

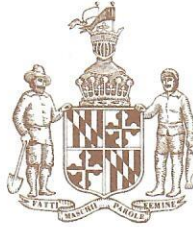
DANIEL L. COX  
Legislative District 4  
Frederick and Carroll Counties

Judiciary Committee

Subcommittees

Family Law

Public Safety



The Maryland House of Delegates  
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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

March 11, 2020

HB 1385 Town of Mount Airy (Carroll and Frederick County) –Urban Renewal Authority

Dear Chair Barve, Vice-Chair Stein, Subcommittee Chair Brooke Lierman  
and members of the Land Use and Ethics Subcommittee:

Thank you for hearing the request for the Town of Mount Airy to be granted Urban Renewal Authority. I would like to address some questions that arose in subcommittee.

First this is a routine request which the General Assembly has granted to 67 other towns (please see the attached list). While Maryland's Constitution has granted broad home rule authorities to municipalities, the General Assembly reserved this power and in order for a town to exercise this power the General Assembly must act.

Second, there have been questions about the language in the bill referencing "moral" and "slum." Both of these words come directly from Article III, Section 61 (a) of the Maryland State Constitution. Please see the following:

**SEC. 61. Slum Clearance.** (a) The General Assembly may authorize and empower any county or any municipal corporation, by public local law:

(1) 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, and to include the acquisition, within the boundary lines of such county or municipal corporation, of land and property of every kind and any right, interest, franchise, easement or privilege therein, by purchase, lease, gift, condemnation or any other legal means. The term "**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**. The term "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.

Third, there is a question if Mount Airy or any other municipality already has this authority. This is the same question that Delegate Krimm asked DLS policy analyst, Benjamin Voight. Please note the attached memo dated January 30, 2020. The answer is no; Maryland municipalities must be granted this power by the General Assembly.

Fourth, HB 1385's language is the same, boilerplate language used by the General Assembly in 2007 to grant the Urban Renewal Authority to Eldorado.

Finally, Mount Airy has been struggling for decades to upgrade their Main Street. There has been one building, an old abandon bank, which has held up several projects over the years. It borders on a residential area and the town, without this power, is held captive. The time has come to allow this town to move forward. There are protections for the landowner in this bill and already existing in current law, but no protections for the neighbors –both business and residential- from this dilapidated structure which is affecting the health and welfare of this area in Mount Airy.

I am respectfully affirming that this is a delegation bill and that as a rule of “local courtesy” be favorably moved out of committee for a Floor vote prior to crossover. As noted in House Legislative Handbook (see, Local Legislation House Rules, pages 68-9), indicates the following Rule: “When the select committee votes (this case Frederick Delegation) on the bill, it notifies the standing committee that has possession of the bill. As a rule, the standing committee gives deference to the select committee’s recommendation as a matter of “local courtesy”. I humbly and affirmatively invoke this “local courtesy rule” as stated in House Rules 19 & 19A (b)(1) upon this bill and request the standing committee vote favorably pursuant to procedure set forth for such bills pursuant to the rules including the House Legislative Handbook, pages 68-9 (2018 ed.) and pass HB 1385 out of committee to the House Floor.

I am urging you to move this Delegation bill forward this session.

Sincerely,



Dan Cox

## MEMORANDUM

TO: Delegate Carol L. Krimm  
FR: Benjamin Voight, Policy Analyst  
RE: Urban Renewal Authority for the Town of Mount Airy  
DA: January 30, 2020

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QUESTION: Is an urban renewal authority for the Town of Mount Airy necessary?

ANSWER: The State practice for municipal corporations, like the Town of Mount Airy, follows creating specific urban renewal authorities in the public local laws.

### ANALYSIS:

- The Town of Mount Airy, located in Carroll and Frederick Counties, Maryland, is a municipal corporation. See Section 101 of the Charter of the Town of Mount Airy.
- The Constitution of Maryland provides that the “[t]he General Assembly may authorize and empower any county or any municipal corporation, by public local law [t]o carry out urban renewal projects which shall be limited to slum clearance in slum or blighted areas...”
  - In subsection (b), it is noted that the General Assembly, “may grant to any county or any municipal corporation, by public local law, any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers authorized by this section...” Md. Const. art. III, § 61.
  - This contemplates municipal corporations, like the Town of Mount Airy, introducing their own public local law legislation to the General Assembly.
  - Case law is also instructive:
    - “The Upton Ordinance, as is the case with any urban renewal ordinance, was enacted for the purpose of removing slums and blight from the City.”
      - *Maryland Mortg. & Inv. Co. v. State*, 25 Md. App. 8, 12 (1975).
    - “In urban renewal projects, ‘it is a well-settled rule of law that the exercise of such a discretion by municipal officials will not be interfered with by a court except in cases amounting to fraud or bad faith.’”
      - *City of Baltimore v. Williams*, 129 Md. 290 (1916).
- Based on this provision in the Constitution of Maryland, as well as the attached document from the Maryland Municipal League, it is clear that it is a widespread practice for municipal corporations to introduce their own urban renewal authority legislation into the public local laws.
- The Maryland Municipal League listed examples, and I went a step further to attach HB 1362 from the 2007 regular session concerning the Town of Eldorado. This appears to be a template for other municipal corporations, and may serve as a template for the Town of Mount Airy.



## Maryland Municipal League

*The Association of Maryland's Cities and Towns*

Justin D. Ready  
Senate Chair  
Carroll County Delegation  
James Senate Office Building, Room 315  
11 Bladen St., Annapolis, MD 21401

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House of Delegates Chair  
Carroll County Delegation  
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The Maryland Municipal League has been asked to provide you with evidence that a local bill is required to be passed by the Maryland General Assembly before the Town of Mount Airy is authorized to exercise urban renewal powers as over 40% of Maryland municipalities are currently authorized.

Article III, Section 61 of the Maryland Constitution, included below in its entirety, enables the General Assembly to enact legislation to confer authority to incorporated cities and towns to condemn private properties in efforts to redevelop blighted urban areas. A Constitutional amendment was enacted by the General Assembly in 1959 embodying Article III, Section 61 in the Constitution and ratified by state voters in 1960. Since 1961, the General Assembly has passed bills 66 times to provide municipal governments with that authority.

I hope this is helpful.

Sincerely,

Scott A. Hancock  
Executive Director  
Maryland Municipal League

cc: Mayor Patrick Rockinberg

### **Md. Const. Article III, Section 61**

#### *Section 61. Slum clearance*

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(a) The General Assembly may authorize and empower any county or any municipal corporation, by public local law:

Exhibit 4.3 lists the municipalities that have been granted urban renewal powers for slum clearance by the General Assembly, as well as the chapter law and year when the authority was granted and, if applicable, amended.

**Exhibit 4.3**  
**Municipalities with Urban Renewal Powers for Slum Clearance**

<u>Municipality</u>	<u>Year</u>	<u>Chapter</u>	<u>Municipality</u>	<u>Year</u>	<u>Chapter</u>
Aberdeen	1963	Ch. 72	Federalsburg	1975	Ch. 495
Annapolis	1961	Ch. 755		1976	Ch. 640 *
	1976	Ch. 843 *	Frederick	1961	Ch. 632
Bel Air	1963	Ch. 70	Frostburg	1961	Ch. 843
Berlin	1963	Ch. 101		1963	Ch. 152 *
Betterton	1976	Ch. 81		1965	Ch. 40 *
	1996	Ch. 40 **	Galena	1976	Ch. 410
Bladensburg	1998	Ch. 86	Galestown	2007	Ch. 216
Boonsboro	2005	Ch. 73	Glenarden	1963	Ch. 776
Bowie	1965	Ch. 904	Goldsboro	2002	Ch. 12
Brookview	2007	Ch. 215	Greensboro	2002	Ch. 13
Cambridge	1961	Ch. 618	Hagerstown	1961	Ch. 830
	1968	Ch. 194 *	Havre de Grace	1963	Ch. 71
	1969	Ch. 358 *	Henderson	2002	Ch. 11
Capitol Heights	1965	Ch. 903	Hillsboro	2002	Ch. 183
	2002	Ch. 234 **	Hurlock	2007	Ch. 279
Centreville	1963	Ch. 348	Hyattsville	1963	Ch. 783
Charlestown	2002	Ch. 147		1968	Ch. 415 *
Chestertown	1975	Ch. 380	Landover Hills	2002	Ch. 74
Cheverly	1996	Ch. 631	Laurel	1963	Ch. 775
College Park	1963	Ch. 777	Leonardtown	1963	Ch. 593
Colmar Manor	1966	Ch. 624	Marydel	2002	Ch. 10
Cottage City	2002	Ch. 75	Millington	1976	Ch. 80
Crisfield	1963	Ch. 615	Morningside	1969	Ch. 729
Cumberland	1961	Ch. 758	Mount Rainier	1963	Ch. 781
Denton	1975	Ch. 494	North Beach	1978	Ch. 709
	1976	Ch. 641 *	Ocean City	1963	Ch. 103
District Heights	1999	Ch. 413	Oxford	1977	Ch. 28
Easton	1961	Ch. 844	Perryville	1978	Ch. 166
	1977	Ch. 29 *	Pocomoke City	1963	Ch. 102
Eldorado	2007	Ch. 278		1969	Ch. 328 *
Elkton	1961	Ch. 762	Port Deposit	1961	Ch. 760
Fairmount Heights	1965	Ch. 895	Preston	2002	Ch. 181
			Princess Anne	1963	Ch. 614

<u>Municipality</u>	<u>Year</u>	<u>Chapter</u>	<u>Municipality</u>	<u>Year</u>	<u>Chapter</u>
Queen Anne	1977	Ch. 25	Seat Pleasant	1968	Ch. 336
Ridgely	2002	Ch. 182		1969	Ch. 280 *
Riverdale Park	1968	Ch. 646	Snow Hill	1963	Ch. 172
Rock Hall	1976	Ch. 79	Sudlersville	2004	Ch. 400
Rockville	1961	Ch. 826	Takoma Park	1961	Ch. 827
	1963	Ch. 646 *		1963	Ch. 653 *
	1967	Ch. 700 *	Taneytown	1996	Ch. 36
	1975	Ch. 241 *	Trappe	1977	Ch. 26
St. Michaels	1977	Ch. 27	Westernport	1963	Ch. 147
	1986	Ch. 582 **	Westminster	1961	Ch. 342
Salisbury	1961	Ch. 842			

\*Authority amended.

\*\*Subsequent grant of authority.

Source: Department of Legislative Services

## Limitations on Municipal Authority

While municipalities exercise broad home rule authority, the authority is not absolute. Under Article XI-E, Section 5 of the Maryland Constitution, the municipalities share concurrent jurisdiction with the General Assembly in regard to maximum limitations on property taxes and indebtedness. Section 5 also restricts a municipality from imposing "any tax, license fee, franchise tax or fee" unless it was in effect on January 1, 1954, or authorized by the General Assembly for all municipalities within a given class. Article XI-E, Section 6 of the constitution provides, in part, that "[a]ll charter provisions, or amendments thereto ... shall be subject to all applicable [public general] laws enacted by the General Assembly....". Section 6 also expressly prohibits a municipality from regulating alcoholic beverage sales as well as sales on Sundays (blue laws) in its charter. Lastly, the governing body of a municipality may not legislate in areas that have been preempted by the State either by express preemption, preemption by conflict, or preemption by implication.

## Codification of Municipal Charters

While municipalities have broad authority to amend their charters, the law requires municipalities to follow certain procedures. Under § 4-109 of the Local Government Article, municipalities must regularly mail charter amendment resolutions, as well as all annexation resolutions, to the Department of Legislative Services within 10 days of the effective date of the resolution. Generally, provided that a resolution is not petitioned to referendum, the effective date for a charter resolution is 50 days after enactment, and for