

CHARTER

OF THE

Town of Mount Airy

CARROLL AND FREDERICK COUNTIES, MARYLAND

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MOUNT AIRY

ARTICLE I

Section 101. Incorporation.

The inhabitants of the Town of Mount Airy, in Carroll and Frederick Counties, Maryland are hereby continued as a body corporate by the name of "The Town of Mount Airy", and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and have all powers and privileges incident to or that may attach to a municipal corporation. The repealing of the former Section 209 of Article 7 and the former Section 557 of Article 11 of the 1930 edition of the Code of Public Local Laws of Maryland, and the enactment of this new section, shall not be construed as terminating the existence of the corporation known as the "Mayor and Council of Mt. Airy", and creating a new corporation by the name of "The Town of Mount Airy", but shall be construed as continuing the existence of the corporation known as the "Mayor and Council of Mt. Airy" and changing its name to that of "The Town of Mount Airy". (See Note (1))

Section 102. Boundary Descriptions. (See Note (2))

A copy or copies of the metes, bounds, courses and distances describing the corporate boundaries of the Town of Mount Airy shall be maintained on file in the Town Hall and available for public inspection during normal business hours. A map or maps showing the current corporate boundaries shall likewise be maintained in the Town Hall and similarly be available for public inspection. (Res. No. 2002-2, 1-21-03.)

Section 103. Form of government.

The government of the Town of Mount Airy shall be vested in a mayor and five councilmen to be elected as hereinafter provided.

ARTICLE II The Council

Section 201. Number, selection, term.

All legislative powers of the town shall be vested in a council consisting of five councilmen who shall be elected as hereinafter provided and who shall hold office as hereafter designated or until their successors are elected and qualified. The regular term of councilmen shall expire on the third Monday in May after the election of their successors. Councilmen holding office at the time this charter becomes effective shall continue to hold office until their successors are elected and qualified.

Section 202. Qualifications.

Councilmen shall have resided in Mount Airy for at least one year immediately preceding their election and shall be qualified voters in the town.

Section 203. Salary. (See Notes (3) and (4))

A. Each councilman shall receive [as] compensation an annual salary in the amount of Four Thousand Dollars (\$4,000.00) per year.

B. The Council may by ordinance increase or decrease the compensation herein provided, provided however, that the compensation in effect at the time a councilman takes office shall not be changed during the period for which he was elected. Any ordinance changing the compensation for members of the Council must be passed prior to a town election for council members to take effect only as to members elected thereafter. (Res. No. 2004-1, 7-27-04.)

Section 204. Meetings.

Newly elected councilmen shall take office at a meeting of the council to be held on the third Monday in May in each regular town election year. The council thereafter shall meet in regular session on the first Monday of each month and at such other times as may be prescribed by its rules. Special meetings may be called by the mayor or by a majority of the council as often as necessary for the transaction of business. Meetings of the council shall be open to the public as required by and subject to the provisions of the Maryland Code, State Government Title [Article], Secs. 10-501 to 10-510 as now in force and hereafter amended and the rules of the council shall provide that residents of the Town of Mount Airy shall have a reasonable opportunity to be heard at any such meeting in regard to any matters considered thereat. (Char. Amend. Res. No. 1987-1, 11-3-87.)

Section 205. Judge of qualifications of members.

The council shall be the judge of the election and qualifications of its members.

Section 206. President.

The council shall elect one of its members to serve as President of the council. The President of the council may vote on all issues coming before the council and shall serve as acting mayor in case of the temporary absence or disability of the mayor. The President shall retain his vote on the council while serving as acting mayor.

Section 207. Mayor.

The mayor may attend all council meetings and take part in the discussion, but he shall have no vote on any matter.

Section 208. Quorum.

A majority 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.

Section 209. Procedure.

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

Section 210. Vacancies.

Vacancies in the council shall be filled as provided in Section 1203 of this Charter.

Section 211. Departments.

The council by ordinance may create, change, and abolish offices, departments, or agencies, other than the offices, departments, and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments, or agencies established by this charter, but may not 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.

Section 212. Salaries of Officers and Employees.

The council shall fix the salaries of all officers and employees of the Town of Mount Airy.

Section 213. Legislative Procedure. (See Note (13))

(a) All laws shall be enacted by ordinance. Each ordinance shall embrace but one subject which shall be described in its title; and no law, or section of law, shall be revised or amended by reference to its title or section only.

(b) 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 seventy-five 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 provision that an ordinance may not be passed at the meeting at which it is introduced 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 at least twice in a newspaper or newspapers having general circulation in the municipality. 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. (Res. No. 2013-4, 11-26-13.)

Section 214. Veto.

All ordinances passed by the council shall be delivered by the council secretary or the town clerk at once, or as soon as conveniently may be, to the mayor for his approval or disapproval. If the mayor approves of any ordinance, he shall sign it. If the mayor disapproves of any ordinance, he may refuse to sign it. The mayor shall return all ordinances to the council secretary or the town clerk 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 by the mayor without his signature and 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 at the next regular meeting of the council or at any special meeting of the council held before said next regular meeting. If the mayor fails to return any ordinance within six days of its delivery to him as aforesaid, then the ordinance shall become law without his approval. Provided, however, that no budget ordinance adopted pursuant to Section 606 and no bond issue approved under Section 619 shall be subject to veto.

Section 215. File of ordinances.

Ordinances, when passed and approved by the mayor, when not returned by him within the specified time, or when passed over his veto, shall be permanently filed by the council secretary or the town clerk in a book or books which shall be kept for that purpose and which shall be kept open for public inspection.

Section 216. General powers.

(a) The council shall have the power to pass all such ordinances not contrary to the Constitution and laws 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 and for securing persons and property from violence, danger, or destruction; and for the protection of the health, comfort, and convenience of the residents of the Town of Mount Airy and visitors thereto and sojourners therein.

(b) The members of the Council may select and appoint from their number such committees as they may deem necessary or advisable to assist the Council in the performance of its duties.

ARTICLE III

The Mayor

Section 301. Election; term. (See Note (7))

The Mayor shall be elected as hereinafter provided and shall hold once for a term of four years or until a successor is elected and qualified. Notwithstanding the foregoing, the term of the

Mayor elected on the first Monday of May, 2014 shall be three years or until a successor is elected and qualified. Thereafter, starting with the term of the Mayor elected on the first Monday of May, 2017, the term of the office of Mayor shall be four years or until a successor is elected and qualified. The Mayor shall take office on the third Monday in May following the election to office. The Mayor holding office at the time this provision becomes effective shall continue to hold office until his successor is elected and qualified. (Res. No. 2011-1, 12-27-11.)

Section 302. Qualifications.

The mayor must have resided in the Town of Mount Airy for at least two years immediately preceding his election; must be at least twenty-five years of age and must be a qualified voter of the town.

Section 303. Salary.

The mayor shall receive a salary of five hundred dollars (\$500.00) per year for his services. The Council may by ordinance increase or decrease the compensation herein provided, 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 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.

Section 304. Powers. (See Notes (8), (9), and (11))

(a) *Executive duties.* 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. The mayor shall be responsible for the administration of the town's affairs to the council and to the voters of the town.

(b) *Appointments.*

(1) The mayor shall appoint all the officers and hire full-time managerial employees, and those promoted by appointment, hiring or reorganization to managerial positions, except the council secretary and the town clerk of the government of the Town of Mount Airy as established by this charter or by ordinance of the council, with the advice and consent of the council. Budgeted interns, part-time employees, seasonal hire employees, and full time non-managerial employees may be hired directly by the Mayor following advertisement and interview conducted by the town administrator and department head without the advice and consent of the town council. For the purposes of this Section, a "managerial employee" shall mean an employee whose primary duties include direct oversight of, and assignment of work to, two or more other employees, the authority to interview and recommend to the Mayor the hiring and firing of those employees, as well as the authority to evaluate and discipline those employees. Those positions that are managerial in nature shall include, but not be limited to, the town administrator, town clerk, council secretary, the zoning administrator, the town planner, and the town engineer. All officers and employees so appointed shall serve at the pleasure of the mayor, except as set forth in subsection (2) below. The mayor shall make said appointments annually on

or before the first Monday in June and may make additional appointments and fill vacancies at such other times as may be necessary in his judgment. The mayor may appoint from among the registered voters such advisory committees or boards as he may deem appropriate.

(2) All officers and employees that serve at the pleasure of the Mayor may have their employment terminated by the Mayor at any time without cause. That termination shall only be effective until the next meeting of the Council, at which time the Council if it so chooses may override the termination by the votes of supermajority of the members of the Council eligible to vote on the matter.

(a) For the purposes of this subsection, “supermajority” shall mean:

(1) In the case of five members of the Council eligible to vote, four affirmative votes; or

(2) In the case of four members of the Council eligible to vote, three affirmative votes.

(b) The Council President shall be ineligible to vote on the Town Council’s review of a termination if at the time of termination the Council President:

(1) Was also the Mayor or acting Mayor, due to the permanent or temporary incapacity of the Mayor and/or due to a vacancy in the Office of Mayor; and

(2) Had terminated the employee whose termination is under review by the town council. Otherwise, all town council members are eligible to vote on the review of a termination pursuant to this subsection.

(c) If the Council takes no action the termination shall remain in effect.

(c) *Veto*s. The mayor shall have the power to veto ordinances passed by the council as provided in Section C2–16 [214].

(d) *Finances*. The mayor shall be the chief financial officer of the town and shall be responsible for the financial administration of the town government.

(e) *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. (Res. No. 2010–01, 3–23–10, Res. No. 2012–01, 11–20–12, Res. No. 2012–02, 10–30–12, Res. No. 2013–02, 6–25–13.)

ARTICLE IV General Powers

Section 401. Enumeration of Powers. (See Note (5))

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 and visitors in the town.

In addition to, but not in substitution of, the powers which have been, or may hereafter be, granted to it, the council also shall have the following express ordinance-making powers:

(1) *Advertising.* To provide for municipal advertising, for the printing and publication of statements of the receipts and expenditures of the municipality, and the publication and codification of all laws, ordinances, resolutions, or regulations adopted by or affecting the municipality.

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

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

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

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

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

(7) *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.

(8) *Bridges.* To erect and maintain bridges.

(9) *Buildings.* To make reasonable regulations in regard to buildings to be erected 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 regulate and restrict the height, number of stories, and size of buildings and other structures, the size of yards, courts, and open spaces, and the location and use of buildings, structures, and land for trade, industry, or residence; to establish the distance buildings or any part thereof, fences, or walls shall be erected from inner curb of street line; to direct in what part of the town wooden buildings shall not be erected or constructed; to authorize

and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or taken down; to remove or cause to be removed buildings or other structures that may be dangerous to persons passing along or over any of the public ways or sidewalks of the town.

(10) *Cemeteries.* To regulate the interment of bodies and to control the location and establishment of cemeteries.

(11) *Community services.* To provide, maintain and operate such community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the municipality as the legislative body may determine.

(12) *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.

(13) *Corporate name.* To change the corporate name of the municipality, provided that no such change shall affect any rights, duties or obligations held by the municipality, and provided further that such ordinance shall first be submitted to and approved by the qualified voters of the municipality at a regular or special municipal election.

(14) *Curfew.* To prohibit the youth from being on the streets and public places at unreasonable hours of the night.

(15) *Dangerous improvements.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) *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.

(17) *Dogs.* To regulate the keeping of dogs in the town and to provide for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fees or taxes are paid.

(18) *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 tending to endanger persons or property.

(19) *Filth.* To compel the occupant of any premises, building, or outhouse situated in the town, if it has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper

officers and to assess the expense thereof against the property, making it collectible by taxes or against the occupant or occupants.

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

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

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

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

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

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

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

(27) *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, places or conditions which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the State

Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(28) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber them, or in default thereof to authorize and require the work to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax moneys.

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

(30) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the town, and to make provision for the use of the Carroll County jail and the Frederick County jail.

(31) *Licenses.* To issue licenses to any and all persons entering into or beginning transient business in the town for the sale of any goods, wares, or merchandise; to license and regulate all restaurants, pawnbrokers, junk dealers, fire and slaughter sales, auctioneers and auction sales; to license and regulate any business or calling or place of amusement; to establish and collect fees and charges for all licenses and permits issued under the authority of this charter.

(32) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the municipality shall be liens upon such property to be collected in the same manner as municipal taxes are collected.

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

(34) *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.

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

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

(37) *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.

(38) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods, or sounding of whistles and horns.

(39) *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, restrain, or prohibit the keeping or running at large in the town of all animals and fowl; 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, renderies, and livery stables. This listing is by way of enumeration, not limitation.

(40) *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.

(41) *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.

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

(43) *Parks.* To establish and maintain such parks, gardens, playgrounds, and recreational facilities as in the discretion of the legislative body are deemed to be for the health and welfare of the municipality and its inhabitants.

(44) *Pensions.* To provide a retirement or pension system or a group insurance plan for its officers or employees or for including it [its] officers and employees in any retirement or pension system operated by or in conjunction with the State, on such terms and conditions as State laws may prescribe.

(45) *Police force.* To establish, operate, and maintain a police force. All town policemen shall have the powers and authority of constables in this state.

(46) *Police powers.* To prohibit, suppress, and punish within the town all vice, gambling, and games of chance; street walkers and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, and drunkenness.

To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the municipality and beyond those limits for one half mile, or for so much of this distance as does not conflict with the powers of another municipal corporation.

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

To take by gift, grant, bequest, or devise and to hold real and personal property absolutely or in trust for parks or gardens, or for the erection of statues, monuments, buildings or structures, or for any public use, upon such terms and conditions as may be prescribed by the grantor or donor, and accepted by the municipality; to provide for the proper administration of the same; and to convey the same when such legislative body determines that it is no longer needed for public purposes, subject to the terms and conditions of the original grant.

(48) *Public utilities.* To establish, construct, own, purchase, control, operate, maintain, manage, or regulate any utilities, including a water supply system and a sewage disposal system.

(49) *Purchases through Purchasing Bureau.* To provide for the purchase of materials, supplies, and equipment through the Purchasing Bureau of the State Department of General Services whenever desirable.

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

(51) *Regulations.* To adopt 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.

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

(53) *Seal.* To make, have and use, and from time to time, alter a common seal.

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

(55) *Staff.* The authority to override the termination of a town employee by the Mayor as set forth in Section C4-4B [304 (b)].

(56) *Sweepings.* To regulate and prevent the throwing 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.

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

(58) *Weights and measures.* To inspect and regulate all weights and measures used within the town.

(59) *Zoning and planning.* To zone and plan the town in accordance with state law. (Res. No. 2010-01, 3-23-10.)

Section 402. Saving Clause.

The enumeration contained in Section 401 is not to be construed as limiting the powers of the town to the several subjects mentioned.

Section 403. Enforcement.

For the purpose of carrying out the powers enumerated in Section 401 of this charter, for the preservation of cleanliness, health, peace, and good order of the town, for the protection of the lives and property of the citizens, and to suppress, abate, and discontinue, or cause to be suppressed, abated or discontinued all nuisances within the corporate and sanitary limits of the town, the council may pass all ordinances which shall from time to time be deemed necessary. To insure the observance of these ordinances, in addition to the usual action of debt or such other civil remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the council may affix thereto penalties of a fine not exceeding five hundred dollars (\$500.00) or imprisonment for not exceeding ninety days or both. The council may also make provision for municipal infractions as set forth in Section 1205.

Section 404. Exercise of Powers.

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.

ARTICLE V
Registration, Nomination, and Elections

Section 501. Voters.

Every person who (1) is a citizen of the United States, (2) is at least eighteen years of age, (3) has resided in the State of Maryland for at least one year next preceding any town election, (4) has resided within the corporate limits of the town for six months next preceding any town election, and (5) is registered in accordance with the provisions of this charter, shall be a qualified voter of the Town of Mount Airy. Every qualified voter of the town shall be entitled to vote at any or all town elections.

Section 502. Supervisors of Elections; duties. (See Note (7))

A. On or before the first Monday in February in Town election years, the mayor with the advice and consent of the council shall appoint three persons to serve as a Board of Supervisors of Elections for terms of two years or until their successors are appointed and qualified. 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 advice and consent of the council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the council.

[Section 503. Same; duties.]

B. The Board of Supervisors of Elections shall be in charge of the conduct of the citizens' meeting for nominations and all special and general elections in the Town. The Board may appoint clerks to assist it in any of its duties. (Res. No. 2011-1, 12-22-11.)

Section 504. Notice.

The Board of Supervisors of Elections shall give at least two weeks' notice of every citizens' meeting for nominations, and special or general election by an advertisement in at least one newspaper of general circulation in the Town of Mount Airy or by posting a notice thereof in at least five public places in the town of Mount Airy.

Section 505. Registration.

The Town Clerk may continuously register voters during regular business hours at the Town offices and the mayor may designate additional times for registration by giving at least two weeks notice by advertisement in at least one newspaper of general circulation in the Town of Mount Airy or by posting a notice thereof in at least five public places in the Town of Mount Airy. Provided, however, that no one may register within one week of a scheduled election. Registration shall be permanent and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the Board of Supervisors of Elections to keep the registration lists up-to-date by striking from the lists persons known to have died or to have moved out of the town. The council is hereby authorized, by ordinance, to adopt and enforce all rules and regulations necessary to establish and maintain a system of permanent registration.

Section 506. Appeals.

If anyone shall feel aggrieved by the action of refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the Circuit Court for Carroll County.

Section 507. Nominations. (See Note (7))

A. The Board of Supervisors of Elections shall convene a citizens' nomination meeting on the second Monday of March of an election year for the purpose of opening nominations for elective town office. Nominations shall remain open until the Board of Supervisors of Elections' meeting on the third Monday of March, at which time the Board shall accept additional nominations from the floor and accept nominations submitted during the open nomination period. Upon closing nominations, the Board of Supervisors of Elections shall approve the list of nominees and instruct the Town Clerk that their names appear on the approved ballot provided that their financial disclosure statement is timely filed with the Town Clerk. In the event of a special election, the Board of Supervisors of Elections shall establish a time frame for nominations and set a date, time and place for the election.

B. Individuals seeking elective office may submit a nomination. Eligible citizens may nominate an individual with the written consent of the nominee.

C. Notwithstanding the above Subsection A, for the 2014 election, the first citizens' nomination meeting shall be held on the second Monday in February, and the second nominations meeting shall be held on the third Monday in February. Beginning with the 2015 election, the first citizens' nomination meeting shall be held on the second Monday in March, with the second nominations meeting to be held on the third Monday in March, as stated in Subsection A above, in each regular town election year to follow. (Res. No. 2013-3, 9-24-13.)

Section 508. Election of Mayor and Council. (See Note (7))

A. On the first Monday in May, 1952, and on the same day every two years thereafter, the qualified voters of the town shall elect a mayor to serve for a term of two years or until his successor is elected and qualified. Also on the first Monday in May, 1952, the qualified voters of the town shall elect five councilmen. The two councilmen elected by the highest number of votes shall serve for a term of four years, and the three remaining councilmen shall serve for a term of two years. On the first Monday in May, 1954, the qualified voters of the town shall elect three councilmen. The two councilmen elected by the highest number of votes at this election shall serve for a term of four years, and the remaining councilmen shall serve for a term of two years. Thereafter, on the first Monday in May, 1956, and on the same day every two years thereafter, the qualified voters of the town shall elect the requisite number of councilmen to serve for a term of four years.

B. Provided that on the first Monday in May, 1990, and on the same day every four years thereafter, the qualified voters of the Town shall elect a Mayor to serve for a term of four years and until a successor is elected and qualified.

C. Notwithstanding the provisions of Subsections A and B above, the terms of the Mayor elected on the first Monday of May, 2014 and of the members of the Council elected on the first Monday of May, 2012 and on the first Monday of May, 2014 shall be three years or until successors are elected and qualified. Beginning on the first Monday of May, 2017, and on the same day every four years thereafter, the qualified voters of the Town shall elect a Mayor to serve for a

term of four years or until his successor is elected and qualified. Beginning on the first Monday of May, 2015, on the same day every two years thereafter, the qualified voters of the Town shall elect the requisite number of Council members to serve for a term of four years and until successors are elected and qualified. (Res. No. 2011-1, 12-22-11.)

Section 509. Conduct of Elections. (See Note (7))

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place for voting and suitable ballot boxes and ballots and/or electronic voting device. Space shall be provided on the ballot for voters to vote for candidates not listed thereon. The Board of Supervisors of Elections shall keep the polls open at least from 2:00 p.m. to 7:00 p.m. on election days or for longer hours if the council requires it. (Res. No. 2013-3, 9-24-13.)

Section 510. Absentee Ballots.

Any qualified voter registered to vote pursuant to Section 505 is entitled to vote in any town election by absentee ballot. On or before January 2, 1980, the Council shall provide by ordinance for appropriate means to transmit and receive applications for absentee ballots, envelopes, instructions and printed matter to enable absentee voters to vote.

Section 511. Vote count. (See Note (7))

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 council secretary or town clerk, who shall record the results in the minutes of the council and shall notify the persons elected of their election. The person with the highest number of votes for mayor shall be declared elected Mayor. The persons with the highest number of votes for councilmen shall be declared elected councilmen. All ballots and/or electronic voting tallies used in any town election shall be preserved for at least six months from the date of the election. (Res. No. 2013-3, 9-24-13.)

Section 512. Regulation and control.

The council shall have the power to provide by ordinance for the registration of voters, nominations of candidates, and special and general municipal elections in every respect not covered by this charter.

ARTICLE VI

Finance

Section 601. Mayor.

The mayor shall be the chief financial officer of the town and the financial powers of the town, except as otherwise provided by this charter, shall be exercised by the mayor.

Section 602. Powers and duties.

The mayor, in person or through his subordinates, shall have authority and shall be required to:

- (1) Prepare an annual budget to be submitted to the council.
- (2) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the town in such form as state law and the council may require.
- (4) Submit at the end of each fiscal year and at such other times as the council may require, a complete financial report to the council.
- (5) Ascertain that all taxable property within the town is assessed for taxation.
- (6) Collect all taxes, special assessments, license fees, liens, and all other revenues (including water revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.
- (7) Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- (8) Do such other things in relation to the fiscal or financial affairs of the town as he deems necessary or as the council may require or as may be required elsewhere in this charter.

Section 603. Bond.

The mayor, as chief financial officer of the town, shall provide a bond with such corporate surety and in such amount (but not less than \$5,000.00) as the council by ordinance may require.

Section 604. 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 of each calendar year. Such fiscal year shall also constitute the tax year, the budget year, and the accounting year.

Section 605. Budget.

The mayor, on such date as the council 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 the total of the proposed expenditures. The budget shall be a public record in the office of the mayor open to public inspection by anyone.

Section 606. Budget adoption.

Before adopting the budget the council shall hold a public hearing thereon after two weeks' notice in some newspaper or newspapers having general circulation within the Town. The council may insert new items or may increase or decrease the items of the budget. Where the council shall increase the total proposed expenditures it shall also increase the total anticipated revenue to at least equal such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total membership of the council shall be necessary for adoption. The budget ordinance shall not be subject to veto and shall take effect upon passage by the council.

Section 607. 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.

Section 608. 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.

Section 609. Over-expenditure forbidden.

No officer or employee of the town 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 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, prevents 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 the contract is made, when the contract is permitted by law.

Section 610. Appropriations lapse.

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 included in the next year's budget as surplus.

Section 611. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the mayor.

Section 612. Taxable property.

All real and tangible personal property within the limits of the Town of Mount Airy, or which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment for said purpose shall be the same as that for state and county purposes.

Section 613. Budget authorizes levy. Notice of levy.

(a) 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.

(b) Immediately after the levy is made by the council in each year, the town clerk 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.

Section 614. Taxes overdue.

The taxes provided for in Section 613 of this charter shall be due and payable on the first day of July and shall be overdue and in arrears on the first day of the succeeding October. They shall bear interest while in arrears at the rate of $\frac{2}{3}$ of 1 Per centum for each month or fraction of a month thereafter until paid. The council by ordinance may allow a discount for taxes paid prior to October 1. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in Section 615.

Section 615. Tax sales.

A list of all property on which the town taxes have not been paid and are in arrears as provided by Section 614 of this charter shall be turned over to the official of Carroll County or Frederick County responsible for the sale of tax delinquent property by the mayor as provided in state law. All property listed thereon shall be sold by this county official in the manner prescribed by state law.

Section 616. Fees.

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

Section 617. Audits.

The financial books and accounts of the town shall be audited annually as required by Section 40 of Article 19 [§ 16–305 of the Local Government Article] of the Maryland Code (1957 Edition, as amended).

Section 618. Public debt.

The Town of Mount Airy shall have the power to borrow on the faith and credit of the town from time to time as may be deemed necessary for the general welfare of the town and its general corporate purposes. The town may issue and sell bonds for such indebtedness in accordance with the provisions of Section 619 of this Charter or with state law.

Section 619. Bond Issues.

Except as otherwise specified under the provisions of this charter:

(1) The total amount of bonds issued under the authority of this charter, when added to bonds outstanding less the amounts in any sinking funds for the redemption of bonds outstanding, shall not exceed at any one time ten per cent (10%) of the total assessed value of all taxable property in the town. Revenue bonds issued for revenue producing projects shall not be included in calculating the ten per cent (10%) limitation herein contained or the limitations in subparagraph (2).

(2) Under the ten per cent (10%) bond limitation, the council may authorize bond issues which will not place the total town indebtedness above five per cent (5%) of the total assessed value of taxable property in the town. All other bond issues must be submitted to a referendum of the qualified voters of the town and a majority favorable vote of those voting on the question shall be necessary before such issues may be made.

(3) The debt limits established in (1) and (2) of this section shall not apply to revenue bonds issued for revenue producing projects such as a water plant, power plant, or a sewage treatment and disposal system. Issuing revenue bonds for revenue producing projects shall be subject to a majority affirmative vote of all qualified voters voting on the question in any general election.

(4) All proposed bond issues issued under the provisions of this charter shall be approved by the council. The action of the council in respect thereof shall not be subject to veto.

(5) Bonds may be either coupon or registered bonds. From the effective date of this charter all bonds shall be issued in serial form. They shall be issued in such denominations, at such rates of interest, and for such a period of time as the council may decide.

(6) All bonds shall be signed by the mayor and attested by the council secretary or the town clerk, and the seal of the town shall be attached thereto.

(7) When signed and attested, the bonds shall be delivered to the mayor, who shall be responsible for their safekeeping until sold.

(8) The mayor shall sell bonds by sealed bids after giving two weeks' notice in one or more newspapers of general circulation in the Town of Mount Airy, and in such other publications as the council may decide. The sale of all bonds shall be carried on under such rules and regulations as the council may prescribe. No bonds shall be sold by sealed bids except at prices approved by the council.

(9) Proceeds from the sale of all bonds shall be kept by the mayor under such rules and regulations as the council may prescribe. The proceeds from the sale of bonds shall be spent only as prescribed by ordinance.

(10) The council may regulate the issuing or sale of bonds in any manner not contrary to this charter.

Section 620. Temporary borrowing.

The Town of Mount Airy shall have the power to borrow on a short term basis any sum or sums not to exceed in the aggregate fifty per cent (50%) of the total general revenues received in the preceding fiscal year and to issue notes or other evidences of indebtedness for such borrowing. This money may be expended for any municipal purpose. The notes or other evidences of indebtedness shall be sold as provided by council. All notes or other evidences of indebtedness issued under the provisions of this section shall be paid from the taxes levied for the general purposes of the town. Levying or collecting any special tax for the payment of these notes or other evidences of indebtedness is expressly prohibited. The notes or other evidences of indebtedness issued under the provisions of this section need not be submitted to a vote of the qualified voters of the town and they shall not be deemed to be included under the ten per cent (10%) bond limit established by this charter.

Section 621. Tax exemption.

All bonds, notes, or other evidences of indebtedness issued and sold by the Town of Mount Airy under the authority of this charter shall be exempt from all state, county, and municipal taxes in Maryland.

Section 622. Previous issues.

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

Section 623. Purchasing.

(a) All purchases for the town government shall be made by the mayor. The council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for municipal purchases and construction and repair contracts.

ARTICLE VII Town Officers and Employees

Section 701. Council secretary and town clerk.

The council may appoint a council secretary and a town clerk. A council secretary may be a member of the council. A town clerk may not be a member of the council. The council secretary and town clerk shall serve at the pleasure of the council. The compensation of the council secretary and the town clerk shall be determined by the council. The council secretary or the town clerk shall attend all meetings of the council and keep a full and accurate account of the proceedings of the council and keep such other records and perform such other duties as may be required by this charter or the council.

Section 702. Town attorney.

The mayor with the advice and consent of the council may appoint a town attorney. The town attorney shall be a member of the bar of Carroll County or Frederick County. The town attorney shall be the legal adviser of the Town of Mount Airy 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 of Mount Airy shall have the power to employ such legal consultants as may be necessary from time to time.

Section 703. Employment of officers and other personnel. (See Notes (5), (8), and (12))

The mayor with the advice and consent of the council, shall have the power to appoint such officers and full-time managerial employees, as defined in Section C4-4B(1) [304(b)(1)] above, as may be necessary to execute the powers and duties provided by this charter and to operate the town government. All such officers and employees shall serve at the pleasure of the mayor, except as set forth in Section C4-4B(2) [304(b)(2)]. Budgeted interns, part-time staffers, seasonal hire employees and full time non-managerial employees may be hired directly by the mayor following advertisements and interviews conducted by the town administrator and department head without the advice and consent of the town council. Compensation of all appointed officers and employees of the town shall be determined by the council. All officers and employees of the town government

shall be appointed only on a basis of merit and fitness. (Res. No. 2010-01, 3-23-10, Res. No. 2012-2, 10-30-12, Res. No. 2013-2, 6-25-13.)

Section 704. Employee benefit programs.

The council by ordinance may provide for or participate in retirement plans or systems and hospitalization or other forms of benefit or welfare programs for its officers and employees and may expend public moneys of the town for such programs.

ARTICLE VIII
Public Ways and Sidewalks

Section 801. Definition.

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

Section 802. Control.

The Town of Mount Airy shall have charge of all the public ways in the town except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this charter, the Town of Mount Airy may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the town.

Section 803. Public ways.

The Town of Mount Airy 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.
- (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, or resurface any town public way or part thereof.
- (5) To assess the cost, in whole or in part, of any projects under (2), (3), and (4) of this section on the abutting property in the manner provided in Section 1002 of this charter.

Section 804. Sidewalks.

The Town of Mount Airy shall have the power:

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

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

(3) To install, repair, and maintain curbs and/or gutters along any public way or part thereof.

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

(5) To assess the cost of any projects under paragraphs (1), (2), and (3) of this section on the abutting property in the manner provided in Section 1002 of this charter.

Section 805. Construction by property owners.

The Town of Mount Airy shall have the power to require and order the owner of any property abutting on any public way in the town to perform any projects under Section 804 of this charter at the owner's expense according to reasonable plans and specifications. If, after due notice and hearing, the owner fails to comply with the order within a reasonable time, the 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.

Section 806. Acquisition of property.

For the purpose of carrying out any of the work or projects provided in this article, the town shall have the power to purchase or condemn any property it deems necessary as hereinafter provided. Any of these projects shall be considered as public improvements within the meaning of Section 1102 of this charter. Any condemnation proceedings shall be carried on in accordance with Section 1102 of this charter.

Section 807. Bonds.

The Town of Mount Airy shall have the power to issue bonds in accordance with the provisions of Sections 618 and 619 of this charter to finance work on town public ways, sidewalks, curbs, gutters, or other projects undertaken under the provisions of this article.

ARTICLE IX **Water and Sewers**

Section 901. Powers.

The Town of Mount Airy 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, a sewage treatment plant, and storm water sewers.
- (3) To construct, operate, and maintain an electric light and power plant.
- (4) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above systems and plants.
- (5) To have surveys, plans, specifications, and estimates made for any of the above plants or 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.

Section 902. Acquisition of property.

The Town of Mount Airy shall have the power to acquire by gift, purchase, lease, or condemnation any land, improvements, rights-of-ways, sources of water, or other property of any kind or interest therein or franchise connected therewith within Carroll County or Frederick County, whether used for public, quasi-public, or private purposes, either in fee or as an easement, for the purpose of establishing, operating, extending, or maintaining a water system, water plant, sanitary sewerage system, sewage treatment plant, storm water sewers, or any other public improvement. Any condemnation proceedings under this section shall be carried on in accordance with the provisions of Section 1102 of this charter, and the activities mentioned in this section shall be considered as public improvements within the meaning of Section 1102 of this charter.

Section 903. Structures in public ways.

Any public service corporation, company, or individual, before beginning any construction of or placing or of changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the mayor and obtain his written approval. 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 mayor may order it removed.

Section 904. Obstructions.

All individuals, firms, or corporations having mains, pipes, conduits, or other structures in, on, or over any public way in Carroll County or Frederick 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 of Mount Airy. If the use of the powers in this section shall involve a taking, in the constitutional sense, of the franchise or right in the exercise of which the obstruction had its origin, the Town of Mount Airy shall have the power to condemn an easement in the right or franchise. If necessary to carry out

the provisions of this section, the town may use its condemnation powers provided in Section 1102. Any violation of the provisions of this section shall be a misdemeanor.

Section 905. Entering on county public ways.

The Town of Mount Airy may enter upon or do construction in any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, sanitary sewerage system, sewage treatment plant, or storm water sewers provided for in this charter. The 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. When the town desires to enter on any state public way for the purposes aforesaid, it must first comply with the provisions of applicable state law.

Section 906. Connections.

The Town of Mount Airy 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 of Mount Airy, 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 and left in such a way as not to injure public health. All wells found to be polluted or a menace to health shall be abandoned and closed. Any violation of the provisions of this section shall be a misdemeanor.

Section 907. Charge for connections.

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

Section 908. Improper uses.

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 of Mount Airy may require such changes in plumbing, fixtures, or connections as it deems necessary to prevent such waste or improper use.

Section 909. Private systems.

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, without the written consent of and under rules prescribed by the council. All 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 liable to affect adversely the public comfort and health. Any cesspool or other private

method of sewage disposal affecting or liable to affect adversely the public comfort and health shall be deemed a nuisance and may be abated by the town. Any violation of the provisions of this section shall be a misdemeanor.

Section 910. Extensions beyond boundaries.

The Town of Mount Airy shall have the power to extend its water or sewerage systems beyond the town limits.

Section 911. Right of entry.

Any employee or agent of the Town of Mount Airy, 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 at all reasonable hours and after reasonable advance notice to the owner, tenant, or person in possession, upon any private premises and into any building in the town or in those portions of Carroll County and Frederick County served by the town's water or sewage disposal systems. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, shall be a misdemeanor.

Section 912. Pollution of water supply.

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

Section 913. Contracts for service.

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

Section 914. Finance.

For the purpose of financing and paying for the construction, operation, maintenance, repair, overhead, and property depreciation of the water supply system, water plant, sanitary sewerage system, sewage treatment plant, storm water sewers, and any other improvements provided for under the provisions of this subtitle, the Town of Mount Airy shall have the power:

- (1) To issue bonds in accordance with the provisions of Sections 618 and 619 of this charter.
- (2) To assess the cost of water, sewer, or storm water mains or any part thereof on the property abutting on the water, sewer, and storm water mains in accordance with Section 1002 of this charter.
- (3) To charge and collect such service rates, water rents, ready-to-serve charges, or other charges as may be necessary for water supplied and for the removal of sewage. These charges

are to be billed and collected by the mayor, and, if water bills are uncollected within thirty days, the water may be turned off. All charges shall be a lien on the property, collectible in the same manner as town taxes.

ARTICLE X Special Assessments

Section 1001. Power of town to levy special assessments.

The town may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the 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 it may provide for the payment of all or any part of the above projects out of the proceeds of the 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.

Section 1002. Procedure.

(a) *Provided.* – The procedure for special assessments, wherever authorized in this charter, is as provided in this section.

(b) *Assessment of cost.* – The cost of the project being charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the council.

(c) *Amount.* – 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 causes 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) *Uniformity of rates.* – 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 of charges; public hearing; notice.* – 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 town clerk shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of

assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The town clerk shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the town clerk 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) *Right to appeal.* – 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 within ten days after the levying of any assessment by the council.

(g) *Payments; interest.* – 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) *When due; lien on property; collection.* – All special assessment installments are 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) *Clerk.* – All special assessments shall be billed and collected by the town clerk.

ARTICLE XI Town Property

Section 1101. Acquisition, possession and disposal.

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

Section 1102. Condemnation.

The town may condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, 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 is a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Title 12 of the Real Property Article of the Maryland Code.

Section 1103. Town buildings.

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

Section 1104. Protection of town property.

The town may do whatever may be necessary to protect town property and to keep all town property in good condition.

ARTICLE XII General Provisions

Section 1201. Oath of office. (See Note (10))

(a) *Oath required.* – Before entering upon the duties of their offices, the mayor, the councilmen, the town clerk, 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 to the following oath or affirmation: “I, _____, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____, according to the Constitution and laws of this State and the laws of the Town of Mount Airy.”

(b) *Before whom taken and subscribed.* – The mayor shall take and subscribe to 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 to the oath shall do so before the mayor. (Res. No. 2013–1, 3–26–13.)

Section 1202. Official bonds.

The town clerk 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. All such bonds shall name the town as obligee and no person required to furnish such a bond shall undertake the performance of his duties until such bond has been delivered to and approved by the council.

Section 1203. Vacancies. (See Note (6))

In case of a vacancy on the Council or Mayor for any reason:

(a) If the term for the vacant seat has 425 days or less remaining at the time of the vacancy, then:

(1) In the case of a vacancy on the Council, the Council shall elect some qualified person to fill such vacancy for the unexpired term. All vacancies in the Council shall be filled by the favorable votes of a majority of the remaining members of the Council. The result of any such vote shall be recorded by the Council Secretary or Town Clerk in the minutes of the Council.

(2) In the case of a vacancy in the Office of Mayor, the person serving as the President of the Council shall serve also as Mayor for the unexpired term and for so long as he or she holds the position of President of the Council. While serving as Mayor, the President of the Council may continue to vote on all issues coming before the Council.

(b) If the term for the vacant seat on the Council or in the Office of Mayor has more than 425 days remaining in the term at the time of vacancy, then a special election shall be held between 60 and 90 days after the seat is vacated, on a date to be chosen by the Supervisors of Elections. The nomination shall be made on or before a date to be selected by the Supervisors of Elections, which must be at least 14 days after the seat is vacated and 30 days before the election. The person elected shall take office one week after the last of the following to occur: (1) the results of the special election are certified by the Board of Supervisors of Elections, (2) the public announcement of the results of any recount by the Board of Supervisors of Elections, (3) the decision by the Board of Supervisors of Elections of any election contest or (4) the decision by the Circuit Court of Carroll County on appeal of the decision of the Board of Supervisors of Elections of any election contest. (Res. No. 2010-2, 8-26-10.)

Section 1204. Prior rights and obligations.

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

Section 1205. Misdemeanors and infractions. (See Note (2))

(a) 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 the District Court sitting in the county within which the offense is committed by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for ninety days in the county jail, or both, in the discretion of the court. Where the act or omission is of a continuing nature and is persisted in, a

conviction for one offense is not a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(b) The council may provide that violations of any ordinance shall constitute a municipal infraction. Citations therefore may be issued and delivered by either any police officer, the Mayor, the Council Secretary, Town Clerk, any member of the Council or designated Town Staff. Thereafter the matter shall proceed in the manner provided for by Section 3(B) of Article 23A [Title 6 of the Local Government Article] of the Maryland Code and Sections 4–401 and 12–401 of the Courts and Judicial Proceedings Article of the Maryland Code as said sections are now in force and as the same may be amended from time to time by the General Assembly of Maryland.

(c) Other ordinances or parking violation citations may be issued by the same persons identified in subsection (b) and prosecuted in the District Court under the same process herein. (Res. No. 2002–1, 11–26–02.)

Section 1206. Effect of charter on existing ordinances.

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

(b) *Ordinances, etc., in conflict with charter repealed.* – All ordinances, resolutions, rules, and regulations in effect in the town at the time this charter becomes effective which are in conflict with the provisions of this charter are repealed to the extent of such conflict.

Section 1207. Charter amendments.

This charter may be amended as provided for in Sections 11–17, Article 23A [Title 4, Subtitle 3 of the Local Government Article] of the Maryland Code.

Section 1208. Separability.

If any section or part of section of this charter is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this charter or the context in which such section or part of section so held invalid appears, 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.

NOTES

(1) Resolution 21, effective December 16, 1994, provided for the annexation of 137.841 acres of land (Kraft Property). Resolution 25, effective August 20, 1998, provided for the annexation of 1.5511 acres of land (Brown Property). Resolution 30, effective December 20, 2001, provided for the annexation of 89.9883 acres of land (Property of the Town of Mount Airy). These resolutions, however, failed to provide for the change in the boundary description that is contained in this charter. Accordingly, these annexations are simply noted pursuant to the municipal general powers section of this charter.

(2) Resolution No. 2002-1, effective November 26, 2002, and Resolution No. 2002-2, effective January 21, 2003, attempted to amend Section C-12-5 and Section C1-2, respectively. The Charter on file does not follow this numbering. However, the corresponding section numbers in the Charter on file are Sections 1205 and 102, and the amendment to Sections 1205 and 102 are reflected accordingly.

(3) Resolution No. 2004-1, effective July 27, 2004, attempted to amend Section C2-3. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 203 and the amendment to Section 203 is reflected accordingly.

(4) So in original.

(5) Resolution No. 2010-1, effective March 23, 2010, attempted to amend Sections C3-1, C4-4, and C7-3. The Charter on file does not follow this numbering system. However, the corresponding section numbers in the Charter on file are Sections 401, 304, and 703, respectively, and the amendments to these sections are reflected accordingly.

(6) Resolution No. 2010-2, effective August 26, 2010, attempted to amend Section C12-3. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 1203, and the amendment to Section 1203 is reflected accordingly.

(7) Resolution No. 2011-1, effective December 22, 2011, attempted to amend Sections C4-1, C5-2, C5-6, and C5-7. The Charter on file does not follow this numbering system. However, the corresponding section numbers in the Charter on file are Sections 301, 502, 507, and 508, respectively, and the amendments to these sections are reflected accordingly. Resolution No. 2013-3, effective September 24, 2013, attempted to amend Section C5-6, C5-8, and C5-10. The Charter on file does not follow this numbering system. However, the corresponding section numbers in the Charter on file are Sections 507, 509, and 511, respectively, and the amendments to these sections are reflected accordingly.

(8) Resolution No. 2012-2, effective October 30, 2012, attempted to amend Sections C4-4 and C7-3. The Charter on file does not follow this numbering system. However, the corresponding section numbers in the Charter on file are Sections 304 and 703, respectively, and the amendments to these sections are reflected accordingly.

(9) Resolution No. 2012–1, effective November 20, 2012, attempted to amend Section C4–4. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 304, and the amendment to this section is reflected accordingly.

(10) Resolution No. 2013–1, effective March 26, 2013, attempted to amend Section C12–1. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 1201 and the amendment to Section 1201 is reflected accordingly.

(11) Resolution No. 2013–2, effective June 25, 2013, attempted to amend Section C4–4. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 304 and the amendment to Section 304 is reflected accordingly.

(12) Resolution No. 2013–2, effective June 25, 2013, attempted to amend Section C7–3. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 703 and the amendment to Section 703 is reflected accordingly.

(13) Resolution No. 2013–4, effective November 26, 2013, attempted to amend Section C2–13. The Charter on file does not follow this numbering system. However, the corresponding section number in the Charter on file is Section 213 and the amendment to Section 213 is reflected accordingly.