

CHARTER AMENDMENT RESOLUTION NO. 2015-1

A CHARTER AMENDMENT RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY FOR THE PURPOSE OF AMENDING SECTION SC7-48 OF THE CHARTER OF THE CITY OF SALISBURY IN ORDER TO (1) EXCLUDE FROM THE CALCULATION OF THE DEBT LIMIT PROVIDED FOR IN SUCH SECTION THE TOTAL PRINCIPAL AMOUNT OF ANY OUTSTANDING GENERAL OBLIGATION DEBT THAT ON THE CITY'S RECORDS IS ALLOCATED TO BE PAID FROM ANY ENTERPRISE FUND, (2) REDUCE THE PERCENTAGES OF THE ASSESSABLE VALUATION OF REAL AND PERSONAL PROPERTY IN THE CITY AGAINST WHICH THE DEBT LIMIT CALCULATION SHALL BE APPLIED WITH RESPECT TO GENERAL OBLIGATION DEBT THAT REMAINS SUBJECT TO SUCH DEBT LIMIT, (3) CLARIFY THE DEBT THAT IS SUBJECT TO THE DEBT LIMIT, INCLUDING THAT REVENUE BONDS, NOTES OR OTHER SIMILAR INSTRUMENTS ISSUED UNDER SECTION 12-201 ET SEQ. OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND (TAX INCREMENT FINANCING OBLIGATIONS) OR SECTION 21-407 ET SEQ. OF THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND (SPECIAL TAXING DISTRICT OBLIGATIONS), SHALL NOT COUNT AGAINST SUCH DEBT LIMIT UNLESS BACKED BY A PLEDGE OF THE CITY'S FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER, AND (4) CLARIFY THAT CONDITIONALLY REPAYABLE GRANTS, COMPENSATED ABSENCES, AND CAPITAL LEASE OBLIGATIONS (UNLESS BACKED BY A PLEDGE OF THE CITY'S FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER) SHALL NOT COUNT AGAINST THE DEBT LIMIT; PROVIDING THAT IN CALCULATING SUCH DEBT LIMIT, THE CITY SHALL USE THE MOST RECENT JULY 1 ASSESSED VALUATION FIGURES PROVIDED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION OR ANY DEPARTMENT OR AGENCY THAT IS SUBSEQUENTLY CHARGED WITH ASSESSING PROPERTY VALUES FOR THE CITY PURSUANT TO MARYLAND LAW; PROVIDING FOR COMPLIANCE WITH CERTAIN PROVISIONS OF THE ANNOTATED CODE OF MARYLAND PERTAINING TO CHARTER AMENDMENTS; PROVIDING THAT THIS TITLE CONSTITUTES A FAIR SUMMARY FOR PUBLICATION PURPOSES; AND GENERALLY RELATING TO APPLICATION OF SUCH DEBT LIMIT.

RECITALS

WHEREAS, the Charter of the City of Salisbury may be amended as outlined in Sections SC21-1 through SC21-4 of the Charter, which refer to Sections 11 through 18 of Article 23A of the Annotated Code of Maryland; and

WHEREAS, Sections 11 through 18 of Article 23A of the Annotated Code of Maryland have been recodified as Section 4-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland; and

- Underlining : Indicates material added to this Charter Amendment Resolution by amendment after introduction
- ~~Strike-through~~ : Indicates material deleted from this Charter Amendment Resolution by amendment after introduction

WHEREAS, from time to time, City of Salisbury (the "City") issues general obligation bonds, notes or other evidences of indebtedness for the public purposes permitted by the Charter or other applicable Maryland law; and

WHEREAS, the City (i) to the extent applicable in connection with the issuance of any such general obligation debt, allocates on its records to any applicable enterprise fund or funds the projects to be financed or refinanced from such general obligation debt and the corresponding allocable portion of debt service to be paid from such enterprise fund or funds, (ii) pays all or a portion of the debt service on many of its outstanding general obligation bonds, notes or other evidences of indebtedness in the first instance from applicable enterprise funds, even though the City's full faith and credit and unlimited taxing power are pledged to payment of such general obligation debt, and (iii) takes into consideration the debt service payable on outstanding general obligation debt allocated to such enterprise funds when imposing any fees or charges to be accounted for in such enterprise funds; and

WHEREAS, the Council desires to amend the debt limit contained in Section SC7-48 of the Charter in order to (i) exclude from the calculation of the debt limit the principal amount of any outstanding general obligation debt that on the City's records is allocated to be paid from any enterprise fund, (ii) correspondingly reduce the percentages of the assessable valuation of real and personal property in the City against which the debt limit calculation shall be applied with respect to general obligation debt that remains subject to such debt limit, (iii) clarify the debt that is subject to the debt limit, (iv) clarify that conditionally repayable grants, compensated absences, and certain capital leases shall not count against the debt limit, and (v) clarify the source of assessed valuation information to be used in applying the debt limit.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that pursuant to the authority of Article XI-E of the Constitution of Maryland, as published in the Constitution of Maryland Article of the Annotated Code of Maryland (West 2002 and 2014 Cumulative Supplement), as amended to date, and Section 4-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland (West 2013 and 2014 Cumulative Supplement), as amended to date, Section SC7-48 of the Charter of the City of Salisbury, as published in Municipal Charters of Maryland, Volume 7, 2008 Replacement Edition, as amended to date, is hereby repealed and re-enacted, with amendments, to read as follows:

Section SC7-48. Debt limit.

Subject to the further provisions of this Section, the ((The)) total ((bonded)) principal amount of indebtedness of the City of Salisbury represented by its general obligation bonds, notes or other evidences of indebtedness issued in accordance with this Charter or other applicable Maryland law ("general obligation debt") ((payable from its general tax revenues)) outstanding at the time any such ((bonds are)) general obligation debt is issued shall not exceed an amount which is equal to

- Underlining : Indicates material added to this Charter Amendment Resolution by amendment after introduction
- ~~Strike-through~~ : Indicates material deleted from this Charter Amendment Resolution by amendment after introduction

((four (4))) *(i) two (2) percent of the assessed valuation of all real property subject to taxation by the City of Salisbury plus ((ten (10))) (ii) five (5) percent of the assessed valuation of all personal, corporate and utility personal property subject to taxation by the City of Salisbury. In applying the debt limit provided for in this Section, there shall be excluded from such calculation the principal amount of any outstanding general obligation debt that in the City's records is allocated to be paid from any enterprise fund. Any revenue bonds, notes or other similar instruments issued pursuant to the authority of ((Article 41, Sections 14-201 through 14-214)) (i) Section 12-201 et seq. of the Economic Development Article of the Annotated Code of Maryland (((the Tax Increment Financing Act))), as replaced, supplemented or amended ("TIF obligations"), or (ii) Section 21-407 et seq. of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended ("STD obligations"), shall not be counted in calculating such debt limit unless the City's full faith and credit and unlimited taxing power are also pledged to payment of such TIF obligations or STD obligations ((such bonds are also issued as general obligation bonds in accordance with such Act)). If the City issues TIF obligations or STD obligations that are also backed by a pledge of other revenues in addition to its full faith and credit and unlimited taxing power, there shall be excluded from the debt limit calculation the outstanding principal amount of any such hybrid TIF obligations or hybrid STD obligations that in the City's records is allocated to be paid from any enterprise fund. In addition, (i) any grant that is repayable by the City upon a failure to meet conditions of the grant, (ii) compensated absences, and (iii) capital leases (unless such capital leases are backed by a pledge of the City's full faith and credit and unlimited taxing power) shall not be treated as general obligation debt for purposes of this Section. The City shall calculate the debt limit set forth in this Section using the assessed value of real and personal property as of the July 1 immediately preceding the issuance of the applicable general obligation debt, as determined by the State Department of Assessments and Taxation or any department or agency that is subsequently charged with assessing property values for the City pursuant to Maryland law.*

SECTION 2. BE IT FURTHER RESOLVED that the amendments to the Charter adopted by this Charter Amendment Resolution shall become effective upon the fiftieth (50th) day after passage of this Charter Amendment Resolution, unless a proper petition for referendum meeting the requirements of Section 4-304 of the Local Government Article of the Annotated Code of Maryland shall be presented or mailed to the Council in accordance with such Section 4-304 on or before the fortieth (40th) day after passage of this Charter Amendment Resolution. An exact copy of this Charter Amendment Resolution shall be posted at the main municipal building or other public place for the forty (40) days following its adoption, and the title to this Charter Amendment Resolution, being a fair summary of the amendments to the Charter adopted hereby, shall be published in a newspaper of general circulation in the City at least four (4) times, at weekly intervals, within the forty (40) days after this Charter Amendment Resolution is adopted.

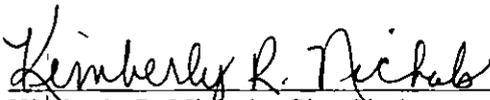
- Underlining : Indicates material added to this Charter Amendment Resolution by amendment after introduction
- ~~Strike-through~~ : Indicates material deleted from this Charter Amendment Resolution by amendment after introduction

SECTION 3. BE IT FURTHER RESOLVED that the Mayor shall send or cause to be sent to the Department of Legislative Services of the State of Maryland in accordance with the provisions of Sections 4-109 and 4-308 of the Local Government Article of the Annotated Code of Maryland the following documents or information concerning the Charter amendments: (1) the complete text of the Charter amendments; (2) the date of any referendum held with respect thereto; (3) the number of votes cast for or against this Charter Amendment Resolution by the Council or in a referendum; and (4) the effective date of the Charter amendments.

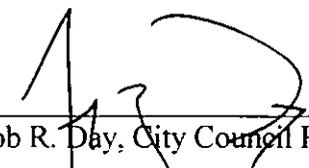
SECTION 4. BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed to carry out or cause to be carried out the provisions of Sections 2 and 3 hereof; and as evidence of compliance herewith, the Mayor shall cause to be maintained in the records of the City an appropriate certificate of publication in the newspaper in which the fair summary of the Charter amendments shall have been published or other evidence of publication; provided that, the failure to so maintain the same shall not invalidate the effectiveness of the Charter amendments provided for in this Charter Amendment Resolution.

THIS CHARTER AMENDMENT RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 23 day of February, 2015, a public hearing on this Charter Amendment Resolution was conducted in accordance with Charter Section SC21-2 at a meeting of the Council of the City of Salisbury held on the 23 day of February, 2015, and this Charter Amendment Resolution was duly adopted at a meeting of the Council of the City of Salisbury held on the 23 day of February, 2015 .

ATTEST:



Kimberly R. Nichols, City Clerk



Jacob R. Day, City Council President

Effective date: April 14, 2015 (50th day after Charter Amendment Resolution is adopted)

Key:

Italicized text indicates matter added to the existing Charter.
((Double parentheses)) indicates matter deleted from the existing Charter.

#170778:58111.001

Underlining : Indicates material added to this Charter Amendment Resolution by amendment after introduction
~~Strike-through~~ : Indicates material deleted from this Charter Amendment Resolution by amendment after introduction

Publish:

2/27/15

3/06/15

3/13/15

3/20/15

City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801

Tel: 410-334-3028

Fax: 410-548-3192

KEITH A. CORDREY
DIRECTOR OF INTERNAL SERVICES

JAMES IRETON, JR.
MAYOR

TOM STEVENSON
CITY ADMINISTRATOR

To: Tom Stevenson, City Administrator
From: Keith Cordrey, Director of Internal Services *KAC*
Date: February 9, 2015
Re: Debt Limit

In recent months we have discussed the need to review the existing debt limit that is set forth in the City's Charter. Our review found that there are other local governments with debt limits based on formulas that include only governmental funds. The City has historically budgeted for and imposed fees and charges sufficient to support debt service on projects allocated to enterprise funds from such enterprise funds. The needs of enterprise funds differ from those of governmental funds and vary according to capital outlay requirements and fee based activities. Since enterprise funds are more like a business, their fees and debt are more significantly influenced by market conditions. Having a single debt limit formula that attempts to account for the needs of a variety of fund types and does not take into account the City's historic practice of allocating certain bond-funded projects to enterprise funds makes the formulation awkward and difficult to achieve intended results.

Accordingly, at our request, the City's bond counsel has prepared the attached Charter Amendment Resolution that changes the debt limit provided for in the Charter to exclude general obligation debt allocated to enterprise funds and to make other clarifying changes. A summary of the major revisions to the debt limit follows:

- Enterprise Funds are excluded from the debt limit formula
In applying the debt limit provided for in this Section, there shall be excluded from such calculation the principal amount of any outstanding general obligation debt that in the City's records is allocated to be paid from any enterprise fund.
- Clarifications are provided so that tax increment financing or special taxing district obligations are counted among the bonded indebtedness used to calculate the debt limit only if backed by a pledge of the City's full faith and credit and unlimited taxing power (to date the City has not provided any such back-up pledge), except to the extent a portion of such obligations may be allocated to an enterprise fund because of a pledge

of other applicable revenues. (For example, if the City was to issue TIF or STD bonds to finance a public parking garage and the sources of payment for such bonds included not only incremental tax revenues or special tax revenues (as applicable) but also net operating revenues from the public parking garage as well as the City's general obligation pledge, the City would exclude the portion of debt service allocable to the parking enterprise fund.) The reference to special taxing district obligations is added in order to make clear that such obligations are excluded unless backed by the City's general obligation pledge because the prior debt limit reference to general tax revenues was deleted.

- Clarification that grants, compensated absences, and capital leases (which are typically referenced in the notes to the City's audited financial statements that address outstanding debt) are not counted in the bonded indebtedness use to calculate the debt limit.
- The portion of the total bonded debt for enterprise funds as of 6/30/2014 was approximately \$53.6M or 55 % of the total debt currently available [do you mean available or outstanding?]. The percentage applied to assessments used to compute maximum allowable debt has been reduced by 50% in consideration of the exclusion of debt allocable to enterprise funds. The rate applied to real property in order to calculate the maximum allowable is reduced from 4% to 2% and the rate applied to personal, corp, and utility property is reduced from 10% to 5%.

((The)) total ((bonded)) principal amount of indebtedness of the City of Salisbury represented by its general obligation bonds, notes or other evidences of indebtedness issued in accordance with this Charter or other applicable Maryland law ("general obligation debt") ((payable from its general tax revenues)) outstanding at the time any such ((bonds are)) general obligation debt is issued shall not exceed an amount which is equal to ((four (4))) (i) two (2) percent of the assessed valuation of all real property subject to taxation by the City of Salisbury plus ((ten (10))) (ii) five (5) percent of the assessed valuation of all personal, corporate and utility personal property subject to taxation by the City of Salisbury.

An example is provided, as a schedule to this memo, which compares formulas in the debt limit calculations as of when the FY 15 bonds were issued a few months ago to the formula as proposed by this amendment.

The amendments to the debt limit are necessary to pursue finalizing the MDE loans planned to fund the Wastewater Treatment Plant upgrades scheduled later this year.

Please forward this Charter Amendment Resolution to Council for consideration.

Schedule 1: Debt limit calculated for FY 15 Bonds compared to Proposed

	FY 15 GOB Bonds	Proposed
Assessable valuation of real property subject to City of Salisbury taxation as of July 1, 2014	1,748,436,713	1,748,436,713
4.0% of such basis	69,937,469	
2.0% of such basis		34,968,734
Assessable valuation of personal, corp and utility personal property subject to City of Salisbury taxation as of July 1,	271,134,930	271,134,930
10.0% of such basis	27,113,493	
5.0% of such basis		13,556,747
Maximum allowable debt outstanding	97,050,962	48,525,481
Outstanding obligations subject to Charter Limitations at June 30, 2014	70,057,642	
These issues net of bond refunded (A 4,009,000 + B Refunding 2,754,365 less obligations refunded 2,690,000)	4,073,365	
Total outstanding obligations subject to debt limit	74,131,007	20,531,007
Margin of Debt limit over debt outstanding (Max Allowable less Total outstanding obligations subject to debt limit)	22,919,955	27,994,474
Reserve for Emergency per Debt Policy (10% of Max Allowable)	9,705,096	4,852,548
Available	13,214,858	23,141,926