

CHARTER  
OF THE  
CITY OF MORGANTOWN

EDITOR'S NOTE: The Morgantown Charter was approved by the voters on April 29, 1977. Dates appearing in parentheses following section headings indicate those sections were subsequently amended, added or repealed on the dates given.

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**CHARTER  
OF THE  
CITY OF MORGANTOWN**

**ARTICLE I  
POWERS OF THE CITY**

**SECTION 1.01. INCORPORATION.**

The inhabitants of the portion of the County of Monongalia, in the State of West Virginia, within the limits of the City of Morgantown as they now exist, or as they may hereafter be, shall be and continue a body politic and corporate in perpetuity by the name and style of "The City of Morgantown."

**SECTION 1.02. POWERS OF THE CITY.**

The City shall have all the powers specifically provided for in this Charter and shall also have all the powers now or hereafter granted to municipal corporations and to cities of its class by the Constitution and general laws of the State, together with all the implied powers necessary and proper to carry into execution the powers so granted. The enumeration herein of particular powers shall not be deemed exclusive, but the City shall have and may exercise all the powers which under the Constitution and laws of the State it is possible for a City to have, as fully and completely as though they were specifically enumerated in this Charter.

**SECTION 1.03. CONSTRUCTION.**

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article.

**SECTION 1.04. INTERGOVERNMENTAL RELATIONS.**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any governmental subdivision of the State of West Virginia or one or more states or civil divisions of agencies thereof, or the United States or any agency thereof.

**ARTICLE II  
CITY COUNCIL**

**SECTION 2.01. COMPOSITION, ELIGIBILITY, ELECTION AND TERMS.**

(a) Composition. There shall be a City Council of seven members elected by the qualified voters of the City at large. Each of the members shall be nominated in the respective wards in which they reside by petitions signed by 75 or more qualified voters in that ward, in the manner provided in Article VII.

(b) Eligibility. Only qualified voters of the City, as defined by Article VII, shall be eligible to hold the office of Councilmember. There shall be no other eligibility requirements.

(c) Election and Terms. The regular election of Councilmembers shall be held on the last Tuesday in April, in each odd-numbered year, beginning with the first odd-numbered year following the effective date of this Charter in the manner provided in Article VII. The candidate in each ward who receives the greatest number of votes cast by the qualified voters of the City at large, shall be declared elected. Each Councilmember shall serve for a term of two years, beginning on July first following his election.

## SECTION 2.02. COMPENSATION; EXPENSES.

The Councilmembers may determine the salary of the Mayor and of the Councilmembers to be paid for each regular meeting they attend, but no ordinance increasing such salaries shall become effective until the date of commencement of the terms of Councilmembers elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. No compensation shall be allowed for special meetings, nor for any committee meetings of the Council; provided, however, that Councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties. The compensation of the Mayor or of any other member of Council shall not be diminished during his term of office.

## SECTION 2.03. MAYOR.

At the first meeting of the Council following the effective date of this Charter, and at the first regular meeting to be held in the next July thereafter, and in each succeeding July following, the Council shall elect from among its members a Mayor and a Deputy Mayor. A majority vote of the whole number of Councilmembers shall be necessary for the election of such Mayor and Deputy Mayor, and such election shall be the first order of business at such meeting and unless and until such Mayor and Deputy Mayor are elected no other matters or business shall be considered or lawfully transacted or enacted at such meeting nor shall such meeting be adjourned. The Mayor and Deputy Mayor so elected shall hold office as such for a period of one year, or until their successors shall be elected. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City government for all ceremonial purposes, but shall have no administrative duties. The Deputy Mayor shall act as Mayor during the absence or disability of the Mayor. In the event of the temporary absence of the regular Mayor and of the Deputy Mayor, at any meeting of Council, a majority of the Councilmembers present at such meeting shall select one of their number to serve as chairman of the meeting.

## SECTION 2.04. GENERAL POWERS AND DUTIES.

Except as otherwise provided by law or by this Charter, all powers of the City shall be vested in the Council, and it shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

## SECTION 2.05. PROHIBITIONS.

(a) Holding Other Office. During his term of office, no Councilmember shall hold any other elected public office, nor shall be employed by the City in any other capacity and no former Councilmember shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he was elected to the Council. However, any member of any political executive committee shall not be deemed to hold an elected public office within the meaning of this section.

(b) Conflicts of Interest, Penalties. No member of Council shall vote upon or participate in the furtherance of any matter in which that Councilmember has, either directly or indirectly, a substantial financial or other substantial personal interest, as a member, manager, officer, bondholder or stockholder of any partnership, business, firm or corporation. Such interest shall include, but not be limited to, an interest in any contract furnishing material, services, or supplies to the City or to any contractor, or workmen for the City, any sale of land to or from the City, any lease to or from the City, annulment of any street, or any special privilege or right which may inure to the benefit of such Councilmember directly or indirectly, except as such privilege may benefit him generally as a citizen of the community.

Any Councilmember who willfully conceals such interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit his office. Violation of this section with the knowledge express or implied of the person, or of the corporate officer, agent or employee contracting with the City, shall render voidable by action of the City Council, any transaction prohibited by the preceding paragraph. Removal of any Councilmember for violation of the provisions of this section shall be accomplished in the manner provided by law for the removal of elected Municipal officers.

- (c) Appointments and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to the appointment or the removal of such officer or employee.
- (d) Interference with Administration. Except for the purpose of inquiries and investigations under Section 2.09, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officers or employees, either publicly or privately. Violation of this provision shall constitute ground for removal from office.

It is the intention of this subsection (d) that the Council shall act in all matters as a body, and it is contrary to the spirit of this section for any of its members to seek individually to influence the official acts of the Manager, or any other officer, or employee, or for the Council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers or employees of their duties.

- (e) Council shall not appoint or otherwise establish permanent or standing committees for the conduct of Council business.

#### SECTION 2.06. VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES.

(a) Vacancies. The office of a Councilmember shall become vacant upon his death, resignation, removal from office in any manner authorized by law or by this Charter or by forfeiture of his office. A vacancy shall also exist whenever a qualified person has not been elected to a position of Councilmember under the provisions of this Charter.

(b) Forfeiture of Office. A Councilmember shall forfeit his office if he

- (1) lacks at any time during term of office any qualification for the office prescribed by this Charter or by law,
- (2) violates any express prohibition of this Charter,
- (3) is convicted of a crime involving moral turpitude, or
- (4) fails to attend three consecutive regular meetings of the Council without being excused by the Council either before or after such failure of attendance.

(c) Filling of Vacancies.

- (1) The filling of any vacancy in office of a Councilmember as defined under Article II shall take into account the ward wherein the member whose office has been vacated resided at the time of his election, and his successor shall reside in such ward. Removal of residence from the ward shall vacate the office of the Councilmember residing in such ward at the time of his election.
- (2) Any such vacancy shall be filled by a majority vote of all the remaining members, who within thirty (30) days after the occurrence of the vacancy, shall appoint a qualified person to fill the vacancy. If the Council fails to do so within 30 days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VII.
- (3) Notwithstanding the requirement in Section 2. 11 that a quorum of the Council consists of four members, if at any time the membership of Council is reduced to less than four, the remaining members may by majority action appoint additional members to raise the membership to four.

#### SECTION 2.07. JUDGE OF QUALIFICATIONS.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearings shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts, if permitted by general law.

#### SECTION 2.08. CITY CLERK.

The Council shall appoint a resident of the City to serve as City Clerk at the will and pleasure of the Council. Except as otherwise provided in this Charter and subject, to the supervision of the City Manager, the Clerk shall have the power, and it shall be his duty to:

- (1) Give notice of and attend all meetings of the. Council, keep the journal of its proceedings, authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions of the Council, prepare and keep up to date an index of all such ordinances and resolutions, and keep all such records available for public inspection.
- (2) Make and certify copies of any ordinance, resolution or order of this Council whenever required to do so, and affix the corporate seal of the City to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he may make.
- (3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice, to file and preserve the same.
- (4) Have custody of and keep available for public inspection the permanent records of the City and file and properly index all\* records of such City officers and departments as the City Manager may 'direct.

- (5) Perform such other duties as may be required of him by this Charter, by general law, or by City ordinance or order of the City Manager not inconsistent with this Charter or with general law.

#### SECTION 2.09. INQUIRIES OR INVESTIGATIONS.

The Council may make or cause to be made inquiries or investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may invite or subpoena witnesses, administer oaths, take testimony and require the production of evidence.

A written report of the findings of fact shall be made to the Council within a reasonable time of the conclusion of any inquiry or investigation conducted under this section, which report shall be made a public record. There may be deleted from such report any matter permitted by the State code to be discussed in a closed or executive session; provided that no such finding of fact deleted from the report shall be made the basis of any punitive or disciplinary action, nor shall it be the basis for the denial of due process.

Inquiries or investigations under this section shall not be conducted during the recess of any regular or special meeting, but shall be conducted only at meetings called especially for the purpose of conducting an inquiry or investigation.

Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by Council shall be guilty of a misdemeanor and punishable by a fine of not less than \$50 nor more than \$500. (Amended April 24, 1979.)

#### SECTION 2. 10. INDEPENDENT AUDIT.

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this section.

#### SECTION 2.11. PROCEDURE.

- (a) Meetings. The Council shall meet regularly twice every month at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practicable, upon no less than forty-eight hours notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed executive session, any matter which is permitted by the State Code to be discussed in a closed or executive session; provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the public agenda. (Amended April 24, 1979)
- (b) Rules and Journal. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

- (c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 2.06, shall be Valid or binding unless adopted by the affirmative vote of four or more members of the Council.

#### SECTION 2.12. ACTION REQUIRING AN ORDINANCE.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget. Provide for the collection of fees of any lawful kind;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility, to the extent permitted by law;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands from the City or to the City;
- (8) Require a license to do business;
- (9) Provide for a public improvement;
- (10) Lay out or vacate a public street, avenue, road, alley or way;
- (11) Relate to planning and zoning;
- (12) Provide for a contractual or other agreement with another jurisdiction;
- (13) Adopt with or without amendment ordinances proposed under the initiative power;
- (14) Change ward boundaries;
- (15) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

#### SECTION 2.13. ORDINANCES IN GENERAL.

- (a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City Of Morgantown hereby ordains ...". Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.
- (b) Procedure. Any and all ordinances shall be adopted, in accordance with the following requirements, except where different or additional requirements are specified by law, in which event such other different or additional requirements shall be applicable.

The Council may by ordinance specify other additional requirements for the enactment of ordinances or may prescribe a procedure for the enactment of ordinances in greater detail than prescribed by this Charter, but the Council shall not, except in an emergency as specified in Section 2.14 or except as otherwise provided by law, lessen or reduce the requirements of this Charter.

- (1) An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall read fully and distinctly the proposed ordinance in its entirety, shall distribute a copy to each Councilmember and to the Manager, and shall file a reasonable number of copies in the office of the City Clerk. Codes of technical regulations need not be read.
  - (2) A proposed ordinance shall be read by title at a second or succeeding meeting of Council with at least two weeks intervening between each meeting, unless a member demands that the ordinance be read in full at the second or succeeding meeting. If such demand is made, the ordinance shall be read in full as demanded.
  - (3) At least five days before the meeting at which a proposed ordinance, the principal object of which is the raising of revenue for the Municipality, is to be finally adopted, the Council shall cause notice of the proposed adoption of said proposed ordinance to be published as a Class 1-0 legal advertisement in compliance with the provisions of article three (Sec. 59-3-1 et seq.), chapter fifty-nine of the code, and the publication area for such publication shall be the Municipality. The notice shall state the subject matter and the general title or titles of such proposed ordinance, the date, time, and place of the proposed final vote on adoption, and the place or places within the Municipality where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept at such place or places and be made available for public inspection. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
  - (4) The affirmative vote of four members of Council shall be required for the adoption of an ordinance.
  - (5) A proposed ordinance shall not be materially amended at the same meeting at which finally adopted.
- (c) The Council may adopt, by ordinance, building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, or any other code of technical regulations dealing with general public health, safety or welfare, or a combination of the same, or a comprehensive

code of ordinances. Before any such ordinance shall be adopted, the code shall be either printed or typewritten and shall be presented in pamphlet form to the Council at a regular meeting, and copies of such code shall be made available for public inspection. The ordinance adopting such code shall not set out said code in full, but shall merely identify the same. The vote on adoption of said ordinance shall be the same as on any other ordinance. After adoption of the ordinance, such code or codes shall be certified by the Mayor and shall be filed as a permanent record in the office of the recorder, who shall not be required to transcribe and record the same in the ordinance book as other ordinances are transcribed and recorded. It shall not be necessary that any such ordinance, either as proposed or after adoption, be published in any newspaper, and it shall not be necessary that the code itself be so published, but before final adoption of any such proposed ordinance notice of the proposed adoption of such ordinance and code shall be given by publication and public hearing as herein provided for in Section 2.13(b)(3), which notice shall also state where, within the Municipality, the code or codes will be available for public inspection.

- (d) The City shall not, except in an emergency as specified in Section 2.14 or except as otherwise provided by law, have the power and authority to lessen or reduce the requirements of this section.

#### SECTION 2.14. EMERGENCY ORDINANCES.

The City may enact an ordinance without complying with the rules prescribed in Section 2.13 only (1) in the case of a pressing public emergency making procedure in accordance with the provisions of said section dangerous to the public health, safety or morals, and by affirmative vote of two-thirds of the members elected to the governing body, or (2) when otherwise provided by law. The nature of any such emergency shall be set out in full in the ordinance.

#### SECTION 2.15. CODES OF TECHNICAL REGULATIONS.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

- (1) The requirements of Section 2.13 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 2. 16(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

#### SECTION 2.16 CODIFICATION AND PRINTING.

- (a) Codification. To the extent that it has not already done so, within three years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or looseleaf form, together with the Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of West Virginia and such codes of technical regulations and other rules and regulations as the Council may specify. This

compilation shall be known and cited officially as the Morgantown City Code. Copies of the code shall be furnished to City officers, placed in the City library and in the City Clerk's office for free public reference and made available for purchase from the City by the public at a reasonable price fixed by the Council.

- (b) Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be copied promptly following its adoption, and the said copies of the ordinances, resolutions and Charter amendments shall be distributed or sold by the City Clerk to the public at reasonable prices to be fixed by the Council. Following publication of the Morgantown City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be reproduced in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the City Code.

### ARTICLE III CITY MANAGER

#### SECTION 3.01. APPOINTMENT; QUALIFICATIONS; COMPENSATION.

The Council shall appoint a City Manager for an indefinite term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the City or State at the time of his appointment but must reside in the City while in office.

#### SECTION 3.02. REMOVAL. .

The Council may remove the Manager from office in accordance with the following procedures:

- (1) The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.
- (2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.
- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

#### SECTION 3.03. ACTING CITY MANAGER.

By letter filed with the City Clerk the Manager shall designate, subject to approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his

temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease; however, in the event that the Manager has failed to designate an Acting Manager, the Council may by resolution appoint an officer of the City to perform the duties of the Manager until he shall return or his disability shall cease.

#### SECTION 3.04. POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (1) He shall appoint, and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (4) He shall see that all laws, ordinances and provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed and enforced.
- (5) He shall prepare and submit the annual budget and capital program to the Council.
- (6) He shall propose personnel rules, and the Council may by ordinance adopt them with or without amendment.
- (7) He shall submit to the Council and make available to the public complete reports on the finances and administrative activities of the City as of the end of each fiscal year. The report on finances shall be made in accordance with generally accepted accounting principles for municipal governments and agencies.
- (8) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.
- (9) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.
- (10) The City Manager shall devote his whole working time to the performance of the duties of his office, and while occupying such office shall not engage, directly or indirectly, or be actively interested in any business **which would be in conflict** with the performance of his duties concerning the affairs of the City of Morgantown.
- (11) He shall perform such other duties as are specified in this Charter or may be required by the Council.

#### ARTICLE IV ADMINISTRATIVE DEPARTMENTS AND AGENCIES

#### SECTION 4.01. GENERAL PROVISIONS.

- (a) Creation of Departments, etc. The Council may, by ordinance establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the function of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless the Charter specifically so provides, assigned to any other.
- (b) Direction and Supervision. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one or more of such departments, offices or agencies or may appoint one person as the head of two or more of them.

#### SECTION 4.02. BOARDS, AUTHORITIES AND COMMISSIONS.

The Council may by ordinance create, alter, or abolish such agencies, in the form of boards, authorities or commissions, as it may deem necessary in order to perform any Municipal functions, and to confer powers, authority and duties upon them, consistent with State law. The members thereof shall be appointed by Council. Such boards, authorities or commissions shall not be under the direction or supervision of the City Manager, but every ordinance creating such board, authority or commission shall provide for periodic reports, at least semi-annually, or as otherwise required by law, to the Manager, or to the Council and to the Manager, indicating such board's financial condition and such other reports and information as the Council may require.

#### SECTION 4.03. JUDGE OF THE POLICE COURT.

There shall be a judge of the police court who shall be a resident and qualified voter of the City. He shall be appointed by, and hold office at the will of, the Council.

In the event of the temporary absence or disability of the police judge, the City Manager shall appoint a person similarly qualified to serve as police judge during such absence or disability. Such appointment shall remain in effect until the next regular meeting of the Council at which time the Council shall appoint a similarly qualified person to serve during the period of such temporary absence or disability.

The police court judge shall have all of the judicial powers, authorities, and duties granted to municipal courts by the laws of the State.

The City Council shall fix the compensation of the police court judge.

#### SECTION 4.04. CITY ATTORNEY.

There shall be a City Attorney appointed by the Manager who shall serve as chief legal advisor to the Council and the Manager. The City Attorney shall be a member of the Monongalia County Bar. The Council may provide by ordinance for the authority of the Manager to employ, in lieu of or in addition to the City Attorney, any Assistant City Attorneys as special counsel to represent the City in connection with any legal matter or matters.

#### SECTION 4.05. PERSONNEL SYSTEM.

- (a) Program and Board. The City Manager or persons assigned by him shall be responsible for implementing a sound personnel program for the City. There shall be a Personnel Board

consisting of three members appointed by the Council for terms of three years from among the qualified voters of the City. Members of the Board shall hold no other City office. The City Manager shall provide necessary staff assistance for the Personnel Board.

- (b) Personnel Rules. The City Manager shall prepare personnel rules and shall refer them to the Personnel Board which shall report to the Council its recommendations thereon. When approved by Council, it shall enact an ordinance adopting the, with or without amendment. These rules shall provide for:
- (1) Plans, systems and projects as they relate to employee relations, personnel data systems, personnel records, employee classification, evaluation of performance and in-service training programs;
  - (2) The formulation of plans, advise and action to conform to applicable State and federal employment laws;
  - (3) The provision of a pay plan and guidelines for appointment, promotion, age of retirement and pension for City employees;
  - (4) Policies and procedures regulating reduction in force and removal of employees;
  - (5) The hours of work, attendance, regulations and provisions for sick and vacation leave;
  - (6) Policies and procedures governing relationships with employee organizations;
  - (7) Grievance procedures, including procedures for, the hearing of grievances by the Personnel Board, which may render advisory opinions based on its findings to the City Manager with a copy to the employee;
  - (8) Provide advice and guidance to all City officials, department heads and supervisors as necessary for the administration of the City personnel system.

## ARTICLE V

### FINANCIAL PROCEDURES

#### SECTION 5.01. FISCAL YEAR.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

#### SECTION 5.02. SUBMISSION OF BUDGET AND BUDGET MESSAGE.

On or before the 15th day of February of each year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

#### SECTION 5.03. BUDGET MESSAGE.

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the Manager deems desirable.

#### SECTION 5.04. BUDGET.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be made in accordance with generally accepted accounting principles for municipal governments and agencies. In organizing the budget the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;
- (c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility or other facility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility or facility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

#### SECTION 5.05. CAPITAL PROGRAM.

- (a) Submission to Council. The Manager shall prepare and submit to the Council a five-year capital program at least three weeks prior to the final date for submission of the budget.
- (b) Contents. The capital program shall include:
  - (1) A clear general summary of its contents;
  - (2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
  - (3) Cost estimates, method of financing and recommended time schedule for each such improvement; and

- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

#### SECTION 5.06. COUNCIL ACTION ON BUDGET.

- (a) Notice and Hearin The Council shall publish in one or more newspapers of general circulation in the City the general summary of the budget and a notice stating:
  - (1) The times and places where copies of the message and budget are available for inspection by the public, and
  - (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.
- (b) Amendment Before Adoption After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.
- (c) Adoption. The Council shall adopt the budget on or before the 28th day, of March of the fiscal year currently ending. Adoption of the budget shall constitute appropriations of, the amounts specified therein as expenditures from the funds indicated.

#### SECTION 5.07. COUNCIL ACTION ON CAPITAL PROGRAM.

- (a) Notice and Hearing. The Council shall publish in one or more newspapers of general -circulation in the City the general summary of the capital program and a notice stating:
  - (1) The times and places where copies -of the capital program are available for inspection by the public, and
  - (2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.
- (b) Adoption. The Council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 28th day of March of the current fiscal year.

#### SECTION 5.08. PUBLIC RECORDS.

Copies of the budget and, the capital program as adopted shall be public records and shall be made available to the public at suitable places in the City.

#### SECTION 5.09. AMENDMENTS AFTER ADOPTION.

- (a) Supplemental Appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- (b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.14. To the extent that there are no available unappropriated revenues to meet such appropriations, the 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 Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one or more appropriations.
- (d) Transfer of Appropriations. At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- (e) Limitations; Effective Date. No appropriation for debt service may be reduced or transferred, no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### SECTION 5. 10. LAPSE OF APPROPRIATIONS.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

#### SECTION 5. 11. ADMINISTRATION OF BUDGET.

- (a) Work Programs and Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 5.09.

- (b) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization \*of payment or incurring of obligation in violation of the provision of this Charter shall be void, and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

## ARTICLE VI PLANNING AND ZONING

### SECTION 6.01. PLANNING COMMISSION AND BOARD OF ZONING APPEALS.

The Council may, by ordinance, create a Planning Commission and a Board of Zoning Appeals, and such other administrative bodies as it now is, or may hereafter be, authorized to create pursuant to the provisions of the Code of West Virginia, Chapter 8, Article 24, as amended; and establish all rules and regulations pertaining thereto.

### SECTION 6.02. PLANNING COMMISSION.

It is intended that the Planning Commission shall serve in an advisory capacity to the Council. Any Planning Commission heretofore established shall continue to operate as though established under the provisions of the Code of West Virginia, Chapter 8, Article 24, as amended. All actions lawfully taken under prior acts are validated and continued in effect until amended or repealed by action taken under the authority of said Article. The membership of existing commissions and boards shall continue until changed by law or vote of a majority of all the members of Council.

### SECTION 6.03. COMPREHENSIVE PLAN.

The adoption of a comprehensive plan by a Planning Commission under the authority of acts prior to the enactment of said Code, Chapter 8, Article 24, is validated and shall continue in effect until amended under the authority of said Article 24. In its advisory capacity, the Planning Commission shall review and make recommendations on any matter to be considered by Council which is specifically related to the comprehensive plan, including land and development regulations and the capital program provided for in Article V, Section 5.05.

### SECTION 6.04. VACANCIES IN OFFICE.

The office of a member of the Planning Commission and the office of a member of the Board of Zoning Appeals shall become vacant upon his death, resignation, removal from office, or failure to attend three consecutive regular meetings without being excused by the Commission or by the Board, as the case may be, either before or after such failure of attendance.

## ARTICLE VII

### NOMINATIONS AND ELECTIONS

#### SECTION 7.01. CITY ELECTIONS.

- (a) Regular Elections. The regular City election shall be held on the last Tuesday in April in each odd-numbered year.
- (b) Qualified Voters. All citizens qualified by the constitution and laws of the State of West Virginia to vote in the City and who satisfy the requirements for registration prescribed by law shall be qualified voters of the City within the meaning of this Charter.
- (c) Conduct of Elections. Except as otherwise provided by this Charter, the provisions of the general election laws of the State of West Virginia shall apply to elections held under this Charter. To the extent that it has not already done so, the Council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this Charter.

#### SECTION 7.02. NOMINATIONS.

- (a) Petitions. Any one or more qualified voters of the City may be nominated for City Council, to be elected at large, from the ward in which he resides. Such nominations shall be by separate petition each signed by seventy-five (75) or more qualified voters residing in such ward; provided however, no voter shall sign more than one nominating petition and, if a voter signs more than one, his signature shall be void except as to the first filed of the petitions signed by him. The signatures to a nominating petition need not all be affixed on one paper, but to each separate paper of a petition there shall be attached a certificate executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his signature the **date of his signing** and the place of his residence. (Amended April 26, 1983.)
- (b) Filing of Petition and Certificate. Any person who is eligible to hold the office of City Councilmember shall be entitled to file with the City Clerk a nominating petition and a certificate of announcement declaring candidacy for such office, which shall be assembled and filed with the City Clerk as one instrument. The certificate shall be in a form as provided by the West Virginia Secretary of State's office for municipal elections. The filing period shall begin on the first Monday in January of the year in which the election is to take place and shall end on the second Monday in February thereafter.
- (c) Procedure After Filing. Within ten days after the filing of a nominating petition, the City Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the City Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The City Clerk shall keep on file all petitions found sufficient and certificates of announcement of candidacy at least until the expiration of the term for which the candidates are nominated in those petitions and certificates were filed. (Amended July 6, 1993.)

- (d) Form of Petitions. A nominating petition for the office of member of Council shall be substantially in the following form:

### NOMINATING PETITION

We, the undersigned qualified voters of the City of Morgantown, hereby nominate whose residence is for councilmember at large for the ward to be voted for at the election to be held on the day of April, 19 ; and we individually certify that we are qualified voters of the city and of the ward and that we have not signed nominating petitions for any other candidates for that office.

Name Street and Number and City Date of signing

(spaces for signatures and required data)

### CERTIFICATE OF CIRCULATOR

The undersigned is the circulator of this petition paper, which contains signatures. Each signature affixed thereto was

made in my presence and is, I believe, the genuine signature of the person whose name it purports to be.

Signature of circulator  
Address

Date

### ACCEPTANCE OF NOMINATION

I hereby accept the nomination for a member of the city council and agree to serve if elected.

Signature  
Date

(e) Withdrawal of Candidacy. Any candidate wishing to withdraw his or her candidacy shall notify the City Clerk in writing of the same in accordance with the requirements of general statutory law.

(f) Write-In Candidates. A write-in candidate's certificate of announcement of candidacy shall be filed with the City Clerk no later than the fourteenth day before the election, under normal circumstances. In those cases where a lone candidate for a ward Councilmember position dies, or is disqualified or removed from the ballot by a court, the deadline shall be the fifth day before the election, or the day following the occurrence of the vacancy, whichever is later. (Added July 6, 1993.)

### SECTION 7.03 COUNCIL BALLOTS. (a) Names on Ballots.

- (1) The names of all candidates nominated for membership in the City Council, except those who have withdrawn, died or become ineligible, shall be placed on the official ballots in accordance with general

statutory law, and such names shall appear without party designation or symbol under a heading reading: "Nominees for Councilmember" and also stating the ward in which the nominee resides. If there are two or more nominees from the same ward, the voter shall be instructed to vote for only one of them. The failure of a voter to cast a ballot for any nominee from one or more wards shall not invalidate his votes cast for nominees from any other wards.

(Amended July 6, 1993.)

- (2) If two or more candidates for the same office have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be placed with their names on the ballot.
- (3) The position of names on the ballots shall be in accordance with the requirements of general statutory law.  
(Amended July 6, 1993.)

#### SECTION 7.04. DETERMINATION OF ELECTION RESULTS.

- (a) Number of Votes. Every voter shall be entitled to cast one vote for one candidate nominated from each of the seven wards in the City.
- (b) The candidate in each ward who receives the greatest number of the total votes cast by the qualified voters of the City at large, shall be declared elected. All ties between two candidates receiving the highest number of votes cast for that office shall be decided by lot in the presence of the candidates concerned by the persons under whom the supervision of the election is held.
- (c) Except as otherwise provided in this Charter, the provisions of general law with respect to the method and time for the filing of certificates of candidacy, nominating candidates, conducting regular and special Municipal elections, and determining and certifying the results of such elections, so far as applicable, shall apply to elections held under this Charter.

#### SECTION 7.05. WARDS, ADJUSTMENT OF WARD BOUNDARIES.

- (a) Number of Wards. The territory included in the City shall be, and is hereby divided into seven wards and the number of wards shall not be increased or decreased.
- (b) Ward Boundary Commission. The Council shall appoint seven qualified voters, one from each of the seven wards of the City as they exist at the time of such appointment, who shall comprise a Ward Boundary Commission. The voters chosen shall not be employed by the City in any other capacity. The appointment shall be made not later than 30 days after the commencement of each Council's term of office.
- (c) Report. The Commission shall file with the City Clerk a report containing a recommended plan and a map for adjustment of ward boundaries to comply with the specifications set forth in subsection (d), which report shall be made between November 15 and November 30 of each even-numbered year.
- (d) Specifications. Except as otherwise provided in Section 10.05, the ward boundaries shall be adjusted from time to time in accordance with the following specifications:

- (1) Each ward shall be formed of contiguous territory, and its boundary lines shall follow the precinct lines and the center lines of streets wherever practicable.
  - (2) Each ward shall contain as nearly as practicable the same number of qualified voters, determined from the registration for the last statewide general election. This specification shall not be construed to require the adjustment of precinct boundaries or to require the sacrifice of compactness of wards for the sake of achieving equality of numbers of registered voters among the seven wards of the City. The report shall include a map and description of the boundaries of each of the wards.
- (e) Action on Report. Within 15 days after the date of the filing of the report mentioned in subsection (c), the Council shall approve or disapprove the same. If the report is disapproved, the Council shall state the reasons therefor on the minutes of the Council meetings. If the report is approved, the Council shall within 15 days after such approval, introduce a proposed ordinance providing for the ward boundaries in accordance with the specifications contained in the report. The procedure for the enactment of the ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b)(3).
- (f) Enactment of Ordinances. If (1) the report of the Commission is disapproved, or (2) if the Commission fails to file the report as and when required by subsection (e), the Council shall, within 15 days after such disapproval or of such failure to file the report, nevertheless introduce an ordinance adjusting the ward boundaries consistent with specifications of subsection (d) unless the Council shall, within 15 days after the filing of the report, or of the failure to file the report, make a finding of fact, entered upon the minutes of the Council meetings, that no ward boundary adjustments are necessary. The procedure for the enactment of such ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b) (3).
- (g) Effect of Enactment. The new ward boundaries as of the date of the enactment of an ordinance providing therefor shall supersede previous ward boundaries for all the purposes of the next regular City election including nominations. The new ward boundaries shall supersede previous ward boundaries for all other purposes as of the date of which all Councilmembers elected at that regular City election take office.
- (h) Terms of Members of the Commission. The terms of office of the members of the Commission shall expire at the same time as the expiration of the terms of the Council which appointed them. A new Commission shall thereafter be appointed as provided by subsection (b).

**ARTICLE VIII**  
**INITIATIVE, REFERENDUM AND RECALL**

**SECTION 8.01. GENERAL AUTHORITY.**

- (a) Initiative. The qualified voters of the City shall have power to propose ordinances to the Council and, if the Council fails to adopt the ordinance so proposed without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.
- (b) Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.
- (c) Recall. The qualified voters of the City shall have the power to require the holding of a special Municipal election to submit the question of the recall of an elected officer. Not more than one recall election shall be held with respect to an officer during his term of office.

#### **SECTION 8.02. COMMENCEMENT OF PROCEEDINGS; PETITIONERS' COMMITTEE; AFFIDAVIT.**

Any five qualified voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committees are to be sent, and setting out in full the proposed initiative ordinance, or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

#### **SECTION 8.03. PETITIONS.**

- (a) Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least ten percent of the total number of qualified voters registered to vote at the last regular City election.
- (c) Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (d) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper,, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they. purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (e) Time for Filing Referendum Petitions. Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

#### SECTION 8.04. PROCEDURE AFTER FILING.

- (a) Certificate of Clerk; Amendment. Within twenty days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of Section 8.03, and within five days after it is filed, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk shall promptly present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (b) Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.
- (c) Court Review, New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### SECTION 8.05. REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Council repeals the ordinance, or
- (4) Thirty days have elapsed after a vote of the City on the ordinance.

#### SECTION 8.06. ACTION ON PETITIONS.

- (a) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

- (b) Submission to Voters. The vote of the City on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee.

Upon the filing of such request, the petition shall have no further force or effect and all proceedings hereon shall be terminated.

**SECTION 8.07. POWER OF RECALL.**

The qualified electors shall have the power to recall any member of Council whether elected by popular vote or selected to fill a vacancy, and may exercise such power by filing with the City Clerk a petition signed by qualified electors of the City equal in number to at least twenty percent of the registered voters at the last general Municipal election. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a demand for the removal of the Councilmember or members, and shall contain a general statement of the reasons for which the removal is sought.

**SECTION 8.08. ELECTION UNDER RECALL PETITION.**

The City Clerk shall, in the manner hereinbefore provided for initiative and referendum petitions, certify to Council the sufficiency of the recall petition. Thereafter, Council shall cause a special election to be held in not less than forty-five days nor more than ninety days from the date of such certification. The published notice of such special election shall contain the reasons for demanding the recall in not more than two hundred words and a justification by the Councilmember within the same limits; provided, however, that if the petition seeks to recall more than one Councilmember, each Councilmember may provide a justification of not more than one hundred words. Ballots shall be in the following form:

"Shall \_\_\_\_\_ be removed  
 from the council of the City of Morgantown?  
 For the recall of

Against the recall of \_\_\_\_\_ it

Upon notification by Council of the results of the election, if a majority of those voting on the question have favored recall, the office of the Councilmember so recalled shall be vacant. Provisions of this Charter with respect to general Municipal elections shall determine election procedure insofar as applicable.

**SECTION 8.09. FILLING COUNCIL VACANCY CAUSED BY RECALL.**

When a vacancy occurs on the result of a recall election or when a Councilmember resigns after a recall petition certified by the City Clerk to be sufficient is presented to Council, the vacancy shall be filled in accordance with the provisions of Section 2.06 of this Charter.

## SECTION 8.10. RESULTS OF ELECTION.

- (a) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (b) Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.
- (c) Recall. If a majority of the qualified electors voting on the question have favored recall, the office of the Councilmember so recalled shall be vacant upon certification of the election results.

## **ARTICLE IX GENERAL PROVISIONS**

### SECTION 9.01. PERSONAL FINANCIAL INTEREST.

Any City officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City officer or employee in the making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, expressed or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Council.

### SECTION 9.0-2. **PROHIBITIONS.**

#### (a) Activities Prohibited.

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.
- (2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
- (3) No person, group, organization or corporation shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any City election from any person holding any compensated appointive City position.
- (4) No person who holds any compensated appointive City position shall make, solicit or receive any contribution to the campaign funds for City elections of any political party or any candidate for City office or take any part in management, affairs or political campaign for

City elections of any political party, but he may exercise his rights as a citizen to express his opinions and to cast his vote.

(b) Penalties.

- (1) Any person who by himself or with others willfully and/or knowingly violates any of the provisions of paragraphs (1) through (4) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (**\$500.00**) or less than fifty dollars (\$50.00).
- (2) Any person convicted under this section (9.02) shall be ineligible for a period of five years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

SECTION 9.03. CHARTER AMENDMENTS.

Amendments to this Charter shall be framed and adopted in the manner provided by law.

SECTION 9.04. SEPARABILITY.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 9.05. OATHS.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall take the oath or affirmation prescribed by the Constitution of this State.

ARTICLE X  
TRANSITIONAL PROVISIONS

SECTION 10.01. OFFICERS AND EMPLOYEES.

- (a) Rights and Privileges Preserved. Except as otherwise specifically provided in this Charter, nothing shall impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- (b) Continuance of Office or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position. An employee holding a City position at the time this Charter takes full effect, who was serving in that same or comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position.

SECTION 10. 02. DEPARTMENTS, OFFICES AND AGENCIES.

- (a) Transfer of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter, or if the Charter makes no provision, designated by the City Council.
- (b) Property and Records. All property, records, and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices, or agencies designated by Council in accordance with this Charter.
- (c) Compensation. All existing salaries and compensations for City officers and employees shall continue until changed according to the provisions of this Charter.
- (d) Continuances. Except as provided by this Charter, all existing departments,, offices, and agencies of the City shall continue to exist at the time of the effective date of this Charter until or unless abolished by law, and the ordinances creating such departments, offices, and agencies to the extent not in conflict with this Charter, shall remain in full effect until repealed or modified.

#### SECTION 10.03. PENDING MATTERS.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency which is appropriate under this Charter.

#### SECTION 10.04. EFFECT OF EXISTING ORDINANCES, ETC.

All City ordinances, resolutions, orders and regulations which are in force immediately preceding the effective date of this Charter shall continue in full force and effect to the extent that they are not in conflict or inconsistent with this Charter, and they shall so remain in effect until repealed or modified. To the extent that they are inconsistent, in conflict or interfere with the effective operation of this Charter, such ordinances, resolutions, orders and regulations shall be of no further force or effect after 60 days from the effective date of this Charter, unless sooner modified or repealed by competent authority.

#### SECTION 10.05. WARDS.

For the first election of officers under this Charter, the ward boundaries -as they existed on July 1, 1976, shall be the ward boundaries used for said first election.

#### SECTION 10.06. SCHEDULE.

- (a) First Election. The first election of the members of the Council shall be conducted in accordance with the provisions of this Charter except that it shall be held on the third Tuesday of September following the effective date of this Charter.
- (b) Term of First Council. The terms of the Councilmembers elected at the said first election shall commence on the day following certification or approval of the said election results by the then

existing Council and shall expire on June 30 of the first odd-numbered year following the effective date of this Charter.

- (c) Expiration of Terms of Councilmembers Elected Under Provisions of Previous Charter. The office of any Councilmember elected under the provisions of the regular City election the previous Charter at the held thereunder on the first Tuesday of June immediately preceding the effective date of this Charter (July 1), is hereby abolished, and no person so elected shall assume the office of Councilmember.

On the effective date of this Charter (July 1) Councilmembers who are commencing the second year of a term under the provisions of the previous Charter shall continue in office only until their successors are elected under the provisions of subsection (a) hereof, and have qualified for such office, and they shall exercise such powers and duties, express or implied, as are imposed upon them by this Charter for the conduct of the first election under this Charter.