

~~CHARTER AMENDMENT~~
~~RESOLUTION NO. 80~~

RESOLUTION of the Mayor and City Council of Cumberland, Maryland, adopted pursuant to the authority contained in Article 11-E of the Constitution of the State of Maryland, and Section 13 of Article 23A of the Annotated Code of Maryland (1957 Edition) entitled "A RESOLUTION TO AMEND THE CHARTER OF THE CITY OF CUMBERLAND (1966 EDITION) BEING ARTICLE 1A OF THE CODE OF PUBLIC LOCAL LAWS OF MARYLAND, BY ENACTING A NEW SECTION TO PROVIDE FOR A DOWNTOWN DEVELOPMENT COMMISSION"

NOW, THEREFORE:

SECTION 1: BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, That there is hereby created an agency which shall be known and designated as the "Downtown Development Commission" which shall consist of thirteen (13) members appointed by the Mayor and City Council as follows:

(a) Not less than nine (9) members shall be appointed from among those property owners and businesses which are located within the Primary Benefit District, within the Special Taxing District, as defined by Charter Amendment Resolution No. 69 as amended. At least one of these members shall be a representative of one of the financial institutions located within said Primary Benefit District.

(b) Not less than three (3) members shall be appointed from among those property owners and businesses located in the Secondary Benefit District within the Special Taxing District as defined and determined by Charter Amendment Resolution No. 69.

(c) The additional member shall be appointed from among the general population of the City and must be a resident thereof, provided however, that said additional member may be a property owner within the Special Taxing District.

(d) The Commission shall be appointed, and the first appointees shall serve terms as follows:

^{** Two appointees}
(1) ~~One appointee~~ from a Primary Benefit District
^{**one appointee} and ~~one appointee~~ from a Secondary Benefit District shall serve terms of six (6) years each;

(2) One appointee from a Primary Benefit District and one appointee from a Secondary Benefit District shall serve terms of five (5) years each;

(3) One appointee from a Primary Benefit District and one appointee from a Secondary Benefit District shall serve terms of four (4) years each;

(4) One appointee from a Primary Benefit District and the general appointee shall serve terms of three (3) years each;

(5) Two appointees from a Primary Benefit District shall serve terms of two (2) years each;

(6) Two appointees from a Primary Benefit District shall serve terms of one (1) year each.

Thereafter, the thirteen (13) appointed members of the Commission shall serve terms of three (3) years each. Unless removed by the Mayor and City Council, both original and successive appointees shall serve until their successors are appointed and qualify. Vacancies shall be filled for the unexpired portion of the terms of any Commission member by the Mayor and City Council. Members of the Commission shall serve without compensation.

SECTION 2: Upon appointment of said Commission, the members shall have the authority to adopt by-laws, not inconsistent with this, or any other Charter provision or ordinance of the Mayor and City Council of Cumberland, and may provide in said by-laws the method whereby a chairman, vice-chairman, secretary and treasurer, and other officers, may be selected, the manner

** Amended at March 10, 1981, Meeting.

whereby meetings of said Commission may be called, held and conducted, and other matters relating to the sound and efficient operation of said Commission.

SECTION 3: (a) The said Downtown Development Commission as constituted shall have the power and authority to promulgate rules and regulations governing the uses and regulations of the "Cumberland Mall" and further, to establish such fee/schedules^{* and rental} to the extent that the same are legally permitted for/~~usage-by-~~^{* use of} the mall, which said rules and regulations and fee and rental schedules shall be effective within the area designated and defined as the Special Taxing District in Charter Amendment Resolution No. 69. Said rules and regulations shall not be in conflict with any provision of the Charter or Code of Laws of the City of Cumberland, the laws of the State of Maryland or the laws of the United States. Any rules or regulation, the violation of which would constitute a criminal offense or municipal infraction, must be submitted to the Mayor and City Council of Cumberland for its approval and adoption, and shall not be deemed effective until so approved and adopted.

(b) The Commission shall have the authority and power to appoint, hire, employ, or engage such assistants, aides, employees and advisers as may be deemed necessary by it for the proper performance of the duties of said Commission and for the maintenance and operation of the facilities and improvements under the jurisdiction of the Commission; and to employ or hire from time to time, by contract, consultants, planning and designing engineers or architects or accountants, attorneys or other persons possessing technical or specialized skills in connection with the duties, powers, and functions of said Commission.

(c) The Commission shall have the power and authority to enter into contracts in its own name which said contracts are for

the purpose of developing, establishing, constructing, erecting, altering, expanding, enlarging, operating or maintaining, or improving the pedestrian mall and related facilities and improvements located within the Special Taxing District; provided however, that the Mayor and City Council of Cumberland shall in no manner be construed to be a party to any such contract nor to be bound by any of the terms thereof unless the said Mayor and City Council shall elect to become so obligated. Further, that the Commission shall be prohibited from entering into any contract where the obligations for payments under said contracts would exceed its revenues on hand at the time of contracting.

(d) The Commission shall be authorized to sponsor in its own name events of any kind not otherwise prohibited by law, and further, to promote and encourage usage of the Cumberland Mall by the general public. Further, that the said Commission shall be authorized to make the facilities and improvements of the Cumberland Mall available to other persons and groups upon such terms and conditions as it deems proper, including the requirement for permits to be issued by the Commission. No permit shall be required from the Commission by any person, group of persons, partnership, corporation, etc. who desires to engage in the solicitation of donations for any charitable or religious purpose or organization unless such person, group, etc. shall desire to erect, place, or maintain any exhibit, sign, booth or similar device on or over the surface area of the Cumberland Mall, provided that any such permit shall be limited in scope to the placement of such device, etc. on the said Mall and the duration of any such placement. Notwithstanding any provision herein contained, any person, group of persons, partnerships, corporations, etc. conducting or proposing to conduct any activity of any kind on or over the Cumberland Mall shall be required to

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obtain any and all applicable permits, licenses, etc. as the same are required by the laws of the City of Cumberland, Allegany County, and/or the State of Maryland.

(e) The Commission shall conduct studies and submit reports containing specific recommendations to the Mayor and City Council of Cumberland with regard to vehicular and pedestrian traffic, parking, and special activities and events within or on the Cumberland Mall.

SECTION 4: The Mayor and City Council of Cumberland shall maintain normal municipal services within the area of the Special Taxing District, including fire and police protection, street lighting, trash collection, street maintenance, and snow removal from those streets passing through the Special Taxing District open to vehicular traffic. All other repairs to, maintenance, or upkeep of, etc. the facilities and improvements within the Special Taxing District, shall be the responsibility of the Commission.

SECTION 5: (a) Said Downtown Development Commission, as constituted, shall have the power and authority to manage funds held by it in its name, including the power to invest said funds, maintain separate accounts for such funds, and commit and encumber those funds for any purpose authorized hereunder.

(b) That said Downtown Development Commission shall present to the Mayor and City Council on a quarterly basis a statement showing all funds or properties in hand or in which it has any legal or equitable interest, and further, showing any use or expenditure of funds in the preceding three-month period. Said statement shall further show any commitments or encumbrances on said funds. Further, that the said Downtown Development Commission shall no later than October 1st of each year submit to the Mayor and City Council of Cumberland a certified audit for the preceding fiscal year.

(c) That the Downtown Development Commission no later than March 1st of any given year shall submit to the Mayor and City Council a proposed budget for the succeeding fiscal year, which said budget shall be used by the Mayor and City Council for the purpose of determining an amount to be levied within the Special Taxing District for the operation and maintenance of the Downtown Pedestrian Mall. In no event shall the Mayor and City Council be obligated to levy an amount in excess of a \$1.30 in the Primary Benefit District and \$.80 in the Secondary Benefit District.

(d) That the Mayor and City Council shall be authorized to transfer to the benefit of the Downtown Development Commission all funds collected from the ad valorem taxes within the Special Taxing District to the extent that such funds exceed the amount required to amortize that portion of the "Mall Bond Proceeds" as more fully set forth in Charter Amendment Resolution No. 81 and Ordinance No. 2875.

(e) That in no event shall the Mayor and City Council be obligated to appropriate any general funds for use by the Downtown Development Commission for the operation and maintenance of the mall.

SECTION 6: AND BE IT FURTHER RESOLVED, That the date of the passage of this Resolution is March 10, 1981, and the amendments to the Charter of the City of Cumberland, hereby enacted, shall become effective on April 30, 1981, unless a proper Petition for a Referendum hereon shall be filed as provided by Section 13 of Article 23A of the Annotated Code of Maryland. A complete and exact copy of this Resolution shall be continuously posted on the North Centre Street entrance of the City Hall, Cumberland, Maryland, until April 19, 1981, and provided further that a fair summary of the proposed amend-

ments shall be published in the Cumberland Evening Times, a newspaper of general circulation in the City of Cumberland, once in each of the weeks of March 16, 23, 30; April 6 and 13, 1981

SECTION 7: AND BE IT FURTHER RESOLVED, That the Mayor of the City of Cumberland is hereby specifically directed to carry out the provisions of Section 6 hereof regarding the giving of notice by posting and publication of this Resolution approving the same, and, as evidence of said compliance, the City Clerk shall cause to be affixed to the Charter Amendment Resolution a certificate of the publication of the newspaper in which the summary of this Resolution shall have been published, and the Mayor, if there is no Petition for a Referendum, shall declare the Charter Amendment to be effective on the effective date herein provided for, which is April 30, 1981, by affixing his signature hereto in the space provided below the effective date hereof.

SECTION 8: AND BE IT FURTHER RESOLVED, That, if a proper Petition for a Referendum on the Charter amendments herein proposed is filed, the Mayor and other proper officials of the City of Cumberland shall comply with all the provisions set forth in Section 13 to 17, both inclusive, of Article 23A of the Annotated Code of Maryland.

SECTION 9: AND BE IT FURTHER RESOLVED, That as soon as the Charter amendments hereby made shall become effective, either as herein provided or following a Referendum, the Mayor shall send separately, by Registered Mail, to the Secretary of the State of Maryland, and to the Department of Legislative Reference of Maryland, a complete certified copy of the text of this Resolution, the date of the Referendum, if any is held, a certificate showing the number of Councilmen voting for and against it,

and a report on the votes cast for or against the amendments hereby enacted at any Referendum hereon, and the effective date of the Charter Amendment.

This Resolution passed this 10th day of March, 1981.

Frank W. McCall
MAYOR.

ATTEST:

Audrey C. Walford
CITY CLERK.

The Charter Amendment enacted by the foregoing Resolution became effective April 30, 1981.

Frank W. McCall
MAYOR.

ATTEST:

Audrey C. Walford
CITY CLERK.