No. 46, 6-4-2017.)

Section 718. Borrowing Power.

The City shall have the power to borrow money for any proper public purpose and may evidence such borrowing by the execution of promissory notes or mortgages or deeds of trust providing for the payment of interest and principal on said debt over a period of time not limited to a fiscal year; the Council may, in the resolution authorizing the issuance of such notes and

execution of such mortgages or deeds of trust, provide for the private (negotiated) sale of such notes if the Council determines such a private sale to be in the best interests of the City; all other terms and conditions regarding such notes and other instruments, including the issuance, sale and execution thereof, shall be set forth in the authorizing resolution, it being the intent of this section to enable the Council to borrow money pursuant to a different procedure from the procedure set forth in Md. Local Gov't. Code Ann. §§ 19–302, et seq.; or it may evidence such borrowing by the issue and sale of its general obligation bonds in the manner prescribed in the aforesaid Code provisions. (Res. No. 46, 6–4–2017.)

Section 719. Payment of Indebtedness.

Except as provided in Section 720 of this Charter, the power and obligation of the City to pay any and all bonds, notes, or other evidences of indebtedness issued by it shall be unlimited, and the City may levy ad valorem taxes upon all of the taxable property of the City for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the City is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance.

The City may levy ad valorem taxes upon all the taxable property of the City, without limitation of amount, or the City shall increase user fees for all customers, within the City and for all external customers, or the City may enact both ad valorem taxes and user fee increases, for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon.

Section 720. Revenue Bonds.

The City shall have the power to issue revenue bonds for one (1) or more revenue-producing projects that serve a proper public purpose. Prior to issuance of revenue bonds, the City 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 City shall not be pledged for the payment of revenue bonds. (Res. No. 46, 6–4–2017.)

Section 721. Purchases, Bids, and Contracts.

All purchases for the City shall be made through the office of the City Administrator. The Council shall provide for rules and regulations regarding the use of competitive bidding and contracts for municipal purchases. (Res. No. 46, 6–4–2017.)

ARTICLE VIII Administration

Section 801. City Administrator.

The Council shall appoint a City Administrator whose compensation shall be set by the Council. The City Administrator shall work under the general direction of the Council and be responsible for the day-to-day operations of the City and carry out the policies determined and approved by the Council. The City Administrator shall exercise general supervision over City employees, the heads of all departments, agencies, and offices of the City and shall report directly to the Council. The City Administrator shall perform such other duties as may be prescribed by this Charter or as may be required by the Council provided they are not inconsistent with this Charter. (Res. No. 36, 9-3-04; Res. No. 48, 10-6-2017.)

Section 802. Director of Finance.

(A) The Council shall appoint a Director of Finance. Compensation for the position of Director of Finance shall be determined by the Council.

(B) The City Administrator shall serve at the pleasure of the Council. (Res. No. 36, 9-3-04; Res. No. 48, 10-6-2017.)

Section 803. City Attorney.

The Council shall retain the services of an attorney or a law firm engaged in private practice in Allegany County and licensed under the laws of the State of Maryland to provide legal services to the City. The attorney or law firm shall be retained on a contractual basis and shall be considered to be the "City Attorney". The Council shall have the power to retain other attorneys/law firms on a contractual basis for specialized needs as they arise from time to time. (Res. No. 36, 9-3-04; Res. No. 40, 4-4-2011; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 804. Director of Public Works and Community Development Director.

The Council is authorized to employ a Director of Public Works and a Community Development Director. (Res. No. 36, 9-3-04; Res. No. 48, 10-6-2017.)

Section 805. Appointment of Officers and Employees.

The Council shall have the power, subject to the provisions of this subheading, to appoint such officers and employees as it deems necessary to execute the powers and duties provided by this Charter and to operate the City government. The Council shall adopt and maintain a personnel policy to set forth the rule and regulations pertaining to employment with the City. (Res. No. 48, 10-6-2017.)

Section 806. Salaries of Officers and Employees.

The Council shall fix the salaries of all officers and employees of the City. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 807. Commissioners.

The Council shall have control and supervision over all offices, departments, and agencies of the City government. The Council shall have the power to make and enforce such rules and regulations and it deems necessary concerning the organization, management, and operation of the offices, departments and agencies of the City government.

The voters shall elect the following four (4) Councilmembers:

(A) Commissioner of Public Safety. The Commissioner of Public Safety shall have supervisory responsibility for the following:

- (1) Police Department
- (2) Fire Department
- (3) Electric lights
- (4) Fire alarm system

(B) Commissioner of Public Works. The Commissioner of Public Works shall have supervisory responsibility for the following:

- (1) Street Department
- (2) Sewer/sanitation
- (3) Public properties

(C) Commissioner of Finance. The Commissioner of Finance shall have supervisory responsibility for the following:

- (1) Finance Department
- (2) Community Development Department
- (3) Budget process
- (4) Personnel process

(D) Commissioner of Water, Parks, and Recreation. The Commissioner of Water,

Parks, and Recreation shall have supervisory responsibility for the following:

- (1) Filtration plant
- (2) Distribution system
- (3) Piney Watershed
- (4) Recreation Department. (Res. No. 36, 9-3-04; Res. No. 41, 8-5-2012; Res. No. 48, 10-6-2017.)

Section 808. Civil Service Commission.

(A) There shall be a Civil Service Commission consisting of five (5) members appointed by the Council for five-year, overlapping terms. On or before the first day in June, and on or before the same day every year thereafter, the Council shall appoint one (1) person as a member of the Civil Service Commission for a five-year term to succeed the member whose term expires. Members of the Civil Service Commission may be removed by the Council after reasonable notice and hearing. The compensation of members of the Commission shall be determined by the Council.

(B) *Qualifications.* All members of the Civil Service Commission must have resided in the City for at least two (2) years preceding their appointment to the Commission. No member of the Commission shall hold or be a candidate for any City public elective office nor be employed by the City in any manner.

(C) *Procedure.* The Chairperson of the Commission shall be determined by the members of the Commission. Three (3) members of the Commission shall constitute a quorum for the transaction of business. The Commission may determine its own rules of procedure in accordance with the provisions of this Charter.

(D) *Vacancies.* In case of a vacancy on the Civil Service Commission for any reason, the Council shall appoint some qualified person for the remainder of the unexpired term. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 809. Classified and Unclassified Service.

(A) *Division.* The civil service of the City shall be divided into the unclassified and the classified service.

(B) *Unclassified Service.* The unclassified service shall be comprised of the following offices and positions:

1. The Mayor, the Councilmembers, and other elective officers and persons appointed to fill vacancies in elective offices.
2. The City Administrator and the City Attorney.

3. Members of boards and commissions in the City's service.

4. Persons employed to make or conduct a special inquiry, investigation, examination, or installation, if the Council certifies that such employment is temporary, and that the work should not be performed by employees in the classified service.

5. All department heads: that is, Chief of Police, Director of Finance, Community Development Director, Superintendent of Streets, Superintendent of Water Distribution, Water Filtration Plant Superintendent and Recreation Director.

6. Director of Public Works.

7. Such contractual employees as may be deemed necessary by the Mayor and Council to serve in unclassified positions at their pleasure pursuant to the terms of such contract or contracts as they may approve.

(C) *Classified Service.* The classified service shall be comprised of full-time employees of the City not included above. (Res. No. 31, 10-28-82; Res. No. 3, 3-24-87; Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.) (See Note (2))

Section 810. City Service.

The Civil Service Commission shall prepare a set of rules and regulations governing the City service. Before becoming effective, these rules shall be submitted to the Council for its approval and may be changed or modified in any manner the Council finds necessary before approving them. The Council, on the recommendation of the Civil Service Commission, may amend these rules and regulations from time to time as it finds necessary. Among other things these rules shall make provision for the following:

(A) Administration of competitive examinations to determine the qualification of applicants for certain classified positions in the City service.

(B) Establishment of the length of probation periods. (Res. No. 36, 9-3-04; Res. No. 48, 10-6-2017.)

Section 811. Retirement.

The City is authorized to affiliate with the Maryland Pension Plan. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

Section 812. Prohibited Acts.

No person in the classified service of the City or seeking admission thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of his or her political or religious opinions or affiliations. No person shall willfully or corruptly

make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment held or made under the personnel provisions of this Charter or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No person seeking appointment to or promotion in the classified service of the City shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with his or her test, appointment, promotion, or proposed promotion. (Res. No. 36, 9-3-04; Res. No. 46, 6-4-2017; Res. No. 48, 10-6-2017.)

ARTICLE IX

Public Ways and Sidewalks

Section 901. Definition of Public Ways.

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

Section 902. Control of Public Ways.

The City shall have control of all the public ways of the City except those under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the City may do whatever it deems necessary to establish, operate, maintain in good condition, close, or otherwise regulate the use of the public ways of the City. (Res. No. 46, 6-4-2017.)

Section 903. Public Ways; Powers.

The City shall have the power:

- a. To establish, regulate, and change from time to time the grade lines, width, and construction materials of any City public way or part thereof, bridges, curbs, and gutters.
- b. To grade, lay out, open, extend, and make new city public ways.
- c. To grade, straighten, widen, alter, improve or close up any existing City public way or part thereof, subject to due notice and a right to a hearing for the several property owners to be affected by any such proposed change.
- d. To pave, surface, repave, or resurface any City public way or part thereof.
- e. To install, construct, repair, and maintain curbs and/or gutters along any public way or part thereof.
- f. To name City public ways.

g. To have surveys, plans, specifications, and estimates made for any of the above activities, projects, and parts thereof.

h. To assess the cost, in whole or in part, of any projects provided by this section on the abutting property in the manner provided in Section 1102 of this Charter. (Res. No. 46, 6-4-2017.)

Section 904. Sidewalks.

The City of Frostburg shall have the power:

a. To establish, regulate and change from time to time the grade lines, width, and construction materials of any sidewalk or gutter or part thereof.

b. To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter the sidewalks along any public way or part thereof.

c. To assess the cost of any projects under this section on the abutting property in the manner provided in Section 1102 of this Charter.

Section 905. Work Done By Property Owner.

The City shall have the power to require and order the owner of any property abutting on any public way to perform any projects under Section 904 b and c of this Charter at the owner's expense according to reasonable plans and specifications. If, after due notice and hearing, the owner fails to comply with the order within a reasonable time, the City may do the work and the expense shall be lien on the property and shall be collectible in the same manner as are City taxes. (Res. No. 46, 6-4-2017.)

Section 906. Acquisition of Property.

For the purpose of carrying out any of the work or projects provided for in this subheading, the City shall have the power to purchase or condemn any property it deems necessary as hereinafter provided. Any of these projects shall be considered as public improvements within the meaning of Section 1203 of this Charter. Any condemnation proceedings shall be carried on in accordance with Section 1203 of this Charter.

Section 907. Construction, Bids, and Contracts.

The City, through the City Administrator, may advertise for sealed bids for any construction projects on public ways; sidewalks, curbs, gutters, or other projects undertaken under the provisions of this subheading. Bids may be sought for the work as a whole or in parts. The contract shall be let to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered, and all contracts shall be approved by the Council. If the Council feels that all the bids are unreasonable, it may readvertise. The City at any time in its discretion may employ its own forces for the construction

of projects undertaken under the provisions of this subheading without advertising for or readvertising for or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the City may require. (Res. No. 46, 6-4-2017.)

Section 908. Powers Relative to Closing Public Ways.

The Council shall have power to ascertain whether any and what amount in value of damage will be caused by the closure of a public way, for which the owner or possessor of any property through which said public way may pass, ought to be compensated; to provide for assessing and levying, either generally on the whole, assessable property with the City or specifically on the property of persons benefited, the whole or any part of the damages and expenses which will be incurred in closing such public way, or parts thereof; to provide for collecting and paying the compensation awarded to any person before any such public way, or part thereof, shall be closed; to enact all ordinances from time to time necessary or proper to the exercise of the powers granted in this section, provided that before they shall proceed to execute any of the powers granted in this section, provided that before they shall proceed to execute any of the powers vested in them by this section, at least ten (10) days' written notice shall be given to each property holder who is reasonably expected to be affected by the passage of the ordinance before the ordinance is passed, said notice to state the time and place named for the passing of said ordinance. (Res. No. 38, 9-7-07; Res. No. 46, 6-4-2017.)

Section 909. Reversion of Title to Land When Streets Closed.

In the event any public way or parts thereof within the City shall be or have been closed under the provisions of Section 908, said portions, if previously dedicated as public ways, shall vest in the persons or corporations owning the property on each side thereof in equal proportions according to the length or breadth of such land as the same may border thereon, and as the titles to such bordering lands may be held by the said owners thereof respectively. If any portion of said public way so closed shall have been acquired by the Council either by purchase or pursuant to said Section 908, then in that event the title thereto shall, upon the closing of said public way, become vested in the Council. (Res. No. 38, 9-7-07; Res. No. 46, 6-4-2017.)

Section 910. Appeals to Circuit Court.

Any person who shall feel aggrieved by the decision of the Council to close such public ways, as to the amount of damages allowed him or her, or benefits assessed against him or her, shall have the right to appeal to the Circuit Court for Allegany County, Maryland, said appeal to be docketed no later than thirty (30) days from the date of the said decision. (Res. No. 38, 9-7-07; Res. No. 46, 6-4-2017.)

ARTICLE X
Water, Sewers, and Miscellaneous Public Works

Section 1001. Powers.

The City shall have the power:

- a. To construct, operate and maintain a water system and water plant.
- b. To construct and operate a sanitary sewerage system, a sewage treatment plant, and/or storm water sewers.
- c. To construct, operate, and maintain a system of refuse collection and disposal.
- d. To install, operate, and maintain fire plugs wherever it deems them necessary.
- e. To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above systems and plants.
- f. To have surveys, plans, specifications, and estimates made for any of the above plants or systems or parts thereof or the extension thereof.
- g. To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (Res. No. 46, 6–9–2017.)

Section 1002. Construction, Bids and Contracts.

The City, through the City Administrator, may advertise for sealed bids for any construction undertaken under Section 1001 a, b, c, d, or e. Bids may be sought for the work as a whole or in parts. The contract shall be let to the bidder who offers the lowest bid or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered, and all contracts shall be approved by the Council. If the Council feels that all the bids are unreasonable, it may readvertise. The City at any time in its discretion may employ its own forces for the construction of projects undertaken under Section 1001 a, b, c, d, or e, without advertising for or readvertising for or receiving bids. All written contracts may be protected by such bonds, penalties, and condition as the City may require. (Res. No. 46, 6–9–2017.)

Section 1003. Entry Upon Public Ways.

The City may enter upon or do construction on any County public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, sanitary sewerage system, sewage treatment plant, or storm water sewers provided for in this Charter. The City need not obtain any permit or pay any charge for these operations, but it must notify the County of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. When the City desires to enter on any State highway for the purposes aforesaid, it must first obtain permission from the Department of Transportation as outlined in Section 8–646 of the Transportation Article of the Annotated Code of Maryland. (Res. No. 46, 6–4–2017.)

Section 1004. Obstructions.

All individuals, firms, or corporations, before beginning any construction or placing or changing the location of any main, conduit, pipe, or other structure in the public ways of the City, shall submit plans to the Council and obtain its approval. All individuals, firms, or corporations having mains, conduits, pipes, or other structures in or over any public way in the City or Allegany County which impede the establishment, construction, or operation of any City water or sewer main shall, upon reasonable notice, remove or adjust the obstructions to the satisfaction of the Council. If necessary, to carry out the provisions of this section, the City may use its condemnation powers provided in Section 1203 to remove the obstructions. Any violation of the provisions of this section shall be a misdemeanor. (Res. No. 46, 6-4-2017.)

Section 1005. Acquisition of Property.

The City shall have the power to acquire by gift, purchase, lease, or condemnation any land, improvement, rights-of-way, sources of water, or other property of any kind or interest therein or franchise connected therewith within Allegany County or Garrett County, either in fee or as an easement, for the purpose of establishing, operating, extending or maintaining a water system, water plant, sanitary sewerage system, sewage treatment plant, storm water sewers or for the purpose of obtaining sites for new industrial development, or any other public improvement. Any condemnation proceedings under this section shall be carried on in accordance with the provisions of Section 1203 of this Charter, and the activities mentioned in this section shall be considered as public improvements. (Res. No. 46, 6-4-2017.)

Section 1006. Connections.

The City shall provide a connection, either free or at cost, as the Council may decide, with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or sewer main. The City may require that, if it deems existing fixtures are unsatisfactory, satisfactory ones be installed and may require that all cesspools, sink drains, and privies be abandoned and left in such a way as not to injure public health. All wells found to be polluted or a menace to health shall be abandoned and closed. Any violation of the provisions of this section shall be a misdemeanor. (Res. No. 46, 6-4-2017.)

Section 1007. Construction of Private Systems.

No water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, without the written consent of the Director of Public Works and under rules prescribed by the Council. Any violation of the provisions of this section shall be a misdemeanor.

Section 1008. Pollution of Water Supply.

No person shall do anything which will discolor, pollute, or tend to pollute any water used or to be used in the City water supply system. Any violation of the provisions of this section shall be a misdemeanor.

Section 1009. Extension Beyond Boundaries.

The City shall have the power to extend its water or sewerage systems beyond the taxable corporate limits of the City. The City may provide for charges for services outside the City which may be different from the rates charged within the City. (Res. No. 46, 6-4-2017.)

Section 1010. Financing Construction and Operation.

For the purpose of financing and paying for the construction, operation, maintenance, and repair of the water supply system, water plant, sanitary sewerage system, sewage treatment plant, storm water sewers, and any other improvements provided for under the provisions of this subheading, the City shall have the power:

- a. To assess the cost of water, sewer, or storm water mains or any part thereof on the property abutting on the water, sewer, and storm water mains in accordance with Section 1102 of this Charter.
- b. To charge and collect such service rates, water rents, or other charges as may be necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the Director of Finance and, if water bills are uncollected within thirty (30) days, the water may be turned off. All charges shall be a lien on the property, collectible in the same manner as City taxes. (Res. No. 46, 6-4-2017.)

ARTICLE XI

Special Assessment Procedure

Section 1101. Powers.

The City shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the construction or installation of water mains, sewer mains, public ways, sidewalks, curbs, gutters, and storm water sewers, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. (Res. No. 46, 6-4-2017.)

Section 1102. Procedure.

- a. *Specified.* The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

b. *Front Foot Rule.* The cost of the work being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council. The cost of paving any public way shall be borne by the abutting property owners.

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

d. *Hearing.* Before any charge is levied, it shall be ratified by the Council. The City Administrator shall cause notice to be given stating the nature of the proposed project or improvement and the place and time at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed special assessment. Such notice shall be given by publication of a copy of the notice at least once a week for three (3) successive weeks in a newspaper of general circulation in the City. The hearing shall be held at least ten (10) but no more than thirty (30) days after the publication of the notice. The City Administrator shall present the Council with a certificate of publication at the hearing, which certificate shall serve as proof of the notice given.

e. *Appeals.* Any interested person feeling aggrieved by the ratification of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Allegany County within ten (10) days after the final ratification of any assessment by the Council.

f. *Charges to be Liens.* All charges remaining unpaid after a reasonable period, to be determined by the Council, shall become liens on the property and shall be collectible in the same manner as City taxes. No special assessment shall be considered to be included under the tax limitation for the general operating purposes of the City.

g. *Payments.* Special assessment may be made payable in annual or more frequent installments over such period of time and in such manner as the Council may decide.

h. *Billings.* All special assessments levied under this section shall be billed and collected by the City Administrator. (Res. No. 42, 5–5–2017; Res. No. 46, 6–4–2017; Res. No. 50, 12–7–2018.)

ARTICLE XII

Property

Section 1201. Vested in City.

All municipal property, franchises, and funds of every kind belonging to or in the possession of the City at the same time this Charter becomes effective are vested in the City, subject to the terms and conditions thereof. (Res. No. 46, 6–4–2017.)

Section 1202. Acquiring; Conveying.

The City may buy or accept as a gift any property it deems necessary for any public or municipal purpose, and may sell, lease, or otherwise dispose of any property belonging to the City. The City's sale of any of its real or leasehold property must be preceded by twenty (20) days' public notice and is conditioned upon the Council's determination that the property is no longer needed for public use. (Res. No. 43, 5-5-2017; Res. No. 46, 6-4-2017; Res. No. 50, 12-7-2018.)

Section 1203. Condemnation Powers.

The City shall have the power to condemn property of any kind, or interest therein, or franchise connected therewith, in fee or as an easement, within the corporate limits of the city, for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other State law applicable to the City shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established by State law. (Res. No. 46, 6-4-2017.)

Section 1204. Care of Property.

The City shall have the power to do whatever may be necessary to protect City property and to keep all City property in good condition. (Res. No. 46, 6-4-2017.)

Section 1205. Industrial Development.

In order to encourage industrial development in the City, it shall have the power to purchase property and to construct or reconstruct buildings or other structures to be used by manufacturing companies agreeing to locate in Frostburg. The City shall enter into an agreement with any such manufacturing company which shall provide that the company shall purchase the land and buildings and structures by means of installment payments over a period of years not to exceed twenty-five. Until the entire purchase price has been received by the City, the land, buildings, and structures shall remain the property of the City. For the purposes only of this section, the City shall have the power to issue bonds or other certificates of indebtedness, subject in each instance to receiving the prior approval of the voters of the City in a referendum vote. (Res. No. 46, 6-4-2017.)

ARTICLE XIII

General Provisions

Section 1301. Oath of Office.

Before entering upon the duties of their offices, the Mayor, the Councilmembers, the Members of the Board of Elections, and such other officers and employees of the City as the Council may require, shall take and subscribe to the following oath or affirmation: "I, _____, do swear (or affirm as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State

of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____, according to the Constitution and Laws of this State.” The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Allegany County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor. A certificate of each oath shall be returned to the Council and shall be recorded in the minutes of the Council. (Res. No. 46, 6-4-2017.)

Section 1302. Surety Bonds.

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

Section 1303. Prior Rights and Obligations.

All right, title, and interest held by the City or any other person or corporation, at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the City, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeding with, and prosecuted to final determination and judgment as if this Charter had not become effective, with the right in the Council to settle, compromise or adjust any outstanding claims due the City. (Res. No. 46, 6-4-2017.)

Section 1304. Existing Ordinances and Rules.

All ordinances, resolutions, rules, and regulations in effect at the time this Charter becomes effective and which are not in conflict with the provisions of this Charter, shall remain in effect until amended, altered, or repealed according to the provisions of this Charter.

Section 1305. Reserved. (Res. No. 50, 12-7-2018).

Section 1306. General Penalty Provisions.

Unless otherwise explicitly provided, a violation of a City ordinance shall be a misdemeanor.

(a) 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 court of the State of Maryland.

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

(c) 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. (Res. No. 46, 6-4-2017.)

Section 1307. Municipal Infractions.

(a) The Council may declare that a violation of a City ordinance shall be a municipal infraction, unless that violation is declared to be a criminal offense 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. (Res. No. 45, 5-5-2017; Res. No. 46, 6-4-2017; Res. No. 50, 12-7-2018.)

Section 1308. Inconsistent Laws.

All acts and parts of acts, general or local, inconsistent with the provisions of this Charter, shall be and the same hereby are repealed to the extent of such inconsistency. Nothing contained herein shall affect or restrict any control which the State Board of Health is empowered by law to exercise in any part of this State.

Section 1309. Saving Clause.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the City shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the City shall have all powers, rights, and privileges now or hereafter granted by the Constitution and Laws of the State of Maryland.

Section 1310. Separability Clause.

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

APPENDIX I

Urban Renewal Authority for Slum Clearance

(See Note (3))

Section A1-101. Definitions.

- (a) In this appendix the following words have the meanings indicated.
- (b) “Federal Government” shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (c) “Slum Area” shall mean any area where dwellings predominate which, by reason of depreciation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to the public safety, health or morals.
- (d) “Blighted Area” shall mean an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.
- (e) “Urban Renewal Project” shall mean undertakings and activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include —
 - (1) acquisition of a slum area or a blighted area or portion thereof;
 - (2) demolition and removal of buildings and improvements;
 - (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this appendix in accordance with the urban renewal plan;
 - (4) disposition of any property acquired in the urban renewal area including sale, initial leasing or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan;
 - (5) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;
 - (6) acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and

(7) the preservation, improvement or embellishment of historic structures or monuments.

(f) “Urban Renewal Area” shall mean a slum area or a blighted area or a combination thereof which the municipality designates as appropriate for an urban renewal project.

(g) “Urban Renewal Plan” shall mean a plan, as it exists from time to time, for an urban renewal project, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum density and building requirements.

(h) “Bonds” shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(i) “Person” shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in similar representative capacity.

(j) “Municipality” shall mean the City of Frostburg, a municipal corporation of this State. (Ch. 40, 1965)

Section A1-102. Powers.

The municipality is hereby authorized and empowered to carry out urban renewal projects which shall be limited to slum clearance in slum or blighted areas and redevelopment or the rehabilitation of slum or blighted areas; to acquire in connection with such projects, within the corporate limits of the municipality, land and property of every kind and any right, interest, franchise, easement or privilege herein, including land or property and any right or interest therein already devoted to public use, by purchase, lease, gift, condemnation or any other legal means; to sell, lease, convey, transfer or otherwise dispose of any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity. No land or property taken by the municipality for any of the aforementioned purposes or in connection with the exercise of any of the powers which by this appendix are granted to the municipality by exercising the power of eminent domain shall be taken without just compensation, as agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation. All land or property needed or taken by the exercise of the power of eminent domain by the municipality for any of the aforementioned purposes or in connection with the exercise of any of the powers granted by this appendix is hereby declared to be needed or taken for public uses and purposes. Any or all of the activities authorized pursuant to this section shall constitute governmental functions undertaken for public uses and purposes and the power of taxation may be exercised, public funds expended and public credit extended in furtherance thereof. The municipality is hereby granted the following additional powers which are hereby found and declared to be

necessary and proper to carry into full force and effect the specific powers hereinbefore granted and to fully accomplish the purposes and objects contemplated by the provisions of this section.

(a) to make or have made all surveys and plans necessary to the carrying out of the purposes of this appendix and to adopt or approve, modify and amend such plans, which plans may include but shall not be limited to: (1) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (2) plans for the enforcement of codes and ordinance relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (3) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes;

(b) to prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government;

(c) to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this appendix, and to levy taxes and assessments for such purposes; to borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public bodies, or from any source, public or private, for the purposes of this appendix, and to give such security as may be required therefor; to invest any urban renewal funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds.

(d) to hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to mortgage, pledge, hypothecate or otherwise encumber such property; to insure or provide for the insurance of such property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance;

(e) to make and execute all contracts and other instruments necessary or convenient to the exercise of its powers under this appendix, including the power to enter into agreement with other public bodies or agencies (which agreements may extend over any period, notwithstanding any provisions or rule of law to the contrary), and to include in any contract for financial assistance with the Federal Government for or with respect to an urban renewal project and related activities such conditions imposed pursuant to Federal laws as the municipality may deem reasonable and appropriate;

(f) to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from the Circuit Court for the county in which the municipality is situated in the event entry is denied or resisted;

(g) to plan, replan, install, construct, reconstruct, repair, close or vacate streets, roads, sidewalks, public utilities, parks, playgrounds and other public improvements in connection with an urban renewal project; and to make exceptions from building regulations;

(h) to generally organize, coordinate and direct the administration of the provisions of this appendix as they apply to such municipality in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved;

(i) to exercise all or any part or combination of powers herein granted.

Section A1-103. Establishment of Urban Renewal Agency.

The municipality may itself exercise all the powers granted by this appendix, or may, if its legislative body by ordinance determines such action to be in the public interest elect to have such powers exercised by separate public body or agency as hereinafter provided. In the event said legislative body makes such determination, it shall proceed by ordinance to establish a public body or agency to undertake in the municipality the activities authorized by this appendix. Such ordinance shall include provisions establishing the number of members of such public body or agency, the manner of their appointment and removal, the terms of said members and their compensation. The ordinance may include such additional provisions relating to the organization of said public body or agency as may be necessary. In the event the legislative body enacts such an ordinance, all of the powers by this appendix granted to the municipality shall, from the effective date of said ordinance, be vested in the public body or agency thereby established, except:

(a) The power to pass a resolution to initiate an urban renewal project pursuant to Section A1-104 of this appendix.

(b) The power to issue general obligation bonds pursuant to Section A1-109 of this appendix.

(c) The power to appropriate funds, and to levy taxes and assessments pursuant to Section A1-102(c) of this appendix. (Ch. 152, 1963.)

Section A1-104. Initiation of Project.

In order to initiate an urban renewal project, the legislative body of the municipality shall adopt a resolution which

(a) finds that one or more slum or blighted areas exist in such municipality;

(b) locates and defines the said slum or blighted areas; and

(c) finds that the rehabilitation, redevelopment, or a combination thereof, of such area or areas, is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

Section A1-105. Preparation and Approval of Plan for Urban Renewal Project.

The municipality, in order to carry out the purposes of this appendix, shall prepare or cause to be prepared an urban renewal plan for slum or blighted areas in the municipality, and shall formally approve such plan. Prior to its approval of an urban renewal project, the municipality shall submit such plan to the planning body of the municipality, for review and recommendations as its conformity with the master plan for the development of the municipality as a whole. The planning body shall submit its written recommendation with respect to the proposed urban renewal plan to the municipality within sixty days after receipt of the plan for review; upon receipt of the recommendations of the planning body or, if no recommendations are received within said sixty days, then without such recommendations, the municipality may proceed with a public hearing on the proposed urban renewal project. The municipality shall hold a public hearing on an urban renewal project after public notice thereof by publication in a newspaper having a general circulation within the corporate limits of the municipality. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration. Following such hearing, the municipality may approve an urban renewal project and the plan therefor if it finds that: (1) a feasible method exists for the location of any families who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan substantially conforms to the master plan of the municipality as a whole; and (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

An urban renewal plan may be modified at any time, provided that if modified after the lease or sale of real property in the urban renewal project area, the modification may be conditioned upon such approval of the owner, lessee or successor in interest as the municipality may deem advisable and in any event shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert. Where the proposed modification will substantially change the urban renewal plan as previously approved by the municipality, the modification shall be formally approved by the municipality, as in the case of an original plan.

Upon the approval by the municipality of an urban renewal plan or of any modification thereof, such plan or modification shall be deemed to be in full force and effect for the respective urban renewal area and the municipality may then cause such plan or modification to be carried out in accordance with its terms.

Section A1-106. Disposal of Property in Urban Renewal Area.

(a) The municipality may sell, lease or otherwise transfer real property or any interest therein acquired for it by an urban renewal project, for residential, recreational, commercial,

industrial, educational or other uses for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this appendix. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with [the] urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, the municipality shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee by the municipality retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The municipality in any instrument of conveyance to private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any or all improvements which he has obligated himself to construct thereon. Real property acquired by the municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the municipality may determine) may be recorded in the Land Records of the county in which the municipality is situated in such manner as to afford actual or constructive notice thereof.

(b) The municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. The municipality may, by public notice by publication in a newspaper having a general circulation in the community (not less than sixty days prior to the execution of any contract to sell, lease or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section) invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that proposals shall be made by those interested within a specified period of not less than sixty days after the first date of publication of said notice, and that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out, and may negotiate with any persons for proposals for the purchase, lease or other transfer of any real property acquired by the municipality in the urban renewal area. The municipality may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this appendix. Thereafter, the municipality may execute and deliver contracts, deeds, leases and other instruments and take all steps necessary to effectuate such transfers.

(c) The municipality may temporarily operate and maintain real property acquired by it in an urban renewal area for or in connection with an urban renewal project pending the disposition of the property as authorized in this appendix, without regard to the provisions of subsection (a) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(d) Any instrument executed by the municipality and purporting to convey any right, title or interest in any property under this appendix shall be conclusively presumed to have been executed in compliance with the provisions of this appendix insofar as title or other interest of any bona fide purchaser, lessees or transferees of such property is concerned.

Section A1-107. Eminent Domain.

Condemnation of land or property under the provisions of this appendix shall be in accordance with the procedure provided in the Real Property Article of the Annotated Code of Maryland.

Section A1-108. Encouragement of Private Enterprise.

The municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this appendix, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of any urban renewal area by private enterprise. The municipality shall give consideration to this objective in exercising its powers under this appendix.

Section A1-109. General Obligation Bonds.

For the purpose of financing and carrying out of an urban renewal project and related activities, the municipality may issue and sell its general obligation bonds. Any bonds issued by the municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by applicable law for the issuance and authorization of general obligation bonds by such municipality, and also within such limitations as shall be determined by said municipality.

Section A1-110. Revenue Bonds.

In addition to the authority conferred by Section A1-109 of this appendix, the municipality shall have the power to issue revenue bonds to finance the undertaking of any urban renewal project and related activities, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this appendix: Provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the municipality under this appendix, and by a mortgage of any such urban [renewal] projects, or any part thereof, title to which is in the municipality. In addition, the municipality may enter into an Indenture of Trust

with any private banking institution of this State having trust powers and may make in such indenture of trust such covenants and commitments as may be required by any purchaser for the adequate security of said bonds.

(1) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds, and are hereby specifically exempted from the restrictions contained in Sections 9, 10 and 11 of Article 31 of the Annotated Code of Maryland (1957 Edition, as amended). Bonds issued under the provisions of this appendix are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(2) Bonds issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality and may be issued in one or more series and shall bear such date or dates, shall mature at such time or times, bear interest at such rate or rates, not exceeding six percentum per annum, be in such denomination or denominations, be in such form either with or without coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium or payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(3) Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area in which the municipality is located and in such other medium of publication as the municipality may determine or may be exchanged for other bonds on the basis of par: Provided, that such bonds may be sold to the Federal Government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.

(4) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this appendix shall cease to be such officials before the delivery of such bond or, in the event any such officials shall have become such after the date of issue thereof, said bonds shall nevertheless be valid and binding obligations of said municipality in accordance with their terms. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this appendix shall be fully negotiable.

(5) In any suit, action or proceeding involving the validity or enforceability of any bond issued under this appendix or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this appendix.

(6) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, monies, or other funds belonging to them or within their control in any bonds or other obligations issued by the municipality pursuant to this appendix, provided that such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government [Government] and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of principal and interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities. (Ch. 152, 1963)

Section A1-111. Separability.

If any provision of this appendix, or the application thereof to any person or circumstances, is held invalid, the remainder of the appendix and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. The powers conferred by this appendix shall be in addition and supplemental to the powers conferred by any other law.

Section A1-112. Short Title.

This appendix shall be known and may be cited as the Frostburg Urban Renewal Authority for Slum Clearance Act.

Section A1-113. Authority to Amend or Repeal.

This appendix, enacted pursuant to Article III, Section 61 of the Constitution of Maryland, may be amended or repealed only by the General Assembly of Maryland.

APPENDIX II

Residential Development Incentive Program

Section A2–101. Purpose.

The Residential Development Incentive Program is established to incentivize larger scale residential development in the City by means of the real estate tax set–aside described in this appendix.

Section A2–102. Definitions.

As used in this appendix, the following terms shall have the meanings indicated:

County RETSA. The real estate tax–set aside adopted by Allegany County, Maryland, if applicable.

Development agreement. A formal agreement outlining the terms and conditions of the program described in this appendix as made applicable to a particular project which identifies specific parties of interest and sets forth details pertaining the administration of tax funds which are set aside, reporting requirements pertaining to such funds, and such other matters as are required by or consistent with the terms of this appendix.

Public infrastructure. The streets, water and sewer treatment facilities, water and sewer distribution systems, sidewalks, storm water management facilities, lighting, curbs and gutters that are dedicated to the City.

Owner. A person, corporation or entity owning real property in the City.

Program. The residential development incentive program described in this appendix.

RETSA. The real estate tax set–aside described in Section A2–103.

Section A2–103. RETSA requirements.

A. *RETSA.* There shall be authorized a real estate tax set–aside on City real property taxes for properties meeting the qualifications contained herein.

1. *Percentage.* For an approved project, the City will enter into a development agreement with an owner which will provide for a real estate tax set–aside consisting of 75% of the actual taxes collected on account of the increase in assessments over the assessments for the tax year prior to the date of the development agreement.

2. *Duration; start date deferral.* An owner may opt to proceed under one of the following alternatives, subject to the approval of the Council as provided for hereinafter.

a. *Alternative A.* The real estate tax set-aside shall be applied over a continuous ten (10) year period commencing on July 1 of the tax year immediately following the date of the development agreement; provided, however, that the start date may be deferred up to five (5) years if such a request is approved by the Council.

b. *Alternative B.* As to each subdivided parcel, the real-estate tax set-aside shall be applied over a continuous ten (10) year period commencing on July 1 of the tax year immediately following the date of the issuance of an occupancy permit for that parcel (thereby deferring the start date of the real estate tax set-aside accordingly); provided however, that no taxes shall be set aside after the June 30 following the twenty-fifth anniversary of the development agreement.

c. *Council approval.* In making determinations relative to the approval of deferral requests, the Council shall consider the financial effect deferral may have on City finances and such other factors as the Council deems relevant.

3. *Limitation on amount.* The amount of the RETSA and County RETSA shall not exceed the actual cost of the public infrastructure.

B. *RETSA payees.* The proceeds from the RETSA shall be paid to an owner, developer, third-party lender, investor, or trustee, consistent with the terms of a development agreement.

C. *Segregation of funds.* RETSA funds shall be set aside by the City to be used exclusively for the payment of public infrastructure costs incurred by the owner and/or the payment of debt the owner incurred to finance the construction of the public infrastructure.

D. *Eligibility requirements & conditions.* Eligibility for program benefits shall be subject to the following requirements and conditions:

1. A special taxing district may be established by the Council prior to the disbursement of funds.

2. Only residential properties in an approved subdivision shall be eligible for a RETSA.

3. Disbursement of RETSA funds shall be contingent upon compliance with the City's Subdivision and Land Development Regulations and its Zoning Ordinance, as they may be amended from time to time.

4. Program benefits shall be available to owners who have entered into development agreements subsequent to the effective date of this appendix through June 30, 2020.

5. The Council may establish regulations that define the minimum number of newly created building lots for the application of a RETSA, provided, however, that the minimum number of such lots may not be less than ten (10).

6. An owner who has entered into a development agreement under this appendix shall not be eligible to receive other real estate tax relief or tax credit benefits offered by or through the City as to the project which is the subject of the development agreement.

7. The City shall not guarantee any indebtedness incurred by an owner to support the development of public infrastructure.

8. An owner desiring a development agreement must provide the City with a detailed engineering cost estimate, verified by an independent Maryland-licensed engineer, for all public infrastructure required for the development. (Res. No. 49, 11-9-2018.)

Section A2-104. Application Process; Approval; Compliance Requirements.

A. *Application.* Any owner desiring a RETSA shall submit a letter of interest to the Council. The letter shall be accompanied by documents, drawings and other materials that detail the location of the proposed development, the number and type of residential units to be developed and details of the ownership of the development entity.

B. *Approval.* The City will assess each proposal for program benefits separately. The Council will consider the following factors in determining whether and under what conditions a development agreement should be entered into: (i) the project's financial viability; (ii) its consistency with the City's Comprehensive Plan; (iii) the extent to which current market conditions and area demographics are expected to benefit the project; (iv) the extent to which the real estate tax revenue the City expects to collect and keep will cover the City's projected operating expenses for the project area; (v) the impact the project is expected to have on the City's financial condition; (vi) the extent to which the owner or any entity owned by the owner complied with the terms of permits issued by the City, City programs and applicable law regarding other projects and the efforts the City was required to make in order to procure such compliance; and (vii) such other factors as the Council deems relevant.

C. *Reports.* All development agreements shall include the following provisions pertaining to annual and final reports.

1. *Annual reports.* On or before July 15 of each year following the date of the entry into an development agreement, an owner shall provide the City with an annual report on a form approved by the City which contains (i) a list of all properties subject to the development agreement and the status thereof (i.e., sold or unsold, developed or undeveloped), (ii) a statement setting forth the costs of the public infrastructure incurred during the preceding fiscal year and in the aggregate since the beginning of the development of the subject property, (iii) a itemization of the amount of the RETSA funds and County RETSA funds the owner received during the preceding fiscal year and in the aggregate since the beginning of the development of the subject property, (iv) a statement describing the completed work on the public infrastructure and the work yet to be completed, and (v) a statement describing the completed work on the privately-owned infrastructure which is expected to tie into or affect or actually ties into or affects the public infrastructure.

2. *Final report.* Upon completion of the public infrastructure, the owner shall cause a certified public accountant registered to practice in the State of Maryland to prepare a final accounting of the total cost of the public infrastructure, including all amounts paid or reimbursed from RETSA and County RETSA funds. If the accounting shows that the total cost of the public infrastructure exceeds the total amount of the RETSA and County RETSA funds paid, the City shall have no further obligation to pay out additional RETSA funds. If the final accounting shows that the total cost of the public infrastructure is less than the total amount of the RETSA and County RETSA funds paid, then any unexpended RETSA funds shall be retained by the City without any further obligation on its part to set aside any taxes collected. The Owner shall refund any overpayment to the City no more than sixty (60) days from the date of the submission of the final report. A final annual report shall be submitted contemporaneously with the final report.

D. *Disbursements.* The City shall disburse RETSA funds annually, within sixty (60) days of the date of the submission of an annual report. The City shall disburse any remaining RETSA funds eligible for disbursement within sixty (60) days of the date of the submission of a final report. An owner who is in default under the terms of a development agreement shall not be eligible to receive disbursements of RETSA funds.

E. *Conveyance of public infrastructure.* Development agreements shall require owners to convey all public infrastructure to the City along with all required easements, rights of way and other rights necessary for the City to maintain and repair the public infrastructure after its conveyance is effected, said conveyance to be effected by means of deed or other instrument satisfactory to the City which shall be recorded among the Land Records of Allegany County, Maryland. Owners shall be required to submit as-built drawings for the public infrastructure subject to the City's specifications and requirements.

F. *Bonding, performance guaranties.* Owners shall post such bonds or other performance guaranties as may be required to ensure the proper completion of the public infrastructure, its conveyance to the City and the preparation of as-built drawings subject to City specifications.

G. *Assignment of rights.* Development agreements shall not be subject to assignment except upon the approval of the Council.

H. This appendix confers no rights to parties to any development agreements that were entered into prior to its effective date and its terms do not apply to such development agreements. (Res. No. 37, 6-10-05; Res. No. 47, 8-4-2017.)

NOTES

(1) Resolution No. 2, effective April 3, 1987, purported to amend Section 703 of the charter by changing in the fourth sentence the word “ordinance” to “resolution”. This change had apparently already been made.

(2) Resolution No. 3, effective March 24, 1987, purported to amend Section 809(b) by adding new paragraph 6. Since Section 809(b) already had a paragraph 6, the new paragraph is designated as “7”.

(3) Pursuant to Article III, Section 61 of the Maryland Constitution, the General Assembly of Maryland granted urban renewal powers for slum clearance to the City of Frostburg in Chapter 843 of the Acts of the General Assembly of 1961. Further changes to this power were made by Chapter 152 of the Acts of the General Assembly of 1963 and Chapter 40 of the Acts of 1965.

Starting with the 1997 Supplement to the *Public Local Laws of Maryland – Compilation of Municipal Charters*, the urban renewal powers for slum clearance for the City of Frostburg appear as this appendix in accordance with 80 *Opinions of the Attorney General* _____ (1995) [Opinion No. 95–037 (September 21, 1995)] and Sections 10 and 11 of Chapter 14 of the Acts of the General Assembly of 1997.

Formerly, the urban renewal powers appeared as Article XIV, §§ 1401 through 1411, inclusive, of this Charter.