

FAIRMONT CITY COUNCIL

RULES OF ORDER AND PROCEDURE

Revised with amendments through

NOVEMBER, 2008

(Re-adopted Organization Meeting January 13, 2009)

CITY COUNCIL

RULES OF ORDER AND PROCEDURES

1. Council Meetings

- 1.1 **Place for Meetings.** The designated place for meetings of the Fairmont City Council (Council) shall be the Council Chambers, Public Safety Building, 500 Quincy Street, Fairmont, West Virginia unless otherwise provided by the Council.
- 1.2 **Organization (City Charter Sec. 2.02).** The City Council shall meet bi-annually on the second Tuesday in January at 7:00 p.m. prevailing time at the designated place for meetings of the Council. When the meeting falls on a national or legal holiday, the Organizational Meeting shall be held at the same hour on the next succeeding secular day not a holiday. The Council shall select from its membership, the Mayor and the Deputy Mayor. The Council shall also adopt its Rules of Order and Procedure for the organization and conduct of its business (Amendment No. 5, adopted 02/03/87).

In electing the Mayor and Deputy Mayor, the following procedures shall be followed:

- (1) The previously elected Mayor, or in his/her absence, the Deputy Mayor, shall be the presiding officer of the organization meeting and shall preside until the election of the Mayor has been accomplished.
- (2) Nominations for and election of the Mayor and Deputy Mayor shall take place separately;
- (3) Nominations for Mayor shall be the first order of business;
- (4) Nominations for Mayor shall be made by and from the Council membership and shall not require a seconding motion;
- (5) Nominations shall be closed by motion, duly seconded, and voted by a majority of the entire Council;
- (6) The Council shall proceed with electing the Major by voice vote. The presiding officer shall request the City Clerk to take a roll call on the first nominee and if the nominee does not receive a majority vote of the entire Council, the process shall be repeated for each nominee until one person is

elected by the majority vote (Amendment No. 7, adopted 03/10/92);

- (7) Upon election of the Mayor, the Council shall proceed with the election of the Deputy Mayor. The Council shall use the same procedures for the election of Deputy Mayor as those required above for the election of the Mayor;
- (8) The Mayor and the Deputy Mayor shall be sworn to the duties of the respective offices by the City Clerk;
- (9) The offices of Mayor and/or Deputy Mayor shall become vacant upon death, sickness, resignation or removal from office by a two-thirds (2/3) majority vote of the entire Council. Vacancies shall be filled for the remainder of the term at the next regularly scheduled meeting of the Council following the occurrence of the vacancy. (Amendment No. 2, adopted 05/03/83).

1.3 Regular Meetings (City Charter Sec. 2.11(a)). The Council shall meet in regular session on the second and fourth Tuesday of each month at 7:00 p.m. prevailing time unless another day and hour be fixed by resolution of the Council. When the meeting falls on a national or legal holiday, the regular meeting shall be held at the same hours on the next succeeding secular day not a holiday. On the first Tuesday of January of each year, the City Clerk shall prepare and post, and leave posted throughout the year to which it applies, at a conspicuous place in the City Hall, a notice setting forth the times and places of the Council's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies.

Concurrently with the posting of such notice, the City Clerk shall mail or otherwise distribute by any means reasonably calculated to provide notice to all newspapers of general local distribution and to other available news media customarily covering news of the City notices identical to that posted.

In the event of any modification in the time or place of a regularly schedule meeting of the Council, notice of such modification shall be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above, not less than seventy-two (72) hours prior to the time of such regularly scheduled meeting, or, if such regularly scheduled meeting has been

rescheduled for an earlier time, prior to the time of such rescheduled meeting, notices setting forth such modification in the time or place of such regularly scheduled meeting. (Amendment No. 5, adopted 02/03/87; Amendment No. ___ 06/26/07)).

1.4 Special Meetings (City Charter Sec. 2.11(a)). Special meetings may be called by written request of five or more members of the Council, or by the Mayor. The City Clerk shall prepare a notice of the special session stating the time, place, and purpose of the special meeting, and this notice shall be served personally upon each member of the Council and the City Manager, or left at their usual place of residence at least seventy-two (72) hours before the time of the meeting. It shall also be the duty of the City Clerk, immediately upon receipt of written request, to make every diligent effort to notify each member of the Council in person, either by telephone or otherwise, of such special session. Concurrently, with notifying the members of Council, the City Clerk shall also post the notice of the special meeting in a conspicuous place in the City Hall and shall mail or otherwise distribute to all newspapers of general local distribution and to other available news media customarily covering news of the City notices identical to that posted.

Only matters set forth in the notice of the meeting shall be discussed and/or acted upon. This provision of this rule shall not be suspended (Amendment No. 3, adopted 05/03/83; Amendment No. ___ 06/27/07).

1.5 Adjourned Meeting. Any session of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter. Notice of the adjournment of a meeting and of the time and place for the continuation or reconvening thereof publicly given during such adjourned meeting shall be adequate notice to the public and news media of the time and place thereof (Amendment No. 3, adopted 05/03/83).

1.6 Conference Meeting. The Council may meet in conference session at 7:00 p.m. prevailing time on the first and third Tuesdays of each month. When either Tuesday falls on a holiday, the conference shall be on Wednesday.

The conference session shall be devoted primarily to any matters regarding which the interchange of information is deemed desirable by the Council and/or the City Manager, and particularly preliminary to discussion and action at the regular meetings of the Council. No formal vote shall be taken on any matter under discussion nor shall any Councilmember enter into a commitment with another respecting the vote to be taken subsequently in a regular meeting of the Council; provided, however, to the extent permitted by the West Virginia Open Government Proceedings Act nothing herein shall prevent a polling of the Council or the taking of any informal vote on any matter under discussion.

Agenda procedures shall be the same as for regular meetings except that matters not included on a conference session agenda shall be taken up by the Council only after listed agenda matters have been considered. No vote of the Council shall be required to consider a non-agenda item.

Additional conference sessions may be held at the request of the Mayor, or of a majority of the Council. It shall be the responsibility of the Mayor to advise all other members of the Council and the City Manager of any additional conference sessions (Amendment No. 5, adopted 02/03/87).

- 1.7 Executive Session (City Charter Sec. 2.11(a)).** Consistent with the provisions of the West Virginia Open Government Proceedings Act, West Virginia code §6-9A-1, et seq., and Section 2.11(a) of the Charter for the City of Fairmont, an executive session may be convened at the request of the City Manager or by a majority vote of the Council as part of any Council meeting. Attendance at the executive session shall be limited to the members of the Council and the City Manager; provided, however, that the Council and/or the City Manager may invite such persons as may be required for advice and information.

Executive sessions may be called for any of the purposes identified in Section 2.11 (a) of the Charter for the City of Fairmont provided that the general subject matter for consideration is expressed in the motion called for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

1.8 Quorum (City Charter Sec. 2.11(6)). Five members of the Council shall constitute a quorum. In the event that a quorum is not obtained, the member(s) present may adjourn the meeting “sine die” or to a specific date and time.

No action of the Council, except as provided above and by Section 2.06(c) of the City Charter shall be valid or binding unless adopted by the affirmative vote of five or more members of the Council.

1.9 Open Meetings. All meetings of the Council shall be public except as provided by Section 1.7 of these rules and Section 2.11 (a) of the City Charter.

2. Duties of Council Officers and Other City Officials

2.1 Presiding Officer. The Mayor, or in his/her absence, the Deputy Mayor, shall take the chair at the hour appointed for the Council to meet, and shall immediately call the members to order. The roll call then be called by the Clerk, who shall enter in the minutes of the meeting the names of the members present. The presiding officer shall preserve decorum and decide all questions of order, subject to appeal to Council.

The presiding officer may move, second and debate from the chair, subject only to such limitations as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as presiding officer.

2.2 Presiding Officer – Pro-tem. In case of the absence of the proper presiding officer, the Clerk shall call the Council to order and call the roll of the members. If a quorum is found to be present, Council shall proceed to elect, by a majority vote of the Council, a presiding officer of the meeting to act until the proper presiding officer appears.

2.3 City Manager (City Charter Sec. 3.04(3)). The City Manager shall attend all meetings of the Council and shall have the right to take part in discussions, but may not vote.

2.4 City Clerk. The City Clerk shall attend all meetings of the Council, keep the journal of its proceedings, authenticate by his or her signature and record in full in a book kept for this 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.

2.5 City Attorney. The City Attorney, when requested by the City Manager or the Council, shall attend meetings of Council. The City Manager or any member of the Council may at the time call upon the City Attorney for an oral or written opinion to decide any question of law, or to advise the Chair upon any parliamentary rule.

2.6 Other City Officers and Employees - Officers and Employees to Attend. The head of any department or any officer of the City, when requested by the City Manager or at the request of the City Manager by the Council shall attend any regular, adjourned or special meeting of Council.

3. Council Procedure

3.1 Order of Business. The business of all regular meetings of the Council shall be transacted in the following order, unless the Council by a vote of at least two-thirds of the members present shall suspend the rules and change the order.

- I. Call to Order
- II. Roll Call of Members
- III. Opening Ceremonies
 - A. Prayer/Meditation
 - B. Pledge of Allegiance to the Flag
- IV. Approval of Minutes of Previous Meeting(s)
- V. Communications, Announcements, Public Hearings
- VI. Citizens Petitions
- VII. City Manager's Reports
- VIII. Consideration of Council Business
 - A. Pending
 - B. New
- IX. Adjournment

- 3.2 Minutes Provided Council Members.** Each member of Council shall be provided a copy of the minutes of the previous meeting in advance of the regular meeting whenever practicable. The presiding officer may inquire “whether or not there are any additions or corrections to the minutes as furnished Councilmembers and as are set forth in the minute book of Council”. If there are no corrections or additions such minutes shall stand approved and shall be signed by the presiding officer and validated by the Clerk.
- 3.3 Filing with City Clerk.** Every ordinance, resolution and document or other matter to come before Council except as hereinafter provided, must be filed with the City Clerk and/or City Manager at least twenty-four (24) business hours prior to each Council meeting.
- 3.4 Preparation of Agenda.** The City Manger shall arrange or cause to be arranged a list of all matters to come before the Council according to the Order of Business. The City Manager shall deliver to each member of the Council, the City Clerk and the City Attorney a copy of the agenda at least seventy two (72) business hours prior to the Council meeting, or as far in advance of the meeting as time for preparation will permit. (Amendment No. ____ 06/27/07)
- 3.5 Supporting Information.** All matters included on the agenda unless clearly self-explanatory, shall have been preceded by or shall be accompanied by written explanations or descriptive material, such information to be provided by the sponsor of the agenda item.
- 3.6 Copies of Agenda.** For each regular or special meeting of the Council, the City Clerk shall, at least seventy-two (72) hours in advance of each regular or special meeting, post at a conspicuous place in the City Hall and mail or otherwise distribute, by any means reasonably calculated to provide notice, to all newspapers published and of general circulation and to other available news media customarily covering news of the City, an agenda for the business to be conducted at each such meeting. The Agenda listing the matters requiring official action that may be addressed at the meeting may be amended up to forty-eight (48) hours prior to the meeting. A sufficient number of copies of the agenda shall also be available to the public at Council meetings. (Amendment No. ____ 06/27/07)

3.7 City Manager Recommendations. All agenda matters relating to the administration of the City shall be acted upon by the Council only when accompanied by recommendations of the City Manager, said recommendations to be made in writing or orally and made a part of the official record of the Council.

4. Duties and Privileges of Council Members

4.1 Seating Arrangement. Members shall occupy the seats in Council Chambers around the Council table as designated by the Mayor.

4.2 Right to Floor. When recognized by the Chair, a member shall confine himself/herself to the question under debate, avoid personalities, and refrain from impugning the motives of any other member's argument or vote.

4.3 Right of Appeal. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his/her reason for the same, and the presiding officer may briefly explain his/her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall put the question: "Shall the decision of the Chair be sustained"? If a majority of the members present vote "Yes", the ruling of the Chair is sustained; otherwise, it is overruled.

4.4 Limitation of Debate. No member shall be allowed to speak more than once upon any subject until every other member choosing to speak thereon shall have spoken.

4.5 Voting. Every member present when a question is put shall vote either "yes" or "no", provided, however, that if any member of Council does not desire to vote on any question, he/she may be shown on the record as having "abstained". The record shall show whenever the vote is unanimous. In all other cases, the vote shall be called and recorded. No member shall vote or engage in any discussion or debate on any matter in which he/she has a personal interest other than as a taxpayer of the City.

4.6 Personal Privilege. The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are assailed, questioned or impugned.

4.7 Excusal During Meeting. No member may leave the Council Chambers while in regular session without permission from the presiding officer.

4.8 Motions.

4.81 Precedence of Motions. When a question is before the Council, no motion shall be entertained except: (a) to lay on the table, (b) for the previous question, (c) to postpone to a certain day, (d) to amend, and (e) to postpone indefinitely. These motions shall have precedence in the order indicated. All said motions, except the motion to amend, shall be put to a vote without debate.

4.82 Motions to be State by Chair - Withdrawal. When a motion is made and seconded, it shall be stated by the Chair before debate. A motion may not be withdrawn by the mover without the consent of the member seconding it.

4.83 Motion to Lay on Table. A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed at the same meeting, or at the next meeting, by a majority vote, after some business has been transacted after the original laying on the table.

4.84 The Previous Question. When the previous question is moved, and seconded by one other member, it shall be put as follows: "Shall the main question be considered?" There shall then be no further amendments or debate; but pending amendments shall be put in their order before the main question. If the question "Shall the main question be considered?" be decided in the negative, the main question remains before Council.

4.85 Division of Question. If the question contains two or more divisible propositions, the presiding officer may, and upon request of a member shall, divide the same.

4.86 Amendments. It shall be in order to amend any motion at any time before a final vote.

4.87 Amend an Amendment. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be introduced. An amendment modifying the intention of a motion shall be in order, but an

amendment relating to a different matter shall not be in order.

4.88 Reconsideration. After the question on any question, any member who voted with the majority may move a reconsideration of any action at the same or the next succeeding meeting, provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require the same number of votes as is required to adopt an ordinance or resolution. After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent.

4.9 Procedure in Absence of Rule. In the absence of a rule to govern a point or procedure, reference shall be made to Roberts Rules of Order – Revised.

4.95 Anonymous Communications. Unsigned communications shall not be introduced in Council.

5. Ordinance

5.1 Action Requiring an Ordinance (City Charter Sec. 2.12). In addition to other acts required by law or by specific provisions 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 and other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Grant, renew or extend a franchise;
- (4) Regulate the rate charged for its services by a public utility;
- (5) Authorize the borrowing of money;
- (6) Convey or lease or authorize the conveyance or lease of any lands of the city;
- (7) Adopt with or without amendment ordinances proposed under the initiative power; and
- (8) 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.

5.2 Ordinances in General (City Charter Sec. 2.13).

(a) **Form.** Every proposed ordinance shall be introduced in writing and 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 Fairmont 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.** 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 (1) shall read fully and distinctly the proposed ordinance in its entirety or by synopsis, (2) shall distribute a copy to each Councilmember and to the Manager, (3) shall file a reasonable number of copies in the office of the City Clerk, and (4) shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. At the commencement of the public hearing, the Clerk shall read fully and distinctly the proposed ordinance by title. Any person present shall then have the right to have the ordinance read in its entirety (Amendment No. 4, adopted 07/19/83).

The public hearing shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall be an opportunity to be heard.

After the hearing, the Council may adopt the ordinance with or without amendment or reject bit, but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance.

(c) **Effective Date.** Except as otherwise provided in the Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

(d) **“Published” Defined.** As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the City; (1) the title of the ordinance and a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection.

5.3 Emergency Ordinances (City Charter Sec. 2.14). To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b).

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances general, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least six members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

Every emergency ordinance except one made pursuant to subsection 5.09(b) of the City Charter shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

5.4 Codes of Technical Regulations (City Charter Sec. 2.15). 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 the adopting ordinance, and

(2) A copy of each adopted code of technical regulations, as well as of the adopting ordinances 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.

6. Miscellaneous

6.1 Decorum of Employees of the City. Members of the administrative staff and employees shall observe the same rules of procedure and decorum applicable to members of the Council. While the presiding officer shall have the authority to preserve decorum in meetings as far as staff members and city employees are concerned, the City Manager also shall be responsible for the orderly conduct and decorum of all city employees under his direction and control. The City Manager shall take such action as may be necessary to insure that such decorum is preserved at all times by the city employees in Council meetings.

6.2 Public Attending Council Meetings.

(a) Public members attending council meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Council. Any person making personal, impertinent, and/or slanderous remarks or who becomes boisterous while addressing the Council or while attending the Council meeting shall be removed from the room as directed by the presiding officer, and such person shall be barred from further audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the presiding officer, who shall direct such offenders to be removed from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. In case the presiding officer shall fail to act, any member of the Council may move to require him/her to act to enforce the rules, and the affirmative vote of majority of Council shall require the presiding officer to act.

(b) Citizens Petitions. Any member of the public desiring to address the Council on matters of City business shall complete the petition provided by the City Clerk immediately before the start of the regular Council meeting. Each person shall be recognized by the Chair, shall state their name and address clearly, and be limited to a five minute presentation (Amendment No. 7, adopted 03/10/92).

All remarks and questions addressed to the administration of the City shall be addressed to the City Manager through the Chair and not to any individual City employee. No person other than members of the Council and the person having the floor shall enter into any discussion either directly or through a member of the Council without permission of the presiding officer.

6.3 Complaints. The procedures for complaints shall be:

- (a) All complaints involving municipal policies shall be referred to the Council for appropriate action and, except in the most unusual cases, such action should be preceded by report and recommendation of the City Manager who shall be given ample opportunity and time in which to investigate and to render a report.
- (b) All complaints involving charges of unfair hearings before boards and/or commissions concerned; provided, however, that such referral shall be accompanied by a written statement from the person complaining of such improper hearing which statement shall delineate the specific charges in order that the particular board of commission concerned may be able to take appropriate action.
- (c) All complaints with respect to the management of the City shall be referred to the City Manager for the necessary or appropriate action in each individual case. In the case of those complaints involving the management of the City wherein the Council desires further information, then the City Manager, when so requested by a majority of the Council shall be given adequate time in which to make the necessary investigation and report.

6.4 The Council Meeting Room. The meeting room shall be under the supervision and control of the City Manager when the Council is not in session. Except as herein provided, it shall be used solely by the Council and its committees for the transaction of public business of the City. If not required for such use, the Manager may permit its use by agencies of the federal, state, or municipal governments for the transaction of public business. Application for such use must be made to the City Manager in such manner as may be prescribed by him/her. Any permission so granted may be cancelled or revoked by the City Manager forthwith where necessary for the protection of City property, the preservation of order or other sufficient reason.

6.5 Suspension of Rules. Any provision of these rules not governed by State Statute, the City Charter, or the City Administrative Code may be temporarily suspended by a two-thirds (2/3) majority vote of all members elected. The vote on any such suspension shall be taken by yeas and nos and entered upon the records.

- 6.6 **To Amend Rules.** These rules may be amended or new rules adopted by a majority vote of all members of the City Council. Any such alteration or amendments shall be submitted in the manner required for City Council business and included on any agenda for a regular Council meeting. This requirement shall be waived only by unanimous consent of all members.
- 6.7 **Roberts Rules of Order Revised** shall govern the proceedings of the Council in all cases, unless they are in conflict with these rules or the City Charter.
- 6.8 **Council Appointments.** Except as may be otherwise required by City ordinance or State statute, specifically as to terms of office, all appointments made by the City Council from the Council to City boards and commissions, shall be for two (2) years, and shall be made at the second regular meeting of Council in January of each year. Appointments to fill vacancies shall be made as they occur and shall be for the unexpired portion of the two (2) year term. (Amendment No. 6, adopted 11/27/90).

Adopted this the 13th day of January, 2009.


MAYOR

ATTEST:


CITY CLERK