

The draft below is a working paper. No policy or provision that appears in this document has been adopted by the Frederick County Charter Board. All policies and provisions that are contained in this draft are under debate. They are subject to amendment and deletion in subsequent drafts. The Charter Board expects to complete its work with a final document in the summer of 2012.

CHARTER OF FREDERICK COUNTY, MARYLAND

PREAMBLE

We the citizens of Frederick County, Maryland, a body corporate and politic, under the Constitution and general laws of the State of Maryland, in order to establish a more dynamic, efficient, and responsive form of county government, which shall be empowered by us to exercise greater local authority to govern and be manifest in its scope to all, do adopt, ordain, and establish as our instrument of government this Charter of Frederick County, Maryland.

ARTICLE 1. General Provisions

101. Body Corporate and Politic

Frederick County as it now exists constitutes a body corporate and politic. Under this Charter it shall have all the rights and powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, the Maryland Constitution and laws of the State of Maryland.

102. Exercise of Powers

The powers provided in Section 101 of this Charter shall be exercised only by the County Executive, the County Council and other officers, employees and agents of Frederick County, acting under their respective authorities or under such other authorities as may be provided by this Charter or by law.

103. Name and Boundaries

The corporate name shall be "Frederick County, Maryland," and it shall be so designated in all actions and proceedings touching its rights, powers, properties, liabilities, and duties. Its boundaries and County seat shall be and remain as they are at the time this Charter takes effect, unless otherwise changed in accordance with law.

104. Definitions

(a) The term "Agency" means any agency, department, office, board, commission or administrative entity of the Frederick County Government.

(b) The term "Allowances" means the amount of money granted to an office holder to meet the personal expenditure necessitated by the special circumstances in which duty is performed. It includes mileage reimbursement, other travel expenses, and the cost of attending conferences and conventions related to duties that are directly relevant to the office.

(c) The term "Bill" means any proposed act of the County Council resulting in a law or ordinance. It may not mean a resolution that is not intended to have the effect of law.

(d) The term "Budget" means the package of materials consisting of the Operating Budget, the Capital Budget, the Capital Improvement Program, and the budget message.

(e) The term "Capital Budget" means the plan to receive and expend funds for capital projects during the next fiscal year.

(f) The term "Capital Improvement Program" means the plan to receive and expend funds for capital projects during the next fiscal year and the next succeeding five fiscal years.

(g) The term "Capital Project" means any physical betterment or improvement; any preliminary studies and surveys related to a physical betterment and improvement; and the acquisition, renovation, remodeling and construction of any property for public use of a long-term or permanent nature, including by a lease-purchase agreement.

(h) The term "Charter" means the Charter of Frederick County.

(i) The term "Council" means the County Council of Frederick County.

(j) The term "County" means Frederick County, Maryland.

(k) The term "Effective Date of the Charter" means the date provided in Section 802 of this Charter.

(l) The term "Emergency" means:

(1) a situation that--

(A) requires immediate action to prevent, mitigate or respond to a threat to public security or to the loss of life or property;

(B) has the appearance of being temporary and not of permanent duration;
and

(C) is unanticipated.

(2) The term "unanticipated" means that at least one of the following traits characterizes the situation:

(A) Sudden, meaning quickly coming into being or not building up over time;

(B) Urgent, meaning a pressing and compelling need requiring immediate action; or

(C) Unforeseen, meaning not predicted or anticipated as an emerging need.

(m) The term "Executive" means the County Executive of Frederick County, Maryland.

(n) The term "Frederick County Government" means the officers, personnel, departments, agencies, offices, boards, commissions, and other entities that are subject collectively to the powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, Article XI-A of the Maryland Constitution, and Article 25A of the Annotated Code of Maryland.

(o) The term "Fringe Benefits" means employment benefits that are generally available to all salaried County employees and that do not discriminate in favor of elected officials. Fringe Benefits may include group life, health, hospitalization or medical insurance and retirement benefits.

(p) The term "Government" means the County Government of Frederick County.

(q) The terms "includes" or "including" mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation.

(r) The phrase "may not" has a mandatory negative effect and establishes a prohibition

(s) The term "Operating Budget" means the plan to receive and expend funds for charges incurred for operation, maintenance, interest, debt service payments and other charges for the next fiscal year. It includes the plan to raise and receive all manner of funds from all sources, including property taxes, for current needs and for annual appropriations for current projects.

(t) The term "Salary" means the fixed amount of money paid annually to an office holder for the duties performed.

(u) The term "State" means the State of Maryland.

ARTICLE 2. County Council

201. Composition

There shall be a County Council of Frederick County, Maryland, composed of seven council members.

202. Powers

All the legislative powers which the County may exercise under the Maryland Constitution and laws of the State are vested in the Council, subject to those powers retained by the people of the County as hereinafter set forth in Section 308 of this Charter.

203. Council to Act as a Body

In all functions and deliberations, the Council shall act as a body. It shall have no power to create standing committees or to delegate any of its functions and duties to a smaller number of its members than the whole. The Council may, however, appoint special ad hoc committees solely for the purpose of inquiry and fact finding.

204. Election

(a) The County shall be divided into five Council Districts, which shall be designated as Council District 1, Council District 2, Council District 3, Council District 4, and Council District 5. Until changed pursuant to Section 214 of this Charter, the boundaries of the districts shall be as provided in subsection (f) of this section.

(b) From each of the five Council Districts, the voters shall nominate and elect a council member who is a resident of the Council District.

(c) The voters of the entire County shall nominate and elect two council members. Among the candidates so nominated, the two receiving the most votes shall be elected.

(d) No candidate may run for office under the provisions of subsection (b) of this section and the provisions of subsection (c) of this section simultaneously.

(e) Beginning in 2014 and every four years thereafter, council members shall be elected at the same time as members of the General Assembly are elected in the manner provided by law.

(f) The composition of the five Council Districts is:

(1) Council District 1 consists of:

- (A) Frederick County Election Districts 1, 3, 12, 14, 22 and 25;
- (B) Frederick County Election District 7, Precinct 1;
- (C) Frederick County Election District 23, Precinct 1;
- (D) Frederick County Election District 24, Precincts 1 and 3.

(2) Council District 2 consists of:

- (A) Frederick County Election Districts 8, 18 and 19;
- (B) Frederick County Election District 7, Precincts 2, 3 and 4;

(C) Frederick County Election District 9, Precincts 1, 2, 3, 4, 5 and 7.

(3) Council District 3 consists of:

- (A) Frederick County Election District 2, Precincts 2, 4, 5, 8, 9, 10, 12, 13 and 17;
- (B) Frederick County Election District 21, Precincts 2 and 3;
- (C) Frederick County Election District 23, Precincts 2 and 3;
- (D) Frederick County Election District 24, Precinct 2.

(4) Council District 4 consists of:

- (A) Frederick County Election District 13;
- (B) Frederick County Election District 2, Precincts 1, 3, 6, 7, 11, 14, 15, 16 and 18;
- (C) Frederick County Election District 9, Precincts 6 and 8.

(5) Council District 5 consists of:

- (A) Frederick County Election Districts 4, 5, 6, 10, 11, 15, 16, 17, 20 and 26;
- (B) Frederick County Election District 21, Precinct 1.

(g) The descriptions of the Council Districts in this section, including all references to:

(i) election districts are to the geographical boundaries of the election districts as they existed as of April 1, 2010; and

(ii) precincts are to the geographical boundaries of the precincts as reviewed and certified by the local board of supervisors of elections or their designees, before they were reported to the U.S. Bureau of the Census as part of the 2010 Census Redistricting Data Program and as those precinct lines are specifically indicated in the P.L. 94-171 data or shown on the P.L. 94-171 census block maps provided by the U.S. Bureau of the Census and as reviewed and corrected by the Maryland Department of Planning.

205. Qualifications

(a) Except as provided in subsection (b) of this section, each council member shall be a citizen of the United States and, for at least one year immediately preceding election or appointment, a resident and registered voter of the County. A Council member elected or appointed to serve as a representative of a Council District shall be a resident of the district for at least one year prior to election or appointment.

(b) If a candidate for the office of County Council cannot have resided and been a registered voter of the district in which he or she resides for at least one year prior to

election solely because the boundaries of the district have changed as a result of redistricting as provided in Section 214 of this Charter, the candidate may be elected or appointed to represent the district if he or she meets the following criteria:

- a citizen of the United States
- a resident and registered voter of the County for at least one year prior or election or appointment; and
- a resident and registered voter of the district for at least six months.

(c) While serving as a council member, no council member may:

- (1) Hold any other elected public office; or
- (2) Hold any other office of profit created by the Maryland Constitution or laws of the State, pursuant to Article 35 of the Maryland Declaration of Rights.
- (3) Be employed by a department or agency of the County government, which is substantially controlled by the Executive or the Council.

206. Term of Office

(a) A council member shall hold office for a term beginning at noon on the first Monday of December next following the election of the council member and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor is qualified.

(b) No council member may serve more than three consecutive terms.

(c) For purposes of the restriction imposed by subsection (b), a council member who has been appointed to fill a vacancy and who has served two or more years of that term will be considered to have served one full term. An appointed council member who serves less than a two-year term will be considered, solely for purposes of the subsection (b) restriction, not to have served a term as a council member.

207. Stipend

For the performance of public duties under this Charter, each council member shall receive a stipend of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The stipend shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary allowances in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

208. Forfeiture of Office

A council member shall immediately forfeit office upon:

- (1) the council member ceasing to be a citizen of the United States, a registered voter of the County, or a resident of the Council District to which the council member was elected or appointed to represent;
- (2) the council member being convicted of or pleading guilty to a felony or a crime involving moral turpitude;
- (3) the council member being granted probation before judgment for a felony or a crime involving moral turpitude; or
- (4) acceptance by a court of a plea of nolo contendere for a felony or a crime involving moral turpitude.

209. Vacancies

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a party member, shall be a member of the same political party as the person who vacated office.

(c) When succeeding a party member, the appointee shall be selected from a list of three persons submitted to the Council by the County central committee of the political party affiliated with the person vacating office, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy, provided the appointee is nominated in accordance with the provisions of this section and meets its qualifications and residency requirements.

210. Officers

At the first scheduled meeting of the Council in December following an election and biennially thereafter, the Council shall elect from among its members a President and Vice President of the Council. The President, or in the absence of the President, the Vice President, shall preside over meetings of the Council. The Council may provide for the selection of other officers as the Council may deem desirable for the exercise of its powers.

211. Investigations by the Council

The Council may investigate the affairs of the County and the conduct and performance of any Agency. The Council may subpoena witnesses, administer oaths, take testimony, and require the production of evidence for purposes of this section. Subpoenas may be issued only upon the affirmative vote of at least five council members.

212. Non-interference

(a) Neither the Council nor any of its members shall appoint, dismiss, or give directions to any individual employee of the Executive Branch of the Government, except as may be provided by State law or this Charter.

(b) Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.

213. Council Assistance

The Council may by resolution, at its discretion and subject to the provisions of its budget or supplementary appropriation, employ administrative employees or such legal, financial or other advisors as it deems necessary to perform its functions.

214. Redistricting

(a) The Council shall appoint by resolution a Redistricting Commission not later than April 1 of the year following each decennial census date. The central committee of each political party shall nominate five persons to serve on the Commission if, at the time of nomination, at least twenty-five percent of the total number of registered voters in the County are affiliated with the political party. The list submitted by the political party shall include one person who resides in each Council District. The Council shall appoint all such nominees as members of the Commission as well as one or two additional members of the Commission, as the case may be, to ensure that its total membership equals an odd number. The Council shall appoint the Chair of the Commission from among the Commission members. No person shall be eligible for appointment to the Commission who holds elective office.

(b) By November 15 of the year following each decennial census date, the Commission shall present to the Council a plan of Council Districts, together with a report explaining it. Within thirty days of receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after submission of the plan no other legislation reestablishing the boundaries of the Council Districts has been enacted, the plan as submitted shall become law.

(c) Any Council District established in accordance with this section shall be compact, contiguous, substantially equal in population, and have common interests as a result of geography, occupation, history, or existing political boundaries.

(d) An ordinance establishing Council Districts shall be exempt from referendum.

ARTICLE 3. Legislative Process

301. Legislative Powers

In accordance with Section 202 of this Charter, the Council may enact public local laws for the peace, good government, health, safety or welfare of the County and on all subjects that have been delegated to the County under the Maryland Constitution and by the laws of the State. The Council may repeal and amend the local laws for the County heretofore enacted by the General Assembly as provided by law.

302. Legislative Sessions

Except during the month of November in the year in which council members are elected, the Council may enact legislation on the first and third Tuesdays of each month, and on any additional days the Council may determine necessary. When the first or third Tuesday is a legal holiday, the next succeeding Tuesday shall be a day for the enactment of legislation. In no event shall the Council sit for more than forty-five (45) days in a calendar year for the purpose of enacting legislation.

303. Non-legislative Sessions

The Council may sit in non-legislative sessions at such other times and places as it may determine. In such sessions the Council may perform any activity or engage any subject matter that is within its powers and duties to perform or engage, other than the enactment or introduction of legislation. The subject matter and activities in non-legislative sessions may include conducting public hearings on legislative matters, fact-finding and inquiry, proposing and adopting Bill amendments, as well as deliberating and debating legislation and legislative policy.

304. Legislative Procedure

(a) Four council members shall constitute a quorum for the transaction of legislative business.

(b) Legislative sessions shall be open to the public, advertised in advance, with such notice to include using electronic media such as the County website, and shall comply with all requirements for open meetings provided by law.

(c) The Council shall provide for the keeping of a journal, which shall contain all the formal actions taken by the Council, whether legislative, administrative or any other types of formal action. The journal shall include all appointments, motions, orders, resolutions, introduction of bills, reports and votes, but may not include transcripts of speeches, debates or other statements or remarks. The journal shall be open to public inspection during normal business hours. If the minutes of the Council meetings contain the same material required to be contained in the journal, the collection of minutes shall constitute the journal; otherwise the journal and minutes shall be separate publications. Copies of the minutes of Council meetings shall be made available to the public upon approval and shall appear on the County website or otherwise be published using electronic media.

(d) Voting on legislation shall be by roll call, except on procedural motions. The ayes and nays shall be recorded in the minutes.

(e) The Council may adopt and publish additional rules of legislative procedure that may be desirable and not in conflict with this Charter.

305. Enactment of Legislation

(a) The Council may enact no law except by written Bill.

(b) A Bill shall embrace one subject. The subject shall be described in its title. No law may be enacted, revised, or amended by reference to its title alone. The duty of the Council shall be to enact the same format and arrangement of words as the legislation would read when it becomes law.

(c) A Bill may be introduced by one or more council members at a legislative session. A bill and each copy of the bill shall bear the name of each council member introducing the bill and the date of introduction.

(d) On the date a Bill is introduced, the Council shall either reject the Bill by an affirmative vote of at least five council members or the President of the Council shall schedule a public hearing on the Bill. Within seventy-two hours of its introduction, a copy of the Bill, with notice of the date, time, and place of the public hearing, shall be publicized. Before a public hearing on a Bill, the title and a fair summary of the Bill and the date, time, and place of the public hearing shall be published at least once each week for two successive weeks on the County website and in a newspaper of general circulation in the County. If the Council determines that no such newspaper exists in the

County, the Council shall use whatever media it deems most suited to satisfy the public notice requirements of this subsection. The President of the Council may schedule more than one public hearing on a Bill, provided the publication and notice requirements of this subsection are met for each hearing.

(e) After a public hearing, the Council may enact a Bill into law, with or without amendment, by an affirmative vote of at least four council members. In the event a Bill is amended before enactment, and the amendment or amendments constitute a change of substance, the Bill, as amended, may not be enacted into law until the Bill meets the public hearing, notice, and publication requirements of a newly introduced Bill.

(f) A Bill not enacted within ninety days of introduction is void. A Bill not enacted prior to the month of November in any year in which council members are elected to office is void.

306. Executive Veto

(a) Except as otherwise provided in this section, within ten business days after the passage of any legislation, the Council shall deliver the legislation to the Executive for approval or veto. If the Executive takes no action to approve or veto the legislation within ten business days after receipt, it shall be deemed approved as if the Executive had approved it.

(b) If the Executive approves the legislation, it shall take effect as provided in this Charter.

(c) If the Executive vetoes the legislation, the Executive shall return it to the Council together with reasons for the veto stated in writing. Not later than the next legislative session immediately following the receipt of the vetoed legislation, the Council may override the veto by the affirmative vote of five members of the Council.

(d) The Executive may not veto the Annual Budget and Appropriation Ordinance or the ordinance appointing a Compensation Review Commission pursuant to Section 207 of this Charter.

307. Effective Date of Laws

The Annual Budget and Appropriations Ordinance shall take effect on the first day of the fiscal year to which it applies. All other laws shall take effect sixty calendar days after enactment, except in the event a law provides for a later effective date or is referred to the voters under Section 308 of this Charter.

308. Referendum

(a) Except for the following, a law, or part of a law, enacted pursuant to this Charter may be referred to the voters for approval upon the filing of a petition signed by ten percent of the registered voters of the County:

- (1) A law imposing a tax;
- (2) A law appropriating funds for current expenses to maintain the Government;
- (3) A law prescribing Council Districts; and
- (4) A law adopting a Compensation Review Commission.

(b) A petition to refer a law, or portion of a law, to the voters of the County shall meet the requirements of State law and may consist of several papers, but each paper shall contain the full and accurate text of the law, or part of the law, that is subject to the petition. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures. The affidavit shall state that the signatures were affixed in the person's presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters of the County at the address set opposite or below their names.

(c) No later than fifty-nine days following the date a law is enacted, a petition to refer the law, or portion of law, to the voters under this section may be filed with the Board of Supervisors of Elections for the County.

(d) Whenever a petition complying with all the provisions of law and this Charter is filed, the referred law, or the referred portion of law, may not take effect until thirty days after approval by a majority of voters.

(e) A law, or portion of a law, shall be submitted to the voters pursuant to this section voting either at: (1) the next general election for members of the United States Congress; or (2) a special election called by the Council, which shall be held not less than thirty days and not more than ninety days following the filing of a valid petition pursuant to this section. A special election is prohibited whenever members of the United States Congress are to be elected at a general election within one hundred eighty days of the filing of a valid petition under this section.

309. Publication of Laws

The Council shall cause a fair summary of all laws enacted, amended, or repealed under this Charter to be published promptly at least once in a newspaper of general circulation in the County and on the County website or otherwise be published using electronic media.

310. Compilation of Laws

At intervals not greater than every ten years, the Council shall cause all local laws of the County which are of general application and continuing force in the County to be codified. The codification shall be known as "The Code of Frederick County, Maryland."

The publication shall contain an index and appropriate notes, citations, annotations, and appendices as the Council determines.

ARTICLE 4
Executive

401. Composition

The executive branch of the County government shall comprise the County Executive and all officers, agents, and employees under the supervision and authority of the Executive.

402. County Executive Powers and Duties

There is a County Executive, who shall be the chief executive officer of the County and shall faithfully execute the laws. All executive power vested in the County by the Constitution and laws of Maryland and this Charter shall be vested in the Executive. The Executive shall see that the affairs of the executive branch are administered properly and efficiently, and that employees of the executive branch faithfully perform their duties. The duties and responsibilities of the Executive shall include:

- (a) Supervising and directing offices, agencies and divisions of the executive branch and ensuring that County employees as well as County boards and commissions faithfully perform their duties;
- (b) preparing and submitting to the Council the annual County Budget;
- (c) preparing and submitting to the Council and the public within six months after the close of the fiscal year, an annual report on the activities and accomplishments of the County government, including a comprehensive annual financial statement;
- (d) providing the Council with any information the Executive deems necessary or, as the Council in writing may request, information concerning the executive branch which the Council may require for the exercise of its powers;
- (e) recommending to the Council such measures for legislative action that the Executive may consider to be in the best interests of the County; and
- (f) signing or causing to be signed on the County's behalf all deeds, contracts, and other instruments.

403. Election of the County Executive

Beginning in 2014 and every four years thereafter, the registered voters of the entire County shall elect a County Executive in the manner provided by law at the same time as members of the General Assembly are elected.

404. Term of the County Executive

(a) The Executive shall hold office for a term beginning at noon on the first Monday of December next following the election of the Executive as provided in Section 403 of this Charter and ending at noon on the first Monday in December in the fourth year thereafter, or until a successor is qualified.

(b) No Executive may serve more than two consecutive terms.

(c) For purposes of the restriction imposed by subsection (b) of this section, an Executive who has been appointed to fill a vacancy and who has served two or more years of that term will be considered to have served one full term. An appointed Executive who serves less than a two-year term will be considered, solely for purposes of the subsection (b) restriction, not to have served a term as Executive.

405. Qualifications of the County Executive

(a) The Executive shall be a citizen of the United States and, for at least two years immediately preceding election or appointment, a resident and registered voter of the County.

(b) The Executive shall devote full-time to the duties of the office. The Executive may not participate in any private occupation for compensation. During the term of office, the Executive may not hold any other office of profit.

406. Compensation of the County Executive

(a) Subject to subsection (b) of this section, the Executive shall receive a Salary of \$ 95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.

(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced by a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.

407. Forfeiture of Office by the Executive

An Executive shall immediately forfeit office and the office shall be deemed vacant upon:

- (1) the Executive ceasing to be a citizen of the United States or a registered voter of the County;
- (2) the Executive being convicted of or pleading guilty to a felony or a crime involving moral turpitude;
- (3) the Executive being granted probation before judgment for a felony or a crime involving moral turpitude; or
- (4) acceptance by a court of a plea of nolo contendere for a felony or a crime involving moral turpitude.

408. Vacancy in the Office of County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy.

(b) An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the County central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.

(c) If the Council has not made an appointment within the forty-five-day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

409. Temporary Absence

In the event of the temporary absence of the Executive, the Chief Administrative Officer shall perform the duties of the Executive.

410. Chief Administrative Officer

The Executive shall appoint a Chief Administrative Officer, subject to confirmation by the Council. The Chief Administrative Officer shall be selected on the basis of qualifications as a professional administrator, skill in governmental budgeting and technical training for the duties of the office. He or she shall be a resident of the County within six months of appointment. The duties of the Chief Administrative Officer, which shall include supervising the departments, agencies and offices under the control of the Executive, advising the Executive on all administrative matters and performing such other duties as may be assigned by the Executive or by this Charter, shall be subject to the direction of the Executive. The Chief Administrative Officer shall serve at the pleasure of the Executive.

411. County Attorney

(a) The Executive shall appoint a County Attorney, subject to confirmation by the Council. The County Attorney shall be the chief legal officer of the County and conduct all the law business of the County. The County Attorney shall be a legal advisor to the Executive, the Council, all County departments, agencies, offices and other instrumentalities of the Government. The County Attorney shall serve at the pleasure of the Executive.

(b) The County Attorney, with the approval of the Executive, and as provided in the Budget, may appoint assistants to serve as members of the legal staff or employ special legal counsel. The County Attorney and the staff of the office shall engage in no other law practice.

412. Appointment and Removal of Department Heads and Others

(a) The Executive shall appoint an individual to head each principal operating department, agency or office under the control of the Executive, subject to confirmation of the Council. Individuals appointed under this subsection shall serve at the pleasure of the Executive.

(b) Except as provided in subsection (c) of this section or prescribed by law, the provisions of this Charter or by ordinance, the Executive shall appoint all members of boards and commissions. Such membership shall be subject to confirmation by the Council. Individuals appointed under this subsection shall serve at the pleasure of the Executive, unless otherwise provided by law, the provisions of this Charter or by ordinance.

(c) The membership of boards and commissions that are established exclusively to advise the Council shall be appointed and removed by the Council, at the Council's discretion, unless such matters are prescribed by law, the provisions of this Charter or by ordinance.

(d) If the Council fails to take action within thirty days upon an appointment made by the

Executive pursuant to this section, the appointment shall become effective.

413. Temporary Administrative Appointments

When a vacancy occurs in the position of the Chief Administrative Officer or the head of any principal operating department, agency or office under the control of the Executive, the Executive shall appoint an acting Chief Administrative Officer or acting head of the department, agency or office, as the case may be, to serve for a period not exceeding six months. This limit may be extended by the Council for a period of time not to exceed an additional four months.

414. Plan of Organization

(a) The Executive shall make an evaluation of the structure, organization, functions, powers, and duties of each department, agency and office under the Executive's control within fourteen months of the Executive's election.

(b) The Executive shall report the results of the evaluation to the Council within the time frame established in subsection (a) of this section, along with any recommendations that require legislative authorization and which the Executive believes would increase the efficiency and effectiveness of the County government. If recommendations are made pursuant to this subsection, the Executive shall, along with the Executive's report, include a plan for implementing the recommendations.

(c) The Council shall consider the Executive's recommendations that require legislative authorization and the plan of implementation.

(d) At the discretion of the Executive, the Executive at any time may alter, adjust, modify or in any manner change the structure, functions, powers and duties of any department, agency or office under the Executive's control if the alteration, adjustment, modification or change does not require legislative authorization.

**ARTICLE 5.
Budget and Finance**

501. Establishment of Position of Director of Finance

With the approval of the Council, the Executive shall appoint a person, knowledgeable and experienced in financial matters, to serve as the Director of Finance of the County. The duties of the Finance Director, which shall be subject to the direction of the Executive, shall be those prescribed by the Executive, by law or by this Charter. The Director of Finance shall serve at the pleasure of the Executive.

502. Fiscal Year and Tax Year

The fiscal or budget year and the tax year of the Government begins on the first day of July and ends on the thirtieth day of June of the succeeding year.

503. Preparation of the County Budget

(a) Not later than April 15 of each year, the Executive shall prepare and submit a proposed Budget to the Council for the ensuing fiscal year. The proposed Budget shall present a complete financial plan for the Government reflecting anticipated revenues from all sources, expenditures, and any surplus or deficit in the general or special funds of the Government.

(b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this Section.

(c) The proposed Budget shall be reproduced and made available to the public.

504. Budget Message

The budget message shall contain supporting summary tables and explain the proposed Operating Budget, the Capital Budget, and the Capital Improvement Program both in terms of finances and of work to be done. It shall outline the proposed financial policies of the Government for the ensuing fiscal year and describe the important features of the proposed Budget. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the current fiscal year, and shall set forth the reasons for the changes.

505. Public Budget Hearing

Upon submission of the proposed Budget, the Council shall cause to be published in at least one newspaper of general circulation in the County, a notice of the date, time and place of at least one public hearing on the Budget by the Council. If the Council determines that no such newspaper exists in the County, the Council shall use whatever media it deems most suited to satisfy the public notice requirements of this Section. No final budget action may be taken by the Council until after a public hearing has been held, and then only in open, public session.

506. Action on the Budget by the Council

(a) After a public hearing, the Council may decrease or delete any items in the Budget, except those required by the laws of this State and provisions for debt service on

obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the budget as submitted by the Executive, to alter revenue estimates, or to increase any expenditure recommended by the Executive, unless expressly provided in State law and except to correct mathematical errors.

(b) Except as provided in subsection (c) of this section, any change in the proposed budget to decrease or delete an item in the Budget made pursuant to subsection (a) of this section shall constitute a change of substance requiring compliance with the public hearing, notice and publication requirements of a newly enacted Bill pursuant to Section 305 of this Charter:

(c) A decrease or deletion of one or more items in the Budget may not constitute a change of substance in the proposed budget if the decrease or deletion constitutes less than a one percent change in the total Budget or less than a fifty percent decrease in any one line item in the Budget.

(d) The adoption of the Budget shall be by the affirmative vote of not less than four members of the Council in a law enacted not later than May 25, which shall be known as the “Annual Budget and Appropriations Ordinance of Frederick County.”

507. Tax Levy and Balanced Budget

After enacting the Annual Budget and Appropriations Ordinance, the Council shall levy the amount of taxes required by the Budget to ensure that the Budget is balanced so that proposed revenues equal proposed expenditures.

508. Borrowing Limitations

(a) Except as otherwise provided by State law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time that pledge the full faith and credit of the County may not exceed a total of five percent of the assessable basis of real property of the County and fifteen percent of the County's assessable basis of personal property and operating real property described in § 8-109(c) of the Tax - Property Article.

(b) Except as may otherwise be provided by State law, the following may not be computed or applied in establishing the debt limitations provided in this section:

(1) Tax anticipation notes or other evidences of indebtedness having a maturity not in excess of 12 months;

(2) Bonds or other evidences of indebtedness issued or guaranteed by the County payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or community development authorities; and

(3) Bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services.

510. Transfer of Appropriations

(a) The Executive may transfer unencumbered appropriations in the Operating Budget within the same department, agency, or office and within the same fund. On the recommendation of the Executive, the Council may transfer unencumbered appropriations in the Operating Budget between departments, agencies and offices within the same fund.

(b) A transfer may not be made between the Operating Budget and Capital Budget appropriations. On the recommendation of the Executive, the Council may transfer appropriations between Capital Projects within the same fund provided the Council neither creates nor abandons any Capital Projects except in accordance with Section 513 of this Charter.

(c) Notwithstanding any provisions of this section, the Council may provide by law for inter-fund cash borrowing in the same fiscal year to meet temporary cash requirements. Nothing contained in this section may be construed to prevent reimbursement among funds for services rendered.

511. Supplemental Appropriations

On the recommendation of the Executive, the Council may make supplemental appropriations from any contingency appropriations in the Budget; from revenues received from anticipated sources but in excess of budget estimates; or from revenues received from sources not anticipated in the Budget.

512. Emergency Appropriations

To meet an Emergency, as that term is defined in this Charter, the Council may make emergency appropriations from the sources provided in Section 511 of this Charter. To the extent unappropriated revenues are unavailable to meet the Emergency, the Council by law may authorize the issuance of emergency notes, which may be renewed from time to time. Emergency notes and renewals issued pursuant to this section may not be paid later than the last day of the next fiscal year succeeding that in which the emergency appropriation was made.

513. Lapsed Appropriations

Unless otherwise provided by law and except for grant appropriations or grant funds deposited in special accounts dedicated to specific functions, activities or purposes, all unexpended and unencumbered appropriations in the Operating Budget at the end of the fiscal year shall revert into the treasury. No appropriation for a Capital Project in the

Capital Budget may revert until the purpose for which the appropriation was made is accomplished or abandoned; but any Capital Project shall be considered abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation.

514. Amendment to Capital Budget after Adoption of the Budget

Upon recommendation of the Executive and after a public hearing and an affirmative vote of at least four council members, the Council may amend the Annual Budget and Appropriations Ordinance to provide funds for a Capital Project not previously appearing in the Capital Budget for the fiscal year. The amendment may not increase the total amount of appropriations for the fiscal year, unless such increased appropriations shall be funded from revenues received in excess of those budgeted or from unanticipated revenues not previously budgeted in the Annual Budget and Appropriations Ordinance for the fiscal year.

515. Composition and Limitation upon County Funds

(a) All revenues and receipts from special services or benefit charges; special taxes or assessments imposed upon special taxing areas for special or particular services, purposes or benefits; funds held by the County as trustee or agent; special grants; or bond proceeds shall be paid into and appropriated from special funds created for such purposes and may not be used for any other purpose except the purpose for which a fund was created. All other revenues and receipts of the County from taxes, grants, State revenues and other receipts shall be paid into and appropriated from the general fund, which is the primary fund for the financing of current expenses for the conduct of Government business.

(b) With the recommendation of the Executive, the Council, by the Annual Budget and Appropriation Ordinance, or by other legislative act, may provide for the establishment of working capital or revolving funds for the financing of central stores, equipment pools, or other services common to the agencies of the Government.

(c) Notwithstanding other provisions of this section, upon recommendation of the Executive, the Council may establish a reserve fund for permanent public improvements. The Annual Budget and Appropriation Ordinance may dedicate cash surpluses, taxes, and other sources of revenue not otherwise appropriated to this reserve fund.

(d) Nothing in this Charter may be construed to prevent the making of contracts, leases, or other obligations that provide for the payment of funds at a time beyond the end of the of the fiscal year in which these contracts are made, provided the nature of these transactions reasonably requires the making of these contracts, leases or other obligations. The Council shall authorize by law any contract, lease, or other obligation in excess of \$20,000 that would obligate the County to appropriate funds in the Operating Budget for more than a single fiscal year. The amount of \$20,000 for such contracts, leases or obligations may be revised by law from time to time, but no more frequently than annually, and may not be less than \$20,000.

**ARTICLE 6.
Land Use**

601. Adoption of Article 66B of the Annotated Code of Maryland

(a) It is the policy of Frederick County that the provisions of the Land Use Article of the Annotated Code of Maryland that governed land use in the County prior to the Effective Date of this Charter shall continue to apply as if they have been codified in the Code of Public Local Laws of Frederick County on the Effective Date of the Charter.

(b) By 2016 the provisions that were considered applicable to the County on the Effective Date of the Charter shall be codified in the Code of Public Local Laws of Frederick County.

(c) It is the policy of Frederick County that whenever the provisions of the Land Use Article are revised by the Maryland General Assembly and the revisions would, in the absence of the adoption of this Charter, impact and affect land use in the County, the revised provisions are to be promptly adopted by the County and codified in the Code of Public Local Laws of Frederick County.

(d) Subsections (a), (b) and (c) of this section shall continue to remain in effect until this section is amended.

(e) This section is not intended, nor shall it be construed, to prohibit the County from complying with any requirement of State law that conflicts with the provisions of this section.

**ARTICLE 7.
Miscellaneous**

701. Charter Amendments

This Charter may be amended by the procedures provided in Article XI-A of the Maryland Constitution.

702. Termination of Charter

(a) This Charter may be terminated, and the County returned to the County Commissioner form of government in effect prior to the adoption of this Charter, using the same procedures provided in Section 701 of this Charter.

(b) Thirty days following the approval by the voters to terminate this Charter, the Charter shall stand terminated. The council members then in office shall become the Board of

County Commissioners for the County and shall remain in office until their successors are qualified for office.

(c) All laws, ordinances, and regulations in effect at the termination of this Charter shall remain in force until changed by the action of the General Assembly or the Board of County Commissioners, as provided by the Constitution of Maryland and the public general laws of this State.

703. Charter Review Commission

(a) A Charter Review Commission shall be appointed by the Council no later than six months following the installation of newly elected council members after the election of 2018. A Charter Review Commission may be appointed at such other times as the Council, in its discretion, may determine but at least once every 10 years beginning in 2018. The Charter Review Commission shall be composed of seven registered voters of the County, including at least one member from each Council District established pursuant to Section 204 of this Charter. No person shall be eligible for appointment to the Commission who holds elective office. The chair of the Commission shall be elected from and by the members of the Commission.

(b) The Commission shall review the provisions of this Charter and make recommendations as to the necessity for deleting, adding, or amending its contents. The Commission shall receive an appropriation sufficient to carry out its duties and responsibilities. The members of the Commission may not be entitled to compensation but shall be entitled to reimbursement for reasonable expenses.

(c) Except as provided in subsection (d) of this section, the Commission shall make its report to the Council at a public hearing within 12 months following its creation.

(d) The Commission may be required to report to the Council earlier than the deadline established in subsection (c) of this section, if the Council establishes the report deadline at the time the Commission is created.

(f) Upon delivery of the Commission report, the Commission shall be deemed dissolved and its work terminated.

704. Independent Auditor

The Council shall engage a certified public accountant to make annually an independent post audit of all financial records and actions of the Government, its offices, agents, and employees. The complete report of the audit shall be presented to the Council and Executive and copies of the complete report, including addenda, corrections to the report, and all correspondence relating to the audit, shall be made available to the public at a cost not to exceed the cost of reproduction.

**ARTICLE 8
TRANSITIONAL PROVISIONS**

801. Nature of This Article

The provisions of this Article relate to the transition from the commissioner form of government to the form of government provided by this Charter. Whenever the provisions of this Article are inconsistent with the previous provisions of this Charter, the provisions of this Article shall control.

802. Time Certain Articles Become Effective

Except as expressly provided in this Article, the provisions of this Charter shall become operative on the date the first County Executive and County Council, elected pursuant to this Charter, take office, Monday, December 1, 2014.

803. First Election

(a) In order provide for the election of the first Executive in November 2014, Section 403 {Election of the County Executive}, Section 404 {Term of the County Executive} and Section 405 {Qualifications of the County Executive} shall take effect on January 1, 2013.

(b) In order provide for the election of the first members of the Council in November 2014, Section 204 {Election}, Section 205 {Qualifications} and Section 206 {Term of Office} shall take effect on January 1, 2013.

804. Existing Laws

The public local laws of the County and all rules, regulations, resolutions, and ordinances enacted by the County Commissioners in force on the Effective Date of the Charter shall continue in full force until repealed or amended. To the extent that any of the public local laws of the County or rules, regulations, resolutions, or ordinances, or any parts thereof, are inconsistent with the provisions of this Charter, they are repealed.

805. Reference in State Constitution and Laws to County Commissioners

All references in the Constitution and laws of the State of Maryland to the Frederick County Commissioners shall be construed, at the Effective Date of the Charter, to refer to the Council and/or the County Executive whenever the construction would be reasonable.

806. Existing Officers and Employees

All appointed officers and employees of the Government holding office at the Effective Date of the Charter shall continue to be employed at their existing compensation, subject, however, to the provisions of any relevant personnel laws, rules, or regulations.

Provisions relating to the qualifications for the appointed offices provided in this Charter shall become effective whenever vacancies occur in the appointed offices after the Effective Date of the Charter.

807. Existing Members of Boards and Commissions

The members of all boards and commissions holding office at the Effective Date of the Charter shall continue to hold the same office until completion of their terms of office, unless removed in accordance with the provisions of this Charter.

808. Office of the County Commissioner Abolished

At the Effective Date of the Charter, the Office of County Commissioner shall cease to exist and all reference to the Office and the Board of County Commissioners in the Maryland Constitution or in any law, ordinance, rule, or regulation shall be construed to refer to the Office of Council Member or the Council and/or the Office of the County Executive or the County Executive whenever the construction would be reasonable.