

CHARTER

OF THE

Town of Fairmount Heights

PRINCE GEORGE'S COUNTY, MARYLAND

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FAIRMOUNT HEIGHTS

ARTICLE I General Corporate Powers

Section 1–1. Incorporated; general powers.

The inhabitants of each town included within the provisions of this Article within the corporate limits legally established from time to time are hereby constituted and/or continued a body corporate by the name of “The Town of Fairmount Heights, Maryland” with 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.

ARTICLE II Corporate Limits

Section 1–2. Corporate boundaries; filing.

The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court in Prince George’s County, the Commissioner of the Land Office and the Director of the Department of Legislative Reference. A copy of the courses and distances describing the corporate boundaries shall be on file in the office of the Mayor or of the Clerk of the Council. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

Section 1–3. Description of boundaries.

The boundaries of the Town of Fairmount Heights shall be as follows: Beginning at the Northeastern corner of Seat Pleasant at the District of Columbia boundary line, at the center of 62nd Avenue and Eastern Avenue, thence Northwesterly along the District line to the South line of Sheriff Road, thence Easterly along said Sheriff Road to the central line of Balsamtree Drive, thence along the center line of Balsamtree Drive to Jefferson Heights Drive, thence across Jefferson Heights Drive to the Seat Pleasant boundary line at the Addison Chapel Church lot, thence following the Seat Pleasant boundary line to the Foote Street, thence along the center of 62nd Avenue to the point of beginning.

ARTICLE III The Council

Section 1-4. Number; selection; term.

All legislative powers of the town shall be vested in a Town Council consisting of six (6) Councilmembers and a Mayor who shall be elected as hereinafter provided and who shall hold office for a term of two (2) years or until the succeeding Council takes office. The regular term of Councilmembers shall expire on the second Monday following the election of their successors. 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 Council takes office under the provisions of this Charter.

Section 1-5. Qualifications.

Councilmembers shall have resided in the town for at least one (1) year immediately preceding their election and shall be qualified voters of the town. If at any time said person shall move from the town, his office shall automatically become vacant.

Section 1-6. Salaries.

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 municipal election for the members of the next succeeding Council and shall take effect only as to the members of the next succeeding Council.

Section 1-7. Meetings.

The newly elected Council shall meet on the second Monday following its 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 also be called by the Clerk of the Council upon the request of the Mayor or a majority of the members of the Council. All meetings of the Council shall be open to the public, except that meetings may be closed in accordance with the Maryland Open Meetings Act, Subtitle 5 of Title 10 of the State Government Article of the Annotated Code of Maryland, as amended from time to time. The rules of the Council shall provide that residents of the town shall have a reasonable opportunity to be heard at any open regular Council meeting in regard to any municipal question. (Res. No. 2005-1, 1-5-06.)

Section 1-8. Qualifications of members.

The Council shall be the judge of the election and qualification of its members.

Section 1-9. President.

The Mayor shall be a member of the Council and serve as Chairman of the Council. The Mayor may take part in all discussions, and he shall have a vote. The Council shall elect a Vice Chairman of the Council from among its members, who shall act as Chairman of the Council in the absence of the Chairman of the Council.

Section 1-10. Quorum; powers and duties.

A. *Quorum.* A majority of the members of the Council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected to the Council.

B. *Appointments.* The Council shall appoint the heads of all offices, departments, and agencies of the town government as established by this Charter or by ordinance. All office, department and agency heads shall serve at the pleasure of the Council. All subordinate officers and employees of the offices, departments and agencies of the town government shall be appointed and removed by the Council in accordance with the rules and regulations and any merit system which may be appointed by the Council.

C. The Council shall have complete supervision over the expenditures, income, and investments of the town and may appoint such financial officer, answerable to the Council, to administer the expenditures, income, and investments of the town. (Res. C-1-98, 10/28/98.)

Section 1-11. Procedure; 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, or at any other time if required by any one (1) member. The journal shall be open to public inspection.

Section 1-12. Ordinances.

An ordinance may be passed at the meeting at which it is introduced and shall become effective twenty (20) days after passage unless otherwise specified in the ordinance. A fair summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality. Emergency ordinances shall become effective the date on which they are passed.

Section 1-13. Files of ordinances.

Ordinances shall be permanently filed by the Clerk of the Council and shall be kept available for public inspection.

ARTICLE IV The Mayor

Section 1–14. Selection; term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of two (2) years or until his successor is elected and qualified. The newly elected Mayor shall take office on the second Monday following his election. The Mayor holding office at the time this Charter becomes effective shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter.

Section 1–15. Qualifications.

The Mayor must have resided in the town for at least one (1) year immediately preceding his election and must be a qualified voter of the town.

Section 1–16. 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; provided, however, that no change shall be made in the salary for any Mayor during the term for which he was 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 municipal election to elect the next succeeding Mayor and shall take effect only as to the next succeeding Mayor.

Section 1–17. Powers and duties.

A. *Ordinances.* The Mayor shall see that the ordinances of the town are faithfully executed and shall be the Chief Executive Officer and the head of the administrative branch of the town government.

B. *Reports.* 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 the welfare of the town.

C. *Other powers.* The Mayor shall have such 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. C–1–98, 10/28/98.)

ARTICLE V
General Powers

Section 1–18. Powers.

A. *General.* The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town’s property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein.

B. *Specific powers.* The Council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this state, for the following specific purposes:

(1) *Advertising.* To provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

(2) *Aisles.* 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 town 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 town.

(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 town, and to grant building permits for the same; 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.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(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 town.

(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 loitering in the streets, lanes, alleys or public places at unreasonable hours of the night.

(15) *Dangerous conditions.* 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 and agencies established by this Charter; to assign additional functions or duties to offices, 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) *Disorderly houses.* To suppress bawdy houses, disorderly houses and houses of ill fame.

(18) *Dogs.* To regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

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

(20) *Explosives.* 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.

(21) *Fees and charges.* Subject to the limitations imposed by the provisions of Article 81 of the Annotated Code of Maryland, to establish and collect reasonable fees and charges:

(a) For the franchises, licenses or permits authorized by law to be granted by a municipal corporation; or

(b) Associated with the exercise of any governmental or proprietary function authorized by law to be exercised by a municipal corporation.

(22) *Filth.* To compel the occupant of any premises, building or outhouse situated in the town, when the same 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 such property, making it collectible by taxes or against the occupant or occupants.

(23) *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 town.

(24) *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 town; 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 town 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 town.

(25) *Food.* To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of any food products.

(26) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject to the limitations and provisions of Article 23 of the Annotated Code of Maryland; to grant one or more exclusive or non-exclusive 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. No franchise shall be granted for a longer period than fifty years.

(27) *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.

(28) *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 same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(29) *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 town, and to revoke such license for cause.

(30) *Health.* To protect and preserve the health of the town and its inhabitants; to prevent the introduction of contagious diseases into the town; 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.

(31) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax moneys.

(32) *Jail.* To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purposes.

(33) *Licenses.* Subject to any restriction imposed by the public general laws of the state, to license and regulate all persons beginning or conducting transient or permanent business in the town 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.

(34) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.

(35) *Lights.* To Provide [provide] for the lighting of the town.

(36) *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.

(37) *Markets.* To obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the town.

(38) *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.

(39) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(40) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this Charter or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of or to require the removal from the town 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 town may regulate, prohibit, control the location of or require the removal from the Town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries and renderies. This listing is by way of enumeration, not limitation.

(41) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys from any lots adjoining thereto, or any other places within the limits of the town.

(42) *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.

(43) *Parking meters.* To install parking meters on the streets and public places of the town in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by the Commission.

(44) *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 town.

(45) *Police force.* To establish, operate and maintain a police force.

(46) *Police powers.* To enforce all laws of the city and state equally within the city limits; to enforce all laws relating to disorderly conduct and the suppression of nuisances equally within the limits of the city and beyond those limits for one half mile or for so much of this distance as does not conflict with the powers of another municipal corporation.

(47) *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 town 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 town.

(48) *Quarantine.* To establish quarantine regulations in the interests of the public health.

(49) *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.

(50) *Sidewalks.* To regulate the use of sidewalks and all structures in, under or above the same; 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.

(51) *Sweeping.* 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 onto any public or private property in the town.

(52) *Taxicabs.* To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen and all other persons pursuing like occupations.

(53) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(54) *Voting machines.* To purchase, lease, borrow, install and maintain voting machines for use in town elections.

(55) *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

(56) *General authority.* In addition to all the powers granted to the council by this charter or any other provision of law, the council may exercise any power or perform any function which is not now or hereafter denied to it by the Constitution of Maryland, this charter, or any applicable law passed by the General Assembly of Maryland. The enumeration of powers and functions in this charter or elsewhere shall not be deemed to limit the power and authority granted by this paragraph.

Section 1–19. Exercise of powers.

For the purpose of carrying out the powers granted in this subtitle or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the town 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.

Section 1–20. Enforcement.

To ensure the observance of the ordinances of the town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto

penalties of a fine not exceeding five hundred dollars (\$500) or imprisonment for not exceeding ninety (90) days, 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 shall have the right of appeal within ten (10) days to the Circuit Court of the county in which the fine, forfeiture or penalty was imposed. The Council may provide that where the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

ARTICLE VI
Registration, Nominations, and Elections

Section 1–21. Voters.

Every person who (a) is a citizen of the United States, (b) is at least eighteen (18) years of age, (c) has resided within the corporate limits of the town for thirty (30) days preceeding [preceding] any town election, and (d) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections.

Section 1–22. Board of Supervisors.

There shall be a Board of Supervisors of Elections, consisting of three (3) members and one alternate who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in March in every second off–numbered year. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in March in the year in which they are appointed and shall not hold or be candidates for any elective office during their term of office. The Board shall appoint one (1) of its members as Chairman. Vacancies on the Board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation of the members of the Board shall be determined by the Council.

Section 1–23. Removal.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten (10) days after receiving the written copy of the charges against him.

Section 1–24. Duties.

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all town elections. The Board may appoint election clerks or other employees to assist it in any of its duties.

Section 1–25. Notice.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every registration day and every election by an advertisement published in at least one (1) newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

Section 1–26. Registration.

Citizens of the Town of Fairmount Heights may register to vote at the Town Hall, during business hours, throughout the year. Registration shall be permanent, and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the Board of Supervisors of Elections to keep the registration lists up to date by striking from the lists persons know [known] to have died or to have moved out of the Town. The Council, by ordinance, shall adopt and enforce any provisions necessary to establish and maintain a system of permanent registration, and to provide for re-registration when necessary.

Section 1–27. Appeal.

If any person shall feel aggrieved by the action of the Board of Supervisors of Elections in refusing to register or in striking off the name of any person, or any other action, such person may appeal to the Council. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for the county within thirty (30) days of the decision or action of the Council.

Section 1–28. Nominations.

Persons shall be nominated for elective office in the town by a certificate of nomination signed by fifteen (15) registered voters in the town. Persons shall be nominated for Mayor in the town by filing a certificate of nomination signed by twenty-five (25) voters in the town. Such certificate shall state the following: (1) The office for which the candidate is seeking the nomination, (2) the name of the candidate, (3) a statement that the signers of the certificate are registered voters, (4) the signers support the nomination of the named candidate. The certificate shall be filed with the Clerk of the Council or the Chairman of the Board of Supervisors of Elections at least fifteen (15) calendar days prior to the election. No person shall file for nomination to more than one (1) elective town public office or hold more than one (1) elective town public office at any one time.

Section 1–29. Election of Mayor and Councilmembers.

On the first Monday of May in every year, the qualified voters of the Town shall elect three (3) persons as Councilmembers to serve for terms of two (2) years, and in every odd-numbered year the voters shall elect one (1) person as Mayor to serve for a term of two (2) years. In the case of any precise tie between two (2) Councilmembers which would prevent one of them from holding office, a run-off election shall be held within the next thirty (30) days.

Section 1–29–A. Recall Election for Mayor and Town Council Members.

a. The Mayor or Council member may be removed by the qualified electors of the Town. The procedure to effect the removal of such persons from office shall be as set forth hereinafter.

b. A petition signed by persons qualified to vote in Town elections equal in number to at least twenty percent of the voters registered to vote in Town elections, unless a different percentage of voters is otherwise provided by ordinance, shall be addressed to the Council and filed with the Town Clerk and the Town Election Supervisor. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. The circulator of each such paper shall make affidavit before an officer competent to administer oaths, that the statements contained therein are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All papers composing said petition shall be assembled and filed as one instrument, which endorsements thereon of the names and addresses of three persons designated as filing said petition.

c. The petition shall state specifically the justification for recall of the Mayor and Council member which shall be for one (1) or more of the following reasons:

- (1) Failure to uphold the oath of office.
- (2) Malfeasance in office.
- (3) Misfeasance in office.
- (4) Nonfeasance in office.
- (5) Not attending 3 consecutive Town Meetings.

d. Within ten days from the filing of said petition, the Town’s Election Supervisor shall ascertain by examination thereof and of the registration books, whether the petition is signed by the required number of qualified voters, and shall attach thereto a certificate showing the result of such examination. If the certificate shows the petition to be insufficient, the Town Election Supervisor shall promptly notify, in writing, one or more of the persons designated on the petition as filing the same and the petition may be amended at any time within ten days from the date of the Town Election Supervisor notification. The Town Election Supervisor shall, within ten days after such amendment, make like examination of the amended petition and attach thereto a certificate of the result. If still insufficient or if no amendment is made, the Town Election supervisor shall return the petition to one of the persons designated thereon, as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

e. If the petitions or amended petitions shall be found by the Town Election Supervisor to be sufficient, the same shall be submitted with the Town Election supervisor certificate to the Council without delay, and the council shall, if the officer sought to be removed

does not resign within five days thereafter, thereupon order an election to be held on the date fixed by them not less than thirty nor more than forty five days from the date of the Town Election supervisor's certificate that a sufficient petition was filed; provided, however, that if any other municipal election is to occur within ninety days from the date of the Town Election Supervisor's certificate, the Council may, at its discretion, postpone the holding of the recall election to the date of such other municipal election.

f. There shall be printed on the official ballot, as to every person whose recall is to be voted on, the words, "shall (name of person against whom the recall petition is filed) be recalled from the office of (title of office)?" Following such question shall be the words "yes" and "no", on separate lines, with a blank space at the right of each, in which the voter shall indicate his or her vote for or against such recall.

g. Any person whose recall is sought shall continue in office until a certification of the results of a recall election by the Board of Supervisors of Elections showing that such person has been recalled is received by the Town Clerk at which time such person's term in office shall thereupon terminate.

h. No recall petition shall be filed against any person until such person has actually held such office for at least two months, unless a different time is provided by ordinance; provided that second or further recall petitions for the same person shall require signatures of qualified voters equal to at least thirty-five percent of the voters registered to vote in Town elections.

i. Any person who has been removed from office by recall, or who has resigned from such office while recall proceedings were pending against him or her, shall not be appointed to any elective office within two years after such removal by recall or resignation.

j. Any vacancy created by the recall of an elected officer shall be filled in the the manner set forth in Section I-35.

k. Except as specifically provided herein, all recall elections shall be conducted in a manner conforming with other Town elections to the extent practical. (Res. No. 96-12, 2-6-97.)

Section 1-30. Conduct of elections.

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provision of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open until 9 a.m. [p.m.] on election days or for longer hours if the Council requires it.

Section 1–31. Absentee Ballots.

Any qualified voter registered to vote in the Town of Fairmount Heights is entitled to vote in any municipal election by absentee ballot. The Board of Supervisors of Elections shall mail absentee ballots to qualified voters, at the request of those voters, not less than fifteen (15) days prior to elections.

Section 1–32. Special elections.

All special town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

Section 1–33. Vote count.

Within forty–eight (48) hours after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Clerk of the Council of the town who shall record the result in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The three (3) candidates for Councilmember with the highest number of votes in the general election shall be declared elected as Councilmembers.

Section 1–34. Preservation of ballots.

All ballots used in any town election shall be preserved for at least (6) months from the date [date] of election.

Section 1–35. Vacancies.

In case of a vacancy on the Council for any reason, the Council shall elect some qualified person to fill such vacancy for the unexpired term. In case of a vacancy in the office of Mayor for any reason, the Council shall elect some qualified person to fill the vacancy for the remainder of the unexpired term. Any vacancy on the Council or in the office of Mayor shall be filled by the favorable votes of a majority of the remaining members of the Council. The results of any such vote shall be recorded in the minutes of the Council.

Section 1–36. Regulation and control.

The Council shall have the power to provide by ordinance, in every respect not covered by the provisions of this Charter, for the conduct of registration, nomination and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

Section 1–37. Penalties.

Any person who (a) fails to perform any duty required of him under the provisions of this subtitle or any ordinances passed thereunder, (b) in any manner willfully or corruptly violates

any of the provisions of this subtitle or any ordinances passed thereunder or (c) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election, shall be deemed guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment.

ARTICLE VII

Finance

Section 1–38. Treasurer.

There shall be a Treasurer appointed by the Council. He/she shall serve at the pleasure of the Council. His/her compensation shall be determined by the Council. The Treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by the Charter, shall be exercised by the Treasurer under direct supervision of the Council. (Res. C–1–98, 11/28/98.)

Section 1–39. Powers and duties of Treasurer.

Under the supervision of the Council, the Treasurer shall have authority and shall be required to:

- A. Assist the Mayor in the preparation of an annual budget to be submitted by the Mayor to the Council.
- B. Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- C. Maintain a general accounting system for the town in such form as the Council may require, not contrary to state law.
- D. Submit at the end of each fiscal year and at such other times as the Council may require, a complete financial report to the Council through the Mayor.
- E. Ascertain that all taxable property within the town is assessed for taxation.
- F. Collect all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.
- G. Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of Trustees, and have custody of all bonds and notes of the town.

H. Do such other things in relation to the fiscal or financial affairs of the town as the Mayor or the Council may require or as may be elsewhere in the Charter. (Res. C-1-98, 10/28/98.)

Section 1-40. Fiscal year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year and the accounting year.

Section 1-41. Budget.

The Mayor, on such date as the Council may determine, but at least thirty-two (32) 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 public in the office of the Treasurer, open to public inspection by anyone during normal business hours. (Res. C-1-98, 10/28/98.)

Section 1-42. Budget adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two (2) weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Council shall be necessary for adoption.

Section 1-43. 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 1-44. Transfer of funds.

Any transfer of funds between major appropriations for different purposes or any adjustments to the budgeted income or expenditures must be approved by the Council before becoming effective. (Res. C-1-98, 10/28/98.)

Section 1-45. Over-expenditure forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter, shall be null and void. Nothing in this section contained, however, shall prevent 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 such contract is made, when such contract is permitted by law.

Section 1-46. Appropriations lapse after one year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been 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 revenue for the next succeeding budget year.

Section 1-47. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the town agents as authorized by the Council. (Res. C-1-98, 10/28/98.)

Section 1-48. Taxable property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be 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 1-49. Budget authorizes levy.

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

Section 1-50. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Treasurer shall give notice of the making of the levy by posting of notice thereof in some public place or places in the town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. 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 the Charter all taxes levied on his property.

Section 1–51. When taxes are overdue.

The taxes provided for in § 1–51 of this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum (1/2%) for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in § 1–54 of this Charter.

Section 1–52. Sale of tax–delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by § 1–53 of this Charter shall be turned over by the Treasurer to the official of the county responsible for the sale of tax–delinquent property as provided in state law. All property listed thereon shall if necessary be sold for taxes by this county official, in the manner prescribed by state law.

Section 1–53. Fees.

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

Section 1–54. Audit.

The financial books and accounts of the town shall be audited annually as required by Section 44 of Article 19 of the Annotated Code of Maryland (1957 Edition, as amended).

Section 1–55. Tax anticipation borrowing.

During the first six (6) months of any fiscal year, the town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year and to issue 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 later than six (6) months after they are issued. No tax anticipation notes or other evidence of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levied for the fiscal year in which such 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 County shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section 1–56. Payment of indebtedness.

The power and the obligation of the town to pay any and all bonds, excluding revenue bonds, notes or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited, and the town shall levy ad valorem taxes upon all the taxable property of the town 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 town is hereby pledged for the payment of the principal of the interest on all bonds, notes or other evidences of indebtedness, hereafter 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.

Section 1–57. Previous issues.

All bonds, notes or other evidences of indebtedness validly issued by the town 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 1–58. Purchases and contracts.

All purchases and contracts for the town government shall be made by the Treasurer. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than one thousand dollars (\$1,000) shall be made on written contract. The Treasurer shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. Such 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 being considered. All such written contracts shall be approved by the Council before becoming effective. The Treasurer shall have the right to reject all bids and readvertise. The town 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 town may require.

ARTICLE VIII

Personnel

Section 1–59. Clerk to the Council.

An employee shall be appointed to serve as Clerk to the Council. He shall attend every meeting of the Council and keep a full and accurate account of the proceedings of the Council. He shall keep such other records and perform such other duties as may be required by this Charter or the Council. The Clerk of the Council shall be appointed by the Mayor with the approval of the Council.

Section 1–60. Town Attorney.

The Mayor with the approval of the Council may appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be legal advisor of the town and shall perform such duties in this connection as may be determined by the Council. The town shall have the power to employ such legal consultants as it deems necessary from time to time.

Section 1–61. Authority to employ personnel.

The town shall have the power to 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 town government.

Section 1–62. Prohibitions.

A. *Listed.* No person in the employ of the town or seeking admission thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of his political or religious 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 employ of the town shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the employ of the town 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 appointment, proposed appointment, promotion or proposed promotion.

B. *Penalties.* Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the town service and shall, if he be an officer or employee of the town, immediately forfeit the office or position he holds.

Section 1–63. Retirement system.

The town shall have the power to 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 such town.

Section 1–64. Compensation of employees.

The compensation of all officers and employees of the town shall be set from time to time by an ordinance passed by the Council, subject to the restrictions imposed upon establishing the salaries of the Councilmen and Mayor.

Section 1–65. Employee benefit programs.

The town is authorized and empowered by ordinance to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public moneys of the town for such programs.

ARTICLE IX

Public Ways and Sidewalks

Section 1–66. Definitions.

PUBLIC WAYS – As used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

Section 1–67. Control.

The town shall have control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter;[,] the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town.

Section 1–68. Public ways; powers.

The town shall have the power:

- A. To establish, regulate and change from time to time the grade lines, width and construction materials of any town public way or part thereof, bridges, curbs and gutters.
- B. To grade, lay out, construct, open, extend and make new town public ways.
- C. To grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.
- D. To pave, surface, repave or resurface any town public way or part thereof.
- E. To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any town public way or part thereof.
- F. To construct, reconstruct, maintain and repair bridges.

- G. To name town public ways.
- H. To have surveys, plans specifications and estimates made for any of the above activities or projects or parts thereof.
- I. Acquire property, by purchase, lease or eminent domain, incident to the rights of way necessary for street construction.

Section 1-69. Sidewalks; powers.

The town shall have the power:

- A. To establish, regulate and change from time to time the grade lines, width construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- B. To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.
- C. To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.
- D. To require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specification. If, after the due notice;[,] the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

Section 1-70. Entering on county public ways.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain water sewer provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

ARTICLE X
Special Assessments

Section 1-71. Powers.

The town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon

such property by the installation of construction of storm–water sewers, curbs and gutters and by the construction and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such 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 service of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project.

Section 1–72. Procedure.

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

A. *Cost assessed.* The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.

B. *Limitation.* The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessments be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed fifty per centum (50%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

C. *Classes.* 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.

D. *Levy.* 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 Treasurer 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 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 town. The Treasurer 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 (10) and not more than thirty (30) days after the Treasurer 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.

E. *Appeals.* Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for the county within ten (10) days after the levying of any assessment by the Council.

F. *Payment.* Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed thirty (30) 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.

G. *Collection.* All special assessment installments shall be overdue five (5) months after the date on which they became 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 town taxes or by suit at law.

H. *Bills.* All special assessments shall be billed and collected by the Treasurer.

ARTICLE XI Town Property

Section 1-73. Acquisition, possession and disposal.

The town may acquire real, personal or mixed property within the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation or otherwise and may sell, lease or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in the possession of the town (by whatever prior name known) at the time this Charter becomes effective are vested in the town, subject to the terms and conditions thereof.

Section 1-74. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other state law applicable to the town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Article 33A of the Annotated Code of the Public General Laws of Maryland (1957 edition, as amended), title "Eminent Domain."

Section 1-75. Town buildings.

The town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate and maintain all buildings and structures it deems necessary for the operation of the town government.

Section 1–76. Protection of town property.

The town shall have the power to do whatever may be necessary to protect town property and to keep all town property in good condition.

ARTICLE XII

Repealed. See Appendix I

ARTICLE XIII**General Provisions**Section 1–88. Oath of office.

A. *Text.* Before entering upon the duties of their offices, the Mayor, the Councilmen, the Treasurer, the members of the Board of Supervisors of Elections, and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe 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 that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office _____ according to the Constitution and Laws of this State.”

B. *Subscribing.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for the county or before (1) of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor.

Section 1–89. Surety bonds.

The Treasurer and such other officers or employees of the town 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 town.

Section 1–90. Prior rights and obligations.

All right, title and interest held by the town 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 town, are here by [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 1-91. Existing ordinances.

A. *Not in conflict.* All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

B. *In conflict.* All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict.

Section 1-92. Gender.

Whenever the masculine gender has been used in this Charter it shall be construed to include the feminine gender.

Section 1-93. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not effect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, 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 apply.

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

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 Town of Fairmount Heights.

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 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 by which 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:

(1) to make or have made all surveys and plans necessary to the carrying out of the purpose of this appendix and to adopt or approve, modify and amend such plans, which plans may include but not be limited to: (i) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements,[:]; (ii) 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 (iii) 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;

(2) 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;

(3) to appropriate such funds and make such expenditures as may be necessary to carry out the purpose of this appendix, including the payment or reimbursement of reasonable actual costs incurred as a result of utility relocations when such relocations are made necessary by an urban renewal project, after making appropriate adjustment for any improvement or betterments to the utility's facilities made in connection with the relocation[:]; 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 reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds;

(4) 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;

(5) 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 provision 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 imposed pursuant to Federal laws as the municipality may deem reasonable and appropriate;

(6) 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;

(7) 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; provided the same shall be approved by the Maryland–National Capital Park and Planning Commission, and to make exceptions from city and town building regulations, but not county building regulations unless the same shall be approved by the county building inspector or his equivalent;

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

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

Section A1–103. Establishment of Urban Renewal Agency.

The 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 public body or agency, the manner of their appointment and removal, the terms of said members and their compensations. 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 of 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:

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

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

(3) The power to appropriate funds, and to levy taxes and assessments pursuant to Section A1–102(3) 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[:]

- (1) finds that one or more than one slum or blighted areas exists in such municipality;
- (2) locates and defines the said slum or blighted areas; and
- (3) finds that the rehabilitation, redevelopment, or a combination thereof, of such area or areas, is necessary to the interest of public health, safety, morals or welfare of the residents of such municipality.

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

(a) 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, 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.

(b) 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.

(c) 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 necessary or desirable to assist in prevention of the development or spread of future slums or blighted areas 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 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 purchaser, 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 purposes of financing and carrying out an urban renewal project and related activities, the municipality may issue and sell its general obligation bonds. Any bonds issued by the municipality pursuant to this section shall be issued in the manner and within the Mandations prescribed by applicable law for the issuance and authorizations of general obligation bonds by such municipality, and also within such limitations as shall be determined by said municipality.

Section A1–110. Revenue Bonds.

(a) 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 sources, 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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 bonds 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 provision of any law to the contrary notwithstanding, any bonds issued pursuant to this appendix shall be fully negotiable.

(f) In any suit, action or proceeding involving the validity or enforceability of any bond issued under this 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.

(g) All banks, trust companies, savings banks and institutions, bankers, building 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. Review and Approval.

All plans, whether preliminary or final, prepared or presented under the provisions of this appendix by the municipality known as Fairmount Heights shall not conflict with, and must conform to the master plan for Prince George's County. This provision shall be construed to mean that all urban renewal plans effecting a change in zoning shall be reviewed by the Maryland-National Capital Park and Planning Commission, and any zoning amendments pursuant to this urban renewal program must be approved by the District Council.

Section A1-112. 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 A1-113. Short Title.

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

Section A1-114. 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 Town of Fairmount Heights in Chapter 895 of the Acts of the General Assembly of 1965.

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 Town of Fairmount Heights 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.

Formerly, the urban renewal powers appeared as Article XII, §§ 1–77 through 1–87, inclusive, of this charter.

