

# **CHARTER FOR MOUNT RAINIER**

## **Article I. General Corporate Powers**

### Section 101. Incorporation Continued.

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

### Section 102. City as Successor.

The "City of Mount Rainier" is hereby declared to be the legal successor to "The Mayor and City Council of Mount Rainier," and shall be entitled to, and is hereby vested with all property and rights of every nature belonging to "The Mayor and City Council of Mount Rainier."

### Section 103. Powers of the City.

The City shall have all the powers specified for municipalities and all those powers necessarily implied therefor under the constitution and laws of the State of Maryland and the United States of America unless explicitly denied to it by this charter.

## **Article II. Corporate Boundaries**

### Section 201. Public Filing of Corporate Boundaries.

A. The corporate limits or boundaries of the City of Mount Rainier shall be as they existed immediately prior to the date of this Charter, subject to all rights, reservations, limitations, and conditions as may be set forth in all prior resolutions of annexation and in the Charter of the City of Mount Rainier in effect immediately prior to this Charter, and as may be hereafter amended as provided by law.

B. The corporate limits or boundaries of the City shall be filed at all times with the Clerk of the Circuit Court for Prince George's County and the Department of Legislative Reference [Services] of the Maryland General Assembly. In addition, a copy of a description of the corporate boundaries of the City shall be on file in City Hall and available for public inspection during normal business hours.

## **Article III. Organization of Mayor and Council**

### Section 301. Composition of Council and Term of Office.

A. Pursuant to the provisions of this Charter, the City shall have a Council-Manager form of government. All legislative powers of the City shall be vested in a City Council consisting of the Mayor and four Councilmembers who shall be elected as provided in this Charter. The Mayor and Councilmembers shall hold office for terms of four years or until their successors take office, except that, pursuant to Section 509(B),

the Councilmembers elected in 1997 with the second highest number of votes in each ward shall hold office for a term of two years or until their successors take office.

B. A ward system shall be utilized within the City to elect four Councilmembers. Two Councilmembers shall be elected from each ward. The Mayor shall be elected at-large.

C. The regular term of the Mayor and Councilmembers shall begin at 8:00 p.m. on the second Monday in May following the General City Election and shall expire upon the seating of their successors. The Mayor and Councilmembers holding office at the time this Charter becomes effective shall continue to hold office until their successors take office under the provisions of this Charter.

#### Section 302. Qualifications of Mayor and Council.

A. Each candidate for Mayor and Councilmember shall be a resident of the City for at least one year immediately preceding their election, a registered voter of the City and a United States citizen.

B. In addition to the requirements above, each candidate for Councilmember shall reside in the ward for which he or she is filing to represent. If a Councilmember changes his or her primary place of residence from the ward from which the Councilmember was elected, the Councilmember's term shall be immediately terminated and the vacancy shall be filled as provided in Section 513 of this Charter.

#### Section 303. Duties of the Mayor.

A. The Mayor is a member of the Council and shall have all the rights, duties, powers and obligations of a Councilmember as prescribed by this Charter. The Mayor shall serve as the Council's presiding officer and may participate in all discussions and shall have a vote on all matters before the Council. The Mayor shall have no power to veto.

B. There shall be a Vice Mayor. The Council shall select a Vice Mayor from among its members, who shall perform the duties of the Mayor during the absence or disability of the Mayor. The Vice Mayor shall not receive any compensation other than the compensation received as a Councilmember.

#### Section 304. Compensation of the Mayor and Council.

The Mayor and Council shall receive an annual salary which shall be equal for all Councilmembers, except that the salary for the Mayor may be higher. Salaries of the Mayor and Council shall be as specified from time to time by ordinance, provided, however, that the salary specified at the time any Mayor or Councilmember takes office shall not be changed during the term for which that officer was elected. The ordinance making any change in the salary paid to the Mayor and Council shall be enacted prior to the election of the officers to whom the salary change shall apply. The Mayor and Councilmembers are entitled to receive such other benefits as provided by ordinance.

#### Section 305. Meetings of the Mayor and Council.

A. The newly elected Mayor and Council shall meet on the second Monday in May following its election for the purpose of organization, after which the Mayor and Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month, except in July and August if the Mayor and Council chooses to suspend all meetings in those months. The Mayor or three members of the

Council may at any time call a Special Meeting of the Council upon one day's notice. (Res. No. 1-99, 7-21-99.)

B. The newly elected Mayor and Council shall determine its own rules and order of business by resolution, consistent with the provisions of this Charter. Such rules and the time and place of the regular meetings of the Mayor and Council shall be published within two months after

(Cont'd on page 100-3) the election at least once in a newspaper of general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household, and shall be posted at City Hall.

C. All meetings of the Mayor and Council shall be open to the public, unless closed by the Mayor and Council in accordance with the provisions of State law. The rules of the Mayor and Council shall provide that residents of the City shall have a reasonable opportunity to be heard at any regular or special meeting in regard to any municipal question. The City Manager shall keep a journal of its proceedings and record the vote of each Councilmember upon final action on any question, resolution, or ordinance, or at any other time if requested by any member of the Mayor and Council.

#### Section 306. Quorum.

Three members of the Mayor and Council shall constitute a quorum for the transaction of business but no ordinance or other official act shall be adopted without the affirmative vote of three members of the Mayor and Council.

#### Section 307. Procedure for Enactment of Resolutions and Ordinances.

##### A. Definitions

1. Resolution shall mean a formal expression of opinion, will or intent adopted by a vote of the Mayor and Council, and is generally not law. There shall be two basic types of resolutions: simple resolutions and substantive resolutions.

a. Simple resolutions are used, for example, to make appointments to City committees, to set forth positions of support or opposition of the City government on a particular subject, to express congratulations or condolences, or other matters of a non-substantive or personal import.

b. Substantive resolutions are used, for example, to amend the Charter. Substantive resolutions have the force and effect of law.

2. Ordinance shall mean a legislative enactment adopted in a manner prescribed by this section, that shall have the full force of law, whether an ordinance is codified or not.

3. Other official action shall mean a motion or formal vote whose nature is similar to a simple resolution.

B. A proposed ordinance, resolution or other official action may be introduced by the Mayor or any Councilmember at any Regular or Special Meeting. At least a fair summary of the proposed ordinance, resolution or other official action shall be read at the meeting at which it is introduced and, if applicable, at the meeting at which it is acted upon. Except as otherwise provided by this Charter or state law, every ordinance, resolution and other official action shall become effective immediately following adoption by the Mayor and Council unless a different effective date has been specified therein. Each adopted ordinance, resolution, and other official action shall be posted at City Hall for at least two weeks after it becomes effective and a fair

summary shall be published at least once in a newspaper having general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household. Ordinances, resolutions, and other official actions in effect shall be filed in City Hall by the City Manager and be kept available in City Hall for public inspection.

C. The Mayor and Council shall not act on any ordinance or substantive resolution at the meeting at which it is introduced. The Mayor and Council may pass, amend, amend and pass, reject, or defer consideration of an ordinance or substantive resolution at any Regular or Special Meeting of the Mayor and Council held not less than fourteen days after the meeting at which the proposed ordinance or substantive resolution was introduced, except as provided in section 307(D). All ordinances and substantive resolutions passed by the Mayor and Council should be signed by the Mayor and two Councilmembers or by three Councilmembers; however, the failure of any ordinance or substantive resolution to be signed shall have no effect on its validity.

D. In cases of emergency affecting the City's financial health or the immediate preservation of life, health, property, or the public peace, the provision that an ordinance or substantive resolution shall not be acted on at the meeting at which it is introduced may be suspended by the affirmative votes of four members of the Mayor and Council. An emergency ordinance or emergency substantive resolution may become effective immediately upon adoption or on a later date as specified therein. No emergency ordinance or emergency substantive resolution shall levy any tax or authorize borrowing except as provided in Section 704 (B) of this charter; abolish any office; change the compensation, term, or duty of any officer; or grant any franchise or special privilege. Every emergency ordinance or emergency substantive resolution shall be clearly designated as such and shall describe the emergency in clear and specific terms in the introductory clauses. Upon adoption, a fair summary of the emergency ordinance or emergency substantive resolution shall be immediately published in a newspaper of general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every household, and posted in City Hall. The Mayor and Council shall hold a public hearing on the emergency ordinance or emergency substantive resolution at its next Regular or Special Meeting, held not less than fourteen (14) days nor more than forty-five (45) days after its adoption.

E. Each ordinance, resolution, or other official action of the Mayor and Council shall be posted at City Hall immediately after its introduction until it is either passed or rejected or tabled.

#### **Article IV. General Powers of Mayor and Council**

##### Section 401. General Grant of Powers.

A. All powers of the City shall be vested in the Mayor and Council, except as otherwise provided by law or this Charter.

B. In addition to all the powers granted to the Mayor and Council by this Charter or any other provision of the law, the Mayor and 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 section.

##### Section 402. Enumeration of Specific Powers.

A. The Mayor and Council shall have the following express ordinance-making powers:

1. Administration. To hire employees and to establish personnel regulations and a merit system.

2. Advertising. To provide for advertising, printing, and publication of materials relating to the business of the city, including financial and legal notices required by law or this Charter.

3. Animals. To regulate the keeping and to prohibit the running at large of any animals; to provide for the licensing of dogs and cats and to provide for the disposition of homeless dogs and cats and dogs and cats on which no license fee is paid; to authorize the impounding, keeping, sale, destruction, or redemption of any animals found in violation of any ordinance regulating same.

4. Appropriations and Finances. To levy, assess, and collect real and personal property taxes; to appropriate municipal monies for any public purpose within the powers of the Mayor and Council; to have general management and control of the finances of the City.

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

6. Board, Commissions, and Committees. To appoint any boards, commissions, and committees that may be deemed necessary to further the purposes of the City.

7. Bridges. To erect and maintain bridges.

8. Buildings. To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the City and to grant building permits therefor; to enact a building code and a plumbing code and to appoint a building inspector and a plumbing inspector to inspect and enforce such codes; to require reasonable charges for permits and inspections; to require the condemnation of buildings and structures that, in whole or in part, are dangerous or insecure, and to require that such buildings and structures be made safe or taken down.

9. Business Licensing and Regulation. To exercise the business licensing and regulation authority granted to municipal corporations in the business regulation article of the annotated code of Maryland and all other provisions of law.

10. Cemeteries. To regulate or prohibit the interment of bodies within the city and to regulate cemeteries.

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

12. Community Services. To provide, maintain and operate community and social services.

13. Curfew. To prohibit the youth of the City from being in the streets, lanes, alleys, or public places at unreasonable hours of the night, and at unreasonable hours of the day on school days.

14. 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.

15. Elections. To provide for municipal elections; to purchase, lease, borrow, install, or maintain voting machines for use in City elections.
16. Elevators. To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.
17. 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 materials which may endanger persons or property.
18. Fees and Charges. To establish and collect fees and charges for all franchises, licenses, and permits issued by the City and for all governmental or proprietary functions of the City.
19. Fire. To suppress and prevent fires and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the City; to adopt a fire prevention code to provide for protection against fires and the removal of fire hazards and to appoint inspectors for the enforcement of such code; to prohibit the use of buildings and structures that do not meet the requirements of any fire prevention code established by the City; to take all other measures necessary to control and prevent fires in the City.
20. Food. To inspect and to require the condemnation of any unhealthy food products and to regulate the sale of any food products.
21. Franchises. To grant and regulate franchises to water companies, electric light companies, gas companies, telephone companies, transit companies, taxicab companies, and all public communication systems which may be deemed advantageous and beneficial to the City, subject to the limitations and provisions of Article 23A of the Annotated Code of Maryland; to grant exclusive or non-exclusive franchises for a community antenna system or other cable television system that utilizes any public right-of-way; to impose franchise fees, and to establish rates and regulations for franchises granted under this subsection, subject to State and Federal laws.
22. Grants-In-Aid. To accept grants of Federal or State funds and to expend such funds subject to the conditions under which the grants are made.
23. Hawkers and Peddlers. To license, tax, regulate, suppress, and prohibit hawkers, itinerant dealers, peddlers, pawnbrokers, and all other persons selling any articles on the streets of the City.
24. Hazardous Improvements. To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.
25. Health. To protect and preserve the health of the City and its inhabitants; to appoint a public health officer and to define and regulate the powers and duties of such officer; to prevent the introduction of contagious diseases into the city; to establish quarantine regulations; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health. Nothing in this section shall be construed to affect any of the powers and duties of the secretary of health and mental hygiene of the State of Maryland, the County Board of Health or any public general or local law relating to health.
26. House Numbers. To regulate the numbering of houses and lots and to require owners to

renumber them. If the owner does not comply, the City may authorize and require the work to be done by the City at the owner's expense, such expense to constitute a lien on the property.

27. Intergovernmental 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.

28. Liens. To provide that any valid charges, taxes, assessments, or penalties made against any real property within the City shall be liens upon the property to be collected as municipal taxes are collected.

29. Lights. To provide for the lighting of the City.

30. Markets. To establish and to regulate markets, and to license the sale of marketable commodities.

31. Noise. To regulate or prohibit unreasonable noise.

32. Nuisances. To prevent, prohibit or abate all nuisances defined by common law, by this Charter, by ordinance of the Mayor and Council, or by the laws of the State of Maryland; to regulate or prohibit all trading, handling, or manufacture of any commodity that may become offensive or injurious to the public. In this connection the City may regulate or prohibit stockyards, slaughterhouses, cattle or hog pens, and tanneries. This listing is by way of enumeration not limitation.

33. Obstructions. To prohibit and remove all obstructions from any street, lane, alley, sidewalk, or other public way and from any lots adjoining any street, lane, alley, sidewalk, or other public way, or any other public place.

34. Parking Facilities. To license and regulate and to establish, operate, and maintain facilities for off-street parking.

35. Parking Meters. To install parking meters on the streets and public places of the City and prescribe rates and provisions for their use.

36. Parks and Recreation. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs.

37. Police Force. To establish, operate, and maintain a police force.

38. Property. To obtain real or personal property for any public purposes; to erect buildings and structures on this property for the benefit of the City and its inhabitants; to convey or sell any real or personal property of the City when no longer needed for public use, after having given at least 20 days public notice of the proposed conveyance.

39. Public Peace and Order. To prohibit, suppress, and punish all vice, gambling, prostitution and the keeping of bawdy houses and houses of ill fame, and all disorders, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness.

40. Public Right-Of-Way. To regulate the use of the entire area between any public street,

road, alley, or public way and any private property line, including storm drains, curbs, sidewalks, any area between the curb and the sidewalk, and any area between the sidewalk and the property line, and all structures in, under or above this; to require the owner or occupant of any premises to keep the sidewalks in front of or adjacent to such premises in a clean and safe condition, including the removal of snow, debris or other obstructions.

41. Refuse. To prevent the deposit of any dirt, garbage, trash, liquids, or other wastes either on private or public property; to provide for the proper disposal of solid wastes.

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

43. Sanitation. To require the owner or occupant of any premises or building in the City to abate or cleanse any filthy, unsanitary, or unsafe condition and after reasonable notice to the owners or occupants, to authorize the abatement or cleansing of the filthy, unsanitary, or unsafe condition by proper agents of the City at the owner or occupant's expense.

44. Signs and Displays. 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.

45. Taxicabs. To license, tax and regulate public hackers, taxicab drivers, porters, and all other similar occupations.

46. Vehicles. To regulate and license vehicles not subject to the licensing power of the State of Maryland.

B. The enumeration of powers in this section is not to be construed as limiting the powers of the Mayor and Council to the several subjects mentioned.

#### Section 403. Exercise of Powers.

All the powers of the City shall be exercised in a manner prescribed by this charter or duly adopted ordinances and resolutions of the Mayor and Council.

### **Article V. Registration, Nomination, and Election Procedures**

#### Section 501. Board of Elections.

A. There shall be a Board of Elections consisting of a Supervisor of Elections and six (6) members and two (2) alternates who shall be appointed by the Mayor and Council on or before the first Monday in March of every even numbered year. The terms of the members shall begin on the first Monday in March of the year in which they are appointed and run for four years, except that the terms of the members appointed to the term beginning on the first Monday in March 2015 shall run for three years, and the terms of two of the members appointed in March 2018 shall run for two years. Vacancies on the Board shall be filled by the Mayor and Council for the remainder of the unexpired term. Compensation of the Board of Elections shall be determined by the Mayor and Council.

B. Members of the Board of Elections shall be qualified to vote in City elections pursuant to Section 502 of this Article and shall not hold or be a candidate for any elective office during their term on the Board.

C. The Board of Elections shall be responsible for the registration of voters, nominations, and supervision of all City elections in accordance with the provisions of this Charter, City ordinances and State and Federal law.

D. Any member of the Board of Elections may be removed by the Mayor and Council for inefficiency, malfeasance, misfeasance, nonfeasance, misconduct in office, or insubordination. Before removal, the member of the Board to be removed shall be given a written copy of the charges and shall have a public hearing before the Mayor and Council if requested within ten days after receiving the written copy of the charges.

E. Members of the Board of Elections may be reappointed by the Mayor and Council.

#### Section 502. Voter Qualifications.

A. Except as provided in subsection B, every person who meets all the following requirements may vote in City elections.

1. Is at least eighteen (18) years of age;
2. Is registered to vote in accordance with the provisions of this Charter; and
3. Has resided in the corporate limits of the City for at least thirty (30) days immediately preceding the next City election.

B. An individual is not eligible to be a registered voter of the City if the individual:

1. Has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment for the conviction on Election Day;
2. Is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; or
3. Has been convicted of buying or selling votes.

#### Section 503. Registration of Voters.

A. Registration by the Prince George's County Board of Elections shall be deemed registration for City elections, provided that the person so registered meets the voter qualifications enumerated in this Charter. The Mount Rainier Board of Elections shall accept the list of registered voters provided by the Prince George's County Board of Elections as a valid registration list for the City.

B. All residents of the City of Mount Rainier who meet the voter qualifications set forth in Section 502, regardless of citizenship status, may register with the Mount Rainier Board of Elections to vote in City elections. This includes those residents of the City who are U.S. citizens, Legal Permanent Residents (also known as "Green Card Holders"), Holders of Temporary Visas (including, but not limited to: work visas,

student visas, refugees, those with Temporary Protected Status), and those who do not have formal U.S. immigration status.

C. City and County voter registration forms shall be made available to the public at City government offices.

#### Section 504. Absentee Voting.

A. Any qualified voters registered to vote in the elections of the City of Mount Rainier may vote by absentee ballot if they are unable to cast a ballot during the regularly scheduled polling hours on election day by reason of physical condition or necessary absence.

B. A qualified voter desiring to vote at a City election as an absentee voter shall make application to the City Board of Elections in writing, which application must be received no later than the Monday preceding the election. The application must be signed by the applicant or, if he or she is unable to sign, must bear the mark of the applicant and the signatures of two (2) witnesses.

C. To be counted, the absentee ballot must be (i) returned to the City Board of Elections, appropriately signed and sealed, by the close of the polls on election day or (ii) if mailed, postmarked on or before election day and delivered no later than the close of business on the day following election day.

#### Section 505. Nomination Procedures.

A. Any person desiring to have his or her name placed upon the official ballot for Mayor or Councilmember at any City election shall present to the Supervisor of Elections a petition setting forth his or her name and residence, and the office sought, and such petition shall be signed by at least twenty (20) qualified voters. In the case of a petitioner for Councilmember only signatures of qualified voters residing within the ward from which the petitioner is running shall be counted. No person may file for nomination to more than one elective public office or hold more than one elective public office at one time. Any person nominated as a candidate for elective office must meet the qualifications of the office for which he or she is nominated. The Council shall develop such rules and procedures as are necessary relating to nomination procedures consistent with the provisions of this Charter.

B. If the term of office of a Councilmember expires at the same biennial election as a Special Election for a Council ward seat that was filled by appointment following a vacancy in office, then any person desiring to have his or her name placed on the official ballot for Councilmember shall present a nominating petition to the Supervisor of Elections for either a four-year or a two-year term of office. The nomination procedures shall be as set forth in this section, except that the nominating petition shall state that the candidacy is for a four-year or a two-year term of office. No person shall file for nomination as a candidate for Councilmember for both the four-year and the two-year term of office.

C. Nominating petitions shall be submitted on forms developed by the City. Such forms shall be available from City Hall and such other places as the Council or the City Board of Elections may deem appropriate.

D. Nominating petitions must be presented by the petitioner to the Supervisor of Elections no later than 4:00 pm on the sixth Monday prior to the election. The Supervisor of Elections, with whatever assistance he or she deems appropriate, shall certify nominating petitions within five business days of presentation or

within four hours of the deadline for presentation, whichever shall first occur. No nominating petition shall be accepted by the Supervisor of Elections after the deadline set forth herein, except that in the event of a vacancy occurring between said date and the date of the election, the Supervisor of Elections shall be permitted to accept additional nominating petitions for those positions in which such a vacancy occurs.

#### Section 506. Establishment of Wards and Ward Boundaries.

A. Two Council wards are hereby established within the City. The boundaries of the wards shall be as follows:

The dividing line between the two wards shall be a line North on 34th Street from the City limits at Eastern Avenue to the intersection with Shepherd Street, then West along the middle of Shepherd Street to its intersection with 31st Street, then North along the middle of 31st Street till its intersection with Arundel Road, then West along the middle of Arundel Road to 30th Street, then North along the middle of 30th Street to the City limits. All other boundaries are defined by the City limits.

B. The boundaries of the two wards shall be reviewed and adjusted as necessary after each census in accordance with any applicable State and Federal laws. The Council may review and adjust the ward boundaries on a more frequent basis if deemed necessary.

C. In addition to the decennial review of ward boundaries required by this section, the Mayor and Council shall review the boundaries of the wards after each annexation and may adjust the boundaries if it is deemed necessary by the Mayor and Council.

#### Section 507. Conduct of Elections Generally.

The City Board of Elections shall provide suitable sites and ballots for all City elections. City elections shall be conducted on a nonpartisan basis. The name of each candidate nominated for elective office shall be arranged on the ballot by office with no party designation of any kind. The order of candidates' names on the ballot shall be random, determined in a manner prescribed by ordinance or substantive resolution of the Mayor and Council. The City Board of Elections shall keep the polls open from 7:00 a.m. to 8:00 p.m. on election day.

#### Section 508. Election of Mayor.

A. On the first Monday in May in every fourth year beginning with 1997, at such places in the City that the City Board of Elections shall designate, the registered voters of the City shall vote for one person to serve as Mayor of the City.

B. The candidate receiving the highest number of votes shall be elected Mayor. In the event of a tie preventing any candidate from taking office a Special Election shall be held between the candidates with the highest number of votes as provided in Section 514 of this Article.

#### Section 509. Election of Councilmembers.

A. On the first Monday in May in odd numbered years, at the same polling places designated for the election of Mayor, registered voters residing in each City ward shall vote for candidates to serve as Councilmembers for that ward.

B. In 1997 only, each registered voter will receive a ballot permitting the voter to cast two votes for

candidates to serve as Councilmembers from that voter's ward. No voter may cast more than one vote for a candidate. At the close of balloting, a count of all votes will be made, and the two candidates in each ward receiving the highest number of votes shall be elected from that ward. The Councilmember with the highest number of votes shall serve for four years and the Councilmember with the second highest number of votes shall serve for two years.

C. Beginning in 1999, each registered voter will receive a ballot permitting the voter to cast one vote for a candidate to serve as Councilmember from that voter's ward for the vacant four-year term. At the close of balloting, a count of all votes will be made, and the candidate in each ward receiving the highest number of votes shall be elected from that ward.

D. In the event of a tie preventing any candidate from taking office, a Special Election shall be held between the tied candidates as provided in Section 514 of this Article.

#### Section 510. Forfeiture of Office.

A. Any person holding an elective office under this Charter, who during a term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the official's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

B. Any person holding elective office under this Charter shall immediately forfeit the office if the official ceases to be a resident of the City or ceases to reside in the ward for which they were elected to represent.

C. If a Councilmember or the Mayor is absent from six consecutive regularly scheduled public meetings or more without being properly excused by the Council, the remaining members may by majority vote pass a resolution declaring that position forfeited, and proceed to fill the vacant position as provided in Section 513. The resolution shall be preceded by a public hearing which shall be publicly announced and scheduled at a regular Council meeting and published in a newspaper of general circulation within the City at least two weeks prior to the hearing date.

#### Section 511. Resignation of Elected Officials.

At any time that the Mayor or a Councilmember ceases to be a registered voter, moves out of the City or, in the case of a Councilmember, out of the ward from which he or she has been elected, or has reason to believe that he or she is or will be unable to perform the duties of the office as required by this Charter, he or she shall submit a written resignation to the Mayor and Council stating the date on which the resignation will be effective. A resignation which is not in writing may be accepted by the Council if it is stated by the resigning member at a public meeting or in another public forum or in a publication of general circulation in the City, and the resigning member misses two or more consecutive regularly scheduled public meetings subsequent to his/her announcement of resignation. Upon the acceptance of such resignation, the Mayor and Council shall, by resolution, declare the office vacant and proceed to fill such vacancy pursuant to Section 513 of this Article. (Res. No. 1-2001, 3-27-02)

#### Section 512. Recall of Elected Officials.

The Mayor or a Councilmember may be recalled from office in accordance with the following

procedure:

A. To recall the Mayor, a petition shall be signed by not less than twenty-five percent (25) of the registered voters in the City. To recall a Councilmember a petition shall be signed by not less than twenty-five percent (25) of the registered voters in the ward which the Councilmember represents. The petition shall be presented to the Mayor and Council at a regular Mayor and Council meeting. The petition shall state the name and office of the official to be recalled and that its purpose is to require a recall referendum to vote on whether that elected official should be removed from office. A recall petition must state a reason or reasons for the recall. A separate petition shall be required for each official for whom recall is sought.

B. Upon receipt of the petition, the Mayor and Council shall refer the petition to the City Board of Elections for verification of the signatures. Upon verification of the signatures on the petition, the City Board of Elections shall immediately report its findings to the Mayor and Council, but no later than 21 days from the date the petition was referred to the City Board of Elections. If the City Board of Elections has determined that a valid recall petition containing a sufficient number of signatures from qualified voters has been submitted, the Mayor and Council shall set a date for a referendum to be held within sixty days of the petition verification. If the official subject to the recall was elected from a ward, only the registered voters from that ward may vote in the recall election; otherwise all qualified voters of the City may participate in the recall election.

C. If the majority of the votes cast at the referendum are for the recall, the office shall be declared vacant, and be filled pursuant to Section 513 of this Article.

#### Section 513. Vacancies in Office.

A. A vacancy in the Office of Mayor or Councilmember shall exist upon the death, resignation, or recall of the official or upon forfeiture of the office by the official in accordance with the provisions of this Charter. Whenever a vacancy occurs the Mayor and Council shall declare the vacancy and fill the office as prescribed by this section.

B. In case of a vacancy occurring in the Office of Mayor, the vacancy shall be filled in the following manner:

1. Where there is 180 days or less remaining in the unexpired term, the Vice-Mayor shall become Mayor and the Council seat held by the Vice-Mayor shall become vacant and filled in accordance with the provisions of this section.

2. Where there is more than 180 days remaining in the unexpired term, the Council shall call a Special Election as provided in Section 514.

C. In case of a vacancy in the Office of Councilmember, the Mayor and remaining Councilmembers shall appoint a qualified person from a list of not more than three (3) qualified persons provided by the remaining ward representative, to serve as Councilmember from the appropriate ward until the next biennial election. If a vacancy cannot be filled by this method due to unforeseen [unforeseen] circumstances such as multiple simultaneous vacancies in the same ward, the Council shall call a special election to fill the vacancy as provided in Section 514 of this Article.

D. For the purposes of this section only, the provision of Section 306 of this Charter requiring the affirmative vote of three members of the Mayor and Council to take any official action shall be suspended. A simple majority of the remaining members of the Mayor and Council shall be sufficient to fill any vacancies as

required by this section. (Res. No. 1-2001, 3-27-02)

#### Section 514. Special Elections.

A. Whenever a special election is required by this Charter, the City Council shall establish a date for the special election not less than thirty (30) days nor more than sixty (60) days from the date of the regular City election (in the case of a tie between candidates for any office) or the date a vacancy occurs in any office, provided that the City Council shall give the voters of the City thirty (30) days notice of the date of the special election.

B. All special elections shall be conducted by the City Board of Elections in the same manner and with the same personnel, as far as practicable, as general City elections.

#### Section 515. Regulation by Council.

The Mayor and Council shall adopt all ordinances necessary for the conduct of registration, nomination, and elections not covered by this Charter.

### **Article VI. City Personnel**

#### Section 601. Authority to Employ Personnel.

The City may employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter. The City shall treat all employees and applicants for employment fairly and equitably in all aspects of personnel management. Race, color, religion, national origin, sex, ancestry, marital status, age, sexual orientation, disability, and political or union affiliation are not relevant to their treatment. The City shall give proper regard for their privacy and constitutional rights.

#### Section 602. City Manager-Appointment and Removal.

A. The Mayor and Council shall, by a majority vote of its total membership, appoint a City Manager for a definite term, and fix the compensation and conditions of employment in accordance with a signed agreement between the City and City Manager, except that notwithstanding any provisions of the written agreement to the contrary, the City Manager may be removed before the expiration of the term of employment by the Mayor and Council as provided by Subsection (b) of this Section. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. The Mayor and Council may require the City Manager to live within the City, County, or State if deemed necessary. The City Manager shall not participate in City election campaigns or run for any elective City office while serving as City Manager.

B. The Mayor and Council may adopt a resolution to propose removal of the City Manager by a supermajority vote of its total membership and may suspend the City Manager with pay. The resolution shall set forth the reasons of such suspension, if any, and proposed removal. A copy of such resolution shall be served immediately upon the City Manager. The City Manager shall have fifteen (15) days in which to reply to the resolution in writing, and upon request shall be afforded a public hearing, which shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After such hearing, if requested, and after full consideration, the Mayor and Council may, by a supermajority vote of its total membership, adopt a final resolution of removal. The City Manager shall continue to receive full salary until the removal becomes effective.

(Cont'd on page 100-15)

Section 603. City Manager-Powers and Duties.

The City Manager shall be the Chief Administrative Officer of the City, responsible to the Mayor and Council for the administration of all City affairs placed in the City Manager's charge by or under the City Charter and Code of Ordinances. The City Manager shall:

A. Appoint and, when necessary for the good of the service, suspend or remove all City employees and appointive administrative officers, except as otherwise provided by law, this charter, or any personnel rules adopted pursuant to them. Appointment and removal of City department heads shall require prior notification to the Mayor and Council;

B. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or by this Charter;

C. Attend all City Council meetings. The City Manager shall participate in discussion and provide relevant information at the request of the Mayor and Council;

D. See that all laws, provisions of this Charter and acts of the Mayor and Council, subject to enforcement by the City Manager or by officers subject to the Manager's direction and supervision, are faithfully executed;

E. Prepare and submit the annual budget and capital program to the Mayor and Council;

F. Submit to the Mayor and Council and make available to the public a complete report on the finances and administrative activities of the City at the end of each fiscal year;

G. Make such other reports as the Mayor and Council may require concerning the operation of City departments, offices and agencies;

H. Keep the Mayor and Council fully advised as to the financial condition and future needs of the City;

I. Make recommendations to the Mayor and Council concerning the affairs of the City;

J. Provide staff support services for the Mayor and Council members;

K. Perform any other duties specified by this Charter, City ordinances, or as may be required by the Mayor and Council; and

L. Designate by a letter filed from time to time with the City Council, a qualified employee of the City to perform the duties of the City Manager during any temporary absence or disability. In the event the City Manager fails to make such designation, the City Council may appoint a qualified employee of the City to perform the duties of the City Manager until the return or cessation of disability of the City Manager.

Section 604. Department Heads.

Department heads shall serve at the pleasure of the City Manager and may be removed with prior

notification to the Mayor and Council. Department heads shall report directly to the City Manager.

#### Section 605. City Attorney.

The Mayor and Council may appoint a City attorney. The City attorney shall be a member of the bar of the Maryland court of appeals. The City attorney shall be the legal adviser of the City and shall perform such duties as the Mayor and Council may require. The Mayor and Council shall determine the compensation of the City attorney. The Mayor and Council may employ any additional legal consultants that it deems necessary.

#### Section 606. Compensation of Employees.

The Mayor and Council shall set the compensation of all officers and employees of the City from time to time by ordinance. The Mayor and Council may provide for health, hospitalization, retirement and other forms of benefits for its officers and employees and may expend public monies for such purposes.

### **Article VII. Finance**

#### Section 701. Fiscal Year.

The City shall operate on an annual budget. The fiscal year of the City shall begin on July 1 in any year and shall end on June 30 of the following year. The fiscal year constitutes the tax year, the budget year, and the accounting year.

#### Section 702. Budget Proposal and Adoption.

A. The City Manager shall submit a proposed budget calendar to the Mayor and Council no later than November 15 of each year. The City Manager shall submit a budget to the Mayor and Council no later than March 31 of each year. 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, plus any unreserved or otherwise uncommitted funds available to the City, must equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the City Manager, open to public inspection by anyone during normal business hours.

B. The Mayor and Council shall hold a public hearing on the proposed budget after giving at least two (2) weeks notice of such hearing in a newspaper of general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household, after which the Mayor and Council may amend the budget. The Mayor and Council shall adopt the budget by ordinance no later than June 30 of the fiscal year currently ending.

#### Section 703. Appropriations.

The City shall not expend any public monies not appropriated by the Mayor and Council. From the effective date of the budget ordinance, the several amounts stated in the budget ordinance as proposed expenditures shall be and become appropriated to the several objects and purposes specified. The Mayor and Council may approve a transfer of funds between appropriations during the fiscal year with a supermajority vote of the Mayor and Council. All appropriations shall lapse at the end of the budget year to the extent the amount appropriated has not been expended or lawfully encumbered. (Res. No. 2-99, 7-21-99.)

#### Section 704. Amendments after Adoption.

A. Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Mayor and Council may make supplemental appropriations for the year up to the amount of such excess by an ordinance adopted by a supermajority.

B. Emergency Appropriations. To meet a public emergency affecting the City's financial health or life, health, property or the public peace, the Mayor and Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 307 of this Charter and adopted by a supermajority. To the extent that there are no available unappropriated revenues to meet such appropriations, the Mayor and Council may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall immediately report such condition to the Mayor and Council, indicating the estimated amount of the deficit and any remedial action taken by the Manager and recommendations as to any other steps to be taken. The Mayor and Council shall then take such actions as it deems necessary to prevent or reduce any deficit, which may include the use of fund balances or reduction of appropriations by ordinance adopted by a super majority. (Res. No. 2-99, 7-21-99.)

#### Section 705. Taxable Property.

All real property and business personal property within the corporate limits of the City of Mount Rainier shall be subject to taxation for municipal purposes. The assessment used for municipal taxation 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 municipal taxation by state law.

#### Section 706. Notice of Tax Levy.

A. The Mayor and Council shall have the power to levy on or before the 30th day of June, in each year, property taxes for the next tax year at such rates as they may find necessary to meet anticipated expenses. All unpaid taxes on real property shall be, until paid, a lien against the property upon which the tax is assessed. Except as otherwise provided in this Charter or in state law, property taxes for the full tax year shall be due on the first day of July in the tax year for which they are levied, and shall be in arrears and subject to interest and penalties after September 30 of the tax year. Personal property tax may be paid without interest or penalty on or before September 30, if the personal property tax bill is submitted on or before August 31 of a tax year; or on or before 30 days after the date the tax bill is received or reasonably should have been received if the personal property tax bill is submitted after September 1 of the tax year. All unpaid tax on personal property is a lien on the personal property and on the real property of the owner of the personal property.

B. Each year after the tax levy is made, the City Manager shall mail or cause to be delivered to each taxpayer or the taxpayer's agent, at the last known address, a bill of taxes due. The City Manager may cause taxes to be billed with County taxes using Prince George's County as an agent for the City. Failure to give or receive this tax bill shall not relieve any taxpayer of the responsibility to pay all taxes levied on the taxpayer's property by the dates established in this Charter or by state law.

C. The Mayor and Council hereby impose partial year municipal corporation property tax on all real property that is completed or initially otherwise added to the tax roll after the beginning of the tax year. Provisions for the payment of such one-fourth year, one-half year, and three-quarter year taxes shall be as set forth in Title 10 of the Tax-Property Article of the Annotated Code of Maryland (1957 edition as amended), as amended from time to time.

#### Section 707. Sale of Tax Delinquent Property.

A list of all property on which the City taxes have not been paid and which are in arrears as provided by section 706 above shall be turned over by the City Manager to the official of the County responsible for the sale of tax delinquent property as provided in state law. All property listed thereon, if necessary, shall be sold for taxes by this County official in the manner prescribed by state law.

#### Section 708. Borrowing Power.

A. The City shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, tax anticipation notes, or any other permitted evidences of indebtedness in the manner prescribed in Sections 31 through 39 of article 23A of the Annotated Code of Maryland (1957 edition as amended).

B. The Mayor and Council shall have the power to borrow on short term notes, certificates of indebtedness, or long term-notes for an amount not to exceed ten percent (10) of the assessable base with payments not to exceed thirty (30) years.

#### Section 709. Audit.

The financial books and accounts of the City shall be audited annually in a manner determined by the Mayor and Council not contrary to applicable State law.

### **Article VIII. Public Ways and Sidewalks.**

#### Section 801. Definition of Public Ways.

The term "public ways" as used in this Charter includes all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys.

#### Section 802. Control of Public Ways.

A. The Mayor and Council shall have control of all public ways in the City except those under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the Mayor and Council may do whatever it deems necessary to establish, operate, maintain, close, or otherwise regulate the use of public ways in the City.

B. The City shall have but is not limited to the following powers:

1. Establish, regulate, and change from time to time the grade lines, width and construction materials of any City public way or part thereof, or any bridges, curbs, and gutters.
2. Grade, lay out, construct, open, extend, and make new City public ways.

3. Grade, straighten, widen, alter, improve, or close up any existing City public way or part thereof.
4. Pave, surface, repave, or resurface any city public way or part thereof.
5. Install, construct, repair, and maintain curbs and/or gutters along any city public way or part thereof.
6. Construct, reconstruct, maintain, and repair bridges.
7. Name city public ways.
8. Have surveys, plans, specifications, and estimates made for any of the above projects or parts thereof.
9. Abandon public ways.

#### Section 803. Sidewalks.

The Mayor and Council shall have [to] the power to:

- A. Establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on City property along any public way or part thereof.
- B. Grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on City property or along any public way or part thereof.

#### Section 804. Special Assessments.

A. The Mayor and Council shall have power to levy and collect taxes in the form of special assessments upon property in a special taxing district to cover all or any part of the cost of infrastructure improvements. The purpose of this authority is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of roads, bridges, culverts, tunnels, alleys, sidewalks, storm drainage systems, sewers, water systems, lighting, parking, parks and recreation facilities, and other infrastructure improvements within the special taxing district. The cost of any infrastructure improvement project to be paid in whole or in part by special assessments includes the cost of construction; the cost of acquisition of any land, structures, rights, rights-of-way, easements, and interests for the project; financing charges and interest; the costs of architectural, engineering, financial, and legal services; administrative expenses incident to the project; and any other expenses as may be necessary or incident to the construction, acquisition, and financing of the project.

B. In determining the basis for and the amount of any special assessment, the cost of the infrastructure improvement project may be calculated and levied:

1. Equally per front foot, lot, parcel, dwelling unit or square foot;
2. According to the value of the property as determined by the Mayor and Council, with or without regard to improvements on the property; or

3. In any other reasonable manner that results in fairly allocating the cost of the infrastructure improvement project.

C. All special assessment charges shall be levied by the Mayor and Council by ordinance. Before commencement of any project that is to be funded in part by a special assessment, the Mayor and Council shall hold a public hearing. The Mayor and Council shall give at least two weeks public notice of such hearing. Such notice shall include 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 on apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested may appear before the Mayor and Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household. The City Manager 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. Following the hearing the Mayor and Council in its discretion, may vote to proceed with the project and may levy the special assessment.

D. Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten (10) years, and in such manner as the Mayor and Council shall determine. Interest may be charged on installments at a rate to be determined by the Mayor and Council. Unless otherwise provided in the ordinance, special assessments levied under this section shall be collected in the same manner as City taxes are collected or by a suit at law, and shall be subject to the same penalties and the same lien priority, and tax sale procedures in case of delinquency as is provided for general City taxes.

## **Article IX. General Provisions**

### Section 901. Oath of Office.

A. Before entering the duties of their offices, the Mayor, Councilmembers, City Manager, all department heads designated by the Mayor and Council, members of the City Board of Elections, and all other persons elected or appointed to any office of profit or trust in the City government, shall take and subscribe the following oath or affirmation:

"I, (full name) 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 of (office), according to the constitution and laws of this State and the Charter and laws of this City."

B. The Mayor and Councilmembers shall take and subscribe this Oath or Affirmation before the Clerk of the Circuit Court for the County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing to the oath may do so before the Mayor.

### Section 902. Officers and Employees.

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of City officers or employees.

### Section 903. Official Bonds.

The City Manager and such other officers or employees of the City as the Mayor and Council or this Charter may require, shall give bond in such amount and with such surety as may be required by the Mayor and Council. The premiums on such bonds shall be paid by the City.

### Section 904. Prior Rights and Obligations.

A. All rights, claims, actions, orders, and contracts, held by the City or any other person or corporation at the time this Charter is adopted, including any liens acquired under any prior Charter of the City, are hereby preserved in all respects together with all rights and remedies in relation thereto.

B. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty existing at the time this Charter becomes effective. All pending legal and administrative actions and proceedings shall continue except as modified pursuant to the provisions of this Charter.

### Section 905. Enforcement and Penalties.

A. The Mayor and Council shall have the power to declare that a violation of any City ordinance or resolution shall be punishable as a misdemeanor and to affix penalties thereto of a fine or imprisonment or both, not exceeding the maximum allowed by state law. Upon conviction before the District Court of Maryland or the Circuit Court for Prince George's County, the aggrieved party shall have the right to appeal as provided under the general laws of the State. Unless otherwise explicitly provided, all violations of City ordinances shall be municipal infractions.

B. The Mayor and Council shall have the power to declare that a violation of any City ordinance or resolution shall be a municipal infraction, unless that violation is declared to be a felony or misdemeanor by State law, and to affix penalties thereto of a fine not exceeding the maximum allowed by state law. The fine is payable by the offender to the City within twenty (20) calendar days of service of the citation. Any person who receives a citation for a municipal infraction may elect to stand trial for the offense in a manner prescribed by article 23A § 3 of the Annotated Code of Maryland (1957 edition as amended) by notifying the City in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial may result in an additional fine or adjudication by the court. A municipal infraction is a civil offense.

### Section 906. Effect of Charter on Existing Ordinances.

A. All ordinances, resolutions, rules, and regulations in effect in the City 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. All ordinances, resolutions, rules, and regulations in effect in the City at the time this Charter becomes effective which are in conflict with the provisions of this Charter are hereby repealed to the extent of such conflict.

### Section 907. Separability.

If any word, clause, sentence, paragraph or section of this charter is declared unconstitutional or

otherwise invalid by judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, or sections of this charter.

## **APPENDIX I. URBAN RENEWAL AUTHORITY FOR SLUM CLEARANCE**

(See Note (1))

### Section A1-101. Definitions.

The following terms wherever used or referred to in this appendix shall have the following meanings, unless a different meaning is clearly indicated by the context:

(a) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(b) "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.

(c) "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.

(d) "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.

(e) "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.

(f) "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.

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

(h) "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.

(i) "Municipality" shall mean "The City of Mount Rainier."

#### Section A1-102. Powers.

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

(1) to make or have made all surveys and plans necessary to the carrying out of the purposes of this subheading and to adopt or approve, modify and amend such plans, which plans may include but shall not be limited to: (i) plans for carrying out a program of voluntary or compulsory repair, rehabilitation of buildings and improvements; (ii) plans for the enforcement of codes and regulations relating to the use of land and the 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 purposes of this subheading, 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 improvements 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 subheading, and to give such security as may be required therefore; to invest any urban renewal funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds.

(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 subheading, including the power to enter into any agreement with any 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 or town regulations, but not county building regulations unless the same shall be approved by the County Building Inspector.

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

(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 subheading. 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 compensation. The ordinance may include such additional provisions relating to the organization of said public body or agency as may be necessary. In the event the legislative body enacts such an ordinance, all of the powers by this appendix granted to the municipality shall, from the effective date of said ordinance, be vested in the public body or agency thereby established, except:

- (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. (1963, ch. 781, sec. 3)
- (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 slum or blighted areas exist in such municipality;
- (2) locates and defines the said slum or blighted areas;
- (3) finds that the rehabilitation, redevelopment, or a combination thereof, of such area or areas, is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

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

(a) Procedure. 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 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 plan, shall generally identify the urban renewal project under consideration, and shall outline the general scope of the urban renewal project under consideration. Following such hearing, the municipality may approve an urban renewal project and the plan therefor if it finds that: (1) a feasible method exists for the location of any families who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan substantially conforms to the master plan of the municipality as a whole; and (3) the urban renewal plan will

afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(b) Change. 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) Effect. 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. (1963, ch. 781, sec. 5)

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

(a) Powers. The municipality may sell, lease or otherwise transfer real property or any interest therein acquired for it by an urban renewal project, for residential, recreational, commercial, industrial, educational or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted 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 the prior written consent of the municipality until he has completed the construction of any or all improvements which he has obligated himself to construct thereon. Real property acquired by the municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the municipality may determine) may be recorded in the Land Records of the county in which the municipality is situated in such manner as to afford actual or constructive notice thereof.

(b) Procedure. 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 day 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 proposal 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 subheading. Thereafter, the municipality may execute and deliver contracts, deeds, leases and other instruments and take all steps necessary to effectuate such transfers.

(c) Temporary operation. 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 subheading, 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) Title. 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.

(e) Residential property. In the event that urban renewal plans involve removal of residential housing, provision and plans must be made for their replacement with adequate facilities for the residents so displaced.

#### Section A1-107. Eminent Domain.

Condemnation of land or property under the provisions of this sub-heading shall be in accordance with the procedure provided in Article 33A of the Annotated Code of Maryland (1957 Edition, as amended) and acts amendatory thereof or supplementary thereto.

#### Section A1-108. Encouragement of Private Enterprise.

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

#### Section A1-109. General Obligation Bonds.

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

#### Section A1-110. Revenue Bonds.

(a) Power. In addition to the authority conferred by Section A1-109 of this appendix, the municipality shall have the power to issue revenue bonds to finance the undertaking of any urban renewal project and related activities, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this appendix; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the municipality under this appendix, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the municipality. In addition, the municipality may enter into an Indenture of Trust with any private banking institution of this State having trust powers and may make in such indenture of trust such covenants and commitments as may be required by any purchaser for the adequate security of said bonds.

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

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

#### Section A1-111. Separability.

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

#### Section A1-112. Review and Approval.

All plans, whether preliminary or final, prepared or presented under the provisions of this appendix by the municipality known as Mount Rainier 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 A1-113. Short Title.

This appendix shall be known and may be cited as the Mount Rainier 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 Constitution of Maryland, the General Assembly of Maryland granted urban renewal powers for slum clearance to the City of Mount Rainier in Chapter 781 of the Acts of the General Assembly of 1963.

Starting with the 1997 Supplement to the *Public Local Laws of Maryland - Compilation of Municipal Charters*, the urban renewal powers for slum clearance for the City of Mount Rainier 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.