

CHARTER

OF THE

City of Hagerstown

WASHINGTON COUNTY, MARYLAND

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effective on April 6, 1983*

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HAGERSTOWN

ARTICLE I Incorporation

Section 101. Corporate Name.

This charter is the municipal corporation charter of Hagerstown, Washington County, Maryland, the corporate name of which is the “City of Hagerstown.”

Section 102. Definitions.

a. The terms “city”, “municipality”, or “municipal corporation” in this charter shall be construed as synonymous.

b. Whenever the male gender is used, the provisions of that section shall apply equally to the female gender.

Section 103. Municipal Status.

The municipal corporation here continued, under its corporate name, has all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the charter and the corporate existence are legally abrogated.

Section 104. Description of Corporate Boundaries.

A current description of the corporate boundaries of the City, as from time to time amended, shall be on file with the City Clerk at all times, and shall be promptly recorded with the Clerk of the Circuit Court for Washington County. (Res. 11-11-83; Res. 6-1-84; Res. 6-27-84; Res. 7-26-85; Res. 3-17-00; Res. R-09-02, 03-18-09.)

ARTICLE II The Council

Section 201. City Council.

All legislative powers of the City are vested in a Council consisting of five Councilmembers who shall be elected as provided herein and who shall hold office for a term of four years, except for those elected in 2009, and until the succeeding Council takes office. The newly elected Councilmembers shall take office on the third Monday following the date of the general election. The Councilmembers holding office at the time this charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding

(revised 11/12)

Council takes office under the provisions of this charter. (Res. R-09-03, 03-18-09; Res. R-09-26, 12-15-09; Res. R-11-30, 8-10-11.)

Section 202. Qualifications of Councilmembers.

As of the date of: (i) the general election at which the council is elected; or (ii) the date of selection of any councilmember pursuant to Section 506 of this Charter, each councilmember shall: (a) be at least twenty-one years of age; (b) have resided within the corporate limits of the City for at least one year immediately preceding the date of said general election; and (c) be a qualified voter of the City. If any councilmember shall fail to continue to reside within the corporate limits of the City during the entire term for which elected or selected, the office of such councilmember shall be declared vacant. (Res. R-09-04, 03-18-09; Res. R-11-30, 8-10-11.)

Section 203. Salary of Councilmembers.

Each Councilmember shall receive an annual salary which shall be equal for all Councilmembers and shall be as specified from time to time by an ordinance passed by the council in the regular course of its business; provided, however, that the salary specified at the time any Council takes office shall not be changed during the period for which that Council was elected. The ordinance making any change in the salary paid to the several Councilmembers, either by way of increase or decrease, shall be finally ordained prior to the general election for the members of the next succeeding Council and shall take effect only as to the members of the next succeeding Council. (Res. R-11-30, 8-10-11.)

Section 204. Meetings of Council.

The newly elected Council shall meet on the third Tuesday following the date of the general election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called upon the request of the Mayor or a majority of the members of the Council. All meetings, regular and special, of the Council shall be public meetings and open to the public at all times in accordance with the Annotated Code of Maryland. The Council shall have the privilege of holding executive sessions from which the public is excluded in accordance with the applicable provisions of the Annotated Code of Maryland, however, no ordinance, resolution, rule or regulation shall be finally adopted at such an executive session. (Res. R-09-03, 03-18-09; Res. R-11-30, 8-10-11.)

Section 205. Quorum; Voting.

A majority of the members of the Council shall constitute a quorum for the transaction of business. Subject to § 304.d, any action taken other than filling of a Council vacancy, requires three favorable votes. (Res. R-09-05, 03-18-09; Res. R-11-30, 8-10-11.)

Section 206. Rules and Order of Business; Journal.

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution or ordinance. (Res. R-11-30, 8-10-11).

Section 207. Passage of Ordinances; Publication; Effective Date.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. No ordinance shall be approved without at least three favorable votes of the Council. In cases of emergency the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of four members of the council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of thirty calendar days following approval. A fair summary of each ordinance shall be published at least twice in a newspaper or newspapers having general circulation in the municipality. An emergency ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the Mayor or passed over his veto by the Council. (Res. 11-16-83; Res. 1989-2, 3-1-89; Res. R-09-05, 03-18-09; Res. R-11-30, 8-10-11.)

Section 208. Veto.

All ordinances passed by the Council shall be considered as having been delivered by the Administrator to the Mayor for his approval or disapproval at the meeting when same is initially passed. If the Mayor approves any ordinance, he shall sign it. If the Mayor disapproves any ordinance, he shall not sign it. The Mayor shall return all ordinances to the Council within ten days after delivery to him (excluding the first day, including the last day, and excluding any Sunday) with his approval or disapproval. Any ordinance approved by the Mayor shall be law. Any ordinance disapproved by the Mayor shall be returned with a message stating the reasons for his disapproval. Any disapproved ordinance shall not become a law unless subsequently passed by a favorable vote of four-fifths of the whole Council within thirty-five calendar days from the time of the return of the ordinance. If the Mayor fails to return any ordinance within ten days of its delivery, it shall be deemed to be approved by the Mayor and shall become law in the same manner as an ordinance signed by him. (Res. 11-16-83; Res. R-11-30, 8-10-11.)

Section 209. Referendum.

If, before the expiration of thirty calendar days following approval of any ordinance by the Mayor or passage of any ordinance over the Mayor's veto, a petition is filed with the City Administrator containing the signatures of not less than twenty per centum (20%) of the qualified voters of the city and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the city for their approval or disapproval, the Council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the city at the next General election for which the deadline imposed by the State Board

of Elections for the submission of local ballot questions has not passed or, in the Council's discretion, at a special election occurring before the next general election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the general election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at the next general or special election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed. The provisions of this section shall not apply to any ordinance, or part thereof, passed under the authority of Section 719, levying property taxes for the payment of indebtedness, but the provisions of this section shall apply to any ordinance or any part thereof, levying special assessment charges under the provisions of Sections 901, and 902. The provisions of this section shall be self-executing, but the Council may adopt ordinances in furtherance of these provisions and not in conflict with them. (Res. 11-16-83; Res. R-11-30, 8-10-11.)

Section 210. File of Ordinances.

Ordinances shall be permanently filed as directed by the City Administrator and shall be kept available for public inspection. (Res. R-11-30, 8-10-11.)

ARTICLE III The Mayor

Section 301. Selection and Term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of four years, except for those elected in 2009, and until a successor is elected and qualified. The newly elected Mayor shall take office on the third Monday following the date of the general election. The Mayor holding office at the time this charter becomes effective shall continue to hold office for the term for which elected and until a successor takes office under the provisions of this charter. (Res. R-09-03; Res. R-09-26, 12-15-09; Res. R-11-30, 8-10-11.)

Section 302. Qualifications.

As of the date of: (i) the general election at which the mayor is elected; or (ii) the date of the selection of the mayor pursuant to Section 506 of this Charter, the Mayor shall: (a) be at least twenty-five years of age; (b) have resided within the corporate limits of the city for at least one year immediately preceding the date of said general election; and (c) be a qualified voter of the city. If the Mayor shall fail to continue to reside within the corporate limits of the city during the entire term for which elected or selected, the office of Mayor shall be declared vacant. (Res. 11-16-83; Res. R-09-04, 03-18-09; Res. R-09-09, 03-18-09; Res. R-11-30, 8-10-11.)

Section 303. Salary.

The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. No change shall be made in the salary for any Mayor during the term for which elected. The ordinance making any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally ordained prior to the general election to elect the next succeeding Mayor and shall take effect only as to the next succeeding Mayor. (Res. R-11-30, 8-10-11.)

Section 304. Powers and Duties.

a. *Generally* – The Mayor shall be the chief elected executive officer of the City and shall see that the Ordinances of the City and provisions of this Charter are faithfully executed. In addition, as the presiding officer of the Legislative Branch, he shall see that the policies and resolutions of the City Council are faithfully executed and no policy or resolution shall be changed or modified without prior City Council approval.

b. *Reports and recommendations to Council* – The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as he deems proper for the public good and welfare of the city.

c. *Veto* – The Mayor shall have the power to veto ordinances passed by the Council as provided in Section 208.

d. *Tie Vote* – Except in the passage of ordinances and in the filling of Council vacancies, in the case of a 2 to 2 tie vote of the Council the Mayor shall have the deciding vote to approve an action.

e. *Other Powers and Duties* – The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him by the Council, not inconsistent with this Charter. (Res. 11-16-83; Res. R-09-05, 03-18-09; Res. R-11-30, 8-10-11.)

ARTICLE IV
Powers of the City

Section 401. Powers of Council Enumerated.

a. *General powers.* – The Council shall have the general power to pass such ordinances not contrary to the public general or public local laws and the Constitution of Maryland as they may deem necessary in order to assure the good government of the city, to protect and preserve the city’s rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the city.

b. *Specific powers.* – In addition to, but not in substitution of, the powers which have been, or may hereafter be, granted to it, the Council shall also have the following express ordinance-making powers:

1. *Advertising.* – To provide for advertising for the purposes of the city for printing and publishing statements as to the business of the city.

2. *Aisles and doors.* – To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

3. *Amusements.* – To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

4. *Appropriations.* – To appropriate municipal moneys for any purpose within the powers of the council.

5. *Auctioneers.* – To regulate the sale of all kinds of property at auction within the city and to license auctioneers.

6. *Band.* – To establish a municipal band, symphony orchestra or other musical organization, and to regulate by ordinance the conduct and policies thereof.

7. *Billboards.* – To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the city, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the city.

8. *Bridges.* – To erect and maintain bridges.

9. *Buildings.* – To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the city, and to grant building permits for them; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation

thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

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

11. *Codification of ordinances.* – To provide for the codification of all ordinances.

12. *Community services.* – To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the city.

13. *Cooperative activities.* – To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

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

15. *Dangerous improvements.* – To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

16. *Departments.* – To create, change, and abolish offices, departments, or agencies, other than the offices, departments, boards and agencies established by this charter; to assign additional functions or duties to offices, boards, departments, or agencies established by this charter, but not including the power to discontinue or assign to any other office, department, or agency any function or duty assigned by this charter to a particular office, department or agency.

17. *Dogs.* – To regulate the keeping of dogs in the city and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of them; to provide for the disposition of homeless dogs and of dogs on which no license fee or taxes are paid.

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

19. *Explosives and combustibles.* – To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

20. *Filth.* – To compel the occupant of any premises, building, or outhouse situated in the city, if it has become filthy or unwholesome, to abate or cleanse the condition; and

after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against the property, making it collectible by taxes or against the occupant or occupants.

21. *Finances.* – To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the city.

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

23. *Food.* – To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

24. *Franchises.* – To grant and regulate franchises as provided under existing public general or local laws, including but not limited to water companies, electric companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and to grant one or more exclusive or nonexclusive franchises for a community antenna system, or other cable television system that utilizes any public right-of-way, highway, street, road, lane, alley, or bridge, to impose franchise fees, and to establish rates, rules and regulations for franchises granted under this section, and any others which may be deemed advantageous and beneficial to the city, subject to the limitations and provisions as set forth in the general or public local laws of the State of Maryland. No franchise shall be granted for a longer period than fifty (50) years.

25. *Garbage.* – To prevent the deposit of any unwholesome substance either on private or public property and to compel its removal to designated points; to require slops, garbage, ashes, and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

26. *Grants-in-aid.* – To accept gifts and grants of federal or of State funds from the federal or State governments or any agency thereof, and to expend the funds for any lawful purpose, agreeably to the conditions under which the gifts or grants were made.

27. *Hawkers.* – To license, tax, regulate, suppress, and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers, and all other persons selling any articles on the streets of the city, and to revoke such licenses for any action or threat of action by such a licensee in the course of his occupation which causes or threatens harm or injury to inhabitants of the city or to their welfare of [or] happiness.

28. *Health.* – To protect and preserve the health of the city and its inhabitants; to prevent the introduction of contagious diseases into the city; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; but nothing herein shall be construed to affect in any manner any of the powers and duties of the Secretary of Health and Mental Hygiene, the county board of health, or any public general or local law relating to the subject of health.

29. *House numbers.* – To regulate the numbering of houses and lots and to compel owners to renumber them, or in default thereof to authorize and require the work to be done by the city at the owner’s expense, such expense to constitute a lien upon the property collectible as tax moneys.

30. *Jail.* – To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the city or to use the county jail for such purpose.

31. *Licenses.* – Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the city for the sale of any goods, wares, merchandise, or services, to license and regulate any business occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this charter, and to exercise any other licensing authority granted under the public general laws of Maryland.

32. *Liens.* – To provide that any valid charges, taxes, or assessments made against any real property within the city shall be liens upon the property, to be collected as municipal taxes are collected.

33. *Lights.* – To provide for the lighting of the city.

34. *Light and power plant.* – To own, operate, modify and maintain an electric light and power plant, and to distribute for a charge, the electricity produced by the plant.

No real or personal property used in the operation of the light and power plant, except machinery or equipment intended for immediate replacement, may be sold, leased, or otherwise disposed of without first advertising the proposed disposition four times at weekly intervals in a newspaper of general circulation in the city and submitting same to a city referendum.

35. *Livestock.* – To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs, or other animals; to authorize the impounding, keeping, sale, and redemption of such animals when found in violation of the ordinance in such cases provided.

36. *Markets.* – To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the city.

37. *Minor privileges.* – To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares, and merchandise.

38. *Noise.* – To regulate or prohibit unreasonable ringing of bells, crying of goods, or sounding of whistles and horns.

39. *Nuisances.* – To prevent or abate by appropriate ordinance all nuisances in the city which are so defined at common law, by this charter, or by the laws of the State of Maryland, whether they be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the city of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the city may regulate, prohibit, control the location of, or require the removal from the city of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

40. *Obstructions.* – To remove all nuisances and obstructions from the streets, lanes, and alleys and from any lots adjoining thereto, or any other places within the limits of the city.

41. *Parking facilities.* – To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off-street parking.

42. *Parking meters.* – To install parking meters on the streets and public places of the city in such places as by ordinance they determine, and by ordinance to prescribe rates and provisions for the use thereof; but the installation of parking meters on any street or road maintained by the State Highway Administration must first be approved by the Administration.

43. *Parks and recreation.* – To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the city.

44. *Police force.* – To establish, operate, and maintain a police force. All city policemen, within the municipality shall have the powers and authority of constables in this State.

45. *Police powers.* – To prohibit, suppress, and punish within the city all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness.

46. *Property.* – To acquire by conveyance, purchase, or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the

city and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty (20) days' public notice of the proposed conveyance; to control, protect, and maintain public buildings, grounds, and property of the city.

47. *Quarantine.* – To establish quarantine regulations in the interest of the public health.

48. *Regulations.* – To adopt by ordinance and enforce within the corporate limits, police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this charter.

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

50. *Sweepings.* – To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or on any public or private property in the city.

51. *Taxicabs.* – To license, tax, and regulate public hackmen, taxicabmen, draymen, drivers, cabmen, porters and expressmen, and other persons pursuing like occupations.

52. *Vehicles.* – To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

53. *Special Elections.* – To expend such funds as are required to reimburse the County Board of Elections for all expenses incurred in connection with the conduct of any special elections pursuant to Section 209.

54. *Voting machines.* – To purchase, lease, borrow, install, and maintain voting machines for use in city elections.

55. *Zoning.* – To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject to the limitations and provisions of said article.

56. *Streets.* – To construct, modify, regulate and maintain the streets, sidewalks, alleys, bridges and other public ways of the city. The city may open or close public ways, acquire the property necessary to their construction or safety, and abandon in accordance with state laws any public way when it is no longer necessary to the needs of the city.

57. *Water.* – To direct the water courses within the city and to construct, operate and maintain water, storm water and sewer systems.

58. *Redevelopment projects.* – As authorized by Chapter 830 of the Acts of the General Assembly of 1961, to establish and carry out a program for the redevelopment,

rehabilitation, conservation, clearance, or renewal of slum areas and blighted areas and to exercise any and all of the powers and authority necessary, reasonable, or proper for the furtherance of the objectives of that program, including, but not limited to, the adoption, administration, and enforcement of rehabilitation projects, plans, and related activities, the establishment and enforcement of regulations for the voluntary or compulsory repair and rehabilitation of buildings and structures, the acquisition, use, and disposition of property, the use of eminent domain, the imposition of taxes, the expenditure of public funds, and the extension of public credit. (See Note (1))

59. *Saving clause.* – The enumeration of powers in this section is not to be construed as limiting the powers of the city to the several subjects mentioned herein but as set forth above is in addition to any other powers that the city may have under and by virtue of the public general laws of Maryland. (Res. 1990–1, 9–26–90; Res. R–09–09, 03–18–09; Res. R–11–30, 8–10–11.)

Section 402. Exercise of Powers.

For the purpose of carrying out the powers granted in this charter, the council may pass all necessary ordinances. All the powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance or in accordance with the manner that may be prescribed under the public general laws of Maryland, if applicable.

Section 403. Enforcement of Ordinances.

To assure the observance of the ordinances of the city, the council has the power to provide that violation thereof shall be a misdemeanor and has the power to affix thereto penalties of a fine not exceeding one thousand dollars (\$1,000), or imprisonment for a period not to exceed six months, or both such fine and imprisonment. Any person subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this charter has the right of appeal to the circuit court of the county in which the fine, forfeiture, or penalty was imposed, in accordance with the applicable rules of practice and procedure in the court wherein the fine, forfeiture, or penalty was imposed. The council may provide that, if the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Res. 1993–16, 6–30–93.)

ARTICLE V

Elections

Section 501. Conduct of Elections.

Except as expressly provided herein to the contrary, elections for office under the Charter shall be conducted pursuant to the Maryland Election Article of the Annotated Code of

Maryland, as amended from time to time. Such elections shall be conducted by the Washington County Board of Elections. (Res. R-11-30, 8-10-11.)

Section 502. Qualifications of Voters.

Qualified voters of the city shall include every person who (1) is a citizen of the United States, (2) is at least eighteen years of age, or will be 18 years of age on or before the day of the next succeeding general or special election, (3) has resided within the corporate limits of the city for 21 days before the day of the next succeeding primary, general or special election, and (4) is registered in accordance with the Maryland Election Code. (Res. R-11-30, 8-10-11.)

Section 503. Non-Partisan Primary Election.

A primary election shall be held every four years in the City to coincide with the Maryland primary date for the presidential election and other federal offices beginning in 2012. Beginning in 2016, the ten persons with the highest number of votes for City Council in a non-partisan primary election shall become candidates for City Council in a non-partisan general election. The two persons with the highest number of votes for Mayor in a non-partisan primary election shall become candidates for Mayor in a non-partisan general election. (Res. R-09-26, 12-15-09; Res. R-11-30, 8-10-11; Res. R-12-47, 1-9-13.)

Section 504. General Election.

A general election shall be held every four years on the General Election day in November to coincide with the Presidential Election and other Federal offices beginning in 2012. The qualified voters of the City shall elect five persons as Councilmembers, and one person for Mayor, to serve for the term of four years or until their successor or successors are duly elected and qualified. (Res. R-09-26, 12-15-09; Res. R-11-30, 8-10-11.)

Section 505. Special Elections.

Any special election called by the Council pursuant to Section 209 shall be conducted by the Washington County Board of Elections pursuant to the provisions of the Maryland Election Article at the expense of the City. (Res. R-09-09, 03-18-09; Res. R-11-30, 8-10-11.)

Section 506. Vacancies.

In case of a vacancy on the Council or in the office of Mayor for any reason, the Council shall select a qualified person to fill the vacancy for the unexpired term, without regard to political party. The person selected shall meet the qualifications of § 202 for Councilmember or § 302 for Mayor. (Amended by Res. No. 1989-1, 3-1-89; Res. R-09-09, 03-18-09; Res. R-11-30, 8-10-11; Res. R-12-47, 1-9-13.)

ARTICLE VI City Administrator

Section 601. Appointment; Qualifications; Compensation.

The mayor and council shall appoint a city administrator who shall serve at its pleasure. The council shall set the compensation and determine the conditions of employment of the administrator. The administrator shall be appointed solely on the basis of executive and administrative qualifications and need not be a resident of the city or state at the time of entering employment but may temporarily reside outside the City while in office only with approval of the Council. (Res., 11-16-83.)

Section 602. Powers and Duties of the City Administrator.

The city administrator shall be the appointed chief administrative officer of the city, and shall be responsible to the mayor and council for the administration of the day to day management of city employees and city affairs as assigned under this charter or by direction of the council. The city administrator shall:

- a. Appoint and, when necessary, suspend or remove all city employees except as otherwise provided by law, this charter, union contracts, or personnel regulations adopted pursuant to this charter. Appointment, suspension and removal of the heads of city departments shall require prior approval of the council. The administrator may delegate his or her assigned duties to the various department heads.
- b. Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.
- c. Attend all council meetings and shall have the right to take part in discussion but may not vote.
- d. See that all laws, provisions of this charter and acts of the council are faithfully executed.
- e. Submit the annual budget and capital program to the council.
- f. Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.

g. Make sure other reports as the council may require concerning the operations of city departments, offices and agencies.

h. Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city.

i. Perform such other duties as are specified in this charter or may be required by the council. (Res., 11-16-83.)

Section 603. Council, Administrator and City Employees.

The mayor and council shall have the power, including the power of subpoena, to investigate all matters involving city employees and their official duties. The council may require through the city administrator any information or records considered important to any investigation and may require through the city administrator any employee, including the administrator, to appear before it.

Neither the mayor or any councilmember shall, as an individual, direct any city employee concerning his official duties. The mayor and Council shall direct city employees, Boards and Commissions, only when acting in their capacity as an official body. (Res., 11-16-83.)

ARTICLE VII
Finance

Section 701. Responsibilities.

The City Administrator in the performance of his financial duties shall have the authority and shall be required to:

a. Prepare and submit an annual budget and capital improvement program to the Council.

b. Supervise and be responsible for the disbursement of all revenue moneys and all expenditures to assure that budget appropriations are not exceeded.

c. Maintain a general accounting system for the City in such form as the Council may require, not contrary to State Law.

d. Ascertain that all taxable property within the City is assessed for taxation.

e. Collect all taxes, special assessments, license fees, liens, and all other revenues (including utility revenues) of the City, and all other revenues for whose collection the City is responsible, and receive any funds receivable by the City.

f. Have custody of all public moneys belonging to or under the control of the City, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the City.

g. Do such other things in relation to the fiscal or financial affairs of the City as the Council may require or as may be required elsewhere in this charter.

Section 702. Fiscal Year.

The City shall operate on an annual budget. The fiscal year of the City shall begin on the first day of July in any year and shall end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year, and the accounting year.

Section 703. Budget.

The city administrator, on such date as the council determines, but at least ninety 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 city administrator, open to public inspection by anyone during normal business hours.

Section 704. Same – Adoption.

Before adopting the budget the council shall hold a public hearing thereon after fifteen days' notice thereof in some newspaper or newspapers having general circulation within the city. The council may insert new items or may increase or decrease the items of the budget. If the council increases the total proposed expenditures it shall also increase the total anticipated revenues to an amount at least equal to the total proposed expenditures. Not later than June 1st of each year, the budget shall be prepared and adopted, and no further increases or decreases in appropriations shall be made except as provided herein. (Res., 11-16-83.)

Section 705. Appropriations.

No public money may be expended without having been appropriated by the council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

Section 706. Mid-Year Budget Amendments.

Amendments to the budget may be made by the city administrator during the fiscal year if the transfer of funds is in an amount less than that specified and is not between major departments of the city. All other amendments must be approved by the council. The tax rate previously enacted shall not be increased as a result of any amendment. (Res., 11-16-83.)

Section 707. Overexpenditures Forbidden.

No officer or employee during any budget year may expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter is null and void. Nothing in this section contained, however, prevents 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, nor the making of contracts of lease or for services for a period exceeding the budget year in which the contract is made, when the contract is permitted by law.

Section 708. Appropriations Lapse After One Year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section 709. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the City Administrator or other persons designated by the City Administrator with approval of the Council.

Section 710. Taxable Property.

All real property and all tangible personal property within the corporate limits of the city, or personal property which may have a situs there by reason of the residence of the owner therein, is subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

Section 711. Tax Exemptions.

a. The council may exempt from municipal taxation for a period of time, not to exceed five years, such businesses as stores, factories, manufacturing industries, establishments, plants, apartment buildings and the like, and the land, machinery and tools used, stock in trade and products thereof as may be located in the city and come within the meaning and purpose of this section. The council shall determine what businesses are included within the meaning and purpose of this section, provided, however, that such exemptions from municipal taxation shall only be granted when five or more wage earners are regularly employed by the person or corporation applying to the council for this exemption, and further provided that no such tax exemption shall be granted except to new or established businesses making bona fide substantial improvements or undertaking new construction work. All such exemptions shall be made public

and a notice containing the important details shall be posted at a conspicuous place for notices at the Washington County court house and the Hagerstown city hall.

b. The council may exempt from municipal property tax, for a period of time not to exceed five years, those private houses which have been substantially improved or underwent new construction. The amount of the exemption shall not exceed the amount of the improvement or new construction. All such exemptions shall be made public and a notice containing the important details shall be posted at a conspicuous place for notices at the Washington County court house and the Hagerstown city hall.

Section 712. Budget Authorizes Levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax constitutes a determination of the amount of the tax levy in the corresponding tax year.

Section 713. Notice of Tax Levy.

Immediately after the levy is made by the Council in each year the City Administrator shall give notice of the making of the levy by posting a notice thereof in some public place or places in the city. He or she shall make out and mail or deliver in person to each taxpayer or the agent at the last known address a bill or account of the taxes due. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this charter all taxes levied on his or her property.

Section 714. When Taxes are Overdue.

The taxes provided for in Section 713 of this charter are due and payable on the first day of July in the year for which they are levied and are overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the maximum rate provided by State law for each month or fraction of a month until paid.

Section 715. Sale of Tax-Delinquent Property.

A list of all property on which the city taxes have not been paid and which are in arrears after they are levied shall be submitted by the finance officer of the city to the treasurer, collector, or any other official of the County of Washington responsible for the sale of tax-delinquent property as provided by the Annotated Code of Maryland. The official designated herein for the purposes of collection shall proceed to sell and sell in accordance with the provisions of the Annotated Code of Maryland applicable thereto, said real property at any time thereafter, but in no case later than two years from the date the tax is in arrears.

Failure of the collector or designated official to sell any real property within the two year period shall not affect the validity or collectability of any tax, or the validity of any sale thereafter made. (Res. No. R-92-1, May 20, 1992.)

Section 716. Fees.

All fees received by an officer or employee of the city government in their official capacity shall belong to the city government and be accounted for to the city.

Section 717. Bond Issues – Borrowing.

The city shall have the power to borrow money for any proper public purpose in accordance with the provisions of the Annotated Code of the Public General Laws of Maryland; and, to evidence such borrowing by the issue and sale of its general obligation bonds, notes or other evidences of indebtedness in the manner prescribed by the Annotated Code of the Public General laws of Maryland, except that any such bonds, notes or other evidences of indebtedness may be sold by negotiation at private sale without solicitation of competitive bids if the ordinance or resolution authorizing such borrowing so provides. (Res., 3-28-84.)

Section 718. Tax Anticipation Borrowing.

During the first six months of any fiscal year, the city may borrow in anticipation of the collection of the property tax levied for that fiscal year, and may issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not late [later] than eighteen months after they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the city to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which the notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 719. Payment of Indebtedness.

The power and obligation of the city to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this charter shall be unlimited and the city shall levy ad valorem taxes upon all the taxable property of the city for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the city is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness issued under the authority of this charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance; with the specific exception of revenue bonds which may be issued through the City of Hagerstown but which bonds historically exempt the city as guarantors and relieve it from any pledge of its faith and credit.

Section 720. Previous Issues.

All bonds, notes, or other evidences of indebtedness validly issued by the city previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

Section 721. Purchasing and Contracts.

All purchases and contracts for the city government shall be made by the City Administrator or other person designated by the City Administrator and approved by the Council. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all City purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual service involving more than an amount specified by ordinance shall be made on written contract. The City administrator shall advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. The written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders considered. All such written contracts shall be approved by the Council before becoming effective. The City Council may reject all bids and readvertise. The City at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the City may require.

Section 722. Audit.

The financial books and accounts of the city shall be audited annually as required by State law by a certified or registered public accountant not in the employ or under contract to the city.

ARTICLE VIII

Personnel

Section 801. City Attorney

The mayor and Council shall appoint a city attorney. The city attorney shall be a member of the bar of the Maryland Court of Appeals and a person whose principal law office is located in the city. The city attorney is the legal adviser of the city and shall perform such duties in this connection as may be required by the mayor and council. Compensation shall be determined by the council. The city has the power to employ such legal consultants as it deems necessary from time to time. (Res., 11-16-83.)

Section 802. Authority to Employ Personnel.

The city may employ such officers and employees as it deems necessary to execute the powers and duties provided by this charter or other State law and to operate the city government. The council shall authorize all positions for which persons may be hired.

Section 803. Merit System Authorized.

The council may provide for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose the council may adopt such rules and regulations governing the operation of [a] merit system as it deems desirable or necessary. Among other things these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations. The council may request and avail itself of the facilities of the Commissioner of State Personnel for administration of its merit system, as provided in State law.

Section 804. Unclassified and Classified Service.

a. *Civil service divided into unclassified and classified service.* – The civil service of the city shall be divided into the unclassified and classified service.

b. *Unclassified service.* – The unclassified service shall comprise the following officers and positions, which shall not be included within the classified merit system:

1. The mayor, the councilmembers, and persons appointed to fill vacancies in these positions.
2. The city administrator and the city attorney.
3. Members of City boards and commissions.
4. Part-time, temporary, and unpaid offices and positions.
5. The heads of all offices, departments and agencies.

c. *Classified service.* – The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

Section 805. Prohibitions and Penalties.

a. *Prohibitions.* – If a merit system is adopted, no person in the classified service of the city or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any

way favored or discriminated against because of political opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the city shall continue in such position after being elected to any public office; no person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with his or her appointment, proposed appointment, promotion, or proposed promotion.

b. *Penalties.* – Any person who either acting alone or with others, willfully or corruptly violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall 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 is, for a period of five years, ineligible for appointment to or employment in a position in the city service, and if he or she be an officer or employee of the city, shall immediately forfeit the office or position held. (Res. R–09–06, 05–20–09.)

Section 806. Retirement System.

The city may do all things necessary to include its officers and employees, or any of them within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the city.

Section 807. Compensation of Employees.

The compensation of all officers and employees of the city shall be set by the council, subject to the restrictions imposed upon establishing the salaries of the councilmembers and the mayor.

ARTICLE IX Special Assessments

Section 901. Power of City to Levy Special Assessments.

The city may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for the special benefits conferred on that property by the construction, operation and maintenance of water or sewer mains, curbs, gutters, public ways, storm drainage systems, public parking facilities, pedestrian malls, street and area lighting and other special public facilities and services for the area. It may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of

indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the city, and any other item of cost which may reasonably be attributed to the project.

Section 902. Procedure.

a. *Provided.* – The procedure for special assessments, wherever authorized in this charter, is as provided in this section.

b. *Assessment of cost.* – The cost of the project being charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the council.

c. *Amount.* – The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, not [nor] shall any special assessment be levied which causes the total amount of special assessments levied by the city and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

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

e. *Levy of charges; public hearing; notice.* – All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The city administrator shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the city. The city administrator shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the city administrator shall have completed publication and service of notice as provided in this section. Following the hearing the council, in its discretion, may vote to proceed with the project and may levy the special assessment.

f. *Right to appeal.* – Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right of [of] appeal to the circuit court for the county within ten days after the levying of any assessment by the council.

g. *Payments; interest.* – Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.

h. *When due; lien on property; collection.* – All special assessment installments are overdue six months after the date on which they become due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as city taxes or by suit at law.

i. *Billing.* – All special assessments shall be billed and collected as directed by the City Administrator.

ARTICLE X

City Property

Section 1001. Acquisition, Possession and Disposal.

The city may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the city. All city property, funds, and franchises of every kind belonging to or in the possession of the city (by whatever prior name known) at the time this charter becomes effective are vested in the city, subject to the terms and conditions thereof. Any single acquisition exceeding one-half of one per cent of the then current assessable base of the city must first receive approval in a city referendum on the issue.

Section 1002. Condemnation.

The city may condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the city, for any public purpose. Any activity, project, or improvement authorized by the provisions of this charter or any other State law applicable to the city is a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Title 12 of the Real Property Article of the Code.

Section 1003. City Buildings.

The city may acquire, obtain by lease or rent, purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the city government.

Section 1004. Protection of City Property.

The city may do whatever may be necessary to protect city property and to keep all city property in good condition.

**ARTICLE XI
General Provisions**

Section 1101. Oath of Office.

a. *Oath required.* – Before entering upon the duties of their offices, the Mayor, the Councilmembers, the City Administrator, the City Attorney, and all other persons elected or appointed to any office of profit or trust in the city government, as determined by the Council, shall take and subscribe to the following oath or affirmation: “I,, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof and the Charter and Ordinances of the city of Hagerstown; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of, according to the Constitution and the laws of this State.”

b. *Before whom taken and subscribed.* – The mayor shall take and subscribe to this oath or affirmation before the clerk of the circuit court for the county or before one of the sworn deputies of the clerk. All other persons taking and subscribing to the oath shall do so before the mayor. (Res., 11–16–83; Res. R–09–09, 03–18–09; Res. R–11–30, 08–10–11.)

Section 1102. Official Bonds.

The city administrator and such other officers or employees of the city as the council or this charter may require, shall give bond in such amount and with such surety as may be required by the council. The premiums on such bonds shall be paid by the city.

Section 1103. Injuries; Notice to City Required.

Before the City shall be liable for damages of any kind, the person injured, or someone on his or her behalf, shall give the City notice in writing of such injury within one hundred eighty (180) days after the same has been received, stating specifically in such notice, when, where and how the injury occurred, and the extent thereof. (Res. R–09–07, 03–18–09.)

Section 1104. Prior Rights and Obligations.

All right, title, and interest held by the city or any other person or corporation at the time this charter is adopted, in and to any lien acquired under any prior charter of the city are hereby preserved for the holder in all respects as if this charter had not been adopted, together with all rights and remedies in relation thereto. This charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this charter had not become effective.

Section 1105. Effect of Charter on Existing Ordinances.

(a) *Ordinances, etc., not in conflict with charter remain in effect.* – All ordinances, resolutions, rules, and regulations in effect in the city at the time this charter becomes effective which are not in conflict with provisions of this charter shall remain in effect until changed or repealed according to the provisions of this charter.

(b) *Ordinances, etc., in conflict with charter repealed.* – All ordinances, resolutions, rules, and regulations in effect in the city at the time this charter becomes effective which are in conflict with the provisions of this charter are repealed to the extent of such conflict.

Section 1106. Separability.

If any section or part of section of this charter is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this charter or the context in which such section or part of section so held invalid appears, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

ARTICLE XII

Transition

Section 1201. Rights and Privileges Preserved.

Nothing in the Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are City Officials, Officers or Employees at the time of its adoption. (Res. R–09–08, 03–18–09.)

Section 1202. Departments.

All city departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this charter becomes effective until changed by the administrator with the approval of the council.

Section 1203. Employees.

All employees of the city at the time this charter becomes effective shall continue as employees with full pay and benefits. No employee shall be discharged or re–assigned as a result of any reorganization or reduction in force without receiving the full consideration provided by city personnel regulations or by existing union agreements. All policies, procedures, schedules, compensation plans, retirement systems, health benefit plans, merit systems and other policies and procedures provided in the Charter pertaining to city employees which were in effect on the date this charter becomes effective shall continue in effect until modified or repealed. (Res. R–09–08, 03–18–09.)

Section 1204. Boards, Commissions, and Committees.

All City appointed Boards, Commissions, and Committees shall continue in effect with the same powers, duties and activities as were in effect at the time this Charter became effective, until and unless changed by the Council. (Res. R-09-08, 03-18-09.)

APPENDIX I

Urban Renewal Authority for Slum Clearance

(See Note (1))

Section A1-101. Definitions.

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

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obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and

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

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

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

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

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

(j) “Municipality” shall mean the City of Hagerstown, a municipal corporation of this State.

Section A1-102. Powers.

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

power of taxation may be exercised, public funds expended and public credit extended in furtherance thereof. The municipality is hereby granted the following additional powers which are hereby found and declared to be necessary and proper to carry into full force and effect the specific powers hereinbefore granted and to fully accomplish the purposes and objects contemplated by the provisions of this section:

(a) to make or have made all surveys and plans necessary to the carrying out of the purposes of this appendix and to adopt or approve, modify and amend such plans, which plans may include but shall not be limited to: (1) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (2) plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (3) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes;

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

(c) to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this appendix and to levy taxes and assessments for such purposes; to borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public bodies, or from any sources, public or private, for the purposes of this appendix, and to give such security as may be required therefor; to invest any urban renewal funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds.[:]

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

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

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

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

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

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

Section A1-103. Establishment of Urban Renewal Agency.

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

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

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

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

Section A1-104. Initiation of Project.

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

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

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

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

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

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

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

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

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

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

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

the municipality in the urban renewal area. The municipality may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this appendix. Thereafter, the municipality may execute and deliver contracts, deeds, leases and other instruments and take all steps necessary to effectuate such transfers.

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

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

Section A1-107. Eminent Domain.

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

Section A1-108. Encouragement of Private Enterprise.

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

Section A1-109. General Obligation Bonds.

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

Section A1-110. Revenue Bonds.

In addition to the authority conferred by Section A1-109 of this appendix, the municipality shall have [the power] to issue revenue bonds to finance the undertaking of any urban renewal project and related activities, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds

of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this appendix: provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the municipality under this appendix, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the municipality. In addition, the municipality may enter into an Indenture of Trust with any private banking institution of this State having trust powers and may make in such indenture of trust such covenants and commitments as may be required by any purchaser for the adequate security of said bonds.

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

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

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

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

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

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

Section A1-111. Separability.

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

Section A1-112. Short Title.

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

Section A1-113. Authority to Amend or Repeal.

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

NOTES

(1) Pursuant to Article III, Section 61 of the Maryland Constitution, the General Assembly of Maryland granted urban renewal powers for slum clearance to the City of Hagerstown in Chapter 830 of the Acts of the General Assembly of 1961.

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