

CHARTER

OF THE

# **Town of Berlin**

WORCESTER COUNTY, MARYLAND

*As found in a 1977 General Code Publishers Corporation Edition, supplemented  
to April 24, 1981 (Supp. No. 6), as amended*

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## **BERLIN**

(See note (1))

### **ARTICLE I Incorporation**

#### Section C1-1. Incorporation and general powers.

The inhabitants of the Town of Berlin, Maryland, residing and included within the corporate limits of said municipal corporation, as said corporate limits were heretofore and are hereby established, and as the same may hereafter be extended, are hereby continued a public body corporate by the name of "Mayor and Council of Berlin," 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 existence unless this Charter and the corporate existence of the town are forfeited, released or terminated in the manner prescribed by law.

### **ARTICLE II Boundaries**

#### Section C2-1. Described.

A. The courses and distances showing the corporate limits of the town shall be the same as those heretofore set forth in Section 9 of Article 24 of the Code of Public Local Laws of Maryland (1930 Edition), title: "Worcester County," subtitle: "Berlin," viz: Beginning at the southeast corner of the Buckingham Cemetery, and running from thence by and with the south side of the Newport Road, via the African M. E. Church to the northwest corner of the Major Hill lot, and thence to the intersection of the Sinepuxent Road with Hudson's Branch; thence to the south side of the bridge over Nelson's Branch on the Taylorville Road; thence to the south side of the bridge at the intersection of the St. Martin's and Whaleyville Roads; thence to the gate of the heirs of Littleton P. Franklin, on the Libertytown Road; thence to the southwest corner of H. D. Tingle's lot on the road running from Buckingham Cemetery to the D. M. & V. Railroad; thence in an easterly course by and with the south side of said road and the south line of said cemetery to the beginning.

B. On February 7, 1961, the Mayor shall cause the foregoing outline of said corporate limits to be filed with the following:

- (1) The Clerk of the Circuit Court for Worcester County.
- (2) The Commissioner of the Land Office of Maryland.

(3) The Director of the Department of Legislative Reference [Services] of Maryland.

C. All future changes in said corporate limits, by annexation or otherwise, shall likewise be filed with said officials or their successors. (Res. 12-19-60, sec. 8; Res. 1999-2, 6-09-99; Res. 1999-11, 10-07-99; Res. 1999-14, 2-10-00; Res. 2000-01, 6-08-00; Res. 2000-17, 11-09-00; Res. 2000-07, 11-23-00.)

Section C2-2. 1969 annexation.

A. *Described.* The following described lands contiguous to the Town of Berlin lying and being situate in the Third Election District of Worcester County shall be added to, taken into and made part of the Town of Berlin: All that certain area of land, together with the persons residing therein and their property contiguous to and binding upon the northerly corporate limits of the Town of Berlin and being more particularly described as follows: beginning for the same at a cement boulder (one (1) of the corporate monuments) on the westerly edge of the blacktop on William Street (said point of beginning being north 74 degrees 42 minutes west 3,580 feet from the beginning of the northeasterly corporate line of the Town of Berlin and shown at the letter "C" on a plat entitled "Extension of Corporate Limits of Berlin, Maryland, Worcester County," surveyed by William D. Pitts, Registered Surveyor, on April 2, 1968, with magnetic bearings of 1938), and from said point of beginning running by and with the present corporate line north 74 degrees 42 minutes west 142.08 feet; thence running north 26 degrees 17 minutes east 474.25 feet to the south side of old U.S. Route No. 50; thence by and with the south side of old U.S. No. 50, north 86 degrees 48 minutes east 186.45 feet; thence crossing said old U.S. Route No. 50 north 41 degrees 22 minutes east 50.95 feet to the north side of said old U.S. Route No. 50 and to the east corner of the American Legion property; thence by and with the northeasterly line of said American Legion property, north 19 degrees 10 minutes west 144.9 feet to an iron pipe; thence north 65 degrees 25 minutes east 552.3 feet to the westerly side of Dual Highway leading to Selbyville and known as U.S. Route 113; thence by and with the westerly side of said Dual Highway the eleven (11) following courses and distances: (1) south 12 degrees 47 minutes east, 68.5 feet; (2) thence south 24 degrees 48 minutes west, 116.2 feet to the northwesterly side of old U.S. Route No. 50; (3) thence across the same south 33 degrees 07 minutes east, 30 feet; (4) thence south 76 degrees 32 minutes east, 67.4 feet; (5) thence south 12 degrees 47 minutes east, 434.42 feet; (6) thence south 12 degrees 34 minutes east 20.58 feet; (7) thence south 11 degrees 19 minutes east, 100.0 feet; (8) thence south 9 degrees 15 minutes east, 100.0 feet; (9) thence south 7 degrees 12 minutes east, 100.0 feet; (10) thence south 5 degrees 09 minutes east, 100.0 feet; (11) thence south 3 degrees 48 minutes east, 69.0 feet to intersect the aforesaid northeasterly corporate line of the Town of Berlin at a point north 74 degrees 42 minutes west 2,582 feet from its point of origin at the bridge at the north end of Flower Street; thence by and with said corporate line north 74 degrees 42 minutes east 998.2 feet to the place of beginning (passing through a corporate monument "B" on the plat at a distance of 966.02 feet containing and now laid out for 16.38 acres of land).

B. *Residents subject to Charter and ordinances.* The persons residing in the area to be annexed and their property shall, as soon as the annexation has taken effect, be subject to the provisions of the Charter of the Town of Berlin and all ordinances, resolutions, rules and

regulations of the Town of Berlin, except as hereinafter modified, and in particular, the conditions and circumstances of annexation applicable to such persons and their property shall be as follows:

(1) *Police protection.* Police services of the Berlin Police Department shall be extended into the annexed area immediately upon the effective date of annexation.

(2) *Trash collection.* Town trash collection will be furnished to all residents and property in the annexed area immediately upon the effective date thereof.

(3) *Water.* The annexed area is already receiving municipal water and no changes in the service will be made. The same rates will be charged as in all other areas of the town.

(4) *Electrical service.* The entire area to be annexed is presently served by the town's electric power system with the exception of the properties of Sunshine Laundry, Cropper & Brittingham, M. P. Davis and Robert W. Todd. The town plans to extend its electrical service to those properties subject to agreement with the Delmarva Power and Light Company and/or approval and authorization from the Public Service Commission of Maryland.

(5) *Sewer service.* Following annexation, the town plans to extend its sewage line from the present town limits on Williams Street to the end of the newly annexed area. The town has previously entered into an agreement with Sunshine Laundry whereby the latter will pay a substantial portion of the costs of such water extension. No charges for the construction of this extension will be levied against any other property owners and users in the newly annexed area, except that they will be required to pay the town's regular hook-up charge and will be assessed the town's regular monthly service charge (such charge to be assessed after hookup). The town will further require that all existing homes and buildings in the newly annexed area be hooked up to the city sewage system within one (1) year after the completion of the aforesaid extension.

(6) *Zoning.* The provisions of the Worcester County Zoning Ordinances as applicable on the day that annexation became effective shall continue to be applied to the annexed area, until such time as the Berlin Planning and Zoning Commission includes such area in its general plan, and the town subsequently enacts a valid Zoning Ordinance covering this area. Such rezoning will be done only after public hearings have been held and other statutory zoning requirements have been met.

(7) *Voting rights.* All residents in the annexed area shall forthwith have the right to vote in all general and special elections of the Town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

(8) *Taxes.* All properties, real and personal, in the annexed area which are then subject to the payment of county taxes shall forthwith become subject to the payment of real and/or personal property taxes, as the case may be, to the Town of Berlin at the same rate as such properties are taxed in the remainder of the town. Such taxes will be originally prorated from the date of annexation to the subsequent July 1 and will be due and payable within sixty (60) days of

annexation. Thereafter, taxes will be billed and payable in the same manner as they are in the remainder of the town. (Res. 7-28-69.)

Section C2-3. 1971 annexation.

A. *Described.* The following described lands contiguous to the Town of Berlin lying and being situate in the Third Election District of Worcester County be and they are hereby added to, taken into and made part of the Town of Berlin: All that certain area of land, together with the persons residing therein and their property contiguous to and binding upon the westerly corporate limits of the Town of Berlin and being more particularly described as follows: beginning at a point marked "X" on a plat entitled "Land to be Annexed to the Town of Berlin, Maryland," surveyed by George A. Chapman Registered Surveyor, on June 30, 1971, where the present corporate limits of Berlin intersects the northeast property line of the parcel to be annexed; being also on the southwest line (rear) of a lot owned by Preston Carey; said lot lying on the south side of Maryland Route 374 approximately one-half (1/2) mile west of the Pennsylvania Railroad; thence along the line of Adkins Company property being also the lines of property owned by said Preston Carey and Clifford Fields, north 51 degrees 23 minutes west a distance of 150 feet to a concrete monument which marks the north corner of the Adkins Company property; thence running by and with the lands of Leslie G. Hastings south 39 degrees 30 minutes west 2,443.28 feet to a stake; thence running by and with the lands of Fred D. Hodgens and John H. Warren, south 65 degrees 45 minutes east 1,685.69 feet to a stake which is the corner of said Adkins Company land, said Warren land and the land of George H. Parsons; thence by and with said Parsons' land north 41 degrees 42 minutes west 70.0 feet to intersect the present corporate limits line of the Town of Berlin; thence by and with the corporate limit line north 02 degrees 04 minutes east 2,433.30 feet to the beginning; containing 50.34 acres more or less.

B. *Residents subject to Charter and ordinances.* The persons now residing or to reside in this area to be annexed and their property be and they are hereby subject to the provisions of the Charter of the Town of Berlin and all ordinances, resolutions, rules and regulations of the Town of Berlin, and in particular the conditions and circumstances applicable to such persons and their property are as follows:

(1) *Police protection.* Police services of the Berlin Police Department shall be extended into the annexed area immediately on September 7, 1971.

(2) *Trash collection.* Town trash collection will be furnished to all residents and property in the annexed area immediately on September 7, 1971.

(3) *Water.* On September 7, 1971, the town will extend its waterlines from the present town limits on Broad Street to the newly annexed area. No charge for the construction of this extension will be levied against any property owners or users in the newly annexed area, except that they will be required to pay the town's regular hookup charge and they will be assessed the town's regular monthly service charge after hookup. All structures constructed after the effective date hereof in the newly annexed area will be required to hook up to the town's water system.

(4) *Electrical service.* On September 7, 1971, the area to be annexed will be served by the town's electric power system. The town plans to extend its electric service to the newly annexed area from its existing power lines located on Broad Street.

(5) *Sewer service.* On September 7, 1971, the town will extend its sewer lines from present town limits on Broad Street to the newly annexed area. No charge for the construction of this extension will be levied against any property owners or users in the newly annexed area, except that they will be required to pay the town's regular hookup charge and they will be assessed the town's regular monthly service charge after hookup. All structures constructed after September 7, 1971, in the newly annexed area will be required to hook up to the town's sewer system.

(6) *Zoning.* The provisions of the Worcester County Zoning Ordinance as applicable on September 7, 1971, are hereby deemed to be applicable to the annexed area until such time as the Berlin Planning and Zoning Commission includes such area in its general plan, and the Mayor and Council subsequently enacts a valid zoning ordinance covering this area.

(7) *Voting rights.* All residents in the annexed area shall, on September 7, 1971, have the right to vote in all general and special elections of the Town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

(8) *Taxes.* All property in the newly annexed area shall be, on September 7, 1971, subject to the payment of taxes, real and personal, and shall further be subject to a lien for the nonpayment thereof, in the same manner and at the same rate as properties now within the existing town limits are subject as of the effective date of this resolution; such taxes shall be prorated from the effective date of this resolution to July 1, 1972, and shall become due and payable within sixty (60) days of annexation. Commencing with the fiscal year beginning July 1, 1972, all such taxes shall be billed and collected in the same manner as all other taxes in the Town of Berlin. (Res. 7-23-71.)

Section C2-4. 1980 Annexation.

A. It is hereby proposed and recommended that the boundaries of the Town of Berlin be changed so as to annex to and include within said municipality all that certain area of land, together with the improvements thereto and the persons residing therein, and their property, contiguous to and adjoining upon the northerly corporate limits of the Town of Berlin and more particularly described as follows:

Beginning for the same at a point marked P.O.B on plats by Loewer & Associates, Inc. dated November 19, 1979, and titled "Annexation to the Corporate Town Boundaries of the Town of Berlin, Maryland". P.O.B. also being N 67° 15' 00" E, 197.62 feet from the end of the 5th course and beginning of the 6th course of the description of the survey dated April 2, 1968, by William Pitts, of the 16.38 acre annex to the Town of Berlin. Thence leaving said point of beginning, referring all courses to the magnetic meridian for 1968, and running and binding with the westerly lines of the land of R. W. Todd and Chesapeake Foods, Inc. N 53° 14' 16" W, 557.56 feet to a point and to the northwesterly corner of plat dated April 15, 1979, by Herman L. Purnell, III for the Chesapeake Foods, Inc. office building area. Thence running with the northerly line of said

plat and fence there situate and also crossing U. S. Route 113 right of way as shown on S.R.C. plat No. 12926, N 55° 41' 30" E, 978.02 feet to a point and to the easterly right of way of U. S. Route 113. Thence running and binding with the easterly side of said U. S. Route 113 and U. S. Route 50 and referring to plat dated February 6, 1979, by Harold W. Hampshire, titled "Berlin Nursing Home", the following 9 courses and distances: Beginning at a point N 08° 46' 45" W, 388.12 feet to a point. Thence N 83° 26' 30" E, 42.00 feet to a point. Thence N 02° 47' 42" W, 360.10 feet to a point. Thence N 18° 42' 31" E, 224.34 feet to a point. Thence 36° 02' 54" E, 208.27 feet to a point. Thence N 53° 44' 42" E, 388.12 feet to a point. Thence N 64° 14' 25" E, 171.84 feet to a point. Thence N 87° 23' 21" E, 176.71 feet to a point. Thence S 85° 46' 31" E, 93.40 feet to a point. Thence leaving said right of way of said U. S. Route 50 and running and binding with the easterly side of the said Berlin Nursing Home property the following five courses: Beginning at a point S 21° 51' 00" E, 178.23 feet to a point. Thence S 40° 47' 00" W, 577.50 feet to a point. Thence S 14° 59' 00" E, 891.66 feet to a point. Thence S 59° 54' 00" W, 255.20 feet to a point. Thence S 29° 14' 55" E, 298.92 feet to an iron pipe found on the northerly right of way line of Maryland Route 346. Thence running and binding with the northerly right of way line of Maryland Route 346, S 58° 46' 40" W, 661.05 feet to a point and to the intersection of Maryland Route 346 and U. S. Route 113. Thence running and binding with the easterly side of the said U. S. Route 113, N 60° 18' 42" W, 79.88 feet to a point. Thence leaving said easterly right of way line of U. S. Route 113 and running across said U. S. Route 113 S 78° 58' 19" W, 150.00 feet to a point on the westerly right of way line of U. S. Route 113 and also on the northerly boundary line of Berlin Town limits as described in aforesaid description dated April 2, 1968. Thence running and binding on the northerly boundary line of aforesaid existing Berlin Town limits S 67° 15' 00" W, 348.10 feet to the point of beginning. Containing 41.21 acres ±.

B. The annexation of the said area is made subject to the terms and conditions as follow:

1. *Police Protection.* Police services of the Berlin Police Department shall be extended into the annexed area immediately upon the effective date of annexation.
2. *Trash Collection.* Town trash collection will be furnished to all residents and property in the annexed area immediately upon the effective date of annexation.
3. *Water Service.* The Town will extend its waterlines from the existing line on Ocean City Boulevard to the newly annexed area as expeditiously as possible. All structures constructed after the effective date hereof in the newly annexed area will be required to hook up to the Town's water system. The same rates will be charged as in all other areas of the Town.
4. *Sewer Service.* The Town will extend its sewer lines from the existing line on Ocean City Boulevard to the newly annexed area as expeditiously as possible. All structures constructed after the effective date hereof in the newly annexed area will be required to hook up to the Town's sewer system. The same rates will be charged as in all other areas of the Town.
5. *Zoning.* The provisions of the Worcester County Zoning Ordinance are hereby deemed to be applicable to the annexed area until such time as the Berlin Planning and Zoning Commission includes such area in its general plan, and the Mayor and Council

subsequently enacts a valid zoning ordinance covering this area. For a period of Five Years none of the annexed area can be rezoned to a classification which permits a land use substantially different from that specified in the current adopted Master Plan of the County without the express approval of the Worcester County Commissioners.

6. *Voting Rights.* All residents in the annexed area upon the effective date of annexation shall have the right to vote in all general and special elections of the Town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

7. *Taxes.* All property in the newly annexed area shall be upon the effective date of annexation subject to the payment of taxes, real and personal, and shall further be subject to a lien for the nonpayment thereof, in the same manner and at the same rate as properties now within the existing Town limits are subject as of the effective date of this Resolution; such taxes shall be prorated from the effective date of this Resolution to July 1, 1980, and shall become due and payable within sixty (60) days of annexation. Commencing with the fiscal year beginning July 1, 1980, all such taxes shall be billed and collected in the same manner as all other taxes in the Town of Berlin. (Res. 1980-1, 1-21-80.)

Section C2-5. 1982 Annexation.

A. It is hereby proposed and recommended that the boundaries of the Town of Berlin be changed so as to annex to and include within said municipality all that certain area of land, together with the improvements thereto and the persons residing therein, and their property, contiguous to and adjoining upon the easterly corporate limits of the Town of Berlin and more particularly described as follows:

Beginning at a spike set at the northeast corner of the present Corporate Limit Boundary Line of the Town of Berlin, Maryland; said spike set in the centerline of the macadam of Flower Street at its intersection with the centerline of the run of Kitts Branch, said spike being also located N 57° 08' 00" E, 176.05 feet from an iron pipe found at the southeast corner of land of Berry Jarmon as recorded in the land records of Worcester County, Maryland in Liber FWH 377, folio 267. Thence, by and with the northeasterly Corporate limit Line of Berlin N 72° 37' 26" W, 2585.96 feet to a point on the westerly right of way line of U.S. Route 113 (150 feet wide); said point being also located S 72° 37' 26" E, 958.74 feet from a former corporate boundary marker located on the east side of Williams Street; thence, by and with the westerly right of way line of said U.S. 113 (150 feet wide); as shown on Maryland State Roads Commission Plats numbered 12925 and 12926 the following six courses and distances:

1. a distance of 498.20 feet with the arc of a curb to the left having a radius of 2789.79 feet and a chord bearing and distance of N 5° 08' 30" W, 497.55 feet to a point;
2. thence, N 10° 15' 30" W, 439.08 feet to a point;
3. thence, N 73° 59' 40" W, 67.4 feet to a point on the southerly right of way of old U.S. Route 50, now known as MD Route 346 (30 feet wide);

4. thence, across said MD Route 346, N 30° 35' 30" W, 30.00 feet to a point on the northerly right of way line of said MD Route 346;

5. thence, N 27° 19' 14" E, 116.19 feet to a point;

6. thence, N 10° 15' 30" W, 68.50 feet to a point at the end of line six and the beginning of line seven of the description of the "Extension of the Corporate Limits of Berlin, Maryland" as surveyed by William D. Pitts on April 2, 1968, and annexed by the Town of Berlin on July 28, 1969;

thence, across U.S. Route 113 and supposed to be by and with reversed lines 19, 18, and 17 of a survey titled "Annexation to the Corporate Town Boundaries of the Town of Berlin, Maryland[?]", by Loewer and Associates, Inc., dated November 19, 1979, the following three courses and distances:

1. N 81° 18' 55" E, 150.06 feet to a point on the easterly right of way of U.S. Route 113;

2. thence, S 59° 25' 46" E, 79.88 feet to a point on the northerly right of way of MD Route 346 (30 feet wide);

3. thence, by and with the northerly right of way of said MD Route 346 (30 feet wide), N 59° 24' 30" E, 651.52 feet (given incorrectly by previous survey as 661.05 feet) to a point located at the southeast corner of the Berlin Nursing Home property, said point being shown as the end of line 16 and the beginning of line 17 of the aforementioned annexation plat by Loewer and Associates, Inc., said point being also located at S 30° 35' 30" E, 1.0 feet from an iron pipe found on the Nursing Home's easterly property line;

thence, diagonally across MD Route 346 (30 feet wide), S 49° 39' 15" W, 177.25 feet to a point on the southerly right of way line of MD Route 346 (30 feet wide) at the northeast corner of Parcel # one of Case Edwards Construction Company, Inc. and the northwest corner of property of George C. Tyler as recorded in the land records of Worcester County, Maryland in Liber FWH 750/folio 445. Thence, by and with the land of said Case Edwards Construction Co., Inc. and the westerly and southerly property line of said George C. Tyler the following two courses and distances:

1. S 30° 09' 05" E, 245.35 feet (passing through a concrete monument at a distance of 4.54 feet) to a concrete monument found;

2. thence, N 58° 07' 14" E, 100.00 feet to an iron pipe found at the southwest corner of land of Hickory Health Services, Inc., as referenced in the Worcester County land records in Liber FWH 721, folio 151;

thence, by and with the southerly property lines of said Hickory Health Services, Inc., Dale H. Carey (deed reference FWH 543, folio 305), and the Equitable Trust Company (deed reference FWH 746, folio 527), and the northerly property line of said Case



Edwards Construction Co., Inc., N 61° 08' 07" E, 474.55 feet to the center of Kitts Branch. Thence, by and with the center of said Kitts Branch the following eleven courses and distances:

1. S 12° 19' 00" E, 1013.00 feet;
2. thence, S 30° 52' 00" E, 379.00 feet;
3. thence, S 43° 53' 00" E, 260.00 feet;
4. thence, S 30° 29' 00" E, 328.00 feet;
5. thence, S 63° 38' 00" E, 56.00 feet;
6. thence, S 82° 30' 00" E, 311.00 feet;
7. thence, S 68° 36' 00" E, 145.00 feet;
8. thence, S 35° 53' 00" E, 50.0 feet;
9. thence, S 2° 52' 00" E, 65.0 feet;
10. thence, S 28° 07' 00" E, 70.0 feet;
11. thence, S 22° 31' 00" E, 122.26 feet to the spike set at the beginning of this description.

Containing 54.030 acres of land as surveyed by me L. E. Bunting, Jr., Registered Maryland Property Line Surveyor No. 142 and shown on a plat titled "Northeasterly Extension of the Corporate Limits of Berlin, Maryland" dated January 14, 1982, and intended to be a part of and recorded with this description. Bearings are Magnetic Bearings of October 1979.

B. The annexation of the said area is made subject to the terms and conditions as follow:

1. *Police Protection.* Police services of the Berlin Police Department shall be extended into the annexed area immediately upon the effective date of annexation.
2. *Trash Collection.* Town trash collection will be furnished to all residents and property in the annexed area immediately upon the effective date of annexation.
3. *Water Service.* The Town will extend its water lines from the existing line on Ocean City Boulevard to the newly annexed area in accordance with agreements between the Town and annexed property owners. All structures constructed after the effective date hereof in the newly annexed area will be required to hook up to the Town's water system. The same rates will be charged as in all other areas of the Town.

4. *Sewer Service.* The Town will extend its sewer lines from the existing line on Ocean City Boulevard to the newly annexed area in accordance with agreements between the Town and annexed property owners. All structures constructed after the effective date hereof in the newly annexed area will be required to hook up to the Town's sewer system. The same rates will be charged as in all other areas of the Town.

5. *Zoning.* The provisions of the Worcester County Zoning Ordinance are hereby deemed to be applicable to the annexed area until such time as the Berlin Planning and Zoning Commission includes such area in its general plan, and the Mayor and Council subsequently enacts a valid zoning ordinance covering this area. For a period of Five Years, none of the annexed area can be rezoned to a classification which permits a land use substantially different from that specified in the current adopted Master Plan of the County without the express approval of the Worcester County Commissioners.

6. *Voting Rights.* All residents in the annexed area upon the effective date of annexation shall have the right to vote in all general and special elections of the Town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

7. *Taxes.* All property in the newly annexed area shall be upon the effective date of annexation subject to the payment of taxes, real and personal, and shall further be subject to a lien for the nonpayment thereof, in the same manner and at the same rate as properties now within the existing Town limits are subject as of the effective date of this Resolution; such taxes shall be prorated from the effective date of this Resolution to July 1, 1982, and shall become due and payable within sixty (60) days of annexation. Commencing with the fiscal year beginning July 1, 1982, all such taxes shall be billed and collected in the same manner as all other taxes in the Town of Berlin. (Res. 1981-9, 3-15-82.)

#### Section C2-6. 1985 Annexation.

It is hereby proposed and recommended that the boundaries of the Town of Berlin be changed so as to annex to and include within said municipality all that certain area of land, contiguous to and adjoining upon the Easterly Corporate limits of the Town of Berlin and more particularly described as follows: "Beginning for the same at a Rebar placed in the ground on the easterly right of way line of Decatur Street. Said beginning point being 200.00 degrees from the intersection of the southerly right of way line of Burley Street and the easterly right of way line of Decatur Street. Said beginning point also being the northwesterly corner of the afore said Atlantic Retirement Apts., and the southwesterly corner of the aforesaid Robert W. Phillips, and shown on a plat by Hampshire, Hampshire & Andrews for Atlantic Retirement Apts., dated April 8, 1985 and designated as point one. Thence by and with the aforesaid Robert W. Phillips South 35 degrees 01 minutes 31 seconds East a scaled distance of 1115 feet more or less to the approximate limit of the corporate line of the Town of Berlin. Hence by and with the aforesaid Robert W. Phillips South 35 degrees 01 minutes 31 seconds east a scaled Distance of 238.86 feet more or less to a point designated as number two on the aforesaid plat. Said point also being the southeasterly corner of the herein described parcel. thence by and with the aforesaid Robert W. Phillips South 44 degrees 24 minutes 54 seconds West a distance of 1160.37 feet to a point in the centerline of "Bottle Branch" the eight following courses and distances.

1. North 44 degrees 13 minutes 50 seconds West a distance of 72.60 feet to a point designated on said plat as number four.
2. North 63 degrees 16 minutes 08 seconds West a distance of 35.03 feet to a point designated on said plat as number five.
3. North 19 degrees 44 minutes 29 seconds West a distance of 26.26 feet to a point designated on said plat as number six.
4. South 65 degrees 02 minutes 07 seconds West a distance of 57.13 feet to a point designated on said plat as number seven.
5. North 27 degrees 28 minutes 42 seconds West a distance of 52.14 feet to a point designated on said plat as number eight.
6. South 67 degrees 14 minutes 11 seconds West a distance of 24.87 feet to a point designated on said plat as number nine.
7. North 53 degrees 54 minutes 48 seconds West a distance of 35.03 feet to a point designated on said plat as number ten.
8. North 34 degrees 58 minutes 33 seconds West a scaled distance of 22 feet more or less to a point at the intersection of the centerline of "Bottle Branch" and the line shown on said plat labeled "Approx. Corporate Limits".

Thence by and with the approx. corporate limits of the Town of Berlin in a northeasterly direction a scaled distance of 1263 feet more or less to the point at the end of the first line of the herein described parcel. Thence reversing the first line of the herein described parcel North 35 degrees 01 minutes 31 seconds West a scaled distance of 1115 feet more or less to the place of beginning. Containing 7 acres of land more or less as surveyed by Douglas H. Hampshire, Registered Maryland Property Line Surveyor and shown on a plat titled Property Survey for Atlantic Retirement Apartments.

The annexation of the said area is made subject to the terms and conditions as follow:

1. *POLICE PROTECTION.* Police services of the Berlin Police Department shall be extended into the annexed area immediately upon the effective date of annexation.
2. *TRASH COLLECTION.* Town trash collection will be furnished to all residents and property in the annexed area immediately upon the effective date of annexation.
3. *WATER & SEWER SERVICE.* The Town will extend the privilege of connection to the Municipal Water & Sewer system. All connections to the system will be subject to the same rates as charged in all other areas of Berlin.

4. *ZONING.* The provisions of the Berlin Zoning Ordinance are hereby deemed to be applicable to the annexed area. All properties in question to be annexed will be classified as R-1 pursuant to 107-10 of the Berlin Code.

5. *VOTING RIGHTS.* All residents in the annexed area upon the effective date of annexation shall have the right to vote in all general and special elections of the town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

6. *TAXES.* All property in the newly annexed area shall be upon the effective date of annexation subject to the payment of taxes, real and personal, and shall further be subject to a lien for the nonpayment of thereof, in the same manner and at the same rate as properties now within the existing Town limits are subject as of the effective date of this Resolution; such taxes shall be prorated from the effective date of this Resolution to July 1, 1986, and shall become due and payable within sixty (60) days of annexation. Commencing with the fiscal year beginning July 1, 1986, all such taxes shall be billed and collected in the same manner as all other taxes in the Town of Berlin. (Res. 1985-20, 10-24-85.)

Section C2-7. First 1989 Annexation.

Beginning at an iron spike at the easternmost corner of the present Corporate Limit Boundary Line of the Town of Berlin, Maryland: said iron spike being in the centerline of the macadam of Flower Street at its intersection with the centerline of the run of Kitts Branch: said iron spike being also located N 57° 08' 00" E, 176.05' from an iron pipe found at the southeast corner of the land of Berry Jarmon as recorded in the land records of Worcester County, Maryland in Liber F.W.H. 377. folio 267: Thence by and with the centerline of the run of Kitts Branch the following seven courses and distances:

1. S 48° 97' 30" E, 424.39' ;
2. thence, S 09° 24' 00" E, 40.70' ;
3. thence, S 04° 27' 00" W, 85.39' ;
4. thence, S 10° 51' 00" W, 605.55' , to a point in the centerline of the sixty six foot right of way of the Historic Railroad Inc.;
5. thence, S 12° 36' 00" E, 117.0' ;
6. thence, S 20° 34' 00" E, 770.50' ;
7. thence, S 35° 33' 00" E, 80.70' ; to a point on a southerly boundary line of the land of the Mayor and City Council of Berlin as recorded in the land records of Worcester County, Maryland in Liber C.W.N. 6, folio 427;

thence, leaving the run of Kitts Branch and by and with said southerly boundary line of the Mayor and City Council of Berlin, S 75° 33' 45" W, 265.06' to a concrete monument set;

thence, S 57° 49' 16" E, 214.50' to a concrete monument set at the northwest corner of the property of Eleanor D. Ayres as recorded in the land records of Worcester County, Maryland in Liber BB 20, folio 370;

thence, by and with the northwesterly property line of Eleanor D. Ayers the following three courses and distances:

1. S 68° 42' 20" W, 445.50' to a concrete monument set;
2. thence, S 08° 34' 00" W, 66.0' to a concrete monument set;
3. thence, S 79° 34' 00" W, 330.0' to a concrete monument set;

thence, continuing with the northwesterly property line of said Eleanor D. Ayers and also a part of the northwesterly property line of Denard Purnell (Deed reference: F.W.H. 223, folio 31), S 57° 34' 00" W, 1434.34' (Passing through a concrete monument found at the northeast corner of the Alvin C. Loewer, Jr. property – Deed reference F.W.H. 652, folio 641 – at a distance of 689.50' ) to a point on the present easterly Corporate Limit Boundary Line of Berlin. said point being N 25° 22' 47" E, 157.92' from an iron pipe found in a pine stump on the southerly right of way line of Bay Street Extended at a corner of the existing Berlin Corporate Limit Line;

thence, by and with the present easterly Berlin Corporate Limit Line, N 25° 22' 47" E, 3476.42' to the aforesaid iron spike in the centerline of the macadam of Flower Street and the beginning of this description.

Containing 53.45 acres of land as surveyed by L. E. Bunting, Jr., registered Maryland Property Line Surveyor No. 142 and shown on a plat titled, "Easterly Extension of the Corporate Limits of Berlin, Maryland" dated October 6, 1982, and recorded with the Snow Hill Court House. (Res. 1989-3, 6-8-89.)

Section C2-8. Second 1989 Annexation.

Beginning at a point on the northwesterly boundary of the Corporate Limit Lines of Berlin, Maryland: said point being located N 61° 46' 38" E, 200.32 feet from a found Berlin corporate monument situated 17.5 feet southerly of the centerline of Route 374 and 353.5 feet westerly of a concrete monument at the intersection of the westerly right of way line of Ann Drive with the southerly right of way line of Maryland Route 374: and said beginning point being also a point on a property line dividing the lands of Dennis E. Smith (Deed Reference: WCL 1339, folio 320) and the Anchorage Corporation (Deed Reference: 619, folio 416);

thence, by and with the property lines of Dennis E. Smith and the Anchorage Corporation the following seven courses and distances:

1. N 37° 33' 40" E, 52.31 feet to a point; and

2. N 52° 26' 20" W, 125.00 feet to a point; and
3. N 37° 33' 40" E, 200.00 feet to a point;

thence, across a 30-foot-wide strip of land of the Anchorage Corporation that separates the land of said Dennis E. Smith from the land of Thomas P. Janson (Deed Reference: FWH 414, folio 615), N 37° 33' 40" E, 30.0 feet to intersect the southerly property line of said Thomas P. Janson at a point;

thence, by and with the southerly property line of Thomas P. Janson, S 52° 26' 20" E, 251.97 feet to intersect the existing corporate Limit Line of Berlin at a point which is located N 61° 46' 38" E, 309.55 feet from the point of beginning of this description;

thence, by and with the existing Corporate Limit Line of Berlin and through the land of Thomas P. Janson, N 61° 46' 38" E, 117.09 feet to intersect the westerly side of a 50-foot-wide access road known as Prospect Drive and the easterly property line of Janson at a point;

thence by and with the westerly side of said Prospect Drive and the easterly property line of Janson, N 37° 33' 40" E, 93.21 feet to a point at the northeast corner of the land of Janson;

thence, by and with the property lines further dividing the lands of said Janson and the Anchorage Corporation the following two courses and distances:

1. N 52° 26' 20" W, 350.00 feet to a point; and
2. S 37° 33' 40" W, 230.00 feet to a point on the northerly property line of land of the aforesaid Dennis E. Smith;

thence, continuing by and with the property lines dividing the lands of Dennis E. Smith and the Anchorage Corporation, the following four courses and distances:

1. N 52° 26' 20" W, 100.00 feet to a point; and
2. S 37° 33' 40" W, 200.00 feet to a point; and
3. N 52° 26' 20" W, 50.00 feet to a point; and
4. S 37° 33' 40" W, 195.54 feet to a point on the northerly line of Maryland Route 374;

thence, by and with the northerly right of way line of Maryland Route 374, N 53° 08' 15" W, 100.00 feet to a point at the southeast corner of lands now or formerly of Harry C. Clifton (Deed Reference: 324, folio 384);

thence, by and with the property lines of said Harry C. Clifton and the Anchorage Corporation as aforesaid the following four courses and distances:

1. N 37° 33' 40" E, 396.76 feet to a point; and
2. N 52° 26' 20" W, 200.00 feet to a point; and
3. S 37° 33' 40" E, 200.00 feet to a point; and
4. N 52° 26' 20" W, 96.40 feet to a point on the easterly line of land of Peter E. Richardson (Deed Reference: 427, folio 532);

thence, by and with the boundary lines of the land of Peter E. Richardson, the following two courses and distances:

1. N 42° 25' 35" E, 2043.26 feet to a point; and
2. N 17° 12' 25" W, 569.05 feet to an iron pipe found at the northerly most corner of land of Purnell, Inc. (Deed Reference: 276, folio 36);

thence, by and with the northerly line of said land of Purnell, Inc. and the southerly right of way line of Maryland Route 346, S 53° 07' 45" E, 1016.71 feet to the northwest corner of land now or formerly of Francis N. Quillen;

thence, by and with the property line of said Francis N. Quillen, S 41° 21' 45" W, 235.66 feet to a point in the center of a large ditch;

thence, by and with the center of said large ditch and the southerly boundary lines of the lands now or formerly of Francis N. Quillen, John V. Hudson (Deed Reference: 426, folio 106), Rosella E. Morris (Deed Reference: 539, folio 119), Mary H. Warren (Deed Reference: BB 24, folio 393), Michael P. Pennington (Deed Reference: 223, folio 86), Margaret L. Walker (Deed Reference: ODC 50, folio 206), Harry J. Trimble (Deed Reference: 529, folio 600), and Lucille Schrader (Deed Reference: 253, folio 282), the following six courses and distances:

1. S 34° 36' 30" E, 247.88 feet; and
2. S 33° 12' 35" E, 256.49 feet; and
3. S 56° 15' 50" E, 25.49 feet; and
4. S 88° 07' 45" E, 150.21 feet; and
5. N 84° 18' 00" E, 178.88 feet; and
6. N 76° 37' 40" E, 118.02 feet to a point at the northeasterly corner of said land of Purnell, Inc.;

thence, by and with said land of Purnell, Inc., S 05° 20' 00" W, 254.59 feet to a point on the aforesaid Corporate Limit Line of Berlin;

thence, by and with the existing Corporate Limit Line of Berlin, S 61° 46' 38" W, 2326.09 feet to the point of beginning, containing 56.714 acres of land as surveyed and described by L. E. Bunting, Jr. Bearings referred to are magnetic bearings based upon a deed FHP 10, folio 262 dated 1/1898. (Res. 1989-8, 8-25-89.)

Section C2-9. 2013 Annexation.

A. It is hereby proposed and recommended that the boundaries of the Town of Berlin be changed so as to annex to, and include within said municipality, all that certain area of land, together with the improvements thereto (no persons reside therein), and the property, contiguous to and adjoining upon the Corporate Limits of the Town of Berlin and more particularly described as follows:

Description of the lands of Soldier Bee, LLC and Joan E. Young Situate on the southerly side of Maryland Route 346, adjoining the corporate limits of the Town of Berlin, Maryland and being designated as Lot 1, Parcel 88, as shown on Worcester County Tax Map #25.

Beginning at a point denoted by an iron pipe set on the Southerly property line of Maryland Route 346, said point being the Northwesterly corner of the property hereby described; and from said point of beginning, thence running by and with the Southerly line of said Maryland Route 346, North 74 degrees 43 minutes 22 seconds East a distance of 185.00 feet to an iron pipe set at the boundary line between the said property described herein and Lot 2 as shown on the Plat entitled "Boundary Line Adjustment of Lands of Jack Dunlap & Joan E. Young" recorded among the land records of Worcester County, Maryland in Plat Book R.H.O. No. 156, folio 2; thence running by and with the said property line of Lot 2 South 13 degrees 43 minutes 13 seconds East a distance of 612.86 feet to an iron pipe; thence running North 76 degrees 12 minutes 46 seconds West 208.58 feet to an iron pipe; thence running North 13 degrees 42 minutes 46 seconds West a distance of 511.50 feet to the point of beginning; said property containing 2.39 acres of land more or less.

B. Upon the effective date of annexation, all of the provisions of the Charter of the Town of Berlin and all Ordinances, Resolutions, Rules and Regulations of the Town of Berlin in effect on said date shall apply to the property in the area to be annexed except as herein modified.

C. The annexation of the said area is made subject to the terms and conditions as follow:

1. *Police Protection.* Police services of the Berlin Police Department shall be extended into the annexed area immediately upon the effective date of annexation.

2. *Trash Collection.* Trash collection is available to commercial accounts upon request, provided the Town is capable of providing the requested service with existing equipment and for a fee to be established based upon uses.



3. *Water Service.* Town of Berlin currently has water service available to the area to be annexed.

(a) The property owner has advised the property will be utilized for a commercial enterprise and has estimated that one Equivalent Dwelling Unit (EDU) or two hundred fifty gallons per day will be required to service the property. The Town will therefore assess the property owner “Connection Fees” for one EDU. After one year of occupancy, the Town will review the water usage at the property and adjust the number of EDU’s accordingly.

(b) All wells on the property must be abandoned and capped in accordance with the Town’s Wellhead Protection Program.

4. *Electrical Service.* The Town of Berlin will provide electrical service to the area proposed for annexation.

5. *Wastewater Service.* The Town of Berlin currently has wastewater service available to the area to be annexed.

(a) The property owner has advised the property will be utilized for a commercial enterprise and has estimated that one Equivalent Dwelling Unit (EDU) or two hundred fifty gallons per day will be required to service the property. The Town will therefore assess the property owner “Connection Fees” for one EDU. After one year of occupancy, the Town will review the water usage at the property and adjust the number of EDU’s accordingly.

6. *Payment for EDU’s.* The property owner payment for the cost of one Equivalent Dwelling Unit (EDU) shall be subject to an Allocation Agreement entered into between the Mayor and Council of the Town of Berlin and the owner.

7. *Zoning.* The area will be zoned as “B-2” General Business District under the Town of Berlin Zoning Ordinance, as shown on the attached map, and made a part of this document, with the consent of the Worcester County Commissioners.

8. *Voting Rights.* In the event that in the future, persons would reside in the annexed area, upon the effective date of annexation, those persons shall have the right to vote in all general and special elections of the Town of Berlin, subject to the same requirements applicable to all voters in the Town of Berlin.

9. *Property Taxes.* All property in the newly annexed area shall upon the effective date of annexation be subject to the payment of taxes, real and personal, and shall further be subject to a lien for the nonpayment thereof, in the same manner and at the same rate as properties now within the existing Town limits are subject as of the effective date of this resolution. Such taxes shall become due and payable within ninety (90) days of annexation. Commencing with the fiscal year beginning July 1, 2013, all such taxes shall be billed and collected in the same manner as all other taxes in the Town of Berlin. (Res. 2013–03, 6–27–13.)

### ARTICLE III The Council

#### Section C3-1. Number; selection; term.

All legislative powers of the town shall be vested in a council consisting of five (5) councilmen [councilmembers], who shall be elected on a schedule as further set forth in this Charter, Article VI, Section 9. councilmen [Councilmembers] shall hold office for terms of four (4) years or until their successors take office. The regular terms of the councilmen [councilmembers] shall expire on the next Monday on which a regularly scheduled meeting is held following the election of their successors. (Res. 12-19-60, sec. 9; Res. No. 2013-10, 12-17-13.)

#### Section C3-2. Qualifications.

Councilmembers shall have resided in the town for at least one (1) year immediately preceding their election and shall be registered voters of the Town of Berlin. (Res. 12-19-60, sec. 10; Res. No. 1992-13, 12-01-92.)

#### Section C3-3. Salary.

Each Councilman shall receive an annual salary which shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary of any Councilman specified at the time he takes office shall not be changed during his term of office. An ordinance making any change in the salary paid to the several Councilmen, either by way of increase or decrease, shall take effect only as to the member elected to the next succeeding Council. (Res. 12-19-60, sec. 11.)

#### Section C3-4. Meetings.

The Council shall meet at 7:00 p.m. on the next Monday on which a regularly scheduled meeting is held following a municipal 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 Administrative Director 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 Council may meet in closed sessions when permitted to do so under the State Open Meetings Law. (Res. 12-19-60, sec. 12; Res. No. 1996-11, 10-1-96; Res. No. 1996-15, 12-24-96; Res. No. 2013-11, 12-17-13.)

#### Section C3-5. Judgment of members' qualifications.

The Council shall be the judge of the election and qualification of its members. (Res. 12-19-60, sec. 13.)

**Section C3-6. President of Council.**

The Mayor shall serve as President of the Council. The Council shall elect a Vice President of the Council from among its members who shall act as President of the Council in the absence of the Mayor. The Mayor may take part in all discussions but he shall have no right to vote, except when the voting members of the Council are evenly divided at two (2) votes per side. (Res. 12-19-60, sec. 14; amended 1-22-68.)

**Section C3-7. 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 either three (3) members of the Council or two (2) members of the Council and the Mayor in the event that the Mayor votes in accordance with the preceding section. (Res. 12-19-60, sec. 15; amended 1-22-68.)

**Section C3-8. 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 final action on any question, resolution or ordinance, or at any other time if required by any one (1) member. The journal shall be open to public inspection. (Res. 12-19-60, sec. 16.)

**Section C3-9. Vacancies.**

Vacancies in the Council shall be filled as provided in § C6-14 of this Charter. (Res. 12-19-60, sec. 17.)

**Section C3-10. Adoption of ordinances.**

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 (6) nor more than sixty (60) days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency, the above requirement may be suspended by the affirmative votes of four (4) members of the Council. Every ordinance, except the annual ordinance adopting the budget and fixing the tax rate or an emergency ordinance, shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over his veto. Each ordinance shall be published by its title at least twice in a newspaper or newspapers having general circulation in the municipality. The annual budget and Tax Rate Ordinance and any 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. 12-19-60, sec. 18.)

Section C3-11. Veto.

All ordinances passed by the Council shall be promptly delivered by the Administrative Director 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 Administrative Director within six (6) 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 (4/5) of the whole Council within thirty-five (35) calendar days from the time of the return of the ordinance. If the Mayor fails to return any ordinance within six (6) 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. (Res. 12-19-60, sec. 19; Res. No. 1996-11, 10-1-96.)

Section C3-12. Referendum.

If, before the expiration of twenty (20) 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 Administrative Director containing the signatures and residence addresses of not less than twenty per centum (20%) of the qualified voters of the town who were registered to vote in the last preceding general or special election held in the town, and requesting that the ordinance be submitted to a vote of the qualified voters of the town for their approval or disapproval, the Council shall have the ordinance 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 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 shall continue in effect for sixty (60) days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance has not been submitted to the qualified voters within sixty (60) days following receipt of the petition, then the operation of the ordinance shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance disapproved by the voters shall stand repealed. The provisions of this section shall not apply to any ordinance adopting the annual budget and making the annual tax levy or levying taxes for the payment of indebtedness of the town, but the provisions of this section shall apply to any ordinance levying special assessment charges under the provisions of §§ C12-1 and C12-2. 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. (Res. 12-19-60, sec. 20; Res. No. 1996-11, 10-1-96.)

Section C3-13. File of ordinances.

Ordinances shall be permanently filed by the Administrative Director and shall be kept available for public inspection. (Res. 12-19-60, sec. 21; Res. No. 1996-11, 10-1-96.)

**ARTICLE IV**  
**The Mayor**

Section C4-1. Selection and term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of four (4) years or until his successor is elected and qualified. The newly elected Mayor shall take office on the next Monday on which a regularly scheduled meeting is held following his election. (Res. 12-19-60, sec. 22; Res. No. 2013-12, 12-17-13.)

Section C4-2. Qualifications.

The Mayor shall have resided in the town for at least one (1) year immediately preceding his election and shall be a registered voter of the Town of Berlin. (Res. 12-19-60, sec. 23; Res. No. 1992-12, 12-01-92.)

Section C4-3. Salary.

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. 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. (Res. 12-19-60, sec. 24.)

Section C4-4. Powers and duties.

A. 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. 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. All office, department and agency heads shall serve at the pleasure of the Mayor, and may be terminated by the Mayor with the consent of the majority of the Council. All subordinate officers and employees of the offices, departments and agencies of the town government shall be appointed and removed by the Mayor in accordance with rules and regulations in any merit system which may be adopted by the Council. (Res. 1988-11, 1-17-89.)

C. 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. The Mayor shall have the power to veto ordinances passed by the Council as provided in § C3-11.

E. 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, receipt and investment of all moneys under guidelines as the Council may set from time to time. He shall have control over all expenditures to assure that budget appropriations are not exceeded. (Res. 1988-12, 1-17-89.)

F. The Mayor shall have such other powers and perform such other duties not inconsistent with this Charter as may be prescribed by this Charter or as may be required of him by the Council. (Res. 12-19-60, sec. 25.)

## **ARTICLE V**

### **General Powers**

#### Section C5-1. Enumeration of powers.

A. 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 carrying out any duty or power imposed or conferred on municipal corporations of this state by said Constitution and laws 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. The Council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this state, for the following specific purposes:

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

(2) *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.

(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 or contribute to the support of 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 town and the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole or other place within the town.

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

(9) *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.

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

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

(12) *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.

(13) *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.

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

(15) *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.

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

(18) *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 fees or taxes are paid.

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

(20) *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.

(21) *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 as taxes or as charges against the occupant or occupants.

(22) *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.

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

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

(25) *Franchise.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxi-cab companies and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions contained in the Constitution or general laws of the state and to the further limitations that no such franchise shall be granted for any such utility or service which will compete with or duplicate the same utility or service rendered by the town, unless such grant shall be approved by a majority of the qualified voters of the town voting on a referendum of the questions at a special town election, duly called and held for the purpose in accordance with this Charter.

(26) *Gambling.* To restrain and prohibit gambling.



(27) *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.

(28) *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.

(29) *Hawkers.* Subject to any limitations or restrictions contained in the public general laws of the state, 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.

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

(31) *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 moneys.

(32) *Jail.* To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the County Jail for such purpose.

(33) *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.

(34) *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.

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

(36) *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.

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

(38) *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.

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

(40) *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 and 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.

(41) *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.

(42) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent or to own, construct, operate, maintain and fix and collect charges for the use of parking lots and other facilities for off-street parking.

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

(44) *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.

(45) *Police force.* To establish, operate and maintain a police force. All town policemen shall have, within the municipality, 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; 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.

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

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

(49) *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.

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

(51) *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.

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

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

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

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

(56) *Commercial or Industrial Redevelopment Projects.* To make use of federal or state financial assistance, or private financial assistance, upon such terms as the municipal corporation deems advisable, for commercial or industrial redevelopment projects, for the purpose of making grants, loans, or guaranteeing loans, to private entities; provided that the authority granted by this subsection may be used only for commercial or industrial redevelopment projects, and may not be used for residential or housing projects.

C. *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned. (Res. 12-19-60, sec. 26; Res. 1981-7, 9-21-81; Res. 2006-09, 1-30-07.)

Section C5-2. Exercise of powers.

For the purpose of carrying out the powers granted in this Article or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the 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. (Res. 12-19-60, sec. 27.)

Section C5-3. Enforcement.

To ensure the observance of the ordinances of the town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties not exceeding those provided by § C12-1 of this Charter. (Res. 12-19-60, sec. 28.)

## **ARTICLE VI**

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

Section C6-1. Repealed. (Res. 12-19-60, sec. 29; amended 3-11-64, 3-3-75; Res. 1982-3, 3-1-82; Res. 1990-1, 3-20-90; Res. 1993-17, 8-17-93; Res. 2010-1, 5-11-10.)

Section C6-2. Board of Supervisors of Elections.

There shall be a Board of Supervisors of Elections consisting of five (5) members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in March in every second odd-numbered year accounting from the year 1993. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in March in the year in which they are appointed and shall run for four (4) 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 (1) 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. (Res. 12-19-60, sec. 30; Res. 1993-4, 4-13-93.)

Section C6-3. Removal of members of Board.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten (10) days after receiving the written copy of the charges against him. (Res. 12-19-60, sec. 31.)

Section C6-4. Duties of Board.

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. (Res. 12-19-60, sec. 32.)

Section C6-5. Notice.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every registration day and every election by an advertisement published in at least one (1) newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town. (Res. 12-19-60; sec. 33.)

Section C6-6. Voter Registration.

Registration of voters shall be accomplished by the completion of a registration form approved by the Worcester County Board of Elections Supervisors for county "universal registration". Voters qualified to register for Worcester County General Elections shall be deemed qualified to vote in Town of Berlin elections, subject to the additional requirement of being domiciled within the Town of Berlin. 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. Registration shall be closed to new registrants not less than thirty (30) days preceding the next town election. (Res. No. 12-19-60, sec. 34; Res. No. 1994-10, 8-17-94; Res. No. 2010-2, 5-11-10.)

Section C6-7. Appeals.

If any person shall fee [feel] aggrieved by the action of the Board of Supervisors of Elections in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the Council. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for Worcester County within thirty (30) days of the decision or action of the Council. (Res. 12-19-60, sec. 35.)

Section C6-8. Nominations for Elective Office.

1. *Filing for Elective Office.* Persons wishing to be placed on the ballot for the office of Mayor or Councilmember must adhere to the following:

A. For Town of Berlin regular elections 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 close of business no less than twenty-eight (28) days preceding a town election. No person shall file for nomination to more than one (1) elective town public office or hold more than one (1) elective public office at any one (1) time.

B. For Town of Berlin special elections 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 close of business no less than twenty-eight (28) days preceding the date of the special election.

2. *Write-in Candidates.* A certificate of nomination for a write-in candidate shall be filed no less than seven (7) days prior to the scheduled election. The name of the write-in candidate shall not appear on the ballot(s) for the election, except as written-in by the voter at the time of casting of the ballot; write-in names of individuals who have not filed the appropriate certificate of nomination shall not be included in the vote tally conducted by the Board of Supervisors of Elections, however the remainder of the ballot shall not be invalidated.

3. *Withdrawal of Candidacy.* Persons desiring to withdraw their candidacy for elective office must submit, in writing, a request to withdraw and be removed from the ballot no less than seven (7) days prior to the scheduled election. The written request to withdraw shall be submitted to the office of the Board of Supervisors of Elections. Should the request to withdraw be submitted with less than seven (7) days remaining prior to the election, the candidate's name shall not be removed from the ballot, however information shall be provided to voters regarding the withdrawal at the polling place. Votes cast for that individual shall not be included in the vote tally conducted by the Board of Supervisors of Elections, however the remainder of the ballot shall not be invalidated by such vote. (Amended 3-11-64, Res. 12-19-60, sec. 36; Res. No. 1994-10, 8-17-94; Res. No. 2010-3, 5-11-10; Res. No. 2013-13, 12-17-13.)

#### Section C6-9. Election of Mayor and Councilmembers.

A. There shall be within the Town of Berlin four (4) election districts, said election districts being designated on a map of election districts, and said map is on file in the office of the Town Administrator of the Town of Berlin and available for inspection at said office during regular business hours. (Res. No. 1996-11, 8-12-96; Res. No. 2010-04, 5-11-10.)

B. On the first Tuesday in October of every second even-numbered year accounting from 2014, the registered voters of the town shall elect one (1) person as councilmember at-large. The registered voters in District One shall elect one (1) person as councilmember from District One, which said person shall reside in District One; and the registered voters from District Four shall elect one (1) person as councilmember from District Four, which said person shall reside in District Four. All persons so elected shall serve for terms of four (4) years from said election. On the first Tuesday in October of every second even-numbered year accounting from the year 2016, the registered voters of the town shall elect one (1) person as mayor. The registered voters in District Two shall elect one (1) person as councilmember from District Two, which said person shall reside in District Two, and the registered voters from District Three shall elect one (1) person as councilmember from District Three, which said person shall reside in District Three. All persons so elected shall serve for terms of four (4) years from the date of said election. (Res. 12-19-60, sec. 37; Res. No. 1989-10, 11-27-89; Res. No. 2010-04, 5-11-10; Res. No. 2013-09, 12-17-13.)

C. In the event that only one individual files for candidacy for the office of mayor, the councilmember at-large, or the councilmember of a specific district, up to the deadline for write-in candidates' filing, that individual shall be considered to be the successful candidate for

the applicable office of the scheduled Election for that office shall be cancelled. If the Election for one office is cancelled under this provision, the remainder of the ballot, if applicable, shall not be affected and the election for the office remaining on the ballot shall not be cancelled. (Res. No. 2013-09, 12-17-13.)

Section C6-10. Conduct of elections.

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 7:00 a.m. to 7:00 p.m. on election days. (Res. 12-19-60, sec. 38; Res. 1994-10, 8-17-94.)

Section C6-10.1. Referendum.

A. This Section shall contain the minimum standards for validation of any petition to referendum received subject to the jurisdiction of the Town of Berlin, or for inclusion on any ballot subject to that jurisdiction.

B. That these minimum standards as set forth herein shall apply to any petition filed within the jurisdiction of the Town of Berlin on or after the effective date of this Resolution.

C. That all petitions filed on or after the effective date of this Resolution must meet these minimum standards before any such petition shall be considered valid, these standards having been adapted from the State of Maryland Standards entitled, "Generic Procedures for Petition Verification," state document number 10D-SBL-89, which document is hereby adopted by reference and made a part of these standards.

D. That the procedures for verification set forth in the aforesaid state document shall be followed by the Board of Election Supervisors for the Town of Berlin in evaluating and verifying any petition filed within that jurisdiction.

E. That, at a minimum, all petitions filed subject to the jurisdiction of the Town of Berlin shall contain the following information, and shall be presented in the following format and manner:

(1) Each petition shall contain a statement at the top of each and every page of signatures citing the Resolution, Ordinance or issue being presented for placement on the election ballot. Such statement shall also contain the appropriate section of State law and Code of the Town of Berlin authorizing the petition action.

(2) Each and every page of signatures shall be numbered consecutively at the top of the sheet, beginning with a sheet numbered "1".

(3) Each petition page shall contain spaces for the following information to accompany each and every signature:

(a) Printed name of the signer.

(b) Printed residency address of the signer. Mailing addresses, if different from address of residency, are not acceptable.

(c) Signature and date of signing.

(4) Each and every page of signatures shall contain an affidavit at the bottom of the sheet signed by the person collecting the signatures to attest that each and every signature on that page was personally witnessed by that collector.

(5) The omission of any one of the foregoing items shall render the entire sheet from which it has been omitted invalid, and may invalidate the entire petition.

F. That the procedures and standards set forth herein shall be an addition to the previously established procedures and standards for referenda set forth in the Berlin Town Charter, and that all other applicable provisions in effect prior to the effective date of this Resolution shall still apply. (Res. 1992-10, 10-13-92.)

#### Section C6-11. 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. (Res. 12-19-60, sec. 39.)

#### Section C6-12. Vote count.

Within forty-eight (48) hours after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Administrative Director who shall record the vote in the records of the Council. The candidate for Mayor with the highest number of votes in each election for this office shall be declared to be elected as Mayor, the candidate for Council in each district with the highest number of votes from that district shall be declared elected as Councilmember representing that district, and the candidate for the at-large council seat with the highest number of votes shall be declared elected as the Councilmember at large. (Res. 12-19-60, sec. 40; Res. 1994-10, 8-17-94.)

#### Section C6-13. Preservation of ballots.

All ballots used in any town election shall be preserved for at least six (6) months from the date of the election. (Res. 12-19-60, sec. 41.)



Section C6-14. Vacancies.

A. In case of a vacancy in the office of Mayor as hereinafter described in Paragraph B, the office shall be filled by the duly elected Vice-President of the Council, who shall serve as interim Mayor until a special election is conducted, pursuant to Section C6-11 of the Charter. At the next regular meeting, the remaining Council members shall elect one (1) of their members as interim Vice-President, who shall serve until a special election shall be held for the office of Mayor. The special election for Mayor shall be held within sixty (60) days of the occurrence of the vacancy, provided that no such election shall be necessary if the regular election date will occur within one hundred eighty (180) days of the occurrence of such vacancy. Persons may be nominated for the office of Mayor by filing a certificate of nomination at the office of the Board of Supervisor of Elections by the advertised deadline to be set by that Board in accordance with the provisions of Section [Sections] C6-8 and C6-9 of the Charter.

B. A vacancy in the office of Mayor shall occur if the Mayor:

1. Dies;
2. Resigns;
3. Changes residency to outside the Town of Berlin;
4. Is declared by unanimous vote of the Council to be unqualified pursuant to Section C4-2 of the Charter;
5. Is absent from six consecutive regularly scheduled Council meetings or from nine of twelve consecutive regularly scheduled Council meetings during the Mayor's term of office and, in addition, the Council unanimously votes to declare a vacancy as necessary for the best interests of the Town of Berlin because of the absences;
6. Is declared a disabled person and in need of a guardian of the person by a Court pursuant to Section 13-705 of the Estates and Trusts Article of the Annotated Code of Maryland, and in addition, the Council unanimously votes to declare a vacancy as necessary for the best interests of the Town of Berlin because of the disability.

C. In the case of a vacancy on the Council as hereinafter described in Paragraph D, the vacancy shall be filled by a special election conducted pursuant to Section C6-11 of the Charter, by voters from the district represented by the vacating council member. The special election for council member shall be held within sixty (60) days of the occurrence of the vacancy, provided that no such election shall be necessary if the regular election date will occur within one hundred eighty (180) days of the occurrence of such vacancy. Persons may be nominated for the office of council member by filing a certificate of nomination at the office of the Board of Supervisor of Elections by the advertised deadline to be set by that Board in accordance with the provisions of Section [Sections] C6-8 and C6-9 of the Charter.

D. A vacancy in the Council shall occur if any Council member:

1. Dies;
2. Resigns;
3. Changes residency to outside the Town of Berlin or outside of the Council member's district;
4. Is declared by unanimous vote of the remaining Council members and Mayor to be unqualified pursuant to Section C3-2 of the Charter;
5. Is absent from six consecutive regularly scheduled Council meetings or from nine of twelve consecutive regularly scheduled Council meetings during the Council member's term of office and, in addition, the remaining Council members and Mayor unanimously vote to declare a vacancy as necessary for the best interests of the Town of Berlin because of the absences;
6. Is declared a disabled person and in need of a guardian of the person by a Court pursuant to Section 13-705 of the Estates and Trusts Article of the Annotated Code of Maryland, and in addition, the remaining council members and Mayor unanimously vote to declare a vacancy as necessary for the best interests of the Town of Berlin because of the disability. (Res. 12-19-60, sec. 42; amended 11-13-67; Res. No. 1992-5, 6-30-92; Res. No. 1996-1, 3-12-96; Res. No. 1996-4, 4-30-96.)

Section C6-15. Repealed. (Res. No. 12-19-60, sec. 43; Res. No. 2010-05, 6-01-10.)

Section C6-16. Regulation and control.

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, for the prevention of fraud in connection therewith and for a recount of ballots in case of doubt or fraud. (Res. 12-19-60, sec. 44.)

Section C6-17. Penalty.

Any person who fails to perform any duty required of him under the provisions of this Article or any ordinances passed thereunder, in any manner willfully or corruptly violates any of the provisions of this Article or any ordinances passed thereunder or willfully 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 any other penalty imposed. (Res. 12-19-60, sec. 45.)

**ARTICLE VII**  
**Finance**

Section C7-1. Repealed. (Res. No. 1996-11, 10-1-96.)

Section C7-2. Repealed. (Res. No. 1996-11, 10-1-96.)

Section C7-3. Repealed. (Res. No. 1996-11, 10-1-96.)

Section C7-4. 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 tax year, the budget year and the accounting year. (Res. 12-19-60, sec. 49; Res. No. 1996-11, 10-1-96.)

Section C7-5. Budget.

The Mayor, on such date as the Council by ordinance shall determine, but at least thirty-two (32) days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Administrative Director, open to public inspection by anyone during normal business hours. (Res. 12-19-60, sec. 50; Res. No. 1996-11, 10-1-96.)

Section C7-6. Budget adoption.

Before adopting the budget, the Council shall hold a public hearing thereon after two (2) weeks' notice thereof published 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 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. (Res. 12-19-60, sec. 51.)

Section C7-7. 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. (Res. 12-19-60, sec. 52.)

Section C7-8. 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. (Res. 12-19-60, sec. 53.)

Section C7-9. Overexpenditure prohibited.

No officer or employee during any budget year [shall] 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 is 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 issuing 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. (Res. 12-19-60, sec. 54.)

Section C7-10. Lapse of appropriations.

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. (Res. 12-19-60, sec. 55.)

Section C7-11. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Mayor and shall be countersigned by a member of the Council, or a member of the Town staff designated by the Council as an authorized signatory. All checks shall require two (2) authorized signatures. In the event the Mayor is unavailable to sign a check for any reason, then the Vice President of the Council shall have the authority to sign the check in place of the Mayor. (Res. 12-19-60, sec. 56; Res. 1991-1, 3-8-91; Res. No. 1992-16, 1-12-93; Res. No. 1996-14, 12-10-96.)

Section C7-12. 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. (Res. 12-19-60, sec. 57.)

Section C7-13. Tax 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. (Res. 12-19-60, sec. 58.)

Section C7-14. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Administrative Director 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, and may also include any amount due and owing from such taxpayer on account of any special assessment imposed by the town. 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. (Res. 12-19-60, sec. 59; Res. No. 1996-11, 10-1-96.)

Section C7-15. Overdue taxes; interest.

The taxes provided for in §§ C7-13 and C7-14 of the 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 and one-half of one per centum (1.5%) for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in § C7-16. (Res. 12-19-60, sec. 60; Res. 1991-4, 8-13-91.)

Section C7-16. 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 § C7-15 of this Charter shall be turned over by the Administrative Director to the official of the county responsible for the sale of tax-delinquent property as provided in state law. All property listed thereon shall, if necessary, be sold for taxes by said county official in the manner prescribed by state law. (Res. 12-19-60, sec. 61; Res. No. 1996-11, 10-1-96.)

Section C7-17. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town. (Res. 12-19-60, sec. 62.)

Section C7-18. Audit.

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 Annotated Code of Maryland (1957 Edition). (Res. 12-19-60, sec. 63.)

Section C7-19. Long-term borrowing.

The town shall have the authority to borrow money for any public purpose authorized by this Charter or by the public general laws of the state and to evidence such borrowing by the issuance of bonds having maturities longer than one (1) year, in the manner prescribed by, and pursuant to the authority of, any such public general laws and especially §§ 31 to 39, inclusive, of Article 23A [Title 19, Subtitle 3 of the Local Government Article] of the Annotated Code of Maryland (1957 Edition), as from time to time amended. (Res. 12-19-60, sec. 64.)

Section C7-19.1. Sale of bonds.

The Town shall have the power to issue and sell general obligation bonds for any valid public purposes. The Town shall follow the procedures of the laws of the State of Maryland in issuing said bonds; however, when the Council determines it to be in the public interest, the Town may sell its general obligation bonds at a private negotiated sale and not at public sale and when the Council decides to sell bonds at a private negotiated sale, any advertising or public notice requirements for the sale of the bonds need not be followed. (Res. 7-2-82.)

Section C7-20. Tax Anticipation Notes.

The Town shall have the power to borrow not exceeding \$1,500,000 in any one (1) fiscal year in anticipation of the collection of property taxes and to evidence such borrowing by the issuance of its tax anticipation notes maturing within eighteen (18) months from the date of issue. The unpaid principal balance of all tax anticipation notes outstanding at any time shall not exceed \$2,000,000. Every such tax anticipation note and the interest thereon shall be paid at or prior to maturity and shall not be renewed or refunded. All such tax anticipation notes shall be authorized by ordinance before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale thereof. This section shall not apply to short-term borrowing evidenced by bond anticipation notes issued by the Town in anticipation of the issuance of bonds authorized to be issued by the Town pursuant to this Charter or any public general laws of the State and especially Sections 31 to 39, inclusive, of Article 23A [Title 19, Subtitle 3 of the Local Government Article] of the Annotated Code of Maryland, as amended from time to time. Unless otherwise prescribed by other public general laws of the State, the provisions of Article 31, Section 12 [Title 19, Subtitle 3 of the Local Government Article] of the Annotated Code of Maryland shall govern the authorization and manner of issuance of notes issued in anticipation of the issuance of such bonds. (Res. 12-19-60, sec. 65; amended 7-7-75; Res. 1981-2, 2-16-81; Res. 1993-18, 12-28-93; Res. 1994-5, 5-31-94; Res. No. 2009-15, 11-17-09.)

Section C7-21. 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 as its general obligations 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. Unless any such bonds, notes or other evidences of indebtedness, and

the ordinance authorizing them, shall explicitly provide that they are payable as to principal and interest solely from certain revenues or receipts of the town, the faith and credit of the town shall be and is hereby pledged for the payment of the principal thereof and the interest thereon, whether or not such pledge is stated in the bonds, notes or other evidences of indebtedness or in the ordinance authorizing their issuance. (Res. 12-19-60, sec. 66.)

Section C7-22. Previous issues.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to February 7, 1961, and all ordinances passed concerning them are hereby declared to be valid, legal and binding obligations of the town under this Charter. (Res. 12-19-60, sec. 67.)

Section C7-23. Purchasing and contracts.

All purchases and contracts for the town government shall be made by the Administrative Director. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than one thousand dollars (\$1,000.) shall be made on written contract. The Administrative Director shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts in excess of ten thousand dollars (\$10,000). The Administrative Director shall be required to solicit [solicit] bids (advertising and sealed bids not required) for all such written contracts in excess of one thousand dollars (\$1,000) but less than or equal to ten thousand dollars (\$10,000). Such written contracts shall be awarded to the bidder who offers the lowest bid or best quality of goods and work and best time of delivery or completion. The responsibility of bidders shall also be considered. All such written contracts shall be approved by the Council before becoming effective. The Administrative Director 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. Upon obtaining the prior approval of the Council, the town, acting through the Mayor and Administrative Director, may enter into the following contracts without solicitation of competitive bids:

- (1) contracts of lease or purchases of real estate;
- (2) contracts of lease or purchases of motor vehicles;
- (3) insurance contracts;
- (4) accounting services contracts;
- (5) architectural services contracts;
- (6) engineering services contracts;

- (7) surveying services contracts;
- (8) legal services contracts;
- (9) computer hardware and software contracts; and
- (10) interior design and decorating contracts. (Res. 12-19-60, sec. 68, See note (2); Res. No. 1989-4, 5-16-89; Res. 1991-2, 4-30-91; Res. No. 1996-11, 10-1-96; Res. 1997-14, 9-2-97; Res. 2001-01, 3-12-01.)

## **ARTICLE VIII**

### **Personnel**

#### Section C8-1. Town Administrator.

The Mayor, with the approval of the Council, may appoint a Town Administrator. The Town Administrator shall perform such duties as may be required by the Mayor and Council as set forth on a job description which may be amended from time to time by the Mayor and Council. The Town Administrator shall supervise all main department heads and central office staff and is responsible for ensuring the overall efficient and effective administration of all of the Town's departments. The Town Administrator's compensation shall be determined by the Council. The Town Administrator shall serve at the pleasure of the Mayor and may be terminated by the Mayor, with the consent of the majority of the Council. All references to the term Administrative Director in the Charter and Code of the Town of Berlin shall be interpreted to refer to the term and job position of Town Administrator. (Res. No. 1996-10, 10-1-96; Res. No. 2008-11, 1-27-09.)

#### Section C8-2. Town Attorney; legal consultants.

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. (Res. 12-19-60, sec. 70.)

#### Section C8-3. Authority to employ.

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. (Res. 12-19-60, sec. 71.)

#### Section C8-4. Merit system.

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 Commissioner of State Personnel for the administration of its merit system as provided in state law. (Res. 12-19-60, sec. 72.)

Section C8-5. Unclassified and classified service.

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

A. 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 Administrative Director 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.

B. 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. (Res. 12-19-60, sec. 73; Res. No. 1996-11, 10-1-96.)

Section C8-6. Prohibitions; penalties.

A. If a merit system is adopted:

- (1) 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.
- (2) No person shall willfully 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.
- (3) 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.

(4) 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.

(5) 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.

(6) 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. 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 as provided in § C15-4 of this Charter. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the town service and shall, if he is an officer or employee of the town, immediately forfeit the office or position he holds. (Res. 12-19-60, sec. 74.)

#### Section C8-7. 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. (Res. 12-19-60, sec. 75.)

#### Section C8-8. Compensation.

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 by this Charter upon establishing the salaries of the Councilmen and Mayor. (Res. 12-19-60, sec. 76.)

#### Section C8-9. 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 moneys of the town for such programs. (Res. 12-19-60, sec. 77.)

**ARTICLE IX**  
**Public Ways and Sidewalks**

Section C9-1. Definition.

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys. (Res. 12-19-60, sec. 78.)

Section C9-2. Control.

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. (Res. 12-19-60, sec. 79.)

Section C9-3. Powers regarding public ways.

The town shall have the power to:

- A. Establish, regulate and change from time to time the grade lines, width and construction materials of any town public way or part thereof, bridges, curbs and gutters.
- B. Grade, lay out, construct, open, extend and make new town public ways.
- C. Grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.
- D. Pave, surface, repave or resurface any town public way or part thereof.
- E. To install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.
- F. To construct, reconstruct, maintain and repair bridges.
- G. Name town public ways.
- H. Have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof. (Res. 12-19-60, sec. 80.)

Section C9-4. Powers regarding sidewalks.

The town shall have the power to:

- A. 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.

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

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

D. 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. (Res. 12-19-60, sec. 81.)

## **ARTICLE X**

### **Water and Sewers**

#### Section C10-1. Powers.

The town shall have the power to:

- A. Construct, operate and maintain a water system and water plant.
- B. Construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.
- C. Construct, operate and maintain a stormwater drainage system and stormwater sewers.
- D. Construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above plants and systems.
- E. Have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.
- F. Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (Res. 12-19-60, sec. 82.)

#### Section C10-2. Work 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 stormwater systems, the town may order it removed. (Res. 12-19-60, sec. 83.)

Section C10-3. 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 by § C13-2. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res. 12-19-60, sec. 84.)

Section C10-4. 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 stormwater 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. (Res. 12-19-60, sec. 85.)

Section C10-5. 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, if it considers existing fixtures unsatisfactory, require that satisfactory ones be installed and may require that all cesspools, sink drains 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. (Res. 12-19-60, sec. 86.)

Section C10-6. Charge for connections.

The town may 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. (Res. 12-19-60, sec. 87.)

Section C10-7. Prevention of waste and 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. (Res. 12-19-60, sec. 88.)

Section C10-8. Private systems.

The town may by ordinance provide that no water supply, sewerage or stormwater 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 methods 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. (Res. 12-19-60, sec. 89.)

Section C10-9. Extension of systems.

The town shall have the power to extend its water or sewerage systems beyond the town limits. (Res. 12-19-60, sec. 90.)

Section C10-10. 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. (Res. 12-19-60, sec. 91.)

Section C10-11. 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. (Res. 12-19-60, sec. 92.)

Section C10-12. Contracts for water or sewage removal.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or provide for the removal of sewage. (Res. 12-19-60, sec. 93.)

Section C10-13. 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 Administrator Director at

least quarterly, and if bills are unpaid within thirty (30) days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law. (Res. 12-19-60, sec. 94.)

## **ARTICLE XI**

### **Electric Light and Power**

#### Section C11-1. Powers.

If, to the extent, and for so long as the town possesses Electric Utility Rights, the town shall have the power to:

A. Acquire, construct, reconstruct, own, operate, repair and maintain an electric power generating, transmission and distribution system within the corporate limits of the town.

B. Use any electric power so generated for lighting the public ways of the town and for lighting, heating and otherwise providing energy for the operation and maintenance of any public building in the town.

C. Sell or contract for the sale of electric energy to private persons or property in the town, for residential, commercial or industrial use, either within or beyond the town limits.

D. Fix and determine and, from time to time, alter, amend or modify schedules of rates or charges to be paid for electricity sold or supplied either to the above-mentioned public or private consumers or for materials furnished in order to make possible any such sale or supply; to classify such rates and charges in accordance with volume of consumption, on the basis of types of consumers or in accordance with any other equitable nondiscriminatory and uniform formula; and to submit any such schedules of rates and charges to the Public Service Commission of Maryland or other regulatory agency of the state for approval, to the extent from time to time required by law.

E. Bill at monthly or other regular intervals for the electric service rendered by said system and to enforce the collection of any such bill by discontinuance of service by action at law against the debtor.

F. Install on the premises of consumers, transformers, meters and other equipment necessary to the rendition of electric service and to authorize its agents or employees to enter upon such premises for the purpose of reading any such meters or servicing any such transformers or equipment.

G. Employ necessary personnel for the maintenance, operation, servicing and repair of said system and all necessary consultants and experts.

H. Acquire by gift, purchase or condemnation easements, rights-of-way or other interests in land necessary for the construction, reconstruction or extension of electrical distribution or transmission lines; to enter upon public ways for the same purpose; and to install, construct, or reconstruct said lines in said easements or rights-of-way so acquired and along said public ways.

I. Without being subject to the limitations contained in § C7 of this Charter, purchase or contract for the purchase, from any other producer, any amount of electric energy necessary to enable the town to supplement its own generating capacity and thereby adequately meet the demands of its consumers; to purchase or contract for the purchase of any type or quantity of fuel necessary for the operation of its generators; and to purchase or contract for the purchase of any materials, supplies, equipment, parts or other items of tangible personal property of a unique design, quality or character or not readily obtainable on a competitive bid basis.

J. Account for the assets and liabilities and the profits and losses of said system in accordance with accepted principles of accounting for publicly owned utilities and to distribute to the general fund of the town, in each fiscal year, all or so much of the net profits of said system, reflected by such accounting, as will not impair the continued operation of said system on a self-supporting basis.

K. Without limitation or modification of the foregoing, exercise with respect to said system, and to the extent applicable, any of the powers conferred on the town elsewhere in this Charter.

L. And the obligation to extend electric service to all customers within its corporate limits, and with respect to existing customers of other electric companies within the corporate limits, the town shall take over such customers from any other electric company, so long as the town shall reimburse such electric company the depreciated book value of the distribution facilities dedicated to serving such customers.

M. And the obligation to extend electric service to all customers within an annexed area; however, with respect to existing customers of other electric companies located within such annexation, the town shall reimburse said electric companies for the depreciated book value of their distribution facilities dedicated to serving such customers.

No electric company may extend electric service to any customer within the town's corporate limits (other than to existing customers of such electric company subject to the town's right to extend electric service to such customers as hereinbefore provided); whenever the town shall annex an area, no electric company may thereafter extend electric service to any customer within the boundaries of the annexation (other than to existing customers of such electric company and subject to the town's right to extend electric service to such customers as hereinbefore provided), as of the effective date of the annexation. (Res. 12-19-60, sec. 95; Res. 1990-6, 10-30-90; Res. 2006-10, 1-30-07.)



## ARTICLE XII Special Assessments

### Section C12-1. Power.

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, stormwater 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 cost 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 and the cost of any land acquired for the project, as reflected in the principal amount of any bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, the interest payable on such bonds, notes or other evidences of indebtedness, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project. (Res. 12-19-60, sec. 96.)

### Section C12-2. Procedure.

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

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

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

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

D. All special assessment charges shall be levied by the Council by ordinance. Before levying any special assessment charges, the Council shall hold a public hearing. The Administrative Director 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 Administrative Director shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the Administrative Director 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.

E. 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 Worcester County within ten (10) days after the levying of any assessment by the Council.

F. Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten (10) 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.

G. All special assessment installments shall be overdue six (6) 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.

H. All special assessments shall be billed and collected by the Administrative Director. (Res. 12-19-60, sec. 97; Res. No. 1996-11, 10-1-96.)

## **ARTICLE XIII**

### **Town Property**

#### Section C13-1. 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 on February 7, 1961, are vested in the town, subject to the terms and conditions thereof. (Res. 12-19-60, sec. 98.)

#### Section C13-2. 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 Article

33A [Title 12 of the Real Property Article] of the Annotated Code of Maryland (1957 Edition). (Res. 12-19-60, sec. 99.)

Section C13-3. Town buildings.

The town shall have the power to acquire, obtain by lease or rent or purchase, construct, operate and maintain all buildings and structures it deems necessary for the operation of the town government. (Res. 12-19-60, sec. 100.)

Section C13-4. Protection of 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. (Res. 12-19-60, sec. 101.)

**ARTICLE XIV**

Repealed. See Appendix I.

**ARTICLE XV**

**General Provisions**

Section C15-1. Oath of office.

A. Before entering upon the duties of their offices, the Mayor, the Councilmen, the Administrative Director, 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. The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Worcester County or before one (1) of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor. (Res. 12-19-60, sec. 102; Res. No. 1996-11, 10-1-96.)

Section C15-2. Official bonds.

The Administrative Director 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. (Res. 12-19-60, sec. 103; Res. No. 1996-11, 10-1-96.)

Section C15-3. Prior rights and obligations.

All right, title and interest held by the town or any other person or corporation on February 7, 1961, 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 February 7, 1961. 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. (Res. 12-19-60, sec. 104.)

Section C15-4. Penalties.

A. Every act or omission which, by ordinance, is made a misdemeanor under the authority of this Charter, unless otherwise specified as a municipal infraction, shall be punishable, upon conviction before any judge in the District Court of Maryland, or Circuit Court for Worcester County, by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for six (6) months in the county jail, or both, in the discretion of the judge. The party aggrieved shall have the right to appeal as is now provided under the general laws of the state. Where the act or omission is of a continuing nature and is persisted in, a conviction for one (1) offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

B. *Infractions.*

(1) The Council may provide that violations of any municipal ordinance shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the state or other ordinance. For purposes of this Article, a municipal infraction is a civil offense.

(2) A fine not to exceed four hundred dollars (\$400.00) may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the municipality within twenty (20) calendar days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed four hundred dollars (\$400.00) for each repeat offense, and each day a violation continues shall constitute a separate offense.

(3) Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the town in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial may result in an additional fine or adjudication by the court.

(4) Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. (Res. 12-19-60, sec. 105; amended 3-20-78; 11-20-78; Res. No. 1992-11, 11-17-92.)

Section C15-5. Effect of Charter on existing ordinances.

A. All ordinances, resolutions, rules and regulations in effect in the town on February 7, 1961, 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. All ordinances, resolutions, rules and regulations in effect in the town on February 7, 1961, which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict. (Res. 12-19-60, sec. 106.)

Section C15-6. Severability.

If any section or part of a section of this Charter, or the application thereof to any person or circumstances, 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, and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, 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. The powers conferred by this Article shall be in addition and supplemental to the powers conferred by any other law. (1963, ch. 101, sec. 11.) (See note (2))



**APPENDIX I**  
**Urban Renewal Authority for Slum Clearance**  
 (See Note (3))

Section A1-101. Definitions.

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

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

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

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

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

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

(j) “Municipality” shall mean the Mayor and Council of Berlin.

#### Section A1-102. Powers.

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



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

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

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

(3) to appropriate such funds and made such expenditures as may be necessary to carry out the purposes of this appendix, including the payment or reimbursement of reasonable actual costs incurred as a result of utility relocations when such relocations are made necessary by an urban renewal project, after making appropriate adjustment for any improvements or betterments to the utility's facilities made in connection with the relocation; and to levy taxes and assessments for such purposes; to borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public bodies, or from any sources, public or private, for the purposes of this appendix, and to give such security as may be required therefor; to invest any urban renewal funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds.[:]

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

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

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

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

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

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

#### Section A1-103. Establishment of Urban Renewal Agency.

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

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

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

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

#### Section A1-104. Initiation of Project.

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

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

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

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

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

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

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

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

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

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

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

and in furtherance of the purposes of this appendix. Thereafter, the municipality may execute and deliver contracts, deeds, leases and other instruments and take all steps necessary to effectuate such transfers.

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

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

#### Section A1-107. Eminent Domain.

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

#### Section A1-108. Encouragement of Private Enterprise.

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

#### Section A1-109. General Obligation Bonds.

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

#### Section A1-110. Revenue Bonds.

(a) In addition to the authority conferred by Section A1-109 of this appendix, the municipality shall have the power to issue revenue bonds to finance the undertaking of any urban renewal project; and related activities, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this appendix; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from

the Federal Government or other source, in aid of any urban renewal projects of the municipality under this appendix, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the municipality. In addition, the municipality may enter into an Indenture of Trust with any private banking institution of this State having trust powers and may make in such indenture of trust such covenants and commitments as may be required by any purchaser for the adequate security of said bonds.

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

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

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

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

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

conclusively deemed to have been planned, located and carried out in accordance with the provisions of this appendix.

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

Section A1-111. Separability.

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

Section A1-112. Short Title.

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

Section A1-113. Authority to Amend or Repeal.

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

## NOTES

(1) The resolution of December 19, 1960, repealed sections 7 to 43, inclusive, of Article 24 of the Code of Public Local Laws of Maryland (1930 Edition), title “Worcester County,” subtitle “Berlin,” together with all amendments thereof and especially Chapter 107 of the Laws of Maryland of 1931, Chapter 74 of the Laws of Maryland, 1938 Special Session, Chapters 212, 213 and 214 of the Laws of Maryland of 1945, Chapter 579 of the Laws of Maryland of 1947, Chapter 70 of the Laws of Maryland of 1951, and the Resolution of the Mayor and Council of Berlin, dated November 10, 1960, amending Section 34A of said Article 24.

Sections 21 and 89 of the old Charter were construed in *Jarvis vs. Berlin*, 153 Md. 163, 138 A. 7 (1927).

Ch. 6 of 1935 authorized Berlin to borrow one hundred thousand dollars (\$100,000.) for a sanitary sewerage system and sewage treatment plant.

Ch. 534 of 1945 authorized the establishment of a sinking fund for the retirement of improvement and extension bonds.

Ch. 53 of 1947 authorized borrowing one hundred thirty-five thousand dollars (\$135,000.) to erect, construct and improve the water system. Section 2 of this Act was amended by Ch. 592 of 1947.

(2) Amended during codification; see Ch. 1, General Provisions, Art. III.

(3) Pursuant to Article III, Section 61 of the Maryland Constitution, the General Assembly of Maryland granted urban renewal powers for slum clearance to the Town of Berlin in Chapter 101 of the Acts of the General Assembly of 1963.

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

Formerly, the urban renewal powers appeared as Article XIV of the Charter.

(4) Resolution 2001–02, effective July 26, 2001, provided for the annexation of 31.91 acres of land, more or less. Resolution 2002–02, effective June 27, 2002, provided for the annexation of 13 acres of land, more or less. Resolution 2002–07, effective September 5, 2002, provided for the annexation of 64.48 acres of land, more or less. Resolution 2002–10, effective September 5, 2002, provided for the annexation of 3.22 acres of land, more or less. Resolution 2003–7, effective April 22, 2004, provided for the annexation of 1.09 acres of land, more or less. Resolution 2004–3, effective May 27, 2004, provided for the annexation of 75.67 acres of land. Resolution 2004–6, effective June 10, 2004, provided for the annexation of 1.585 acres of land,



more or less. Resolution 2005–03, effective January 26, 2006, provided for the annexation of 24,690 square feet of land, more or less. Resolution 2006–02, effective July 27, 2006, provided for the annexation of 4.99 acres of land, more or less. Resolution 2009–04, effective September 10, 2009, provided for the annexation of 3.982 acres of land, more or less. Resolution 2011-01, effective March 31, 2011, provided for the annexation of 7.853 acres of land, more or less. 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.