

Primer  
on the  
Municipal Appropriations Process

Town of Forest Heights  
Prince George's County  
Maryland

prepared as a public service  
by  
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## Introduction

School children learn that the American legal system traces its origins to the Magna Carter or “great charter” of English liberties, forced from King John by the English barons and sealed at Runnymede, June 15, 1215. This was the beginning of the evolution of the English system of law which formed the basis of the American system of government. This document traces the history of the appropriations process, and then describes the appropriations Town of Forest Height’s appropriations process as defined by the Town Charter.

## History

**Parliament** In the ensuing centuries after the signing of the Magna Carter, the English Parliament as the legislative body of Great Britain, evolved into the assembly of the three estates, now composed of Lords Spiritual and Lords Temporal, forming together the House of Lords, and representatives of the counties, cities, boroughs, and universities, forming the House of Commons. In the fourteenth century, the House of Commons increased their authority over taxation by limiting the King’s opportunity to seek finance from sources other than those approved in Parliament.<sup>1</sup>

For a period at the end of the fourteenth and the beginning of the fifteenth century the House of Commons grew quickly in political significance and power. The Parliament frequently attached conditions to the grants that they made, sometimes appropriating them to particular items of expenditure. Occasionally, particularly in the 1380s, kings allowed them to see royal accounts.

William III and his wife Mary II received the Crown at the hands of the Convention Parliament in 1689, accepting the Declaration of Rights which disavowed the king’s power of suspending statute, confirmed that Parliament was the only body which might grant taxation. It was only because William III was involved in long expensive wars that the House of Commons secured an unassailable position within the constitution. In the 1690s public expenditure increased by between two and three times. The consequent financial arrangements revolutionized the relationship of King and the House of Commons.

All taxation, including indirect taxation, came under parliamentary control: an amount for the household and administrative expenses of the Crown was fixed by Parliament and granted for the life of the monarch. The creation of a Bank of England guaranteed by statute in 1694 meant that Parliament became the guarantor of the ‘National Debt’. The appropriation of taxes became routine. Financial procedure became more formal and elaborate: a standing order of 1713 determined that only the government might propose money bills; the practice of an annual report by the Chancellor of the Exchequer on government finance – the Budget – appears to have begun in the 1750s.

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<sup>1</sup>Dod’s History of Parliament

## U.S. Constitution

Article 1, Section 8 of the Constitution provides that “The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States...” This is followed in Section 9 with the requirement that “No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.”

The U.S. Constitution therefore follows the British tradition of giving the sole power of raising money to the legislative body, Congress, and that before any of the money can be spent by the executive branch, Congress must first pass an appropriations law.

## Maryland Constitution

Article 14 of the Declaration of Rights in the Maryland Constitution states: “That no aid, charge, tax, burthen or fees ought to be rated or levied, under any pretense, without the consent of the Legislature.” Section 32 of Article III states: “No money shall be drawn from the Treasury of the State, by any order or resolution, nor except in accordance with an appropriation by Law; and every such Law shall distinctly specify the sum appropriated, and the object, to which it shall be applied; provided, that nothing herein contained, shall prevent the General Assembly from placing a contingent fund at the disposal of the Executive, who shall report to the General Assembly, at each Session, the amount expended, and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money, shall be attached to, and published with the Laws, after each regular Session of the General Assembly.”

Again, these provision in the Maryland Constitution follow the tradition of the English Parliament and the U.S. Constitution by giving the General Assembly, Maryland’s legislature, the sole power of taxation and the requirement for the General Assembly to appropriate money before it can be spent.

## Forest Heights Town Charter

**General Provisions:** The principal rules governing the appropriations process for the Town of Forest Heights are found in the chapter on Finance, Sections 33-40 through 33-63<sup>2</sup>, although there are provisions affecting the appropriations process in other sections of the Town Charter as well.

Section 33–46, titled Appropriations, echos the requirements of the U.S. and Maryland Constitutions by declaring that:

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<sup>2</sup> All references to Section numbers in this document refer to Sections of the Charter for the Town of Forest Heights, MD.

“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.”

This section follows Sections 33–44 and 33–45 on budget preparation and adoption which state:

The Mayor, on such date as the Council shall determine, but at least thirty-two days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Treasurer, open to public inspection by anyone during normal business hours.

Before adopting the budget the Council shall hold a public hearing thereon after two weeks notice thereof in some newspaper or newspapers having general circulation within the municipality. 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 a resolution. A favorable vote of at least four members of the Council shall be necessary for adoption.

Note that although the Mayor is obliged to submit a budget to the Council on a date selected by the Council, the budget may be revised by the Council and does not become effective until at least four Council members vote in favor of it. Under the definitions section of the charter, 33–90, a resolution is defined as an act of the Mayor and Council of temporary nature. Ordinances are enacted only for permanent legislative items. Resolutions are enacted for *important*, but non-permanent items such as budgets, tax rates, bond issues, compensation of employees, special assessments, and executive and administrative matters. Section 33-9 requires at least four votes for passage of a resolution. Furthermore, Section 33–10 requires the Council to “keep a journal of its proceedings and enter therein the yeas, nays, and abstentions upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection.”

Note also, that the Town Charter requires that any appropriations must be equal to or less than expected revenues during the fiscal year. This is important in the middle of the fiscal year if an adjustment to the Town’s budget (appropriations) becomes necessary. The simplest adjustment is to move money between accounts. This is covered by Section 33–47 which provides that “Any transfer of funds between major appropriations for different purposes by the Mayor must be approved by the Council before becoming effective.”

There may be circumstances, however, that simply transferring funds between accounts is not sufficient. For example, suppose a large expenditure is needed to make unforeseen major repairs to the municipal building. In this case the Council can pass a resolution in mid-fiscal year to finance the repairs. In effect, this is a supplemental appropriation. In so doing, the Council is obligated to follow the requirements of the Charter that total appropriations cannot exceed revenues, and it must hold a public hearing on the matter as required by Sections 33–44 and 33–45. Additional revenues, such as a grant from the State or insurance proceeds, may be cited as the additional revenues need to maintain the balanced budget.

**Specific Responsibilities:** The Town Charter designates certain Town officials with various responsibilities for carrying out the Town appropriations process:

Under Section 33–1 the Mayor has complete supervision over the financial administration of the Town government and prepares (or has prepared) an annual budget for submission to the Council. The Mayor supervises the administration of the budget as adopted by the Council, the disbursement of all monies, and has control over all expenditures to assure that budget appropriations are not exceeded.

Under Section 33–20, the Council has the power to ... appropriate municipal monies for any purpose within the powers of the Council.

Under Section 33–48, no officer or employees shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void.

A special provision of this section makes it possible for the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, or the making of contracts for leases or services exceeding the budget year. However, the funds to cover the multi-year contracts must still be appropriated in subsequent years. This provision is needed because in Section 33–49, all appropriations lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. The unexpended funds are then included among the anticipated revenues for the next succeeding budget year and are again available for appropriation.

Under Section 33–40, the Town’s Treasurer, under the Mayor’s supervision, prepares an annual budget to be submitted by the Mayor to the Council, and supervises and is responsible for the disbursement of all moneys as directed by the Mayor and Council. The Treasurer also establishes controls over all expenditures to assure that budget appropriations are not exceeded.

The relationship between the Mayor and the Treasurer is critical. While the mayor supervises the Town Treasurer, the mayor is forbidden under the conflict of interest Section 33–71, to perform the duties of the Treasurer:

- (a) Restriction. No person shall hold more than one Town office or position at any one time (excepting the Treasurer may be appointed as Town Clerk) nor shall any person holding any Town office or position have outside business interests in commercial or other enterprises doing business with the Town. For the purposes of this Section, Town office or position shall mean all elective, or appointive positions in the Town with no distinction made between paid or unpaid offices or positions.
- (b) Penalty provisions. Any person who by himself or with others wilfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (100.00), or by imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment.

Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the Town service, and shall, if he be an officer or employee of the Town, immediately forfeit the office or position he holds.

The reason for the conflict of interest prohibition is clear. Section 33–50 states that “all checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Treasurer and shall be *countersigned* by the Mayor” [emphasis added] . This process assures that at least two people are involved in the Town’s financial transactions and the supervising person can only countersign the checks, not originate them.

Under Section 33–41 the Treasurer has custody of all public moneys, belonging to or under the control of the Town, except as to funds in the control of any set of trustees, and has custody of all bonds and notes of the Town. Section 33–71 forbids the Mayor from taking custody of the Town’s funds. The Mayor is responsible under Section 33–1 that “appropriations are not exceeded”, and under Section 33–40 the Treasurer is responsible for establishing “controls over all expenditures to assure that budget appropriations are not exceeded”.

Also under Section 33-41, the Treasurer is required to submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the Mayor. Note, that while the reports are prepared under the direction of the Mayor, the Mayor is required to respond to the Council’s request for financial reports at times specified by the Council.

**Other Financial Controls:** If funds are received by a Town official in his or her official capacity, under Section 33–56, the funds belong to the Town. If an official receives such money, it must be given to the Treasurer for deposit in the Town’s bank account. Furthermore, if the money is a grant for a specific purpose, the money must still be appropriated by the Council before it is made available for any outlay.

Under Section 33–57, the financial books and accounts of the Town shall be audited annually by a certified public accountant selected by the Mayor and Council.

Finally, under Section 33–63, all contracts written must be approved by the Mayor and Town Council before they are valid. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all Town purchases and contracts.

**Sample Budget:** Figure 1 illustrates the budget passed by the Town of Forest Heights for Fiscal Year 2002. While the budget was derived by adding up more detailed components, the level of control on expenditures exercised by the Council is typically limited to the categories listed under the EXPENDITURES column.

Figure 1.  
**Town of Forest Heights  
Proposed Budget for Fiscal Year 2002**

Projected	Percent	Budget	Percent	Change FY01/FY02
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REVENUES	FY 2001	of Total	FY 2002	of Total	decrease (-)
Motor Vehicle Taxes - SHA	\$111,680	20.0	\$115,531	14.8	\$3,851
State Police Grant	24,759	4.4	25,575	3.3	816
Local Income Taxes	110,000	19.7	115,800	14.8	5,800
Business Taxes	800	0.1	4,500	0.6	3,700
Utility Taxes	9,900	1.8	9,900	1.3	0
Town Real Estate Taxes	235,000	42.2	263,000	33.7	28,000
Investment Interest Income	12,800	2.3	12,800	1.6	0
Interest/Penalty Income Taxes	500	0.1	500	0.1	0
Interest/Penalty Real Estate Taxes	500	0.1	500	0.1	0
Municipal Building Rental	6,000	1.1	8,000	1.0	2,000
Cable Television Fee	18,000	3.2	20,000	2.6	2,000
County Disposal Fee	7,996	1.4	7,996	1.0	0
Accident Reports	200	*	100	*	(100)
Parking Fines/ Vehicle Release	400	0.1	350	*	(50)
Metals Pick Up			700	0.1	700
Tires Pick Up			100	*	100
Snow Removal Refund	450	0.1	450	0.1	0
Miscellaneous	350	0.1	100	*	(250)
Red Light Camera Fines			10,000	1.3	10,000
From Reserves	18,000	3.2	34,552	4.4	16,552
CDBG (HUD) Grant			150,000	19.2	150,000
<b>Total Revenues</b>	<b>\$557,335</b>	<b>100.0 %</b>	<b>\$780,454</b>	<b>100.0 %</b>	<b>\$223,119</b>
<b>EXPENDITURES</b>					
General Administration	\$75,950	13.6	\$98,302	12.6	\$22,352
Municipal Building Operation	14,000	2.5	14,000	1.8	0
Police Department	187,850	33.7	208,277	26.7	20,427
Street Lighting	25,000	4.5	25,000	3.2	0
Health and Sanitation	123,000	22.1	127,000	16.3	4,000
Parks and Recreation	1,500	0.3	2,875	0.4	1,375
Public Works	130,035	23.3	130,000	16.7	(35)
Capital Improvements			175,000	22.4	175,000
<b>Total Expenditures</b>	<b>\$557,335</b>	<b>100.0 %</b>	<b>\$780,454</b>	<b>100.0 %</b>	<b>\$223,119</b>

Notes:

Fiscal Year (FY) 2002 begins July 1, 2001 and ends June 30, 2002.

\* Less than 0.05 %

Note, that while appropriation are defined by the categories under the expenditure heading , in developing the budget, the Treasurer will break out expenditure items in greater detail in order to arrive at a more accurate estimate for the coming year. For example, under the Police Department category, the Treasurer will include items such as salaries, payroll taxes, supplies, uniform cleaning, gas and oil, etc. These details are not controlled individually by the appropriations, unless the Council includes one or more of the details in their appropriations resolution. For example, if the Council wants to limit the number of police vehicles being purchased in the upcoming year, the resolution should include a statement to that effect. Likewise, the Council could specify a minimum number of vehicle to be purchased.

Mere discussion of an item during a Council session would not affect the appropriation unless a motion is made and approved with four votes to include the restriction in the budget resolution.

The Council must include any such details in its public notice of the budget as required by Section 33–45 and invite comments at a public hearing prior to any final vote on the budget. The public also has rights to obtain copies of the budget and other documents related to it under the Maryland Public Information Act, Article §§ 10-611 to 628.

**Summary:** The following are highlights of the preceding discussion:

**MAYOR**

- Proposes budget at least 32 days before the beginning of the fiscal year or at a date specified by the Town Council.
- Supervises the execution of the budget.

**TOWN COUNCIL**

- Holds a public hearing on the proposed budget after two weeks notice.
- Approves a budget appropriating funds for expenditure.
- Amends budget as needed.
- Requires and reviews periodic financial reports.

**TREASURER**

- Prepares budget under the guidance of the Mayor.
- Sets control on expenditures to assure appropriations are not exceeded.
- Makes copies of the budget available for public inspection.

**MAYOR AND TOWN COUNCIL**

- Approve all Town contracts.