

CHARTER
OF THE
Town of Ocean City
WORCESTER COUNTY, MARYLAND

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OCEAN CITY

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF OCEAN CITY, MARYLAND, TO AMEND THE TOWN CHARTER

Resolution of the Mayor and Council of Ocean City, Maryland, adopted pursuant to the authority of Sections 13–19 of Article 23A, Annotated Code of Maryland, 1957 Edition, as amended, to amend the town charter by repealing in their entirety, Sections 170–208 (See note (1)), inclusive, of Article 24 of the Code of Public Local Laws of Worcester County, 1961 Edition, Title: “Worcester County,” subtitle: “Ocean City,” including all amendments thereof, and to enact in lieu thereof 38 new sections of said article of said code, to be designated consecutively Sections 170 to 208 thereof, to be under the subtitle “Ocean City,” to constitute the charter of said town, to conform, generally, with the model municipal charter contained in Article 23B of the Annotated Code of Maryland, 1957 Edition, as amended (See note (15)), with certain additions and modifications, and to provide for said municipal corporation, the following:

TITLE I **Definitions**

Section C–101. Definitions.

The use of the terms “town,” “city,” “municipality” or “municipal corporation” in this article shall be construed as synonymous, and any of said terms shall apply to and be interpreted to mean Mayor and City Council of Ocean City, Maryland.

TITLE II **General Corporate Powers**

Section C–201. Incorporation and general powers.

The inhabitants of the town of Ocean City, Maryland, residing and included within the corporate limits of said municipal corporation, as said corporate limits were heretofore and are hereby established, and as the same may hereafter be extended, are hereby continued a public body corporate by the name of “Mayor and City Council of Ocean City,” with all privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual existence unless this charter and the corporate existence of the town are forfeited, released or terminated in the manner prescribed by law.

TITLE III

Corporate Limits

Section C-301. Boundaries, including 1975 annexation.

A. The courses and distances showing the corporate limits of Ocean City shall be as follows: Beginning at the mean low water mark in the Atlantic Ocean where the northerly side of South Second Street, extended easterly, would strike the low water mark in said ocean; thence by and with the northerly line of South Second Street extended easterly, and the northerly line of South Second Street and its extension westerly, north $67^{\circ} 42' 11''$ west to the middle of Sinepuxent Bay; thence along the middle of Sinepuxent Bay, Isle of Wight Bay and Big Assawoman Bay in a general northerly direction and by and with the center line of Assawoman or Fenwick Ditch to a point in the middle of Assawoman or Fenwick Ditch which is located on the division line between the State of Maryland and the State of Delaware; thence by and with said division line due east to a point at the mean low water line of the Atlantic Ocean; thence by and with said division line due east three miles; thence in a generally southerly and southwesterly direction equidistant three miles due east of the mean low water line of the Atlantic Ocean at all points to a point where the northerly line of South Second Street extended easterly would be three miles from the intersection of said extension with the mean lot [low] water mark of the Atlantic Ocean; thence by and with the extension easterly of the northerly line of South Second Street north $67^{\circ} 42' 11''$ west three miles more or less to the place of beginning. All bearings refer to true north. (Amended 3-3-75 by Res. No. 1975-4.)

B. As soon as this charter shall become effective, the Mayor and City Council of Ocean City shall cause the foregoing outline of said corporate limits to be filed with the following: the Clerk of the Circuit Court of Worcester County; the Commissioner of the Land Office of Maryland; the Director of the Department of Legislative Reference [Services] of Maryland. All future changes in said corporate limits, by annexation or otherwise, shall likewise be filed with said officials or their successors.

TITLE IV

Mayor and Council

Section C-401. Qualifications for election as Mayor or City Councilman.

Any person to qualify as a candidate for election as Mayor of Ocean City or as a City Councilman of Ocean City must be:

A. Qualified as a voter in town elections in accordance with the provisions of § C-403 hereof.

B. One who, for four (4) months next preceding the election, has been and is, at the time of the election, a resident of and domiciled in the corporate limits of the Town of Ocean City, Maryland. (Amended 1-5-76 by Res. No. 1976-1.)

C. (Added 1–5–76 by Res. No. 1976–2.) Must not have been convicted by a State Circuit Court or a United States District Court of a common law felony or of any of the following offenses or wrongful acts:

- (1) Embezzlement by a public officer.
- (2) Bribery in connection with the performance of a duty by a public officer or servant, including himself.
- (3) Extortion in connection with the performance of a duty by a public officer or servant, including himself.
- (4) Subornation of perjury.
- (5) Perjury.
- (6) Treason.

For the purposes of this Subsection C, conviction shall mean a final determination. If an appeal is not filed within the time allowed or the appeal process is exhausted, then the conviction shall be considered final. (Amended 5–20–74 by Res. No. 1974–2.)

Section C–402. Salary of Mayor and City Councilmen.

A. The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council, not less than sixty (60) days before the next regular election, in the regular course of business. No change shall be made in the salary for any Mayor during the term for which he was elected. The ordinance requiring any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally passed at least sixty (60) days prior to the municipal election to elect the next succeeding Mayor, and shall take effect only as to the next succeeding Mayor, and his successors in office.

B. Each Councilman shall receive an annual salary which shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business, not less than sixty (60) days before the next regular election; provided, however, that the salary of any Councilman specified at the time he takes office shall not be changed during the term for which he was elected. An ordinance making any change in the salary paid to the several Councilmen, either by way of increase or decrease, shall be finally passed at least sixty (60) days prior to the next municipal election and shall take effect only as to the members elected to the next succeeding Council, and their successors in office.

C. The provisions of Subsections A and B hereof shall not apply if the majority of the qualified voters casting votes in any regular or special election shall increase or decrease the salaries, in which event the said salary increase or decrease shall immediately become effective. (See note (2))

Section C-403. Qualifications of voters.

A. The qualifications of voters in Town elections of Ocean City shall be as follows: A voter, whether a man or a woman, must be:

- (1) A citizen of the United States.
- (2) At least eighteen (18) years of age.
- (3) Registered in accordance with the provisions of this Charter.

(4) One who, for thirty (30) days next preceding the election, has been and is, at the time of the election domiciled within the corporate limits of the Town of Ocean City.

B. The governing body of the municipality is hereby declared to be a Mayor and seven (7) Council Members. The Mayor shall be elected to serve a term of two (2) years or until his successor is elected, qualified and takes office. Council members shall be elected for a term of four (4) years or until their successors are elected, qualified and take office. The Mayor and Council members shall be elected at large. (See note (3)) (Amended 2-7-72 by resolution; 5-20-74 by Res. No. 1974-3; 1-5-76 by Res. No. 1976-3; 1-5-76 by Res. No. 1976-5; 7-27-76 by Res. No. 1976-49; 7-27-76 by Res. No. 1976-50; 7-27-76 by Res. No. 1976-51; 4-5-82 by Res. No. 1982-4.)

Section C-404. Meetings of Mayor and Council.

The newly elected Mayor, together with the newly elected Councilmen and the incumbent Councilmen shall meet at 7:30 p.m. on the Thursday in November immediately following the election, for the purpose of organization. At said organizational meeting the Councilmen shall elect one (1) of their members as President who shall serve at the pleasure of the Council and shall preside at meetings of the Mayor and City Council. The Mayor and Council shall appoint one (1) member of the Council to serve as Secretary. After such organizational meeting, the Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called by the Clerk-Treasurer upon the request of the Mayor, Council President or a majority of the members of the Council. Except for those meetings permitted to be closed under State law, all meetings of the Mayor and Council shall be open to the public, and the rules of the Council shall provide that residents of the Town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. All appointments to city boards, commissions and committees, and the confirmation vote thereon, shall be made at open public meetings. (Amended Res. 2-21-72; 1-5-76 by Res. No. 1976-11; 12-21-81 by Res. No. 1981-10; 4-5-82 by Res. No. 1982-6; 8-4-87 by Res. No. 1987-2; 10-23-90 by Res. No. 1990-2; Res. No. 2012-2, 9-13-2012.)

Section C-405. Quorum.

A majority of the members of the Council shall constitute a quorum for holding of meetings. No ordinance shall be approved nor any other actions taken without the favorable votes

of a majority of the whole number of members elected to the Council. (Amended 1-5-76 by Res. No. 1976-12.)

Section C-406. Rules of order and business; minute books.

The Mayor and 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 final action on any question, resolution or ordinance, or any other time if required by any one (1) member. The minute books shall be open to public inspection. (Amended 1-5-76 by Res. No. 1976-13.)

Section C-407. Council to be judge of qualification for candidates for Mayor or Council.

The Council or a quorum of the whole number elected to the Council shall be the judges of the election and the qualifications of applicants for the office of Mayor or City Councilman.

All regular Municipal elections under the provisions of this Charter shall be held on the Tuesday following the first Monday in November in every even-numbered year at hours to be prescribed by the Board of Elections Supervisors. (Amended Res. 2-21-72; 4-5-82 by Res. No. 1982-5; Res. No. 2012-1, 9-05-2012.)

Section C-408. Removal of Mayor and City Councilmembers and filling of vacancies.

A. *Removal for nonattendance.* If the Mayor or any Councilmember is absent from every regularly scheduled Council meeting in any four-consecutive-month period, then and in the event of such nonattendance of a Councilmember, upon motion of any Councilmember, duly seconded, with a unanimous vote of all the other members of the whole Council, with the approval of the Mayor, the said seat and office of the Councilmember so being absent may be declared vacant. In the event of such nonattendance of the Mayor, upon motion duly made and seconded, with a unanimous vote of all members of the whole Council, the said seat and office of the Mayor may be declared vacant. Any such vacancy shall be filled as in this charter provided.

B. *Leave of absence and removal for conviction of felonies and criminal offenses or wrongful acts.* In the event the Mayor or any Councilmember is convicted in a State Circuit Court or a United States District Court of any common law felony or of embezzlement by a public officer, or bribery in connection with the performance of a duty by a public official or servant, including himself, or extortion in connection with the performance of a duty by a public official, including himself, or perjury, or subornation of perjury, or treason, such convicted Mayor or Councilmember shall immediately be on involuntary leave of absence. If final determination confirms the Circuit Court or the United States District Court convictions, or if the time for any appeal of such conviction has elapsed without said appeal being taken, then the seat and office of the said finally convicted Mayor or Councilmember, as the case may be, shall automatically become vacant. If the Circuit Court or United States District Court conviction is reversed (or remanded in such a manner that said officer is not under conviction), then the leave of absence shall terminate. In the event of a leave of absence by the Mayor, the President of the Council shall perform and fulfill the duties and office of the Mayor during such leave of absence. In the event of such a leave of absence by a Councilmember, his duties and office shall be performed and fulfilled by the remainder of the

Councilmembers and his seat need not be filled. Any vacancy created by the provisions of this Subsection B shall be filled as in Subsection D of this section provided.

C. *Disqualification.* Should the Mayor or any member of the Council during the term for which he was elected fail to retain all the qualifications necessary to render him eligible for election, then any registered voter may file a petition to have his office declared vacant. In such event the remaining members of the Mayor and City Council shall review said petition and may, upon a unanimous vote, declare such office vacant. Any vacancy so occurring shall be filled as hereinafter in this section provided.

D. If any person so elected as Mayor refuses to serve or if his office shall become vacant by death, resignation, disqualification or otherwise, his office shall be filled by the duly elected President of the City Council, who shall serve as interim Mayor until a special election, as hereinafter provided, can be held. At the next regular meeting following the filling of the Mayor's office, the Councilmembers shall elect one (1) of their number as President, who shall preside at the meetings of the Mayor and Council, until a special election, as hereinafter provided, shall be held for the office of Mayor. All vacancies of Mayor and Councilmember offices shall be filled by the holding of a special election within ninety (90) days of the occurrence of such a vacancy, provided that no such special election shall be necessary if the regular election date will occur within one hundred fifty (150) days of the occurrence of such vacancy.

E. In case of a tie between persons voted for in the position of Mayor or in any Councilmember seat, which would result in one or more of the Councilmember candidates not being seated, in any election, the Clerk of Elections shall immediately certify to the Councilmembers properly elected the fact of there being a tie, and the Councilmembers shall at the first regular meeting thereafter schedule a special election between the persons receiving the tie vote for the positions of Mayor or Councilmembers, as the case may be, to be held within ninety (90) days of said meeting. (Amended 10-7-74 by Res. No. 1974-5; 1-5-76 by Res. No. 1976-8; 12-7-82 by Res. No. 1982-13; 10-23-90 by Res. No. 1990-3.) (See Note (13))

Section C-409. Passage of ordinances.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Mayor and City Council held not less than six (6) days nor more than sixty (60) days after the meeting at which an ordinance is introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. A fair summary of each ordinance shall immediately subsequent to first reading be published at least once in a newspaper having general circulation in the municipality. A complete text of the ordinance shall be posted in the lobby at City Hall. Modifications or amendments thereto need not be published or posted. In cases of emergency the provisions that an ordinance may not be passed at the meeting at which it is introduced and the requirement for publication and posting may be suspended by the affirmative votes of four (4) members of the Council, approved by the Mayor. Unless the provisions of an ordinance provide for it to take effect at some later date all ordinances shall take effect as of the date of their final passage. No ordinance shall become effective until approved by the Mayor or passed over his veto by the Council. (Amended 1-20-75 by Res. No. 1975-1; 6-6-95 by Res. No. 1995-1.)

Section C-410. Vetoes.

All ordinances passed by the Council shall be promptly delivered by the Clerk-Treasurer to the Mayor for his approval or disapproval. If the Mayor approves any ordinance, he shall sign it. If the Mayor disapproves any ordinance, he shall not sign it. The Mayor shall return all ordinances to the Clerk-Treasurer within fifteen (15) days after delivery to him (including the days of delivery and return, and excluding Sunday), with his approval or disapproval. Any ordinance approved by the Mayor shall be law. Any ordinance disapproved by the Mayor shall be returned with the message stating the reasons for his disapproval. Any disapproved ordinance shall not become law unless subsequently passed by a favorable vote of six (6) members of the whole Council within sixty (60) days from the time of the return of the ordinance. If the Mayor fails to return any ordinance within fifteen (15) days of its delivery, as aforesaid, it shall be deemed to be approved by the Mayor and shall become law in the same manner as an ordinance signed by him. (Amended 1-5-76 by Res. No. 1976-14; 10-6-80 by Res. No. 1980-3; 3-28-89 by Res. No. 1989-1.)

Section C-411. Referendum.

The voters of the town shall have the right to petition ordinances to referendum. Following approval of any ordinance by the Mayor or passage of any ordinance over the Mayor's veto, the petitioners shall have three (3) business days to prepare the petition and present same to the City Solicitor for approval. The City Solicitor shall have five (5) business days to approve said petition. If the City Solicitor fails to act upon the petition within said five (5) days, it shall be considered approved. Provided the petition is submitted within said three (3) day period and is approved as aforesaid, the petitioners shall have forty (40) days from the date of approval to obtain the signatures of forty (40) percent of the number of voters at the most recent general election upon the petition. If the petitioners take more than three (3) days to submit a petition, which is approved as aforesaid, then, in that event, the forty (40) day period to obtain signatures shall be reduced by the number of days in excess of three (3) that it took to submit the approved petition. If an approved petition is filed within the prescribed time period with the Clerk-Treasurer containing the signatures of not less than forty per centum (40%) of the number of voters at the most recent general election and requesting that the ordinance, or any part thereof, be submitted to a vote of the registered voters of the town for their approval or disapproval, the Council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the registered voters of the town at the next regular town election or, in the Council's discretion, at a special election occurring before the next regular election. In the event that the 40th day or lesser date, as the case may be, shall be a Saturday, Sunday, or a municipal legal holiday, the period runs until 10:00 a.m. of the next day which is not a Saturday, Sunday or a municipal legal holiday. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the registered voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty (60) days following receipt of such petition. If the question of approval or disapproval of any ordinance, or any part thereof, has not been submitted to the registered voters within sixty (60) days following receipt of the petition; then the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the

registered voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part thereof, passed under the authority of the municipality levying property taxes for the payment of indebtedness, but the provisions of this section shall apply to any ordinance or part thereof levying special assessment charges under this chapter. The provisions of this section shall be self-executing, but the Council may adopt ordinances in furtherance of these provisions, and not in conflict with them. (Amended 7-21-87 by Res. No. 1987-1; 9-22-87 by Res. No. 1987-3; 8-8-89 by Res. No. 1989-2; 11-8-94 by Res. No. 1994-1.)

Section C-412. File of ordinances.

Ordinances shall be permanently filed with the Clerk-Treasurer and shall be kept available for public inspection.

Section C-413. Powers and duties of Mayor.

The Chief of Police shall be appointed by a majority vote of the Mayor and City Council with each Councilmember and the Mayor having one (1) vote. A commission consisting of four (4) members, one (1) of which shall be the Mayor, who is to be a permanent member of the commission and not subject to removal from the commission and three (3) members taken from the membership of the City Council shall advise the administration of the Police Department, with all matters being resolved by a majority vote of the commission. The three (3) members of the commission taken from the membership of the City Council shall be appointed by the Mayor with the approval by the City Council members and shall serve at the pleasure of the City Council. The four-member commission shall be known as the "Ocean City Police Commission". The Mayor shall be the chief representative of the Town before all state, federal and other local governmental bodies. The Mayor shall act as the City Manager of the Town during the pendency of any vacancy in the position of City Manager and during such time shall be the chief administrative and financial officer of the Town. Upon confirmation by the Council, the Mayor shall appoint members to all city boards, commissions and committees. The powers and duties of the Mayor shall not be diminished without being submitted to a referendum of the voters. (Amended 1-5-76 by Res. No. 1976-15; 11-3-80 by Res. No. 1980-4; 12-21-81 by Res. No. 1981-10; 1-4-83 by Res. No. 1982-15.) (See note (4)) (2-5-85 by Res. No. 1984-3; 10-23-90 by Res. No. 1990-1; 10-9-07 by Res. No. 2007-1.)

Section C-413A. General powers and duties of Council.

The Council shall consist of seven members elected at large and shall hold all the legislative and except for the mayoral veto, all the executive powers of the town. The Council shall:

- A. Elect one of its members as President.
- B. Make all policy decisions subject to the provisions of this charter.
- C. Appoint the City Auditor, City Attorney, City Manager and Clerk-Treasurer.

D. Establish powers and duties for all city boards, commissions and committees in the ordinance which creates them.

E. Receive from the City Manager recommendations for hiring and discharging all department heads of the town government and, if satisfied with the recommendation, approve the proposed action.

F. Establish the salaries and other compensation for all officials and employees of the town.

G. Exercise direct supervision and control over the City Manager.

H. Deal with or issue orders or requests to town employees only through the City Manager, except in the case of formal inquiries or investigations. (Added 12-21-81 by Res. No. 1981-10 (See note (4)); 10-23-90 by Res. No. 1990-1.)

Section C-414. Powers of Council enumerated.

The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein.

The Council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the following specific purposes.

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

(2) *Agreement or contracts* – To enter into agreements with the United States Corps of Engineers of any other governmental body or agency or any other body politic or political subdivisions for the maintenance of dune lines or any other purpose.

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

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

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

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

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

(8) *Beaches* – To license, tax and regulate all activities whatsoever on, or from, the public beaches, and, at its discretion, to permit buildings of public accommodation to be erected thereon, including the right to build rest rooms thereon.

(9) *Billboards* – To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the City, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the town, and to phase out, within a reasonable time, nonconforming signs.

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

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

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

(13) *Codification* – To provide for the codification of all ordinances which have been or may hereafter be passed.

(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 town.

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

(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 which 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) *Disorderly houses* – To suppress bawdy houses, disorderly houses and houses of ill fame.

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

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

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

(23) *Filth* – To compel the occupant of any premises, building or outhouse situated in the town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants thereof, 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.

(24) *Finances* – To levy, assess and collect ad valorem property taxes, and general fund, real and personal property taxes and metered flow and/or front footage water and/or sewage benefit charges, or per fixture charges for water and/or sewage; to expend municipal funds for any public purpose; to have general management and control of the finances of the town.

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

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

(27) *Franchises* – To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, public or privately owned convention halls, and any others which may be deemed

advantageous and beneficial to the town, subject, however, to the limitations and provisions of Article 23 of the Annotated Code of Maryland [Title 5, Subtitle 4 of the Public Utilities Article]. No franchise shall be granted for a longer period than fifty (50) years.

(28) *Gambling* – To restrain and prohibit gambling.

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

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

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

(32) *Health* – To protect and preserve the health of the town and its inhabitants; to appoint a public health officer and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health 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 the same or in default thereof to authorize and require the same to be done by the town 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 town or to use the county jail for such purpose.

(35) *Licenses* – Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town or on property owned by the town for the sale of any goods, wares, merchandise or services; to license and regulate any business, occupations, trade, calling or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this chapter, and, in the discretion of said Council, to refuse to grant any such licenses and to revoke any such licenses when granted.

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

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

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

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

(40) *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 ringing of bells, crying of goods or sounding of whistles and horns and noises of any sort which constitute a public nuisance or disturb the public peace.

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

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

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

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

(46) *Parks and recreation* – To establish and maintain public parks, gardens, playgrounds and other recreational facilities, including park structures in streets dead ending at

public parks or beaches, and programs to promote the health, welfare and enjoyment of the inhabitants of the town.

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

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

(48A) *Port wardens* – To establish a Board of Port Wardens to regulate the dredging or maintenance and the placement, erection, or construction of structures or other barriers within or on the waters of the municipality, including but not limited to the issuing of licenses to create or build wharves or piers and the issuing of permits for dredging or maintenance, bulkheads, docks, mooring piles, floating wharves, buoys, or anchors, taking into account the present and proposed uses, and the effect of present and proposed uses on marine life, wildlife, conservation, water pollution, erosion, navigational hazards, the effect on other riparian property owners, and the present and projected needs for any proposed commercial or industrial use. The port wardens shall have the power to regulate the materials and construction for the aforesaid improvements and to make certain that any improvements in the waters within the municipality do not render the navigation too close and confined. To provide for enforcement of said regulations and to provide for penalties for violation of said regulations established hereunder.

(49) *Property* – To acquire by conveyances, purchase of gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey and [any] real or leasehold property when no longer needed for the public use, after having given at least twenty (20) days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(50) *Surf* – To regulate all activities in the surf and in the ocean, bays and other waterways within the town, including but not necessarily limited to swimming, surfing, boating, fishing, crabbing [crabbing], clamming, etc.

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

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

(53) *Streets* – To regulate the use of streets, boardwalks and alleys by vehicles and to designate the kind of conveyances and vehicles which may not use designated streets, boardwalks and alleys which have been improved, together with hours for the use of such streets by certain

specified types of vehicles; and to cause the streets, lanes and alleys to be sidewalked, paved, graded, repaired, repaved, regraded, drained or sewerred, or to close streets, or parts of streets, lanes or alleys and to permit the construction of public structures at the point where said streets dead end at parks, at the beach or at natural bodies of water.

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

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

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

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

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

(59) *Saving clause* – The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned. (Res. No. 1976–16, 1–5–76; Res. No. 1976–17, 1–5–76; Res. No. 1976–18, 1–5–76; Res. No. 1976–19, 1–5–76; Res. No. 1976–20, 1–5–76; Res. No. 1976–21, 1–5–76; Res. No. 1976–22, 1–5–76; Res. No. 1976–28, 1–5–76; Res. No. 1983–5, 7–26–83; Res. No. 1986–2, 10–21–86.)

Section C–415. Exercise and Enforcement of powers.

A. For the purpose of carrying out and enforcing the powers granted in the charter, the Council may pass all necessary ordinances. All the powers of the town shall be exercised and enforced in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

B. Pursuant to the policy of the State of Maryland to authorize municipal governments to displace or limit competition in clearly articulated and affirmatively expressed areas of public services and land use controls the Council may displace or limit competition in the public services and land use controls as follows:

- (1) Public transportation
- (2) Water and sewer systems
- (3) Port regulation

- (4) Franchises, concessions and use of publicly owned or leased land
- (5) Zoning ordinances and regulations

C. Notwithstanding any legislation enacted by Worcester County, Maryland, said legislation shall not be applicable in this municipality provided that the Council has enacted or enacts municipal legislation that:

- (1) Covers the same subject matter and furthers the same policies as the county legislation;
- (2) Is at least as restrictive as the county legislation; and
- (3) Includes provisions for enforcement. (Res. 1984-2, 5-8-84.)

Section C-416. Enforcement.

A. The Mayor and City Council of Ocean City may provide by ordinance for the enforcement of this charter and of any ordinance or regulation made hereunder. The violation of this charter or such ordinance or regulation is hereby declared to be a misdemeanor, and the Mayor and City Council of Ocean City may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this charter, or of any ordinance, or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

C. Any person subject to any fine, forfeiture or penalty by virtue of any ordinance passed under the authority of this charter shall have the right of appeal within ten (10) days, to the Circuit Court for Worcester County. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first and any succeeding convictions.

TITLE V

Voters; Registration; Nominations

Section C-501. Board of Supervisors of Elections.

There shall be a Board of Supervisors of Elections, consisting of seven (7) members, who shall be appointed by the Mayor and City Council on or before the third Monday of May in every

even numbered year. The terms of the members of the Board of Supervisors of Elections shall begin on the third Monday of May in the year in which they are appointed and shall run for two (2) years. Members of the Board of Supervisors of Elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during the term of office. The Board shall appoint one (1) of its members as Chairman. Vacancies on the Board shall be filled by the Mayor and City Council for the remainder of the unexpired term. The compensation of the members of the Board shall be determined by the Council. (Amended 12-21-81 by Res. No. 1981-10; 3-15-82 by Res. No. 1982-2.)

Section C-502. Removal of members.

Any member of the board of supervisors of elections may be removed for good cause by the Council. Before removal, the member of the board of supervisors of elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten (10) days after receiving the written copy of the charges against him. Good cause as used herein shall mean any cause that could result in the removal of the Mayor or a Councilmember from office. (Amended 1-5-76 by Res. No. 1976-23.)

Section C-503. Duties.

The board of supervisors of elections shall be in charge of the registration of voters, nominations and all town elections. The board may appoint election clerks or other employees to assist it in any of its duties.

Section C-504. Registration of voters.

There shall be a registration of qualified voters, not previously registered to vote, during normal business hours of the office of the Clerk-Treasurer, on every day of every month of every year except Saturdays, Sundays and city holidays; provided, however, that registration of qualified voters shall cease on the last hour of business on the third Friday preceding any general or special election and recommence on the first hour of business on the next normal business day following said general or special election. If necessary for the performance of registration or for the convenience of the eligible voters of the town, the Board of Supervisors of Elections may designate additional days, Saturdays, Sundays or holidays as registration days, provided that notice of said registration is given in at least one (1) newspaper published in Worcester County, Maryland, and having general circulation in town, not less than four (4) days before said additional registration days, and by posting a notice thereof [thereof] in some public place or places in said town. Registration shall be permanent, and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the Board of Supervisors of Elections to keep the registration list up-to-date by striking from the list persons known to be dead or who have become disqualified. If any person has not voted in two (2) consecutive general municipal elections, it shall be the duty of the Board of Supervisors of Elections to strike his or her name from the list of eligible voters. The Mayor and City Council of Ocean City are hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and to provide for a registration when necessary not inconsistent with the

provisions of the charter. (Amended 2-10-75 by Res. No. 1975-3; 1-5-76 by Res. No. 1976-24; 3-1-82 by Res. No. 1982-1.)

Section C-505. Appeal from action of Board.

If any person shall feel aggrieved by the action of the board of supervisors of elections in refusing to register or in striking off the name of any person or by any other action, such person may appeal to the Council. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for the county within thirty (30) days of the decision or action of the Council.

Section C-506. Filing statements of candidacy.

A. Any qualified person who desires to become a candidate for the office of Mayor of Ocean City or for the Office of City Councilman of Ocean City, in any town election, shall file at the office of the Clerk-Treasurer to the Mayor and City Council of Ocean City, by the close of the normal business day of the last day which precedes a municipal election by at least twenty-eight (28) days, a written statement, signed by the person seeking the office, containing his name, his residence and the office to which he seeks to be elected. Said written statement must be accompanied by a filing fee in the amount of twenty-five dollars (\$25.). (Amended 1-20-75 by Res. No. 1975-2; 1-5-76 by Res. No. 1976-25; 7-19-82 by Res. No. 1982-11.) (See note (5))

B. No candidate shall file for more than one (1) office and any Councilman desiring to be a candidate for Mayor must, at least thirty-five (35) days before election, submit his resignation as Councilman, said resignation to be irrevocable and become effective on the day next following after the election. Any Councilman elected to fill the unexpired term of the Councilman who resigned to become a candidate for Mayor, shall be elected to serve only the unexpired term of the Councilman so resigning. The person who receives the next highest number of votes after those regularly elected or to be elected shall complete the unexpired term of any Councilman who resigns to become a candidate for Mayor, or who has resigned for any other reasons, or has vacated said seat by death, removal, disqualification or otherwise. (Amended Res. 2-21-72; 8-18-80 by Res. No. 1980-1; 12-7-82 by Res. No. 1982-14.)

C. No votes cast for any person who has not filed his certificate of candidacy as set forth in sub-paragraph A hereof shall be counted by the Judges of Election.

D. Any person who has filed his certificate of candidacy within the time above specified and who has complied with all the other provisions of subparagraph A hereof may, up to the close of the normal business day which precedes a municipal [municipal] election by twenty-eight (28) days, withdraw his candidacy and be entitled to receive from the office of the Clerk-Treasurer to the Mayor and City Council a refund of said twenty-five dollars (\$25.) which he has paid as filing fee. (Amended 7-19-82 by Res. No. 1982-12.) (See note (5))

TITLE VI Elections

Section C-601. Conduct of elections generally.

It shall be the duty of the board of supervisors of elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this charter, arranged in alphabetical order by office with no party designation of any kind. The board of supervisors of elections shall keep the polls open from 7:00 a.m. to 7:00 p.m. on election days, or for longer hours if the Council requires it. The board of supervisors of elections shall, whenever practicable, use voting machines instead of ballots. (Res. No. 1988-1; 12-6-88.)

Section C-602. Special elections.

All special town elections shall be conducted by the board of supervisors of elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

Section C-603. Oath of voter.

The board of supervisors of elections shall have the right, at any municipal election, to swear any applicant to vote as to his residence or domicile. (Amended 1-5-76 by Res. No. 1976-26.)

Section C-604. Vote count.

Within forty-eight (48) hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Clerk-Treasurer of the town who shall record the results in the minutes of the Council. The candidate for Mayor who shall receive the highest number of votes in the general election shall be declared elected as Mayor. The candidates for Councilman with the highest number of votes in the general election shall be declared elected as Councilmen to the number of offices being filled. All ballots and other records used in any town elections shall be preserved for at least six (6) months from the date of the election.

Section C-605. Regulation and control by Council.

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

Section C-606. Penalties.

Any person who:

A. Fails to perform any duty required of him under the provisions of this charter or any ordinances passed thereunder,

B. In any manner willfully or corruptly violates any of the provisions of this charter or any ordinances passed thereunder, or (Amended 1-5-76 by Res. No. 1976-27.)

C. Willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election, (Amended 1-5-76 by Res. No. 1976-27) shall be deemed guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office of employment.

TITLE VII

Finances

Section C-701. Finance Officer.

The City Manager shall serve as the Finance Officer of the town and shall be responsible for all municipal financial affairs. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-702. Financial powers and duties.

Under supervision of the Council, the City Manager shall have authority and shall be required to:

A. Keep an accurate account of receipts and disbursements of the funds of the corporation in a well-bound book, and shall render annually to the Mayor and City Council a distinct and detailed statement thereof, which statement shall be posted in some public place in said town annually; but before the City Manager shall act as such, he shall give bond at the expense of the Mayor and City Council to the State of Maryland in such penalty as the Mayor and City Council may prescribe, with sureties to be approved by them, conditioned that he will well and faithfully account for all moneys received by him from the collector of said corporation, or any other person, for the use of said town, and will also well and faithfully pay over to the said Mayor and City Council of Ocean City, on their order, all sums of moneys so received by him, and deliver over the books and [and] papers of his office whenever required so to do by them, and the said bond shall be recorded in the office of the Clerk of the Circuit Court for said county.

B. Prepare an annual budget to be submitted to the Council.

C. Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

D. Maintain a general accounting system for the town in such form as the Council may require, not contrary to State law.

E. Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council.

F. Ascertain that all taxable property within the town is assessed for taxation.

G. Collect all taxes, special assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.

H. Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.

I. Do such other things in relation to the fiscal or financial affairs of the town as the Council may require or as may be required elsewhere in this charter. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-703. Financial; fiscal year.

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

Section C-704. Budget.

The City manager on such date as the Council by ordinance shall determine, but at least thirty-two (32) days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the City Manager open to public inspection by anyone during normal business hours. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-705. Budget adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two (2) weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. 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 revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Council shall be necessary for adoption.

Section C-706. Appropriations; supplementary appropriations; emergencies and unforeseen or unanticipated occurrences.

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. During any fiscal year, the Council may, by resolution adopted by a favorable vote of not less than two-thirds (2/3) of the total elected membership of the Council, make supplementary appropriations from unexpended and unencumbered funds set aside for contingencies in the town's budget, from federal, state or private grants which were not included in the budget for the current fiscal year, from revenue received from anticipated sources but in excess of budget estimates therefor, and from revenues received or to be received from sources not anticipated in the budget for the current fiscal year, including, but not limited to, the proceeds from the public or private (negotiated) sale of general obligation bonds and bond anticipation notes authorized and issued after the adoption of the budget for capital improvements, capital projects and capital expenditures of any nature whatsoever to be financed in whole or in part by such general obligation bonds or bond anticipation notes, and the proceeds from the public or private (negotiated) sale of tax anticipation notes authorized and issued after the adoption of the budget in accordance with this charter.

C. During any fiscal year, in order to provide revenues to meet, provide for or deal with (1) a public emergency affecting health, welfare, property or safety, or (2) the occurrence of any circumstances, conditions or events in whole or in part unforeseen or unanticipated at the time the budget was adopted by the Council, the Council, by resolution adopted by a favorable vote of not less than two-thirds (2/3) of the total elected membership of the Council, and containing a declaration and description of any such emergency or occurrence [occurrence], may, to the extent that there are no available unappropriated revenues therefor, by the same or a similar resolution or by ordinance, in each such case adopted by a favorable vote of not less than two-thirds (2/3) of the total elected membership of the Council, authorize the issuance by the town, otherwise in accordance with this charter (specifically including, but not limited to, the provisions and limitations of § C-718), of tax anticipation notes, which may be sold by public or private (negotiated) sale. (Amended 10-5-81 by Res. No. 1981-7.) (See note (6))

Section C-707. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the City Manager must be approved by the Council before becoming effective. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-708. Overexpenditures forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in

violation of this charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

Section C-709. 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. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section C-710. Checks.

All checks issued in payment for municipal obligations shall be issued and signed by the City Manager and shall be countersigned by a person designated by the Mayor and Council, or, in his absence, by any member of the Council. This provision shall not apply to the issuance of checks for any funds previously transferred to a payroll account. Checks for funds previously issued to a payroll account may be signed solely by the City Manager without necessity for any countersignature. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-711. Taxable property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and County taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

Section C-712. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year.

Section C-713. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the City Manager shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to

pay on the dates established by this charter all taxes levied on his property. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-714. When taxes are overdue.

The taxes provided for in this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. Overdue taxes shall bear interest, while in arrears, at the rate as determined by the City Council for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as herein provided. (Amended 5-17-82 by Res. No. 1982-10.) (See note (7))

Section C-715. Sale of tax delinquent property.

Unless otherwise regulated by State law, a list of all property on which the town taxes have not been paid and which are in arrears as provided by this charter shall be turned over by the City Manager to the official of the county responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall if necessary be sold for taxes by this county official in the manner prescribed by State law. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-716. Fees.

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

Section C-717. Audit.

The financial books and accounts of the town shall be audited annually as required by Section 40 of Article 19 of the Annotated Code of Maryland [§ 16-305 of the Local Government Article].

Section C-718. Tax anticipated borrowing.

The town shall have the power to borrow in anticipation of the collection of the property tax, levied or to be levied, for designated 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 end of a designated fiscal year, but in no event shall they be paid later than eighty-four (84) months from the date of their issuance. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy or anticipated property tax levy for the fiscal year for which said notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (Amended Res. 4-8-71; Res. No. 1983-1, 4-12-83.)

Section C-719. Payment of indebtedness.

Subject to the provisions of §§ C-718 and C-722 of this Charter, the aggregate amount of bonds, notes and other evidences of indebtedness of the Mayor and City Council of Ocean City outstanding at any one time shall not exceed five and two tenths per centum (5.2%) of the assessable basis of the town; provided, however, that (1) tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve (12) months, (2) bonds, notes or other evidences of indebtedness issued or guaranteed by the Mayor and City Council of Ocean City payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, (3) bonds, notes or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services, and (4) revenue bonds, notes or other evidences of indebtedness not constituting general obligations of or a pledge of or involving the faith and credit of the town, or an indebtedness of or a charge against the general credit or taxing powers of the town shall not be deemed to be or be included as bonds, notes or other evidences of indebtedness for the purpose of computing or applying the per centum limitation above provided and provided further, that for the purpose of determining whether refunding bonds are within the per centum limitation above provided and for the purposes of computing or applying the per centum limitation above provided, the amount of the bonds, notes or other evidences of indebtedness refunded or to be refunded shall be subtracted from, and the amount of refunding bonds issued or to be issued shall be added to, the aggregate of the outstanding bonds, notes and other evidences of indebtedness of the Mayor and City Council of Ocean City. The power and obligation of the town to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited except as hereinabove provided, and the town shall levy ad valorem taxes upon all taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon without limitation of amount except as hereinabove provided. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other 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 town shall have the power to sell any bonds, notes or other evidences of indebtedness at, above or below the face or par value thereof, by public sale or by private negotiated sale without advertisement or publication of notice of sale or solicitation of competitive bids, as the Mayor and City Council of Ocean City may by ordinance or resolution determine, notwithstanding any contrary limitations or restrictions, including, without limitation, any limitations or restrictions contained in Sections 31 through 39 of Article 23A of the Annotated Code of Maryland (1981 Replacement Volume) [Title 19, Subtitle 3 of the Local Government Article] and, more particularly, in Section 34(4) thereof. All bonds, notes or other evidences of indebtedness previously issued by Mayor and City Council of Ocean City and sold at private sale and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect in accordance with their terms as if herein fully set forth. (Amended Res. 3-22-66 and Res. 4-15-69; 5-18-81 by Res. No. 1981-2; 5-18-81 by Res. No. 1981-3; Res. No. 1986-4, 11-4-86; Res. No. 1987-4, 10-6-87; Res. No. 2001-1, 8-7-01.)

Section C-720. Previous issues.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth.

Section C-721. Purchasing and contracts.

All purchases and contracts for the town government shall be made by the City Manager. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual service involving more than ten thousand dollars (\$10,000.) shall be made on written contract. The City Manager shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or contracts shall be approved by the Council before becoming effective. The City Manager shall have the right to reject all bids and readvertise. The bidding requirements, hereinabove stated, shall not be required if the Council elects to purchase supplies, materials, equipment, or enter into any contractual service with any other municipality, county, state or federal government, which has already bid the items subject to purchase or contract. The town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the town may require. (Amended 11-5-73 by Res. No. 1973-1; 12-21-81 by Res. No. 1981-9; Res. No. 1983-4, 4-12-83; Res. No. 1988-2, 12-27-88; Res. No. 2006-1, 6-20-06.) (See note (4))

Section C-722. Bond anticipation notes.

A. The town shall have the power to sell its bond anticipation notes, in aggregate amount not greater than the amount of the bonds in anticipation of the sale of which said notes are issued and sold, the principal of and interest on said notes to be made payable to the bearer or registered holder thereof out of the first proceeds of sale of said bonds, or from the tax or other revenue which the town shall have previously determined to apply to the payment of said bonds and the interest thereon. The proceeds of sale of such notes, after payment therefrom of the expenses of the issuance thereof, shall be expended only on the public purposes for which said bonds will be issued, provided, however, that twelve (12) months' interest on said notes, or any renewal thereof, may be paid from said proceeds, accounting from the initial date of issue thereof. Such notes shall be authorized by an ordinance, which shall cite this section as the authority for said notes and the amount authorized, shall fix the maturities, interest rates or the manner of determining the same, and other terms of such bond anticipation notes, the price or prices at which said notes will be sold, which may be at, above or below the face value thereof as provided by public general law and by this Charter, and the manner of their sale, which may be by private negotiation by the town with a prospective purchaser or purchasers if deemed by the Council to be for the best interests of the town. Said ordinance may provide for the issuance of said notes, pursuant to such sale, in series as funds are required, and may also provide for the renewal of said notes at maturity with or without resale. All such notes shall be signed, endorsed or guaranteed in the same manner as shall be provided by law for the bonds in anticipation of which said notes are issued.

B. No such bond anticipation notes shall be issued and sold hereunder unless the town shall, by the ordinance authorizing said notes, covenant to pay the same and the interest thereon from the proceeds of the bonds in anticipation of the sale of which said notes are issued and shall further covenant to issue said bonds when, and as soon as, the reason for deferring the issuance thereof no longer exists. (Added Res. 3-3-69.)

Section C-723. Revenue bonds, notes and other evidences of indebtedness.

A. *Authority.* In addition to any other authority conferred by applicable law, including, without limitation, the authority conferred by Sections 266-A through 266-I, inclusive, of Article 41 [Title 10 of the State Government Article] and Section 12 of Article 31 of the Annotated Code of Maryland (1980 Cumulative Supplement) [Title 19, Subtitle 2 of the Local Government Article], as amended, the town shall have the power to borrow money to finance undertakings for the accomplishment of any of the purposes, objects and powers of the Mayor and City Council of Ocean City and, in connection therewith, to issue bonds, notes or other evidences of indebtedness (including refunding bonds, notes or other evidences of indebtedness), all of which shall be fully negotiable and payable as to both principal and interest, solely from, and secured solely by, a pledge of: (1) the revenues from or arising in connection with the property, facilities, developments and improvements whose financing is undertaken by issuance of said bonds, notes or other evidences of indebtedness, (2) the revenues from or arising in connection with any contracts, agreements, mortgages, instruments, documents or securities purchased or otherwise acquired with the proceeds of those bonds, notes or other evidences of indebtedness, (3) the contracts, agreements, mortgages, instruments, documents or securities purchased or otherwise acquired with the proceeds of those bonds, notes or other evidences of indebtedness, (4) any other security approved by the Mayor and City Council of Ocean City, or (5) any combination of (1), (2), (3) or (4). Any and all of such bonds, notes or other evidences of indebtedness shall not be general obligations of or a pledge of or involve the faith and credit of the town, and shall never constitute an indebtedness or a charge against the general credit or taxing powers of the town within the meaning of any constitutional, statutory or Charter provision limiting or restricting the issuance or sale of bonds, notes or other evidences of indebtedness of the town, and shall never constitute or give rise to any pecuniary liability of the town.

B. *Exemption from taxation.* The principal amount of the bonds, notes or other evidences of indebtedness authorized, issued and sold pursuant to the provisions of this Section C-723, the interest payable thereon, their transfer, and any income derived therefrom (including any profit made in the sale or transfer thereof) shall be and remain exempt from any and all state, county and municipal taxation in the State of Maryland.

C. *Provisions of ordinance or resolution.* Any and all bonds, notes or other evidences of indebtedness authorized to be issued under the provisions of this § C-723 shall be issued by the Mayor and City Council of Ocean City pursuant to an ordinance of said town without the necessity of submitting the question of such issuance to a referendum of the qualified voters of the town for approval or disapproval. Any such ordinance may prescribe, among other things, certain matters pertaining to such bonds, notes or other evidences of indebtedness including, without limitation, the form and tenor thereof; the terms, provisions and conditions thereof; the manner or method of issuance and sale thereof (which may be by public sale, or by private negotiated sale without

advertisement or publication of notice of sale, or solicitation of competitive bids, as the Council may deem appropriate); the time or times of issuance thereof; and any and all other details incident to any such bonds, notes or other evidences of indebtedness and the issuance, sale and delivery thereof and of any and all transactions relating thereto; and such ordinance may authorize and empower the Mayor and City Council of Ocean City by resolution to determine and set forth any and all of the foregoing matters, and to do any and all things necessary, proper, desirable or expedient in connection with the issuance, sale and delivery of any such bonds, notes or other evidences of indebtedness and any and all transactions relating thereto.

D. *Trust agreement.* Any bonds, notes or other evidences of indebtedness authorized to be issued under the provisions of this § C-723 may be secured by a trust agreement by and between the Mayor and City Council of Ocean City and a corporate trustee, which may be any trust company or bank having trust powers within or without the State of Maryland. The authorizing ordinance or the resolution (if any) may, among other things, approve the form of the trust agreement. The authorizing ordinance, the resolution (if any) or the trust agreement may pledge or assign all or any part of: (1) the revenues from or arising in connection with the property, facilities, developments and improvements whose financing is undertaken by issuance of such bonds, notes or other evidences of indebtedness, (2) the revenues from or arising in connection with any contracts, agreements, mortgages, instruments, documents or securities purchased or otherwise acquired with the proceeds of those bonds, notes or other evidences of indebtedness, (3) the contracts, agreements, mortgages, instruments, documents or securities purchased or otherwise acquired with the proceeds of those bonds, notes or other evidences of indebtedness, (4) any other security approved by the Mayor and City Council of Ocean City, or (5) any combination of (1), (2), (3) or (4). Any such authorizing ordinance or resolution or trust agreement may set forth the rights and remedies of the holders of such bonds, notes or other evidences of indebtedness and of the trustee; may restrict the individual right of action by the holders of such bonds, notes or other evidences of indebtedness; may contain whatever provisions for the protection and enforcement of the rights and remedies of the holders of any such bonds, notes or other evidences of indebtedness as the Mayor and City Council of Ocean City may deem reasonable and proper; and, in addition to the foregoing, may contain whatever other provisions the Mayor and City Council of Ocean City may deem reasonable, desirable or proper for the security of the holders of any such bonds, notes or other evidences of indebtedness.

E. *Costs and expenses.* Any and all costs and expenses incurred in connection with the authorization, issuance, sale and delivery of any bonds, notes or other evidences of indebtedness authorized to be issued under the provisions of this § C-723, and any and all of the transactions relating thereto (including, without limitation, the carrying out of the provisions of the ordinance, resolution, if any, and any trust agreement pursuant thereto) may be treated as part of the cost of the financing of any project or projects in connection with which such bonds, notes or other evidences of indebtedness have been issued.

F. *Enforcement of rights of holders.* Any holder of bonds, notes or other evidences of indebtedness issued under this § C-723 or of any coupons appertaining to those bonds, and the trustee, except to the extent the rights herein given may be restricted by the authorizing ordinance, resolution (if any) or trust agreement pursuant thereto, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of

this state or granted hereunder or in such ordinance or resolution (if any) authorizing the issuance of those bonds, notes or other evidences of indebtedness or under such trust agreement, and may enforce and compel the performance of all duties required by this § C-723 or in such ordinance or resolution (if any) authorizing the issuance of those bonds, notes or other evidences of indebtedness or by such trust agreement to be performed by the Mayor and City Council of Ocean City or by any officer thereof; provided, however, that nothing contained herein shall be construed as a general obligation of or a pledge of or as involving the faith and credit of the town, or shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the town within the meaning of any constitutional, statutory or Charter provision limiting or restricting the issuance or sale of bonds, notes or other evidences of indebtedness of the town or shall ever constitute or give rise to any pecuniary liability of the town.

G. *Findings of the Mayor and Council conclusive.* In any suit, action or proceeding involving the validity or enforceability of any bonds, notes or other evidences of indebtedness issued under the provisions of this § C-723 or the security therefor, any finding by the Mayor and City Council of Ocean City that the project whose financing is undertaken by the issuance of those bonds, notes or other evidences of indebtedness is necessary, proper, desirable or expedient for any of the purposes, objects and powers of the Mayor and City Council of Ocean City shall be conclusive.

H. *Validity of prior issues unaffected.* Nothing contained in this § C-723 shall be deemed or construed to affect the validity or enforceability of any bonds, notes or other evidences of indebtedness heretofore issued by the town. (Added 5-18-81 by Res. No. 1981-4.)

TITLE VIII Zoning

Section C-801. Power of Mayor and City Council.

For the purpose of promoting the health, security, general welfare and morals of the community, the Mayor and City Council of Ocean City shall have the power to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

Section C-802. Districts established; regulations.

For any or all said purposes in § C-801, said Mayor and City Council of Ocean City may divide the municipality into districts of such number, shape and area as it may deem best suited to carry out the purpose of this charter; and within such districts may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Section C-803. Purpose of regulations.

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

Section C-804. Change in regulations; hearings.

The Mayor and City Council of Ocean City shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least (15) days' notice of the time and place of such hearing shall be published in a paper of general circulation in Worcester County.

Section C-805. Amendments in regulations.

Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto extending one hundred (100) feet therefrom, or of those directly opposite lots, extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of five-sevenths (5/7) of all the members of the legislative body of such municipality. The provisions of § C-804 relative to public hearings and official notice shall apply equally to all changes or amendments. (Amended 1-5-76 by Res. No. 1976-29.)

Section C-806. Zoning Commission; appointment, reports.

In order to avail itself of the powers conferred by this charter and the general laws of the State of Maryland, the Mayor and City Council of Ocean City shall appoint a Commission, to be known as the Zoning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Mayor and City Council of Ocean City shall not hold its public hearings or take action until it has received the final report of such Commission. The municipality is hereby expressly authorized to appoint a Planning and Zoning Commission under the authority conferred by Article 66B of the Annotated Code of Maryland, 1957 Edition [the Land Use Article], or a special Zoning and Planning Commission, to be vested with the same powers and duties herein enumerated, appointed to make specific planning and/or zoning recommendations.

Section C-807. Board of Zoning Appeals; duties.

A. The Mayor and City Council of Ocean City may, pursuant to Article 66B aforesaid [the Land Use Article], provide for the appointment of a Board of Zoning Appeals, and in the regulations and restrictions adopted pursuant to the authority of this charter may provide that the said Board of Zoning Appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. (Amended 1-5-76 by Res. No. 1976-31; 12-21-81 by Res. No. 1981-10.) (See note (4))

B. The Board of Zoning Appeals shall consist of not less than five (5) nor more than seven (7) members, and they shall be appointed by the Mayor and Council for a period of three (3) years or until their successors are appointed, approved and take office. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The members of the Board of Zoning Appeals shall be removable for cause by the appointing authority with the approval of the Council upon written charges and after a public hearing. (Amended 1-5-76 by Res. No. 1976-32; 12-21-81 by Res. No. 1981-10.) (See note (4))

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

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

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

F. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same

within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

G. The Board of Zoning Appeals shall have the following powers:

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

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

(3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as is necessary to avoid arbitrariness, so that the spirit of the ordinance shall be observed and substantial justice done.

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

I. The concurring vote of four (4) out of five (5) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. (Amended 1-5-76 by Res. No. 1976-34.)

J. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to the Circuit Court for Worcester County, Maryland, a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the board.

K. Upon the presentation of such petition the court may allow an appeal to review such decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator or his attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the appeal shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. (Amended 1-5-76 by Res. No. 1976-33.)

L. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such appeal. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

M. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up to review.

N. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

O. In the event of a conflict between any sections of this Title XVIII and Article 66B, Zoning and Planning [the Land Use Article], or Article 41 Section 244, et seq., Administrative Procedures Act, of the Annotated Code of Maryland [Title 10 of the State Government Article], the said Articles 66B and 41 shall control. (Added 1-5-76 by Res. No. 1976-35.)

Section C-808. Enforcement.

A. The Mayor and City Council of Ocean City may provide by ordinance for the enforcement of this Title and of any ordinance or regulation made thereunder. A violation of this Title or of such ordinance or regulation is hereby declared to be a misdemeanor, and the Mayor and City Council of Ocean City may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Title or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Amended 1-5-76 by Res. No. 1976-36.)

Section C-809. Effect of other statutes and ordinances.

Wherever the regulations made under authority of this Title require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Title shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Title, the provisions of such statute or local ordinance or regulation shall govern. (Amended 1-5-76 by Res. No. 1976-37.)

TITLE IX Erosion Control

Section C-901. Erosion control.

The Mayor and City Council of Ocean City is hereby authorized and empowered for the protection of the city to construct and/or utilize any erosion control or shoreline and beach maintenance structure or method into, and adjacent to, the ocean, inlets or bays within the municipality. (Amended 1-5-76 by Res. No. 1976-9.)

TITLE X Officers and Employees

Section C-1001. City Manager; powers and duties.

The City Manager shall be appointed by the Council and shall serve at its pleasure. The City Manager:

- A. Is the chief administrative officer of the town.
- B. Hires, supervises and discharges all town employees, except department heads, subject to personnel regulations and other laws of the town and the state.
- C. Recommends to the Council the appointment or discharge of all department heads.
- D. Supervises all department heads during the term of their appointment.
- E. May request a closed hearing by the Council upon receiving notice of his removal.
- F. Makes reports and recommendations to the Council concerning any municipal matter which may deserve Council attention.
- G. Carries out other duties assigned by the Council.
- H. In the event any enumerated or signed power or duty shall conflict with the powers and duties of any other official in the town, then such other official shall be considered to possess such duties and powers rather than the City Manager. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-1001A. Clerk-Treasurer.

The Council shall appoint a Clerk-Treasurer who shall serve at its pleasure. He shall perform all duties under the supervision of the City Manager. The Clerk-Treasurer shall serve as

clerk to the Council and shall have custody of all legislative and administrative records of the Council. (Added 12-21-81 by Res. No. 1981-10.) (See note (4))

Section C-1002. Town Attorney.

The Town Attorney shall be a member of the Bar of the Maryland Court of Appeals. The Town Attorney shall be the legal advisor of the Town and shall perform such duties in this connection as may be required by the Council or the Mayor. His compensation shall be determined by the Council. The Town shall have the power to employ such additional legal consultants as it deems necessary from time to time. (Amended 5-3-82 by Res. No. 1982-7.) (See note (8))

Section C-1003. Merit system authorized; right of certain employees to organize and bargain collectively.

A. The Town may provide by ordinance for the establishment and administration of a personnel system for town employees. To carry out this purpose, the Council shall have the power to adopt such rules and regulations governing the operation of the merit system as it deems desirable or necessary. Among other things, these rules and regulations may provide for appointment and promotion of town employees based on merit and fitness, competitive examinations, the use of eligible lists, a classification plan, compensation plan, a probation period, appeals by employees included with the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations. The Town may request and avail itself of the facilities of the Secretary of State Personnel for the administration of its merit system, as provided in State law.

B. In order that employees of the Ocean City Police Department may participate in the formulation and implementation of personnel policies effecting [affecting] their employment, they shall have the right to organize and bargain collectively though [through] representatives of their choosing, subject to procedural regulations that the Council shall provide by law. The Council shall provide by law a labor code for employees of the Ocean City Police Department which shall include the following:

- (1) The manner of establishing units appropriate for collective bargaining;
- (2) The manner of designating or selecting bargaining representatives; and
- (3) Definitions for remedies for unfair labor practices.

The Council is authorized to negotiate through its designated representatives with collective bargaining representatives of police employees. In the event the Council's designated representatives and the representatives of the police employees are unable to negotiate and agree upon a collective bargaining agreement by March 1 of the relevant year, the Council and the police employees are authorized to submit to binding arbitration any disputed issues arising out of the negotiation of the collective bargaining agreement. The disputed issues shall be submitted to an impasse panel consisting of three persons who shall be selected as follows:

(1) The Council and the employee organization shall each select one member within three days after the request for the convening of the panel.

(2) The two members so selected shall select a third member within three days of their selections; if the two members are unable to agree to the third member, they shall make their selection from a panel maintained by an independent third party agency agreeable to all parties; if the parties are unable to agree on the independent third party agency, the third member shall be selected from a panel maintained by the federal Mediation and Conciliation Service of the United States Department of Labor. The third member of the panel so selected shall serve as its chairperson. The panel shall hold a hearing on all disputed issues within thirty (30) days of the selection of its chairperson and shall issue its final decision within thirty (30) days of the conclusion of the hearing. The decision of the panel shall be final and binding upon the Council and the employee organization.

The cost of the impasse panel proceedings shall be divided equally between the parties. Nothing herein contained shall be construed as prohibiting the impasse panel from mediating the dispute at any time after it is referred to it prior to the issuance of its final and binding decision. In addition, the Council and police employees are authorized to submit to binding arbitration any disputes arising out of the interpretation of, or the application of, any collective bargaining agreement. Nothing herein shall be deemed to authorize a labor strike by any public employee.

C. The Council shall have the authority to recognize and engage in collective bargaining with one or more designated bargaining representatives of certain employees of the emergency medical services division of the Ocean City Department of Emergency Services, and the Ocean City Fire Marshal's Department, and shall have the authority to enter into a binding collective bargaining agreement with said representatives, and shall further have the authority to enact by ordinance or amendment, a system of rules and regulations to govern this process, provided that the Council shall not have the authority to participate in binding interest arbitration with respect to these employees. "Binding interest arbitration" shall be defined herein as the process through which parties negotiating a collective bargaining agreement reach impasse on one or more terms, and call upon a third party to resolve the impasse and set a term of the collective bargaining agreement to which the parties are bound. Binding interest arbitration includes the impasse panel process described in § C-1003.B. (Amended 1-5-76 by Res. No. 1976-38; 5-3-82 by Res. No. 1982-9; Res. No. 2001-12, 10-15-02; Res. No. 2005-1, 10-26-05.) (See note (8))

Section C-1004. Unclassified and classified service.

A. The civil service of the Town shall be divided into unclassified and classified service.

B. *Unclassified service.* The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

(1) The Mayor, Councilmen and persons appointed to fill vacancies in these positions.

(2) The City Manager, Clerk-Treasurer and the Town Attorney.

(3) The heads of all operating departments and members of Town boards and commissions.

(4) Part-time, temporary, seasonal positions, and unpaid offices and positions.

C. *Classified service.* The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted. (Amended 5-20-74 by Res. No. 1974-4; 12-21-81 by Res. No. 1981-9 (See note (4)); 5-3-82 by Res. No. 1982-8. (See note (8)))

Section C-1005. Prohibitions and penalties.

A. *Prohibitions.* If a merit system is adopted, no person in the classified service of the town or seeking admission thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personal [personnel] provisions of this charter or of the rules and regulations made thereunder; no person seeking appointment to or promotion in the classified service of the town shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for a candidate for Ocean City municipal elections from any person holding a position in the classified service of the town. Participation in politics or political campaigns and the free expression of political opinions by employees of this city shall not be prohibited, and each employee shall retain all rights and obligations of citizenship provided in the Constitution and laws of the State of Maryland, and in the Constitution and laws of the United States of America; however, no such employee shall: engage in political activity while on the job during working hours; advocate the overthrow of the government by unconstitutional and violent means; or, be obligated to contribute or render political service. (Amended 1-5-76 by Res. No. 1976-47; Amended 6-4-91 by Res. No. 1991-1; Amended 6-6-00 by Res. No. 2000-1.)

B. No union, association, club, etc., or other collective bargaining organization shall be recognized as a bargaining agent or representative of any city employee, group of city employees or all of the city employees. No dues checkoff or other withholding of a portion of an employee's salary shall be permitted except to the extent same is mandatorily required by federal or state tax or social security provisions or other federal or state laws and except to the extent that a program of employee benefits sponsored by the city may allow voluntary withholdings. The provisions of this subsection are not applicable to employees of the Ocean City Police Department, the emergency medical services division of the Ocean City Department of Emergency Services, and the Ocean City Fire Marshal's Department, as determined by the Council. (Amended 1-5-76 by Res. No. 1976-10; Res. No. 2001-12, 10-15-02; Res. No. 2005-1, 10-26-05.)

C. *Penalties.* Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.), or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the town service, and shall, if he be an officer or employee of the town, immediately forfeit the office or position he holds. (Added 1-5-76 by Res. No. 1976-10.)

Section C-1006. Retirement system.

The town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town.

Section C-1007. Compensation of employees.

The compensation of all officers and employees of the town shall be set from time to time by an ordinance passed by the Council, subject to the restrictions imposed upon establishing the salaries of the Councilmen and Mayor.

Section C-1008. Employee benefit programs.

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

TITLE XI

Public Ways

Section C-1101. Definitions.

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

Section C-1102. Control.

The town shall have control of all public [public] ways in the town except such as may be under the jurisdiction of the State. Subject to the laws of the State of Maryland and this charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town. (Amended 1-5-76 by Res. No. 1976-39.)

Section C-1103. Powers of town.

The town shall have the power:

A. To establish, regulate and change from time to time the grade lines, width and construction materials of any town public way or part thereof, bridges, curbs and gutters.

B. To grade, lay out, construct, open, extend and make new town public ways.

C. To grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.

D. To pave, surface, repave or resurface any town public way or part thereof.

E. To install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.

F. To construct, reconstruct, maintain and repair bridges.

G. To name town public ways.

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

Section C-1104. Sidewalks.

The town shall have the power:

A. To establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalks or part thereof on town property along any public way or part thereof.

B. To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.

C. To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.

D. To require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

TITLE XII
Public Works

Section C-1201. Water and sewers; powers of town.

The town shall have power:

- A. To construct, operate and maintain water systems and water plants.
- B. To construct, operate, and maintain sanitary sewerage systems and sewage treatment plants, to enter into contracts with any sanitary district, sanitary commission, political subdivision, state or federal government for the construction, operation and maintenance of sanitary sewage systems and sewage treatment plants within the corporate limits of the Town of Ocean City, and to contribute toward the payment of said construction, operation and maintenance thereof.
- C. To construct, operate and maintain a storm water drain system and storm water sewers.
- D. To construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above plants and systems.
- E. To have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.
- F. To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (Res. No. 1983-2, 4-12-83.)

Section C-1202. Placing structures in public ways.

Any public service corporation, company or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, sewerage, storm water system or traffic, the town may order it removed.

Section C-1203. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits or other structures in, on or over any public way in the town or in the county which impede the establishment, construction or operation of any town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in this charter. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section C-1204. Entering on county public ways.

The town may enter upon or do construction in, on or over 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, water plant, sanitary sewerage system, sewage treatment

plant or storm water sewers provided for in this charter. Unless required by the county, the town 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.

Section C-1205. Connections.

The town shall provide a connection 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 by the town, all abutting property owners after reasonable notice shall connect all fixtures with the water or sewer main. The town may require that if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section C-1206. Connection charge.

The town shall make a charge, the amount to be determined by the Council, for each connection made to the water or sewer mains owned or operated by the municipality. This charge shall be uniform throughout the town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

Section C-1207. Changes in plumbing, etc., to prevent waste or improper use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use. (Amended 1-5-76 by Res. No. 1976-48.)

Section C-1208. Private systems.

The town may by ordinance provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporations, institution, or community, whether upon private premises or otherwise, and may provide that cesspools, or other private methods of sewage disposal, shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section C-1209. Extentions [Extensions] beyond boundaries.

The town shall have the power to extend its water and sewerage system beyond the town limits, or to participate with any Sanitary District, Sanitary Commission, or political subdivision in said extensions.

Section C-1210. Right of entry.

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

Section C-1211. Building regulations.

The Mayor and City Council of Ocean City, through its proper employees and agents and while said employees and agents are in the necessary pursuit of their official duties, shall have the power and authority to provide for the entering into and examination of all dwelling lots, yards, enclosures and buildings to ascertain their condition for health, cleanliness and safety, for the taking down and removing of all buildings, walls, structures, or superstructures which may become dangerous or to require owners to remove them or put them in a safe and sound condition at their own expense; to regulate the building and maintenance of party walls, smoke flues, fireplaces, chimneys, hot air flues, smokestacks and stovepipes; to provide for and regulate the safe construction, inspection and repairs to all private and public buildings within the city; to regulate the height, construction and inspection of all new buildings hereinafter erected in said city, and the inspection and repairs of any buildings already erected.

Section C-1212. 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 town water supply system. Any violation of the provisions of this section shall be a misdemeanor.

Section C-1213. Contracts for water.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of sewage.

Section C-1214. Charges.

The town shall have the power to charge and collect such service rates, water rents, ready-to-serve charges, or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the City Manager, and if bills are unpaid within thirty (30) days, the service may be discontinued. All charges shall be a lien on

the property, collectible in the same manner as town taxes or by suit at law. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

Section C-1215. Services by other agencies; contracts.

A. Nothing contained in this charter shall be construed as affecting or prohibiting in any manner the exercise within the corporate limits of Ocean City of any and all powers conferred by law upon the County Commissioners of Worcester County, the Worcester County Sanitary District (organized and existing pursuant to the provisions of Health – Environmental Article of the Annotated Code of Maryland (1982 Volume) [the Environment Article], as amended from time to time), or other special tax area or district, in connection with water and sewerage facilities, and consent to the exercise of such powers is hereby expressly granted. The provisions of this Section shall be self-executing, and no further consent shall be required on behalf of the town in connection therewith. Nevertheless, all water systems and sewerage systems constructed and operated within the corporate limits of Ocean City shall be designed and planned to avoid duplication in the rendition of public services, whether such services are provided by the town or another entity or entities or by any combination thereof.

B. The town shall have the power to enter into contracts with the Federal government, the State of Maryland, or any agency or instrumentality of either, any sanitary district including but not limited to the Worcester County Sanitary District, or with any municipality, private corporation, copartnership, association or individual providing for or relating to the furnishing of water and sewerage services and facilities within and without the corporate limits of Ocean City by the town or by another entity or entities or by any combination thereof. To avoid duplication in the furnishing of water and sewage services and facilities, the Town may enter into the aforesaid contracts for the construction, operation and maintenance of water systems, sanitary sewage systems and sewage treatment plants and contribute toward the payment of the costs of said construction, operation and maintenance thereof. (Added, Res. 4-25-67, as 197E; renumbered, Res. 4-15-69, as 197D; Res. No. 1983-3, 4-12-83.) (See note (9))

Section C-1216. Special assessments.

The town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of water mains, sanitary sewer main, storm water sewers, curbs and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and the dredging or other maintenance of water depth in canals, lagoons, basins, or other waterways in the town, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project. (Res. No. 1986-3, 10-21-86.)

Section C-1217. Procedure.

The procedure for special assessments, wherever authorized in this charter, shall be as follows:

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

B. The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five percentum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

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

D. All special assessments charges shall be levied by the Council by ordinance. Before levying any special assessment charge, the Council shall hold a public hearing. The City Manager shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The City Manager shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the City Manager shall have completed publication and service of notice provided in this section. Following the hearing the Council, in its discretion, may vote to proceed with the project and may levy the special assessment. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

E. Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this charter shall have the right to appeal to the circuit court for the county within ten (10) days after the levying of any assessment by the Council.

F. Special assessments may be made payable in annual or more frequent installments over such period of time and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

G. All special assessment installments shall be overdue six (6) months after the date on which they become due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

H. All special assessments shall be billed and collected by the City Manager. (Amended 12-21-81 by Res. No. 1981-9.) (See note (4))

TITLE XIII

Property

Section C-1301. Acquisition; possession; disposal.

The town may acquire real, personal or mixed property within the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation or otherwise and may sell, lease or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in the possession of the town (by whatever prior name known) at the time this charter becomes effective are vested in the town, subject to the terms and conditions thereof.

Section C-1302. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein, or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, or outside the said limits if permitted by the laws of the State of Maryland, for any public purpose. Any activity, project or improvement authorized by the provisions of this charter or any other State law applicable to the town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in the Annotated Code of Maryland. (Amended 1-5-76 by Res. No. 1976-40.)

Section C-1303. Town buildings.

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

TITLE XIV

Miscellaneous

Section C-1401. Oath of office.

A. Before entering upon their duties as officers of the town, the Mayor, the Councilmen, the City Manager, the City Attorney, the Clerk-Treasurer, the members of the Board of Supervisors of Elections and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation: "I,

....., do swear (or affirm, as the case may be) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, and without partiality or prejudice, execute the office of according to the Constitution and laws of this State.” (Amended 12–21–81 by Res. No. 1981–9.) (See note (4))

B. Before whom taken and subscribed. The Mayor and all members of the Council shall take and subscribe to this oath or affirmation before the clerk of the circuit court for the county or before one (1) of the sworn deputies of the clerk. All other persons taking and subscribing the oath shall do so before the Mayor. (Amended Res. 2–21–72.)

Section C–1402. Official bonds.

The City Manager, Clerk–Treasurer, and such other officers or employees of the town 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 town. (Amended 12–21–81 by Res. No. 1981–9.) (See note (4))

Section C–1403. Power to regulate loud noises.

A. The town shall have the power to regulate and prohibit the use of loudspeakers or other mechanical devices on any boat, ship, plane or vessel of any kind near enough to the shore or beaches at Ocean City to produce or reproduce loud noises which can be heard in or near Ocean City to the discomfort or inconvenience of persons residing or being in Ocean City.

B. The Mayor and City Council may by ordinance regulate and control excessive noise within the corporate limits of the town by any reasonable and necessary means, including (without limitation) the establishment of a permit procedure to ensure that only those owners of real property situated within the corporate limits of the town who exercise due diligence in controlling noise on or emanating from their property shall be permitted to use their property to provide temporary shelter to the town’s transient population and temporary residents.

C. There shall be a Noise Control Board consisting of seven (7) members appointed by the Mayor and City Council, each for a term of three (3) years or until their successors are appointed, approved and take office, except that the initial appointments shall be three (3) members for three (3) years, three (3) members for two (2) years, and one (1) member for one (1) year. Vacancies shall be filled by the Mayor and City Council for the unexpired term of any member whose term becomes vacant. The compensation of the members of the Board shall be determined by the Council. The Board shall appoint one (1) of its members as Chairman. The Board shall exercise such duties and powers as may be provided in an ordinance adopted pursuant to Subsection B of this section. Proceedings before the Board in any contested case shall be conducted in conformance with the applicable provisions of the State Administrative Procedure Act, Sections 244 to 256A, inclusive, of Article 41 of the Annotated Code of Maryland (1957 Edition, as amended and replaced) [Title 10 of the State Government Article].

D. Any person aggrieved by a final decision of the Noise Control Board, whether such decision is affirmative or negative in form, may within thirty (30) days of such decision petition the Circuit Court for Worcester County to review the decision upon the record created by the Board. Judicial review shall be conducted in conformance with the applicable provisions of the State Administrative Procedure Act, Sections 244 to 256A, inclusive, of Article 41 of the Annotated Code of Maryland (1957 Edition, as amended and replaced) [Title 10 of the State Government Article]. (Res. No. 2007-2, 12-4-07; Res. No. 1982-3, 3-15-82; Res. No. 1986-1, 8-5-86.) (See note (10))

Section C-1404. Sabbath observance.

The Mayor and City Council of Ocean City may, from time to time, by ordinance, permit and regulate amusements, entertainments or games to be held, shown or played for recreation or profit within the municipality on Sunday. (Amended 1-5-76 by Res. No. 1976-41.)

Section C-1405. Prior rights and obligations.

All right, title and interest held by the town 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 town, are hereby preserved for the holder in all respects as if this charter had not been adopted, together with all rights and remedies in relation thereto. This charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing at the time this charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this charter, shall be instituted, proceeded with and prosecuted to final determination and judgment as if this charter had not become effective.

Section C-1406. Misdemeanors.

Every act or omission which, by ordinance, is made a misdemeanor under the authority of this charter, unless otherwise provided, shall be punishable upon conviction before the Circuit Court or any other appropriate judicial forum by a fine not exceeding one thousand dollars (\$1,000.), or imprisonment for ninety (90) days in the county jail, or both, in the discretion of the court or other appropriate judicial forum. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State. Where the act of omission is of a continuing nature and is persisted in, a conviction for one (1) offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Amended 1-5-76 by Res. No. 1976-42.)

Section C-1407. Effect of Charter on existing ordinances.

A. Ordinances, etc., not in conflict with charter remain in effect. All ordinances, resolutions, rules and regulations in effect in the town at the time this charter becomes effective or is revised which are not in conflict with the provisions of this charter shall remain in effect until changed or repealed according to the provisions of this charter.

B. Ordinances, etc., in conflict with charter repealed. All ordinances, resolutions, rules and regulations in effect in the town at the time this charter becomes effective or is revised which are in conflict with the provisions of this charter be and the same are hereby repealed to the extent of such conflict. (Amended 1-5-76 by Res. No. 1976-43.)

Section C-1408. Separability.

If any section or part of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (Amended 1-5-76 by Res. No. 1976-44.)

Section C-1409. Conflicts of interest.

All officials, employees or agent of any department, board, commission or other public agency of the Town of Ocean City shall abstain from personally and substantially participating as such in any city procedure or other city matter in which, to his knowledge, he, his spouse, his parent, his minor child or his sibling has a financial interest. All officials, employees or agent for any department, board, commission or other public agency of the Town of Ocean City shall abstain from participating in any city procedure or other city matter involving any person or firm with whom he is negotiating for, or has any arrangements concerning, present or prospective employment. (Added 1-3-77 by Res. No. 1977-1.)

TITLE XV

Repealed. See Appendix I.

TITLE XVI

Repealed; Res. No. 1985-1, 10-8-85

APPENDIX I

Urban Renewal Authority for Slum Clearance

(See Note (14))

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 Mayor and City Council of Ocean City.

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 therein, 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.

(1) 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: (i) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (ii) plans for the enforcement of codes and regulations 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 (iii) 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;

(2) 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;

(3) to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this appendix, including the payment or reimbursement of reasonable actual costs incurred as a result of utility relocations when such relocations are made necessary by an urban renewal project, after making appropriate adjustment for any improvements or betterments to the utility's facilities made in connection with the relocation; 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 sources, 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.[:]

(4) 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;

(5) 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 any other public bodies or agencies (which agreements may extend over any period, notwithstanding any provision 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;

(6) 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;

(7) 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;

(8) 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; and

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

Section A1–103. Establishment of Urban Renewal Agency.

A 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 a 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:

(1) the power to pass a resolution to initiate an urban renewal project pursuant to Section A1–104 of this appendix;

(2) the power to issue general obligation bonds pursuant to Section A1–109 of this appendix; and

(3) the power to appropriate funds, and to levy taxes and assessments pursuant to Section A1–102(3) of this appendix.

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

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

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

(3) 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.

(a) 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 to 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.

(b) 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 [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.

(c) 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 or 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 area 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 or 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 a 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 sub-section. 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 sub-section (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 authorizations of general obligation bonds by such municipality, and also within such limitations as shall be determined by said municipality.

Section A1-110. Revenue Bonds.

(a) 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.

(b) 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) [Title 19, Subtitle 2 of the Local Government Article]. Bonds issued under the provisions of this Article [article] 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.

(c) 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 per centum 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.

(d) 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.

(e) 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 provision of any law to the contrary notwithstanding, any bonds issued pursuant to this appendix shall be fully negotiable.

(f) 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.

(g) 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.

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 Ocean City 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.

NOTES

- (1) Sections 170 to 208 have been renumbered below as Sections C-101 to C-1408.
- (2) Former Subsection D, which immediately followed this subsection, concerning the office of Mayor as a full-time position, added 7-17-78 by Res. No. 1978-1, was repealed 5-18-81 by Res. No. 1981-1. It was also repealed 12-21-81 by Res. No. 1981-10.
- (3) Former Subsection C, which immediately followed this subsection, was repealed 1-5-76 by Res. No. 1976-6. Former Subsection D, as amended 2-21-72 by resolution, was repealed 1-5-76 by Res. No. 1976-7.
- (4) This resolution also provided that it shall be effective 2-9-82.
- (5) This ordinance becomes effective 9-7-82.
- (6) This resolution also repealed Res. No. 1981-5, adopted 9-7-81, and Res. No. 1981-6, adopted 9-21-81, prior to such charter amendment resolutions having become effective or a part of the charter.
- (7) This resolution also provided that it shall be effective 7-6-82.
- (8) This resolution also provided that it shall be effective 6-22-82.
- (9) The resolution of 4-15-69 repealed original Section 197D and renumbered Section 197E, adopted by resolution 4-25-67, as Section 197D.
- (10) This resolution also provided that it shall become effective 5-4-82.
- (11) Repealed.
- (12) Sections 208A and 208B of Ch. 722 of 1966, of which this is a copy, were repealed by Ch. 646 of 1967, which added comparable provisions in Sections 396 and 397 of Article 41 of the Annotated Code of Maryland.
- (13) Resolution No. 1990-3 failed to include the reference to "the Mayor" in the third sentence of Subsection D. This omission has been corrected.
- (14) Pursuant to Article III, Section 61 of the Maryland Constitution, the General Assembly of Maryland granted urban renewal powers for slum clearance to the Town of Ocean City in Chapter 103 of the Acts of the General Assembly of 1963.

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 Town of Ocean City 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 Title XV, §§ C-1501 through C-1511, inclusive, of this Charter.

(15) Article 23B – Municipal Corporation Charter was repealed by Chapter 228 of the Acts of the General Assembly of 1994.