

CHARTER

OF THE

# **Town of Smithsburg**

WASHINGTON COUNTY, MARYLAND

*As found in the Public Local Laws of Washington County,  
1970 Edition 1979 Supplement, as amended*

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# SMITHSBURG

(See Note (8))

## General Corporate Powers

### Section 31-1. General corporate powers.

The inhabitants of Smithsburg within the corporate limits legally established from time to time are hereby constituted and/or continued a body corporate by the name of “The Town of Smithsburg” with all the 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 succession, unless the charter and the corporate existence are legally abrogated. (1957 Code, sec. 582; Res. March 5, 1957, sec. 3.)

## Corporate Limits

### Section 31-2. Courses and distances showing corporate limits to be filed, of a plat thereof, or a combination thereof.

Either a plat of the corporate limits of the Town, or the courses and distances showing the corporate limits of the town, or a combination of plat(s) and the courses and distances, shall be filed at all times with the clerk of the circuit court in the county in which the town is located, the Department of Legislative Services and with such other entities as required by law. All the officials named in this section are hereby directed to file or record all such plats, descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours. (1957 Code, sec. 583; Res. March 5, 1957, sec. 4.)

## The Council

### Section 31-3. Number of councilmen; selection; term.

All legislative powers of the Town shall be vested in a Council consisting of five (5) Council members and a Mayor, who shall be elected as hereinafter provided and who shall hold office as hereinafter provided or until the succeeding Council takes office. The Mayor and Council shall serve for a term of four (4) years said terms to be staggered in accordance with the provisions of this Charter. On the second Tuesday in May, 2002 and every four (4) years thereafter, there shall be elected a Mayor and two (2) Council members whose term of office shall be for four (4) years or until their successors are duly qualified. On the second Tuesday in May, 2004 and every four years thereafter, there shall be elected three (3) Council members whose term of office shall be for four (4) years or until their successors are duly qualified. (1957 Code, sec. 584; Res. March 5, 1957, sec. 5; Res., 5-27-92.)

*(revised 11/21)*

Section 31-4. Qualifications of councilmen.

Councilmen shall have resided in the town for at least one year immediately preceding their election and shall be qualified voters of the town. (1957 Code, sec. 585; Res. March 5, 1957, sec. 6.)

Section 31-5. Salary of councilmen.

Each councilman shall receive an annual salary which shall be equal for all councilmen and shall be as specified from time to time by an ordinance passed by the council in the regular course of its business; provided, however, that the salary specified at the time any council takes office shall not be changed during the period for which that council was elected. The ordinance making any change in the salary paid to the several councilmen, either by way of increase or decrease, shall be finally ordained prior to the municipal election for the members of the next succeeding council and shall take effect only as to the members of the next succeeding council. (1957 Code, sec. 586; Res. March 5, 1957, sec. 7.)

Section 31-6. Meetings of council.

The newly elected Council shall meet on the second Tuesday following its election for the purpose of organization, after which 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 or a majority of the members of the Council. All meetings of the 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. The Mayor and Council shall have the right to close its meetings to the public for the purposes set forth in the Annotated Code of Maryland, State Government Article, Title 10, Subtitle 5. Meetings, Sections 10-501 et. seq., as same may be amended from time to time. The applicable State laws shall control and regulate any closed meeting which may be held by the Mayor and Council. (1957 Code, sec. 587; Res. March 5, 1957, sec. 8; Res., 5-24-95.)

Section 31-7. Council to be judge of qualifications of its members.

The council shall be the judge of the election and qualification of its members. (1957 Code, sec. 588; Res. March 5, 1957, sec. 9.)

Section 31-8. President and vice-president of council.

The mayor shall serve as president of the council. The mayor may take part in all discussions. The mayor shall have the right to vote in a case of a tie vote by the council. The council shall elect a vice-president of the council from among its members. The vice president of the council shall act as mayor in the event of a temporary, longterm, or permanent absence or incapacity of the mayor and shall perform all duties of the mayor as set forth in the Charter. (1957 Code, sec. 589; Res. March 5, 1957, sec. 10; Res., 5-24-95; Res. 2012-01, 10-24-12; Res. No. 2019-04, 11-20-2019.)

Section 31–9. Quorum.

A majority of the members of the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected to the council. (1957 Code, sec. 590; Res. March 5, 1957, sec. 11.)

Section 31–10. Rules and order of business; journal.

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection. (1957 Code, sec. 591; Res. March 5, 1957, sec. 12.)

Section 31–11. Vacancies in council.

Vacancies in the council shall be filled as provided in sec. 31–37. (1957 Code, sec. 592; Res. March 5, 1957, sec. 13.)

Section 31–12. Passage of ordinances; publication; effective date.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the above requirement may be suspended by the affirmative votes of four members of the council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty calendar days following approval by the mayor or passage by the council over his veto. Each ordinance shall be published by title or by a fair summary of the contents thereof, at least once in a newspaper or newspapers of general circulation and in the Town's newsletter, if such newsletter is regularly published at that time. An emergency ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the mayor or passed over his veto by the council. (1957 Code, sec. 593; Res. March 5, 1957, sec. 14; Res. Dec. 4, 1965.)

Section 31–13. Veto.

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 six 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 a message stating the reasons for his disapproval. Any disapproved ordinance shall not become a law unless subsequently passed by a favorable vote of four–fifths of the whole council within thirty–five calendar days from the time of the return of the ordinance. If the mayor fails to return any ordinance within six 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. (1957 Code, sec. 594; Res. March 5, 1957, sec. 15.)

Section 31–14. Referendum.

If, before the expiration of twenty calendar days following approval of any ordinance by the mayor or passage of any ordinance over the mayor's veto, a petition is filed with the clerk–treasurer containing the signatures of not less than twenty per centum (20%) of the qualified voters of the town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town for their approval or disapproval, the council shall have the ordinance, or the part thereof petitioned to referendum, submitted to a vote of the qualified 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. No ordinance, or the part thereof petitioned to referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof petitioned to referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, then the operation of the ordinance, or the part thereof petitioned to referendum, shall be suspended until approved by a majority of the qualified 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 Section 31–60 of this Charter, levying property taxes for the payment of indebtedness, but the provisions of this section shall apply to any ordinance, or any part thereof, levying special assessment charges under the provisions of Sections 31–90 and 31–91. 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. (1957 Code, sec. 595; Res. March 5, 1957, sec. 16.)

Section 31–15. File of ordinances.

Ordinances shall be permanently filed by the clerk–treasurer and shall be kept available for public inspection. (1957 Code, sec. 596; Res. March 5, 1957, sec. 17.)

## **The Mayor**

Section 31–16. Selection and term of Mayor.

The mayor shall be elected as hereinafter provided and shall hold office for a term of four years or until his successor is elected and qualified. The newly elected mayor shall take office on the second Tuesday following his election. (1957 Code, sec. 597; Res. March 5, 1957, sec. 18.)

Section 31–17. Qualifications of Mayor.

The mayor must have resided in the town for at least one year immediately preceding his election and must be a qualified voter of the town. (1957 Code, sec. 598; Res. March 5, 1957, sec. 19.)

Section 31–18. Salary of Mayor.

The mayor shall receive an annual salary as set from time to time by an ordinance passed by the council in the regular course of business. Provided, however, that no change shall be made in the salary for any mayor during the term for which he was elected. The ordinance making any change in the salary paid to the mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding mayor, and shall take effect only as to the next succeeding mayor. (1957 Code. sec. 599; Res. March 5, 1957, sec. 20.)

Section 31–19. Powers and duties of Mayor.

(a) *Mayor to be chief executive officer.* The mayor shall see that the ordinances of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.

(b) *Appointment and removal of officers and employees.* The mayor, with the approval of the council, shall appoint the heads of all offices, departments, and agencies of the town government as established by this charter or by ordinance. Council must approve the appointment by a four-fifths vote of the whole council. Heads of all offices, departments and agencies shall serve until such time as he/she voluntarily resigns or is removed by the mayor with approval of a four-fifths vote of the whole council. Unless removal is for cause, the council must give all heads of offices, departments and agencies at least thirty (30) days notice prior to the expiration of his appointment. In the case of a voluntary resignation or retirement, all heads of offices, departments and agencies shall provide the town at least thirty (30) days notice by giving notice to the mayor.

(c) *Reports and recommendations to council.* The mayor each year shall report to the council the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the town.

(d) *Veto.* The mayor shall have the power to veto ordinances passed by the council as provided in Section 31–13.

(e) *Supervision of financial administration of government.* The mayor shall have complete supervision over the financial administration of the town government. He shall prepare or have prepared annually a budget and submit it to the council. He shall supervise the administration of the budget as adopted by the council. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(f) *Other powers and duties.* The mayor shall have such other powers and perform such other duties as may be prescribed by this charter or as may be required of him by the council, not inconsistent with this charter. (1957 Code, sec. 600; Res. March 5, 1957, sec. 21; Amended by Res. No. 2012-01; Res. No. 2012-02; Res. November 5, 2015, Sec. 1.)

## General Powers

### Section 31–20. Powers of council enumerated.

(a) *General powers.* 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.

(b) *Specific powers.* 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) All powers granted to municipal corporations by virtue of the general authority and express powers granted to incorporated municipalities in the State of Maryland as set forth in the Annotated Code of Maryland, Article 23A, including, but not limited to Section 2 thereof.

(2) All powers granted to municipal corporations by virtue of the general authority and express powers granted to incorporated municipalities in the State of Maryland as set forth in the Annotated Code of Maryland, other than in Article 23A, or granted by Federal law.

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

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

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

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

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

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

(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.

(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 and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, 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 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; to expend municipal funds for any public purpose; to have general management and control of the finances of the town.

(25) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain 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, 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. No franchise shall be granted for a longer period than fifty 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, agreeably 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; the Washington County, Maryland Health Officer; 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 for the sale of any goods, wares, merchandise, or services; to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this charter.

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

(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 maintained by the State Roads Commission of Maryland must first be approved by the Commission.

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

(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.

(49) *Property.* To acquire by conveyance, purchase or gift, real or leaseable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for

the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(50) *Quarantine.* To establish quarantine regulations in the interests of the public health.

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

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

(53) *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.

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

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

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

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

(58) *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. (1957 Code, sec. 601; Res. March 5, 1957, sec. 22.)

#### Section 31-21. Exercise of powers.

For the purpose of carrying out the powers granted in this subtitle or elsewhere in this charter the council may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. (1957 Code, sec. 602; Res. March 5, 1957, sec. 23.)

#### Section 31-22. Enforcement of ordinances.

To ensure the observance of the ordinances of the town, the council may provide that such ordinances shall be enforced by civil remedy as a municipal infraction and/or by fines and

incarceration or such other penalties or remedies as are permitted by the laws of the State of Maryland. The council may provide that, where the violation is of a continuing nature and is persisted in, that each subsequent day during which the violation continues constitutes a separate violation. (1957 Code, sec. 603; Res. March 5, 1957, sec. 24.)

### **Registration, Nominations, and Elections**

#### Section 31–23. Qualifications of voters.

Every person who (1) is a citizen of the United States, (2) is at least eighteen years of age, (3) a bona fide resident within the corporate limits of the town at the time of the election, (4) is registered in accordance with the provisions of this charter, and (5) is not disqualified from registering to vote by the express terms of Article 33, Section 3–102, Annotated Code of Maryland, as amended from time to time, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections. (1957 Code, sec. 604; Res. March 5, 1957, sec. 25; Res., 1–5–82.)

#### Section 31–24. Board of supervisors of elections. (See Note (5))

There shall be a board of supervisors of elections, consisting of three members who shall be appointed by the mayor with the approval of the council on or before the first Monday in July in every second odd numbered year. The terms of members of the board of supervisors of elections shall begin on the first Monday in July in the year in which they are appointed and shall run for four 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 their term of office. The board shall appoint one of its members as chairman. Vacancies on the board shall be filled by the mayor with the approval of the council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the council. (1957 Code, sec. 605; Res. March 5, 1957, sec. 26.)

#### Section 31–25. Same; 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 days after receiving the written copy of the charges against him. (1957 Code, sec. 606; Res. March 5, 1957, sec. 27.)

#### Section 31–26. Same; 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. (1957 Code, sec. 607; Res. March 5, 1957, sec. 28.)

Section 31–27. Notice of elections.

The board of supervisors of elections shall give at least two weeks' notice of every election by an advertisement published in at least one newspaper of general public circulation and by posting a notice thereof in some public place or places in the town. (1957 Code, sec. 608; Res. March 5, 1957, sec. 29.)

Section 31–28. Universal registration and supplemental registration.

Qualified persons not registered with the Washington County Board of Elections may register to vote in town elections with the town's Board of Supervisors of Elections on the supplemental list of voters maintained by the town. Persons may register for the supplemental registration list at any time, except that registration shall be closed after the first Monday in April until the general election in May. Any person who has failed to vote for the past five years in the town's primary or general election may be removed from the rolls by the town's Board of Supervisors of Elections. No person shall be entitled to vote unless he is registered. It shall be the duty of the town's Board of Supervisors of Elections to keep the supplemental registration lists up to date by striking from the lists persons known to have died or to have moved out of town. The Council is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of supplemental registration. (1957 Code, sec. 609; Res. March 5, 1957, sec. 30; Res., 5–24–95.)

Section 31–28A.

Any qualified voter whose physical disability prevents him from being present to register before the Board of Election Supervisors of the Town shall be allowed to register or re-register with the Board of Election Supervisors in the Town of Smithsburg in accordance with Article 33, Section 3–201 of the Annotated Code of Maryland, which said Section is hereby adopted and incorporated herein by reference for the registry, re-registry and control of such person with physical disability. (Res., 1–5–82.)

Section 31–29. Appeal from action of Board of Supervisors of Elections.

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 circuit court for the county as provided in the Maryland Rules. (1957 Code, sec. 610; Res. March 5, 1957, sec. 31.)

Section 31–30. Filing certificate of nomination. Write-in candidates permitted under certain circumstances.

a. Persons may be nominated for elective office in the town by filing a certificate of nomination at the office of the Board of Supervisors of Elections on or before the first Monday in April next preceding the town election. No person shall file for nomination to more than one elective town public office or hold more than one elective town public office at any one time.

b. Filing fees shall be as established by ordinance.

c. Write-in candidates in general elections are permitted, provided a certificate of nomination is filed at the office [of] the Town's Board of Supervisors of Elections by no later than 4:30 p.m. on the Wednesday prior to the general election. The Council shall be ordinance may (See Note (1)) otherwise regulate the administration of the election process relative to write-in candidates by ordinance. (1957 Code, sec. 611; Res. March 5, 1957, sec. 32; Res., 1-5-82; Res., 5-24-95.)

Section 31-31. Primary election; municipal meeting or convention.

(a) *Time of holding; conduct of primary election.* A primary election or municipal meeting or convention shall be held in the town on the fourth Monday in April in every even numbered year in order to select candidates for the general election on the second Tuesday in May. The primary election shall be conducted generally as specified in this subtitle for the conduct of special and general elections. Candidates' names shall appear in alphabetical order for the office sought, on the ballots or voting machine labels, with no party designation of any kind. If not more than six persons have filed as candidates for the office of Councilperson, or if not more than two persons have filed for the office of Mayor, no primary election shall be held as to that office or those offices. In such instances those nominated for Mayor or the nominees for Councilperson shall be considered as nominees and their names shall be placed on the ballots or voting machines at the general election on the second Tuesday in May. Of the candidates participating in the primary election, the two persons receiving the highest number of votes cast for the office of *Mayor* and the six candidates receiving the highest number of votes cast for the office of Councilperson shall be named and considered as nominees at the general municipal election following.

(b) *Town meeting or convention.* Candidates for the general election may be chosen at a town meeting or convention, at the time specified herein. Such meeting or convention for the selection of candidates shall be conducted generally according to accepted parliamentary procedure. In other respects, nominations at town meetings or conventions shall, wherever applicable, be conducted as specified herein for primary elections. (1957 Code, sec. 612; Res. March 1957, sec. 33; Res., 1-5-82; Res., 5-24-95.)

Section 31-32. Election of Mayor and Councilmen.

On the second Tuesday in May, 2004 and every four (4) years thereafter, the qualified voters of the Town shall elect three (3) persons as Council members to serve for terms of four (4) years. On the second Tuesday in May, 2002, and every four (4) years thereafter, the qualified voters of the Town shall elect one (1) person as Mayor and two (2) persons as Council members to serve for terms of four (4) years. (1957 Code, sec. 613; Res. March 5, 1957, sec. 34; Res., 5-27-92.)

Section 31–32A. Recall elections.

a. The Mayor and/or Councilmember(s) may be removed by the qualified voters of the Town. The procedure to effect the recall of such persons from office shall be as set forth hereinafter.

b. A petition signed by persons qualified to vote in Town elections equal in number to at least thirty percent of the voters registered to vote in Town elections shall be presented to the Mayor and Town Council at a regular town meeting stating a desire to have a specifically named town official subjected to a recall election by a vote of the electorate.

1) The petition shall contain the name of only (1) town official to be subjected to a recall election. Separate petitions must be submitted for each town official to be subjected to a recall election, together with the necessary original signature pages for voters signatures for each such petition.

2) The first page(s) of the petition must contain the entire factual basis for the proposed recall. The petition must state specifically the justification for recall of the official, which may be only for one (1) of the following reasons:

- a. Failure to uphold the oath of office.
- b. Malfeasance in office.
- c. Misfeasance in office.
- d. Nonfeasance in office.

3) The various signature pages of the petition shall contain at the top of each page a fair summary of the reasons for recall of the named official, identifying the named official.

4) The signatures to the petition need not all be appended to one paper, but the registered Town voters signing said petition's signature pages shall sign the same as their names appear on the Town's election books. Under, beside or adjacent to each signature shall be typed or printed each petitioner's full name and address.

5) The circulator of each such signature page shall make affidavit before an officer competent to administer oaths, that the statements contained therein are true, and that each signature appended to the signature page is the genuine signature of the person whose name it purports to be.

6) A minor variation in the signature of a voter signing a petition between his/her signature on the petition and the voter registration records shall not invalidate the signature. The invalidation of one signature on a petition shall not serve to invalidate any others.

7) All papers composing said petition shall be assembled and presented to the Mayor and Council as one instrument, with endorsements thereon of the name or names and address or addresses of the person or persons designated as presenting the said petition to the Mayor and Council.

c. Within twenty days from the filing of said petition with the Mayor and Council, the Board of Supervisors of Elections shall verify by examination thereof and of the appropriate voter registration records, whether the petition is signed by the required number of qualified voters, and shall attach thereto a certificate showing the result of such examination and forward the same to the Mayor and Council and to one of the persons designated thereon, as presenting the petition.

d. (1) If the certificate shows the petition to be insufficient as to the number of required signatures, the petition may be amended at any time within ten days from the date of the Board of Supervisors of Elections' notification by delivering supplemental signature pages to the office of the Mayor and Council. The Board of Supervisors of Elections shall, within ten days after such amendment, make like examination of the amended petition and attach thereto a certificate of the result and forward the same to the Mayor and Council and to one of the persons designated thereon, as presenting the petition.

(2) If the certificate shows the petition to be not in substantial compliance with the required form for a petition for recall (i.e. anything other than the number of required signatures [ ]), the Board of Supervisors of Elections shall promptly notify, in writing, one or more of the persons designated on the petition as presenting the same and the Mayor and Council. Such a petition is null, void and of no effect.

e. If the petitions or amended petitions shall be found by the Board of Supervisors of Elections to be sufficient, the same shall be submitted with the Board of Supervisors of Elections' certificate to the Mayor and Council without delay. If the officer sought to be removed does not resign within fifteen days thereafter, the Board of Supervisors of Elections shall hold a special recall election within thirty (30) days in accordance with Section 31–34 of this charter. The voting ballot shall contain the official's name, the office from which removal is sought and the choice of retaining office or recall from office.

f. The official or officials whose recall is sought may continue to serve pending the results of the recall election, but shall excuse himself/herself from all council actions in connection with his or her recall. If recall is voted by a majority of the qualified voters voting in the election, the official or officials shall be immediately recalled and the office declared vacant by the Board of Supervisors of Elections. Vacancies shall be filled in accordance with Section 31–37 of this charter. (Petition No. 97–1, 6–12–98.)

#### Section 31–32B.

The 2020 municipal election shall be postponed from the date established in the charter Section 31–32 until Tuesday, June 9, 2020. (Res. No. 2020–01, 5–5–2020.)

Section 31–33. 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 system. The ballots and/or voting system 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 8:00 P.M. on election days or for longer hours if the council requires it. (1957 Code, sec. 614; Res. March 5, 1957, sec. 35.)

Section 31–33A. Absentee voting.

The following persons may vote as an absentee voter under this subtitle:

- (1) Any qualified and properly registered voter who may be unavoidably absent from the Town for any reason on any Town election day;
- (2) Any qualified person as defined in Title 9, Subtitle 3 (Sections 9–301 – 9–312) of Article 33 of the Annotated Code of Maryland, as amended from time to time. The Council shall provide by ordinance for the procedures for absentee voting. (Res., 1–5–82.)

Section 31–34. 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. (1957 Code, sec. 615; Res. March 5, 1957, sec. 36.)

Section 31–35. Vote count.

Within forty–eight 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 with the highest number of votes in the general election shall be declared elected as mayor. The candidates for council member with the highest number of votes in the general election shall be declared elected as council members. (1957 Code, sec. 616; Res. March 5, 1957, sec. 37; Res., 5–27–93.)

Section 31–36. Preservation of ballots.

All ballots used in any town election shall be preserved for at least six months from the date of the election. (1957 Code, sec. 617; Res. March 5, 1957, sec. 38.)

Section 31–37. Vacancies.

In case of a vacancy on the council for any reason, the council shall elect some qualified person to fill such vacancy for the unexpired term. In case of a vacancy in the office of mayor for

any reason, the vice-president of the council shall fill the vacancy for the remainder of the unexpired term. Any vacancy on the council shall be filled by the favorable votes of a majority of the remaining members of the council. The results of any such vote shall be recorded in the minutes of the council. (1957 Code, sec. 618; Res. March 5, 1957, sec. 39.; Res. No. 2019-05, 11-20-2019).

Section 31-38. Women.

Women shall have equal privileges with men in registering, voting, and holding town offices. Whenever the masculine gender has been used as to any registering, voting, or holding town office, it shall be construed to include the feminine gender. (1957 Code, sec. 619; Res. March 5, 1957, sec. 40.)

Section 31-39. 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. (1957 Code, sec. 620; Res. March 5, 1957, sec. 41.)

Section 31-40. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this sub-heading or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this sub-heading or any ordinances passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or town election, 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 or employment, in addition to other penalties as may be prescribed by law. (1957 Code, sec. 621; Res. March 5, 1957, sec. 42.)

Section 31-40.1. Town Manager.

(a) *Appointment, Tenure and Removal:* The Town Manager shall be appointed by the Mayor with the approval of the Council. Council must approve the appointment by a four-fifths vote of all members. The Town Manager shall serve until such time as he voluntarily resigns or is removed by a four-fifths vote of the whole Council. Unless the removal is for cause, the Council must give the Town Manager at least thirty (30) days notice prior to the expiration of his appointment. In the case of voluntary resignation, the Town Manager shall provide the Town at least thirty (30) days notice by giving notice to the Mayor. The Town Manager shall serve at the pleasure of the Mayor and Council.

(b) *Compensation:* The Town Manager shall receive such compensation as the Council establishes from time to time. The Town Manager shall be a full time employee of the Town. (Res. November 3, 2015, sec. 2.)

Section 31-40.2. Same: Duties and responsibilities.

The Town Manager shall be responsible to the Mayor and Council for the proper administration of all affairs of the Town. The Town Manager shall have the following duties and responsibilities:

(1) Hire and, when necessary, discipline or suspend all Town employees except as otherwise provided by law, this Charter, union contracts, or personnel regulations adopted pursuant to this Charter. The removal of all subordinate officers and employees of the offices, departments and agencies of the Town shall be on the recommendation of the Town Manager, with the approval of a majority vote of the whole Council in accordance with rules and regulations in any merit system which may be adopted by the Council.

(2) Carry out the administration and be responsible to the Mayor and Council for the administration of the day to day management of Town employees including department heads and Town affairs as assigned under this Charter or by the direction of the Mayor and Council.

(3) Direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter or by law.

(4) Attend all Council meetings, absent compelling circumstances. The Town Manager shall have the right to participate in Council discussions but shall have no right to vote in any Council actions.

(5) Maintain all personnel records and administer all policies and rules regulating Town employees.

(6) Maintain an official up to date copy of the Charter, Code and all Ordinances of the Town and satisfy all notice and recording requirements therefore.

(7) See that all laws, provisions of this Charter, the Town Ordinances and acts of this Council are faithfully executed.

(8) Prepare the annual budget providing same to the Mayor in sufficient time for the Mayor to submit the annual budget to the Council in accordance with this Charter.

(9) Keep the Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Town concerning the affairs of the Town.

(10) Let for bid contracts necessary for the operation and maintenance of Town services for amounts as set forth in Council Resolutions and this Charter; receive sealed bids for purchases and/or contracts; present same to the Council for approval and advise the Council on bids and the letting of contracts.

(11) Be responsible in conjunction with the Clerk Treasurer for the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(12) Perform such other duties as may be specified in this Charter or may be required by the Mayor and Council. (Res. November 3, 2015, sec. 3.)

Section 31–40.3. Same, Bond.

The Town Manager shall provide a bond with such corporate surety and in such amount as the Council by ordinance may require. (Res. November 3, 2015, sec. 4.)

Section 31-40.4 Council, Town Manager, and Town Employees.

(a) The Mayor and Council may require any information and records involving Town employees to be produced to it by the Town Manager and may require the head of any department or agency, or any Town employee to appear before it in connection with the official duties of any such person.

(b) Neither the Mayor nor any Council member shall, as an individual, direct any Town employee concerning his official duties. The Mayor and Council may direct Town employees and agencies only when acting in their capacity as an official body. (Res. November 3, 2015, sec. 5.)

## Finance

Section 31–41. Clerk–Treasurer.

(a) *Appointment Tenure and Removal:* The Clerk–Treasurer shall be hired according to the Town’s general hiring policies, as amended from time to time.

(b) *Qualifications:* The Clerk–Treasurer shall receive such compensation as the Council establishes from time to time. The Clerk–Treasurer shall be a full time employee of the Town. (1957 Code, sec. 622; Res. March 5, 1957, sec. 43; Res. May 16, 1990; Res. 2012–03, 10–24–12; Res. November 3, 2015, sec. 6.; Res. No. 2019–06, 11–20–2019).

Section 31–42. Same; Duties and responsibilities.

The Clerk–Treasurer shall report directly to the Town Manager and shall be responsible for the proper administration of all financial affairs and record keeping of the town. The Clerk–Treasurer shall have the following duties and responsibilities:

- (1) Attend all Council meetings, absent compelling circumstances.
- (2) Arrange for the taking of minutes at all Town Council meetings and keep a full and accurate account of the proceedings of the Town Council.

(3) Acquire and maintain liability and property insurance on all Town properties as well as any other insurances necessary for the proper and efficient operation of the Town and/or for the benefit of the Town employees.

(4) Ascertain that all taxable property within the Town is assessed for taxation.

(5) 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 for the Town.

(6) Do such other thing in relation to the fiscal or financial affairs of the Town as directed by the Town Manager or as the Mayor or the Council may require or as may be required elsewhere in this Charter. (1957 Code, sec. 623; Res. March 5, 1957, sec. 44; Res. May 16, 1990; Res. November 3, 2015, sec. 7; Res. No. 2019-07, 11-20-2019).

Section 31-43. Same; bond.

The clerk-treasurer shall provide a bond with such corporate surety and in such amount as the council by ordinance may require. (1957 Code, sec. 624; Res. March 5, 1957, sec. 45.)

Section 31-44. 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 of June in each year. Such fiscal year shall constitute the taxable year, the budget year, and the accounting year. (1957 Code, sec. 625; Res. March 5, 1957, sec. 46.)

Section 31-45. Budget.

The mayor, on such date as the council by ordinance shall determine, but at least thirty-two 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 clerk-treasurer, open to public inspection by anyone during normal business hours. (1957 Code, sec. 626; Res. March 5, 1957, sec. 47.)

Section 31-46. Same; adoption.

Before adopting the budget the council shall hold a public hearing thereon after two weeks' notice thereof in some newspaper or newspapers having general public circulation. 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. (1957 Code, sec. 627; Res. March 5, 1957, sec. 48.)

Section 31–47. Appropriations.

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. (1957 Code, sec. 628; Res. March 5, 1957, sec. 49.)

Section 31–48. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the mayor must be approved by the council before becoming effective, except as hereinafter provided. However, during the last two months of the fiscal year, the mayor may transfer appropriated funds between major appropriations for different purposes in order to satisfy the provisions of Section 31–49 of this Charter, provided the mayor advises the council at its next regular meeting of the details of the transfer and the reasons therefor. (1957 Code, sec. 629; Res. March 5, 1957, sec. 50.)

Section 31–49. Over-expenditures 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. (1957 Code, sec. 630; Res. March 5, 1957, sec. 51.)

Section 31–50. 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. (1957 Code, sec. 631; Res., March 5, 1957, sec. 52.)

Section 31–51. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the clerk–treasurer and shall be countersigned by the mayor. (1957 Code, sec. 632; Res. March 5, 1957, sec. 53.)

Section 31–52. 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. (1957 Code, sec. 633; Res. March 5, 1957, sec. 54.)



Section 31–53. 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. (1957 Code, sec. 634; Res. March 5, 1957, sec. 55.)

Section 31–54. Notice of tax levy.

Immediately after the levy is made by the council in each year, the clerk–treasurer 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 amount of 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. (1957 Code, sec. 635; Res. March 5, 1957, sec. 56.)

Section 31–55. When taxes are overdue.

The taxes provided for in Section 31–53 of 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. They shall bear interest while in arrears at the rate of one per centum (1.0%) 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 may be collected as provided in Section 31–56. (1957 Code, sec. 636; Res. March 5, 1957, sec. 57.)

Section 31–56. Sale of tax delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by Section 31–55 of this charter shall be turned over by the clerk–treasurer to the official of the county responsible for the sale of tax delinquent property as provided in State law if there are State and/or county real or personal property taxes due thereon. In the event there is property on the list on which the town taxes have not been paid and which are in arrears, but there are no State and/or county real or personal property taxes due thereon or a lien thereon, the said property shall be included by the clerk–treasurer on the list transmitted to the official of the county responsible for the sale of tax delinquent property as provided in State law, unless an ordinance is enacted excusing the clerk–treasurer for not including specific property on the list and waiving any claim against the clerk–treasurer or his bond on account thereof. All property listed thereon shall, if necessary, be sold for taxes by the responsible county official, in the manner prescribed by State law. (1957 Code, sec. 637; Res. March 5, 1957, sec. 58.)

Section 31–57. Fees.

All fees received by an officer, employee, board, commission, committee or other agency of the town government in his official capacity shall belong to the town government and be

accounted for to the town, and promptly deposited in the town's accounts. (1957 Code, sec. 638; Res. March 5, 1957, sec. 59.)

Section 31–58. 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 (1957 Edition, as amended). (1957 Code, sec. 639; Res. March 5, 1957, sec. 60.)

Section 31–59. Tax anticipation borrowing.

During the first six months of any fiscal year, the town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (1957 Code, sec. 640; Res. March 5, 1957, sec. 61.)

Section 31–60. Payment of indebtedness.

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 and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of rate or amount. 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. All such bonds, notes, or other evidences of indebtedness shall be issued in the manner prescribed by Sections 31 to 39, inclusive of Article 23A of the Annotated Code of Maryland (1957 Edition), as the same may from time to time be amended, except that the limitations contained in Section 34(4) of said Article 23A shall not apply to the issuance of bonds, notes or other evidences of indebtedness by the town, but the Council of the town shall have the option, in each instance, to determine whether any such bonds, notes, or other evidences of indebtedness shall be sold at public sale as prescribed by said Section 34(4) or whether the same shall be sold by negotiation at private sale without solicitation of competitive bids. (1957 Code, sec. 641; Res. March 5, 1957, sec. 62; Res., Dec. 4, 1965.)

Section 31–61. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the town previous to April 25, 1957, 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. (1957 Code, sec. 642; Res. March 5, 1957, sec. 63.)

Section 31–62. Purchasing and contracts.

All purchases and contracts for the town government shall be made by the clerk–treasurer. 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 clerk–treasurer 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 completion, and responsibility of bidders being considered. All such written contracts shall be approved by the council before becoming effective. The council shall have the right to reject all bids and readvertise. 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. (1957 Code, sec. 643; Res. March 5, 1957, sec. 64; Res. 91–9–2, 9–25–91.)

## Personnel

Section 31–63. Clerk to council.

The clerk–treasurer shall be appointed pursuant to Section 31-42 of this charter and shall serve as clerk to the council. He shall attend every meeting of the council and keep a full and accurate account of the proceedings of the council. He shall keep such other records and perform such other duties as may be required by this charter or the council. (1957 Code, sec. 644; Res. March 5, 1957, sec. 65; Res. November 3, 2015, sec. 8.)

Section 31-63.1. Town Manager to Council.

The Town Manager shall be appointed pursuant to Section 31-40.1 of this Charter and shall serve at the pleasure of the Mayor and Council. (Res. November 3, 2015, sec. 9.)

Section 31–64. Town attorney.

The mayor with the approval of the council may appoint a town attorney. The town attorney shall be a member of the bar of the Maryland Court of Appeals. The town attorney shall be the legal adviser 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 legal consultants as it deems necessary from time to time. (1957 Code, sec. 645; Res. March 5, 1957, sec. 66.)

Section 31–65. Authority to employ personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this charter or other State law and to operate the town government. (1957 Code, sec. 646; Res. March 5, 1957, sec. 67.)

Section 31–66. Merit system authorized.

The town may provide by ordinance for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose the council shall have the power to adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations. The town may request and avail itself of the facilities of the State Commissioner of Personnel for the administration of its merit system, as provided in State law. (1957 Code, sec. 647; Res. March 5, 1957, sec. 68.)

Section 31–67. Unclassified and classified service.

(a) *Civil service divided into unclassified and classified service.* The civil service of the town shall be divided into the 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, the councilmen, and persons appointed to fill vacancies in these positions.

(2) The Town Manager, clerk–treasurer and the town attorney.

(3) The heads of all offices, departments, and agencies and members of town boards and commissions.

(4) Part–time, temporary, 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. (1957 Code, sec. 648; Res. March 5, 1957, sec. 69; Res. November 3, 2015, sec. 10.)

Section 31–68. 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 wilfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the town shall continue in such position after becoming a candidate for nomination or election to any public office; 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 any political party or political purpose whatever from any person holding a position in the classified service of the town; no person holding a position in the classified service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs, or political campaign of any political party or candidate for public office, further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

(b) *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 (\$100.00), or by imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five 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 upon such conviction becoming final. (1957 Code, sec. 649; Res. March 5, 1957, sec. 70.)

Section 31–69. 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. (1957 Code, sec. 650; Res. March 5, 1957, sec. 71.)

Section 31–70. 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. (1957 Code, sec. 651; Res. March 5, 1957, sec. 72.)

Section 31–71. 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. (1957 Code, sec. 652; Res. March 5, 1957, sec. 73.)

### **Public Ways and Sidewalks**

Section 31–72. Definition of public ways.

The term “public ways” as used in this charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys. (1957 Code, sec. 653; Res. March 5, 1957, sec. 74.)

Section 31–73. Control of public ways.

The town shall have control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. 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. (1957 Code, sec. 654; Res. March 5, 1957, sec. 75.)

Section 31–74. Powers of town as to public ways.

The town shall have the power:

- (1) 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.
- (2) To grade, lay out, construct, open, extend, and make new town public ways.
- (3) To grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.
- (4) To pave, surface, repave, and/or resurface any town public way or part thereof.
- (5) To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any town public way or part thereof.
- (6) To construct, reconstruct, maintain, and repair bridges.
- (7) To name town public ways.
- (8) To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof. (1957 Code, sec. 655; Res. March 5, 1957, sec. 76.)

Section 31–75. Powers of town as to sidewalks.

The town shall have the power:

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

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

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

(4) 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. (1957 Code, sec. 656; Res. March 5, 1957, sec. 77.)

## **Water and Sewers**

Section 31–76. Powers of town.

The town shall have the power:

(1) To construct, operate, and maintain a water system and water plant.

(2) To construct, operate, and maintain a sanitary sewerage system and a sewage treatment plant.

(3) To construct, operate, and maintain a storm water drainage system and storm water sewers.

(4) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems.

(5) To have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

(6) To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (1957 Code, sec. 657; Res. March 5, 1957, sec. 78.)

Section 31–77. 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, or storm water systems, the town may order it removed. (1957 Code, sec. 658; Res. March 5, 1957, sec. 79.)

Section 31–78. 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 Section 31–93. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (1957 Code, sec. 659; Res. March 5, 1957, sec. 80.)

Section 31–79. 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. (1957 Code, sec. 660; Res. March 5, 1957, sec. 81.)

Section 31–80. 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. (1957 Code, sec. 661; Res. March 5, 1957, sec. 82.)

Section 31–81. Same; charge.

The town may make a charge, the amount and method of computing the charge for different sizes of connection, to be determined by the council, for each connection made to the town's water or sewer mains. The approved schedule of connection charges shall be applied uniformly throughout the town, but may be changed from time to time. Arrangements for the payment of this charge shall be made before the connection is made. (1957 Code, sec. 662; Res. March 5, 1957, sec. 83.)

Section 31–82. 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. (1957 Code, sec. 663; Res. March 5, 1957, sec. 84.)

Section 31–83. 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, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (1957 Code, sec. 664; Res. March 5, 1957, sec. 85.)

Section 31–84. Extensions beyond boundaries.

The town shall have the power to extend its water or sewerage system beyond the town limits. (1957 Code, sec. 665; Res. March 5, 1957, sec. 86.)

Section 31–85. 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. (1957 Code, sec. 666; Res. March 5, 1957, sec. 87.)

Section 31–86. 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. (1957 Code, sec. 667; Res. March 5, 1957, sec. 88.)

Section 31–87. Contracts for water; removal of sewage.

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. (1957 Code, sec. 668; Res. March 5, 1957, sec. 89.)

Section 31–88. 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 clerk-treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law. (1957 Code, sec. 669; Res. March 5, 1957, sec. 90.)

Section 31–89. Exception.

The provisions of this sub-title shall not extend to any town located in a sanitary district or special tax area or district authorized to discharge the powers provided in this subtitle, as to the particular powers included in the authorization. (1957 Code, sec. 670; Res. March 5, 1957, sec. 91.)

## Special Assessments

Section 31–90. Power of town to levy 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 mains, storm water sewers, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special 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. (1957 Code, sec. 671; Res. March 5, 1957, sec. 92.)

Section 31-91. Procedure.

(a) *Provisions.* The procedure for special assessments, wherever authorized in this charter, shall be as follows:

(b) *Cost.* 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.

(c) *Assessment.* 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 per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(d) *Classes.* 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.

(e) *Levy; hearing.* All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The clerk-treasurer 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 person in whose name the property is assessed for real property taxation purposes by the State Department of Assessments and Taxation and by publication of a copy of the notice at least once in a newspaper of general public circulation. The clerk-treasurer shall present at the hearing: 1) a certificate of publication, which certificate shall be deemed proof of notice; and 2) copies of the notices mailed as aforesaid, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the clerk-treasurer shall have completed publication and service of notice as 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.

(f) *Appeals.* Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the circuit court for the county.

(g) *Payments.* Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years, 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.

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

(i) *Collections.* All special assessments shall be billed and collected by the clerk-treasurer. (1957 Code, sec. 672; Res. March 5, 1957, sec. 93.)

## **Town Property**

### Section 31–92. Acquisition, possession, and 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) on April 25, 1957, are vested in the town, subject to the terms and conditions thereof. (1957 Code, sec. 673; Res. March 5, 1957, sec. 94.)

### Section 31–93. 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, 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 Real Property Article, Title 12, of the Annotated Code of Maryland. (1957 Code, sec. 674; Res. March 5, 1957, sec. 95.)

### Section 31–94. 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. (1957 Code, sec. 675; Res. March 5, 1957, sec. 96.)

### Section 31–95. Protection of town property.

The town shall have the power to do whatever may be necessary to protect town property and to keep all town property in good condition. (1957 Code, sec. 676; Res. March 5, 1957, sec. 97.)

## General Provisions

### Section 31–96. Oath of office.

(a) *Oath required.* Before entering upon the duties of their offices, the mayor, the councilmen, 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, without partiality or prejudice, execute the office of \_\_\_\_\_ according to the Constitution and laws of this State.”

(b) *Before whom taken and subscribed.* The mayor shall take and subscribe this oath or affirmation before the clerk of the circuit court for the county or before one of the sworn deputies of the clerk. All other persons taking and subscribing the oath shall do so before the mayor. (1957 Code, sec. 677; Res. March 5, 1957, sec. 98.)

### Section 31–97. Official bonds.

The Town 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. (1957 Code, sec. 678; Res. March 5, 1957, sec. 99; Res. November 3, 2015, sec. 11.)

### Section 31–98. Prior rights and obligations.

All right, title, and interest held by the town or any other person or corporation on April 25, 1957, 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 on April 25, 1957. 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. (1957 Code, sec. 679; Res. March 5, 1957, sec. 100.)

### Section 31–99. 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 by fines and/or incarceration or such other penalties or remedies as are permitted by the laws of the State of Maryland, or by fines and/or incarceration as limited by town ordinance, whichever is lesser. The council may provide that, where the violation is of a continuing nature and is persisted in, that each

subsequent day during which the violation continues constitutes a separate violation. (1957 Code, sec. 680; Res. March 5, 1957, sec. 101.)

Section 31–100. 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 on April 25, 1957, or on the effective date of any amendments thereto, 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 on April 25, 1957, or on the effective date of any amendments thereto, which are in conflict with the provisions of this charter be and the same hereby are repealed to the extent of such conflict. (1957 Code, sec. 681; Res. March 5, 1957, sec. 102.)

Section 31–101. Separability.

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (1957 Code, sec. 682; Res. March 5, 1957, sec. 103.)

Section 31–102. (See note (7)) “Town” construed to mean “city”.

Wherever in this sub–title the word “town” shall appear it shall be taken and construed to mean also the word “city”. (1957 Code, sec. 683; Res. March 5, 1957, sec. 104.)

Section 31–103. Gender references, to include all genders.

In this charter, the use of any gender includes all other genders.

## NOTES

- (1) So in original. Should probably read “The Council may otherwise regulate ...”.
- (2) Reserved.
- (3) Reserved.
- (4) Reserved.
- (5) The resolution of March 5, 1957, adopting this charter, provided in sections 31–28 and 31–32 for elections in the “even” years, but this reference was not so changed.
- (6) Reserved.
- (7) Secs. 791–795 of the 1930 Edition of the local code of Washington County contained the provisions of secs. 1–5, ch. 97 of 1929, concerning the issue of bonds for a water works and water distributing system. They were not specifically repealed by the resolution of March 5, 1957, which revised the town charter. Sec. 791 authorized the issue of bonds up to \$50,000; and sec. 792 provided for a referendum on the entire Act; both are omitted in this footnote. Secs. 793, 794 and 795 from the 1930 Code were as follows:

“793. If the result of said election shall be in favor of the Bond issue, that the Mayor of Smithsburg, as soon after this Act becomes effective, as it is possible so to do, by and with the advice and consent of the Council of said town, shall (immediately) appoint from the taxpayers of said town, four persons of proper personal qualification, who, together with the Mayor, shall constitute and be a water Board, and shall have charge of the construction and management and maintenance of said Water Works and Water Distribution System. They shall appoint from their own number a treasurer, who shall give bond to be approved both as to amount and sureties by said Water Board for the faithful performance of his duties as such Treasurer. The said Treasurer shall receive the proceeds of sale of said bonds or any other money which may be received on account of Water Works and Water Distribution System, shall deposit the same in a bank to be designated by said Water Board, and shall disburse the same on orders of said Water Board by check to be signed by himself and by the Mayor of said town. The said Water Board is authorized and empowered to contract for, purchase in fee simple or lease for a term of years, renewable at their pleasure, any land, real estate, spring, brook or water course, which they may deem necessary for the purpose of supplying the said town and citizens thereof with water, and they are hereby vested with all the rights and powers necessary for the introduction of water in said town, including the authority to contract with any water company, persons or corporation, to furnish water sufficient to supply the needs of said town. If from any cause said Water Board shall be unable to agree with any owner of real or leasehold estate, spring, brook, water or water course or any other material which partakes of or is a part of real estate, or for any right of way which they may find necessary for conduits for said water to enter in and distribute through said town, or if such owner is under any disability or incapacity to contract, or absent or unknown, the said Water Board is hereby clothed with power of condemnation under the right of eminent domain, as now provided by the Code of Public General Laws of Maryland as fully as if said provisions had been herein

incorporated. The said Water Board shall make rules and regulations for the construction, erection, management and maintenance of said Water Works and Water Distribution System and shall establish rates for water service, and shall make a semi-annual report of their proceedings and of the condition of said Water Works and Water Distribution System to the Mayor and Council of Smithsburg; they shall have power to enter into contracts for building said Water Works and Water Distribution System, to contract for material thereof, to employ all necessary labor and clerks, and to fix their compensation, and the four persons appointed to said Water Board shall be appointed for the term of one, two, three and four years, respectively, as to the first appointees, and their successors shall be appointed for the term of four years. Any member of the Water Board shall be eligible for reappointment, and the Mayor of said town for the time being shall always be ex officio a member of said Water Board.”

“794. For the purpose of paying said bonds at maturity and the interest thereon, the Mayor and Council are authorized and required to levy such amount of taxes upon the property within the taxable limits of said town as may be necessary to enable them, in connection with the revenue arising from said Water Works and Water Distribution System, to pay said bonds and the interest thereon, as same becomes due and the operating expenses and necessary repairs to said Water Works and Water Distribution System; in each year until all of said bonds shall be paid off, the said taxes so collected shall be paid to the Treasurer appointed by said Water Board, and the amount levied for this purpose shall be in addition to the amount now authorized by law. The moneys arising from water rents shall be applied, first, to the payment of current expenses of said Water Works and Water Distribution System; secondly, to payment of interest on bonds, and, thirdly, as to any balance to provide a sinking fund for the payment of said bonds; and when any bond is paid off it shall be immediately burned and the fact noted in the registration book hereinbefore required; and said Water Board is hereby directed to provide and locate convenient hydrants and fireplugs for the protection of property from fire.”

“795. The titles to said Water Works and Water Distribution System, with all the land, conduits, privileges, franchise and materials thereto appertaining shall vest in the Mayor and Council of Smithsburg in their corporate capacity.”

Ch. 97 of 1929 was ratified by the voters on referendum. See 1958 Session Laws, p. 373.

(8) Resolution number 2001-02, effective January 22, 2003, amended various sections of this Charter.