

ORDINANCE 1-87

GENERAL PROVISIONS AND ADMINISTRATION

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ORDINANCE NO. 1-87

General Provisions and Administrations

PART I - GENERAL PROVISIONS

SECTION 1. Definitions and Rules of Construction

In the construction of this ordinance and of all other ordinances and resolutions of city council, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section, ordinance or resolution, or unless inconsistent with the manifest intent of the city council, or unless the context clearly requires otherwise:

a. General rule. All general provisions, terms, phrases and expressions shall be liberally construed in order that the true intent and meaning of city council may be fully carried out. Words and phrases shall be taken in their plain, or ordinary and usual sense, but technical words having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(For state law as to rules for construction of statutes, see WV Code, 2-240. As to definitions of words and phrases in the Municipal Code of West Virginia, see WV Code, 8-1-1, 8-1-2)

b. And, Or. The word "and" shall be construed to include the word "or" and the word "or" shall be construed to include the word "and" when the context makes such construction appropriate.

c. Authority of Officers. Whenever authority is conferred on or an act is required to be performed by a city officer, such authority may be exercised or such act may be performed, at the instance of such officer, by deputy, agent or subordinate unless such act cannot lawfully be done by deputation.

(For state law as to acts of deputy or agent, see WV Code, 2-2-5)

d. City. The term "this city" or "the city" shall mean the city of Belington, West Virginia.

e. City Attorney. During any period of time wherein the city is represented by special municipal counsel in lieu of or in addition to a city attorney, pursuant to section 8-10-1a of the Code of West Virginia, the terms "city attorney" shall be deemed to mean such special municipal counsel or the city attorney as the case may be, with respect to the subject matter involved.

f. City Council; The Council. The term "city council" and "the council" shall mean the council of the City of Belington, West Virginia.

g. City Police Judge. The term "City Police Judge" shall mean a person appointed by the mayor and confirmed by the city council for the purpose of handling judicial matters within the city of Belington and who shall preside over the City Police Court.

(For similiar state law see WV Code 8-10-2)

h. Gender. A word importing the masculine gender only may be constued to include the feminine and neuter as well as the masculine.

(For similiar state law relating to construction of statures, see WV Code, 2-2-10, subsec. a)

i. Month; Year; Fiscal Year. The word "month" shall mean a calendar month, and the word "year" shall mean a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord." The fiscal year for the city and all bodies or officers collecting or disbursing funds shall begin on the first day of July and expire with the expiration of the next following thirtieth day of June.

(For similar state law; see WV Code, 2-2-4)

j. Municipality. The word "the municipality" and "this municipality" shall mean the City of Belington, West Virginia.

k. Oath; Sworn. A solemn affirmation shall be the equivalent to an oath in all cases, unless otherwise expressly

provided and the word "oath" shall be deemed to include an affirmation and the word "swear" or "sworn" to be complied with if the person referred to makes solemn affirmation.

(For similar state law, see WV Code, 2-2-7)

l. Officers, Departments, Etc. Officers, departments, boards, commissions and employees referred to in this ordinance shall mean officers, departments, boards, commissions and employees of City of Belington, unless the context clear indicates otherwise.

m. Real Property; Real Estate; Land; Lands. The terms "land", "lands," "real estate" and "real property" include lands, buildings, tenements and hereditaments, and all rights thereto and, interests therein except chattel interests.

(For state law definition of "land", etc., relating to the construction of statutes, see WV Code, 2-2-10, subsec.p)

n. Shall; May. The word "shall" is mandatory and the word "may" is permissive.

o. Sidewalk. The word "sidewalk" shall mean that portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then that area immediately abutting the street line shall be construed as sidewalk area.

p. Street. The word "street" shall include alleys, avenues, boulevards, highways, roads, lanes, viaducts, bridges and the approaches thereto, and all other public thoroughfares in the city, and shall mean the entire width thereof between abutting property lines; and it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the intent of the city council.

q. Tenant or Occupant. The word "tenant" or "occupant" applied to a building or land, shall include any person holding a written or an oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.

SECTION 2. Provisions considered as Continuations of Existing Ordinances

The provisions appearing in this ordinance, so far as they are substantially the same as those of ordinances in effect immediately preceding the effective date of this ordinance and included herein, shall be considered as continuations thereof and not as new enactments.

SECTION 3. Effect of Repeal of Expiration or Ordinance

a. The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

(For state law as to effect of repeal or expiration of statutes, see WV Code, 2-2-8)

b. When any ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(For state law as to effect of repeal of statute which repeals another statute, see WV Code, 2-2-9)

SECTION 4. General Penalty; Continuing Violations

Wherever in this ordinance or in any ordinance or resolution of the city council, or in any rule, regulation, notice or order promulgated by any officer or agency of the city under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or any offense or a misdemeanor, and no specific penalty



is provided for the violation thereof, the violation of any such provision of this ordinance or of any such ordinance, resolution, rule, regulation, notice or order shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or by both such fine and imprisonment. Each day any violation of this ordinance or any such ordinance, resolution, rule, regulation, notice or order shall continue shall constitute, except where otherwise provided, a separate offense.

(For state law as to penalties authorized to be imposed, subject to certain limitations, for violations of municipal ordinances, and means available to municipalities for recovery thereof, see WV Code, 8-11-1 and 8-12-5. As to collection of fines and costs when defendants unable to pay immediately, see 11-17 to 11-21 of the WV Code.)

SECTION 5. Ordinance Imposes No Liability for Acts or Omissions Pursuant Thereto; When City Attorney to Defend City Officers and Employees

a. Nothing in this ordinance or any other ordinance or resolution of the city council shall be construed to impose any liability upon the city or upon any person for any act or omission required or permitted thereby when such act or omission is otherwise lawful, in good faith, and without malice or mischievous intent and, in the case of any city officer or employee, is in line of duty and within the scope of this authority.

b. It shall be the duty of the city council to provide for the defense of city officers and employees against all claims, demands, actions, suits, prosecutions and other proceedings brought against them for their acts or omissions while acting in line of duty and within the purview of subsection (a) of this section.

(For state law as to authority of city to provide liability insurance covering the city and its officers, employees and agents for acts and omissions in performance of official duty, see WV Code, 8-12-7)

## PART II--ADMINISTRATION - IN GENERAL

SECTION 1. City Hall - Hours of Operation; Smoking Prohibited; Flying State and Federal Flags.

The city hall for the City of Belington shall be open to the public during the hours from 8:00 a.m. to 4:30 p.m. daily, Monday through Friday. City hall shall be closed on authorized holidays, both state and federal. In order to protect the health and welfare of the public and those who have need to be in city hall, it shall be unlawful to smoke in city hall. The federal and state flags shall be flown at city hall during the time city hall is open or on special occasions as approved by city council, weather permitting. In case of inclement weather, unless an appropriate inclement weather flag is available, the flags shall not be flown.

It shall be the duty and responsibility of the police officer on duty of the Belington Police Department to raise and lower the flag(s) daily.

SECTION 2. Council Meetings - Regular and Special: Quorum for all Meetings.

a. Regular meetings of the city council shall be held at the council chamber on the first and third Thursdays of each month, beginning at 7:30 p.m.; provided, that when any such day falls upon a holiday the council may fix another day for such meeting; and provided further, that if the council chamber is not available or is not suitable for any such meeting, the council may designate another place in the city which is open to the public as the place for holding such meeting.

b. Special meetings of the city council, in addition to the annual tax estimate and tax levy meeting may be called by the mayor or by any two other members of the council. All such calls for special meetings shall be in writing and:

(1) signed by the mayor or by the other two or more members joining in the call;

(2) shall set forth the purposes of the meeting and the business to be transacted;

(3) a true copy of such call shall be delivered to each member of the council not joining in the call; and delivery to his home shall be sufficient. This provision, however, may be waived by any member of the council and any such waiver shall be entered in the journal of the council in the minutes of the called meeting to which it relates; and

(4) the calls shall be delivered as hereinbefore provided but not less than eight hours before the time specified or the meeting to convene. At any special meeting which is called pursuant to this subsection, only those subjects stated in the call shall be considered or acted upon, except by affirmative vote or a majority of the members of the council then and there present.

c. A majority of the members of the city council shall be necessary for a quorum for the transaction of business at any meeting, regular, adjourned or special.

(For state law as to who presides at council meetings, quorum, and prohibited voting by any member having a personal interest other than as a citizen on a question before the council, see WV Code, 8-9-1)

SECTION 3. Council Meeting - Annual Tax Estimate and Levy

Each year the city council shall fix a date and hour between the seventh and twenty-eighth days of March, and at the time so fixed the council shall meet in public session in the council chambers at the city hall and then and there proceed with the transaction of the business which is the subject of section 11-8-14 of the Code of West Virginia. Upon completion of that business, the session shall stand adjourned until the same meeting hour on the next following third Tuesday in April, at which time it shall reconvene and the council shall proceed in conformity with the provisions of section 11-8-14a of the Code of West Virginia.

(For state law requirements that the city clerk forward a fiscal statement to state tax commissioner and publish a copy thereof immediately following the council meeting in March, see WV Code, 11-8-14)

SECTION 4. Order of Business at Meetings: General Rules of Order

a. Order of Business. At each meeting of the city council the roll shall be called and members shall be recorded in the journal as present or absent. The subsequent proceedings at any regular meeting shall then be as specified in the order below, except as may be provided otherwise under the rules of the council:

- (1) Call to order by mayor.
- (2) Roll call by recorder.
- (3) Introduction/recognition of citizens/vistors.
- (4) Reading of the minutes of previous meeting by city clerk.
- (5) Hear complaints/grievances of citizens.
- (6) Old business and reports from committee.
- (7) New business.
- (8) Reports by city officials.
- (9) Adjournment.

(For state law as to reading and correction of minutes of proceeding meeting, see WV Code, 8-9-3)

b. Rules of Order. The rules of order and parliamentary procedures contained in Roberts Rules of Order shall govern the transaction of business and before the governing body at its meeting in all cases to which they are applicable and in which they are not inconsistent with provisions of the Charter, this ordinance and other ordinances.

SECTION 5. Action by Council

The action of the city council shall be by ordinance in all cases enumerated in the WV Code, Section 8-11-3, except as may be otherwise provided by the Code of West Virginia; and

be otherwise provided by the Code of West Virginia; and requirements and procedures set out in section 8-11-4 of the Code of West Virginia shall be adhered to by the city council with respect to the introduction, action upon and passage of all ordinances.

(As to effect of repeal or expiration of ordinance, see Section 3, part 1 of this ordinance. As to general penalty for violation of ordinances, see Section 4, part 1 of this ordinance)

SECTION 6. Meetings to be Public Except When in Executive Session

All meetings of the city council shall be open to orderly members of the public; provided, that the council when sitting as a committee of the whole may go into executive session only upon a majority affirmative vote of the members present of the governing body and exclude all persons from attending such executive session except those whose presence is deemed necessary by such committee of the whole; and provided further, that the committee of the whole shall not reconstitute itself as the city council until the executive session is terminated and the meeting is again open to orderly members of the public.

(For state law as to requirement for open meetings, with certain exceptions, of governing bodies of municipal corporations, etc., see WV Code, 6-9a-4)

SECTION 7. Procedure When Meeting Lacks Quorum

It shall be lawful for any two or more members of the city council who have assembled at a time appointed for a meeting thereof, and a quorum is not present, to recess temporarily or to adjourn to a subsequent time, and to cause the sergeant at arms to compel the attendance of the absent members or give notice to the absent members of the time to which adjournment has been made, requiring their attendance at such adjourned meeting.

SECTION 8. Duties of Chief of Police at Council Meeting;  
Sergeant at Arms

It shall be the duty of the chief of police to attend all meetings of the city council, or cause a competent policeman to do so, to serve as sergeant at arms and maintain order in the council chamber and in the immediate vicinity thereof; and to execute all lawful orders and process directed to him by the council or by its presiding officer.

SECTION 9. City Clerk to Attend Meetings and Keep  
Journal of Council Meetings

The city clerk shall attend all meetings of city council and shall keep in a well bound book, which may be known as the journal, an accurate record of all its proceedings, which shall be fully indexed and open to the inspection of all interested persons. Upon request of any member of the council the yeas and nays on any question shall be taken and entered upon the journal.

(For state laws as to journal and record of council meetings and entry of yeas and nays in journal, see WV Code, 8-9-3. As to duty of city clerk to keep journal of proceedings of the council, see WV Code, 8-10-3)

SECTION 10. Ordinances Numbered; Attestation and;  
Record of Ordinances

a. Each ordinance shall be numbered sequentially within the calender year such as 1-86, 2-86, etc., 1-87, 2-87 for each successive year.

b. Each ordinance, upon its final passage, shall be signed by the presiding officer of the city council and attested to by the city clerk.

c. Each ordinance once enacted, signed and attested shall be listed in the Record of Ordinances book/folder and secured as appropriate by the city clerk.

SECTION 11. Repeal, Amend or Adding to the Provisions of Ordinances

a. Each action by the council which proposes an ordinance to repeal, amend or add to any portion of this or any other ordinance and each action which proposes an ordinance of a general and permanent nature suitable for inclusion in the record of ordinances though constituting new subject matter not therein contained, shall be drafted so as to specify the specific section numbers, subsections, etc., of the ordinance which are to be repealed or amended and, with respect to additions and to new subject matter, so as to provide appropriate section, etc., numbers therefore; and each amendment of and addition to subject ordinance shall be set out in detail.

b. Upon the adoption of an ordinance to repeal, amend or add to any ordinance or to include new subject matter, the city clerk shall separate the several sections, etc., of such ordinance and enter them in their proper places in each file copy of the ordinance and shall remove therefrom any portion so repealed or amended, and in the margin of each insertion in the file copies of the ordinance he shall note and initial the date of passage, effective date and number of the amending or repealing ordinance.

c. Items removed from the file copies of the ordinance pursuant to subsection b of this section shall be maintained by the city clerk in a separate, loose-leaf volume, arranged properly according to their respective numbers, sections, etc., and each item so removed from the file copies of the ordinance shall, in the margin of each such item, be noted and initialed by him to show the effective date and the number of both the enacting and repealing or amended ordinances. The volume in which such repealed and amended items are to be included shall be known as the "Record of Repealed and Amended Portions of Ordinances of the City of Belington, West Virginia;" the purpose of which is to enable city officers and other persons interested to ascertain the status of the ordinance at any given time in the past.

d. The requirements of subsection b of this section are in addition to the requirement that each ordinance, upon adoption, shall be included in the Record of Ordinances.

SECTION 12. Resolutions and Records Thereof

a. Each resolution shall, before its introduction, be reduced to writing and, when adopted, shall be signed by the presiding officer and attested by the city clerk, who shall then date and number it and file it in his office in a book for that purpose which shall be known as the "Record of Resolution."

b. Resolutions and portions of resolutions which are repealed or amended by subsequent resolutions or ordinances shall be noted and initialed in the margin thereof by the city clerk so as to show the date and number of the repealing or amendatory ordinance or resolution, but shall not be removed from the Record of Resolution.

SECTION 13. Rules

The city council may by resolution adopt such rules as may be deemed desirable for the conduct of its meetings, the transaction of its business and the official conduct of its members, and may include therein reasonable penalties for the violation thereof; but no such rule shall be inconsistent with the state law or any ordinance. Such rules may include, among other subjects, the following:

a. Appointment, jurisdiction and duties of standing and special committees of the council.

b. Attendance at meetings of the council by members and by others.

c. Investigations and hearings, and compulsory attendance thereat of witnesses and the production of books and papers.

d. Parliamentary procedure.

e. Preservation of order at meetings.



f. Manner and form of petitions, applications and other papers intended for presentation to the council and procedures relating thereto.

g. The order of business at regular meetings.

SECTION 14. Disorderly Conduct, Etc., Prohibited at Meetings of Council and Council Meetings

a. It shall be unlawful for any person to behave in a boisterous or disorderly manner at any meeting of the city council or any committee thereof, or to cause a disturbance thereat, whether by force, shouting or other words or action tending to disrupt such a meeting, or to fail or refuse to obey any ruling or order of the officer presiding at such meeting relative to the orderly procedure thereof.

b. Boisterous or disorderly behavior within the purview of subsection a of this section shall include, but is not limited to, any of the following acts:

(1) Contemptuous or insolent behavior towards the presiding officer or any member of the city council or committee of the council, or its clerk, sergeant at arms or any other officer, while the council or committee is in session;

(2) Any breach of the peace, willful disturbance, or indecent conduct in the presence of such council or committee while so engaged, or so near as to obstruct or interrupt its proceedings;

(3) Violence or threats of violence to any member of such council or committee or any officer, witness, or party going to, attending, or returning from, any council or committee proceeding in respect to anything done or to be done in the course of such proceeding;

(4) Willfull resistance to any lawful order of the presiding officer or sergeant at arms at any such meeting.

c. The presiding officer of the city council or of any committee of the city council shall have plenary power to order that the council chamber and adjacent areas be cleared, or any part thereof, or any person or persons ejected from the council chamber or adjacent areas, in the event of disorderly conduct or disturbance which does or tends to interrupt or disrupt the orderly conduct of business by the council or its committee.

(For state law as to authority of city council to make all needful bylaws and rules to carry into effect the authority granted to it by law, see WV Code, 8-11-1, 8-12-5, subsec. (45), (55). As to authority of city council to investigate and inquire into all matters of concern to the city and its inhabitations, see WV Code, 8-12-5, subsec. (48). As to power of council to compel attendance of witnesses and production of books and papers, see WV Code, 8-12-2, subsec. (c).

#### SECTION 15. Official Bonds.

a. Every officer, employee or agent of the city who in the course of his official duties receives, handles or has custody of or control of city funds, negotiable instruments or securities at any time shall, before entering upon his duties as such officer, employee or agent within ten days of his election or appointment, give bond, payable to the city, with corporate surety, in such amount not less than twenty-five hundred dollars as shall be determined by the city council, and conditioned upon the faithful performance of his duties, to give a true accounting of all city funds, negotiable instruments and securities received or handled by him or coming within his custody or under his control, and payment thereof to the city; provided, that the bond of the city clerk shall be in the amount of not less than twenty-five thousand dollars, and the bond of the mayor shall be not less than twenty-five thousand dollars; and provided further, that during any period when two or more positions are held by the same person, the bond for such person shall be in the amount of not less than the highest amount required for any one of such positions.

b. The city council may adopt a system of blanket faithful performance and honesty bonding as an alternative to the individual bonds provided in subsection a of this section; provided, that the minimum amounts as specified in subsection a for the positions named therein shall remain the same as therein specified.

c. All officers, employees and agents of the city who, in line of duty, are required or authorized to carry firearms, shall give bond, payable to the city, with corporate surety, in such amount as may be specified by the city council, and conditioned upon the faithful performance of their respective duties and the payment of any judgement or decree which may be rendered against them for the negligent or unlawful use or handling of such firearm and to save the city harmless from all claims and demands whatsoever for the negligent or unlawful use or handling of such firearm.

d. The city attorney shall approve all bonds required by this section with respect to their form and legality; and the premiums thereon shall be paid by the city. The city council shall approve all bonds required by this section with respect to their sufficiency. All bonds required by this section shall be in the custody of the city clerk and shall be secured as appropriate.

(For state law as to authority of city to require official bonds of city officers, see WV Code, 8-12-5, subsec. (46). As to requirements that municipal officers who handle public funds give bond, see WV Code, 6-2-11. As to bonds required of police officers, see WV Code, 61-7-5. As to bonds of public officers generally, see WV Code 6-2-1 et seq)

SECTION 16. Compensation of City Officials and Employees

a. The mayor, councilmen and other city officers and employees shall receive such salaries and wages as may be provided for them from time to time by the city council in the annual budget or other ordinances; provided, that the salary of no elective city officer shall be increased or diminished during the term for which he was elected.

b. Except as may be provided otherwise in this ordinance or other ordinances, all fees paid to city officers and employees shall be deemed to be money belonging to the city and compensation or salaries as appropriate shall be paid every two weeks on alternate or every other Friday.

(For state law as to authority of city council, by ordinance, to fix compensation of city officers and employees, see WV Code, 8-5-12.)

SECTION 17. Payments of City Money to City Clerk; Deposit of Money.

All taxes, fees and other money belonging to the city shall be paid over by the recipients thereof to the city clerk not less frequently than once each week, as may be provided by resolution or order of the city council; and the city clerk shall promptly deposit such money to the credit of the city in such depository as may be designated by ordinance or resolution of the city council.

SECTION 18. Disbursement of City Funds

a. No money shall be disbursed from the city clerk except by approval of the city council and then only if there be on hand sufficient funds appropriated for the purpose of such disbursement and not otherwise obligated. All checks on city depositories shall be signed by the city clerk or assistant city clerk and countersigned by the mayor; provided, that the city council may by resolution provide alternate officers for such purposes to act when the city clerk or mayor are absent or disabled.

b. The city council may, by resolution or by motion duly put, carried and entered in the minutes, delegate authority to the city clerk to approve, on its behalf, claims and accounts due under contract or otherwise due prior to the next meeting of the council, and for such utility services and routine purchases as may be specified in such resolution or motion; provided, that the city clerk shall first obtain the approval of the city officer or employee to which any such claim relates.

SECTION 19. Fiscal Reports, Accounts, etc-- to Conform to Fiscal Year; "Fiscal Year" defined.

All fiscal reports, settlements, accounts and statements of the city and of city officers shall conform to the fiscal year, which begins on July 1st of each calendar year and terminate at the close of business June 30th of the next succeeding calendar year.

(For similar state law, see WV Code, 8-13-17, 2-2-4.)

SECTION 20. Fiscal Reports. Forum of Budget System and Financial Accounts and Records.

The budgeting system and financial accounts and records of the city shall be as prescribed by the city council in conformity with article 9, chapter 6 of the Code of West Virginia; and form and manner of keeping thereof shall be as approved or prescribed by the state tax commissioner in his ex officio capacity as chief inspector and supervisor of public offices.

(For state law as to applicability of article 9, chapter 6 of the Code of West Virginia to municipalities, see WV Code, 8-13-18. As to approval of municipal fiscal records by chief inspector and supervisor of public officers, see WV Code, 6-9-6.)

SECTION 21. Fiscal Reports. Annual Financial Statement

a. The city clerk, shall within the time prescribed by the state tax commissions after the beginning of each fiscal year, prepare on a form to be prescribed by the State Tax Commissioner and cause to be published a sworn statement revealing:

(1) The receipts and expenditures of the city during the previous fiscal year arranged under descriptive headings,

(2) the name of each person who received more than fifty (50) dollars from any fund during the previous fiscal year together with the amount received and the purpose for which paid and,

(3) all debts of the city, the purpose for which each debt was contracted, its due date, and to what date the interest thereon has been paid. Such statement shall be published as a class I legal advertisement in compliance with the provisions of article 3, chapter 5a of the Code of West Virginia, and the publication area for such publication shall be the city.

b. The city clerk shall have available at city hall a copy of any published statement for the fiscal year designated, supplemented by a document listing the names of each person who received more than fifty dollars from any fund during such fiscal year and showing the amount paid to each and the purpose for which paid and shall be made available for any resident of the city so requesting to see it.

SECTION 22. Availability to Public of City Book and Records; Protection of Books and Records.

a. Except as may be provided otherwise by state law, this ordinance or other ordinances or resolution of the city council to safeguard the security of license tax returns, personnel records and other confidential information, all records, books, maps, documents and other papers which are maintained on file in any city office shall be open for inspection and use by citizens of the city and others having an interest therein during all regular business hours, but none shall be removed from the office of its custodian except by authority of the mayor, the city council or a valid subpoena from a court or officer having jurisdiction in the premises.

b. No person shall, without proper authority as provided in subsection a of this section, remove from the office of its custodian any record, book, map, document or other paper which is maintained on file in any city office nor shall any person fail to return any such item to its proper custodian within the time set by the custodian for its return.

c. No person shall wilfully destroy, obliterate, secrete, deface, mark upon, disturb the arrangement of, damage or otherwise tamper with any record, book, map, document or other paper which is maintained on file in any city office.

SECTION 23. Authority of deputies, assistants and acting city officers and employees.

a. Authority vested in and duties imposed upon city officers by state law, this ordinance or other ordinances and resolutions of the city council may, when they so authorize, be exercised or performed by their deputies, assistants and other subordinates, to the extent not prohibited by state law, this Ordinance or other ordinances or resolutions of the city council.

b. When any city officer or employee is absent or disabled, or when any office or position in the city government is vacant, the person designated by competent authority to act in the place of such absent or disabled city officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or appertaining to such vacant office or position.

PART III - CITY OFFICERS, BOARDS AND COMMISSIONS

SECTION 1. Appointment and term for nonelected city officials; dismissal of nonelected city officials; establishment of Boards and Commissions.

a. All nonelected city officials, which include the city clerk, chief of police, street and water commissioner, sewer plant superintendent, city attorney and city police judge shall, unless otherwise provided by state law, this Ordinance or other

Ordinances, be recommended by the mayor to the city council for appointment to the position. City council shall make official appointment of said nonelected city officials who shall then serve for an indefinite term of office.

b. Nonelected city officials shall not be dismissed or terminated by the mayor without just written cause and approval from the city council. Before such nonelected city official is terminated, he shall be given an opportunity to appear before the city council to hear the allegations against him and shall be given an opportunity to rebutt same. Additionally, the official shall be given an opportunity to appeal the decision of the council.

c. City council shall cause to be established and nominate members to the City Planning Commission (WV Code 8-24-1); Board of Zoning Appeals (8-24-51); and Board of Park Commissioners (8-21-1) as well as any other board, commission or special committee as appropriate and as are authorized by the WV Code.

SECTION 2. Multiple Office Holding; Titles of Assistants.

a. The city council, and the mayor with the approval of the city council, may designate one person to hold two or more city offices concurrently; provided, that no elective officer shall hold concurrently any other office when to do so is prohibited by state or federal law.

b. Any assistant to any city official who holds two or more offices concurrently shall be designated according to the office or offices in which he is to serve as such assistant. For example, should the city clerk at any time be also the city treasurer, his assistant should be designated as "assistant city clerk and city treasurer", if he is in fact the assistant in both of those offices; otherwise, he should be designated as "assistant city clerk" or "assistant city treasurer", according to the fact.



SECTION 3. Limited Authority to Administer Oaths; False Swearing.

a. The mayor, the presiding officer of the city council or any committee thereof, the presiding officer of any board, commission or other body of the city government, or the city clerk, of the city to whom any sworn statement, whether oral or in writing, is required to be made or submitted by any person pursuant to any provision of this ordinance or other ordinances or resolution of the city council shall have authority to administer the oath so required; provided, that nothing in this section shall be construed as purporting to authorize the taking of any acknowledgment of any signature for the purpose of recording elsewhere than in the office of the city clerk or some other office of this city.

b. It shall be unlawfull for any person to whom an oath has been administered pursuant to this section to knowingly make any false certificate, affidavit or statement, oral or written, concerning any matter whatsoever in violation of such oath.

(For state law as to oath of office, see WV Code, 6-1-3, 8-5-8. As to filing vacancies in elective offices, see WV Code, 8-5-10)

SECTION 4. Mayor.

a. The mayor shall be elected by the people of this city every two years and shall be elected by popular vote on the first Tuesday in March. (See Ordinance No. 4-85, Elections) The mayor shall then take office, after having been duly sworn in, on the first day of April following the election in March.

b. The mayor shall be the chief executive officer of the city and he shall see that all provisions of this ordinance and other ordinances, orders, acts, resolutions, rules and regulations of the city council and faithfully executed. He shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, except when otherwise

provided by law, and it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly individuals in the city before a warrant for arrest is issued. He shall, from time to time, recommend to the city council such measures as he may deem needful for the welfare of the city; and he shall have such other powers and perform such other duties as may be prescribed for him by law, this ordinance or other ordinances or resolutions of the city council.

c. Bonded. The mayor shall be bonded in the sum of twenty-five thousand dollars, with surety as required by law and acceptable to the governing body (city council) before assuming the duties of this office.

d. Agenda. Mayor shall prepare agenda for city council meeting on Monday prior to council meeting on Thursday and have same delivered to council members as appropriate.

e. Council meetings. Mayor shall preside at all council meetings. In his absence, the city clerk shall preside at the council meeting as appropriate.

f. Contracts. Mayor shall execute all contracts authorized by the governing body (city council).

g. Employees. Mayor shall hire and discharge all employees (other than those in nonelective offices discussed in Section I of this ordinance who are approved by the city council) authorized by the city council to be hired, at such compensation as may be set or authorized by the city council. All employees shall perform their duties as directed or assigned by their authorized superior.

h. Supervisory responsibility.

(1) Mayor shall have control of the police of the city of Belington and shall exercise control of the police officer through the police chief who shall have direct supervision over the police officers.

(2) Mayor shall have general supervisory responsibility over the city clerk, the <sup>#6W</sup> Street and Water commissioner and the Sewer Plant Superintendent.

(For state law as to powers and duties of mayors of municipal corporations, see WV Code, 8-10-1)

SECTION 5. City Clerk; Acting Mayor During Illness or Absence of Mayor; Perform The Standard Duties of a City Treasurer.

a. Journal. It shall be the duty of the city clerk to keep the journal of the proceedings of the city council, and he shall have charge of and preserve the records of the council.

b. Acting mayor. Whenever the mayor is unable because of illness or absence from the city to perform the duties of his office, and during any vacancy in the office of mayor, the city clerk shall perform the duties of the mayor and be invested with all of his power and authority.

c. Records custodian. The city clerk shall be custodian of all city records, books, documents, correspondence and other instruments and papers for which the custody is not otherwise provided, and he shall certify to all true copies thereof for persons entitled thereto by law and shall charge therefore such fees as may be prescribed by resolution or order of the city council. The city clerk shall issue all city licenses and permits, except as may be provided otherwise; and he shall have such other powers and perform such other duties as may be provided for the office of city clerk by state law, this ordinance or other ordinances, resolutions or orders of the city council.

d. Collection and control of funds. The city clerk shall collect all taxes, fines, special assessments and other money due the city, and shall receive from all city officers and employees money paid to them for the city, and all city money so collected or received by him shall be deposited promptly in the depositories designated for such purpose by the council. He shall

not pay out any money of the city except as it shall have been apportioned and ordered by the city council to be paid, and he shall sign all checks, drafts and warrants against the city treasury or any depository of the city. The city clerk shall have such other powers and perform such other duties as may be prescribed for such office by state law, this ordinance or other ordinances, resolution or order of the city council.

e. Fiscal Records and Reports. The city clerk shall keep complete and accurate fiscal accounts and records as required by law and in the manner prescribed by the state tax commissioner and other state officers having authority to prescribe therefore, and in accordance with directives from the city council; and he shall render such reports as may be required of him by law, this ordinance or other ordinances, resolutions, or orders of the city council.

f. Collection of Debts. The city clerk shall have power to collect all debts owing to the city by appropriate civil action in any court of competent jurisdiction.

g. Contracts. The city clerk shall examine all proposed contracts to which the city may be a party and may sign on behalf of the city any contract authorized by the city council, excepting where the council directs that some other officer or officers shall do so.

The city clerk shall have the duty to see to it through the appropriate city official who is the functional manager, that all terms of any contract to which the city is a party are fully performed by all parties thereto.

h. Purchases. The city clerk shall be general purchasing agent of the city, and except where specific provision to the contrary is made by law or by the council, he shall make all purchases of supplies, materials and equipment authorized by the council, in a manner prescribed by and subject to the limitations imposed by law. No purchase shall be made or obligation incurred

excepting upon authorization by the council, and no expense shall be incurred except for the purpose for which no prior appropriation is required by law, if the amount thereof is not covered by an unexpended appropriation for the purpose.

i. Appropriation and levies. It shall be the duty of the city clerk to cause to be prepared each year the annual appropriation ordinance in time for consideration and enactment by the council during the first quarter of the fiscal year; and to prepare the tax levy ordinance if appropriate for passage and file a certified copy thereof with the state tax commissioner within the time required by law.

He shall keep current accounts of the amounts appropriated and the amounts spent out of each appropriation, showing the unexpended appropriations at all times.

j. Accounts. It shall be the duty of the city clerk to keep current accounts showing at all times the fiscal condition of the city, including the current and anticipated expenses, appropriations, cash on hand and anticipated revenue of all municipal funds and accounts as appropriate; and he shall see to the collection of all money due the municipality.

k. Inventories--property. The city clerk shall keep a current inventory showing all real and personal property of the city and its location, and shall be responsible for the care and custody of all such property including equipment, buildings, parks and all other city property, which is not by law assigned to some other officer or body for care and control.

l. Reports and publications. It shall be the duty of the city clerk to see to the publication of all notices, ordinances or other documents required by law to be published, and to prepare or cause to be prepared, all reports which the city or any of the officials thereof are required by law to prepare.

m. Records--Certificates. The city clerk shall prepare and have custody of all municipal records required by law to be

kept by the city and not by a specific officer. Where the law makes it the duty of a specific officer to keep or maintain records, the city clerk shall make available to such officer all necessary clerical assistance for the preparation of such records and shall make available a place for the custody of such records.

Where the law requires or provides for certification of any records or documents by any officer of the city, the city clerk shall cause such records or documents to be properly prepared and presented to such officer for his signature.

n. Elections. The city clerk shall prepare all notices; have ballots printed and secure election supplies necessary in connection with municipal elections. For details on municipal elections see Belington Ordinance Number 4-85: Elections.

o. Collector and Comptroller. The city clerk shall be ex-officio city collector and city comptroller unless such offices, or either of them, are duly filled by appointment; and he shall perform the duties of each such office in the absence of such appointment to either of them.

p. Maps--Plats. The city clerk shall cause to be kept a complete set of maps and plats showing the location of all city utilities, and other municipal properties, all street and other public places and all lots or parcels of land subdivided according to law.

q. Offices. The city clerk shall maintain an office in the city hall and shall spend such time in the performance of his duties as may be required by council.

r. Absence from city. In the event that the city clerk shall be absent from the city or incapacitated from performing the duties of his position, the assistant city clerk shall act as clerk during such <sup>absence</sup> ~~absence~~ or incapacity.

s. City clerk shall be bonded in the sum of twenty-five thousand dollars with surety as required by law and acceptable to the city council before assuming the duties of that office.

For appointment, term of office and dismissal procedures see Paragraph a, Section I, Part 3 of this Ordinance.

(For state law similar to subsections a and b of this section, see WV Code, 8-10-3. For state law as to collection by city clerk of all taxes and other money due the city, see WV Code, 8-13-15 and 8-13-16)

SECTION 6. Assistant City Clerk--Appointment, termination and responsibilities.

a. The assistant city clerk shall be recommended for appointment to the mayor by the city clerk. Mayor shall make appointment. Assistant city clerk shall be terminated only for cause by the mayor, after city clerk has submitted valid and sufficient reasons in writing to the mayor recommending that the assistant city clerk be terminated.

b. Responsibilities. Assistant city clerk shall assist the city clerk as appropriate and shall:

(1) be responsible for dispatching monthly water/sewer bills; posting customer records as appropriate; sending out shut-off notices as appropriate; and coordinating same with appropriate city official for action.

(2) provide administrative and clerical assistance to the mayor, council and other officers of the city government as appropriate.

(3) be generally in charge of personnel matters including personnel records, acceptance of application for employment, sick leave, coordination of vacation and days off and such other responsibilities as the city clerk or mayor from time to time shall assign or as required by city ordinance.

(4) interface with the citizens as appropriate on problems reported to city hall and shall read and be knowledgeable on all city ordinances.

SECTION 7. City Attorney--creation of office; responsibilities.

a. There is hereby created the office of city attorney, an executive office of the city. The attorney shall be appointed

by the mayor, by and with the advice and consent of the city council.

b. The city attorney shall be the legal adviser and counselor of the city council and all other officers of the city. He shall represent the city in all courts in all proceedings in which the city, or any city officer or employee in his official capacity, is a party, and he shall perform such duties incidental to his office as may be required of him by the city council. The city attorney shall receive such regular compensation, and such fees for special services, as may be agreed upon by the city council and the city attorney.

c. The city may designate a firm of attorneys to perform the duties required of the city attorney in which case the firm so designated shall have all the responsibilities of the city attorney's office as would be required of an individual attorney appointed to such position.

d. It shall be the duty of the city attorney to draft or supervise the phraseology of any contract, lease or other documents or instruments to which the city may be a party; and upon request of the council, to draft Ordinances covering any subject within the power of the city.

SECTION 8. Building Inspector--Creation of Office;  
Responsibilities

a. There is hereby created the position of Building Inspector. Building Inspector shall be appointed by the mayor, by and with the advice and consent of the city council and shall serve for an indefinite period of time and without compensation.

b. The building inspector shall be the technical advisor on building/construction matters of the city. He shall validate building permits and made recommendations as appropriate to the council for its approval or disapproval as appropriate.

c. Building inspector shall serve as a member of the city's enforcement agency as required by Section 12b, Belington City Ordinance 3-86.



SECTION 9. Street and Water Commissioner--creation of office and responsibilities.

a. There is hereby created the office of Street and Water Commissioner.

b. For appointment, term of office and dismissal authority and procedures see Paragraph a, Section 1, Part 3 of this Ordinance.

c. Responsibilities. The Street and Water Commissioner shall:

(1) be licensed by the State of WV to operate a Class II Water Treatment plant as the Belington Water Treatment Plant is so designated.

(2) have overall supervisory responsibility for maintenance, repair and operation of the Water Treatment Plant; the distribution systems thereof; storm sewer systems; fire hydrants; reservoir; water towers; and all other appurtenances thereto and that same are maintained in good state of repair and that they function properly.

(3) ensure that proper test of the water at the treatment plant is taken as appropriate and that repairs are made on a timely basis.

(4) ensure water meters are installed and that same are read on a timely basis as appropriate.

(5) ensure that planned activities on the construction of water lines are coordinated with the mayor and the Chairman of the Sewer and Water Committee of the City Council.

(6) have charge of the construction, repair and maintenance of all city streets and alleys and with the keeping of the same clean, snow removal and implacing saw dust to keep street and alleys passable to residence within the capability of the work forces. In his duties as street commissioner he shall coordinate planned activities with the mayor and the chairman of the street committee of the City Council.

(7) keep a current inventory showing all real and personal property of the city and its location and shall be responsible for the care and custody of all such property, equipment, and materials under his functional area of responsibility as the street and water commissioner. Copy of same will be provided the city clerk and shall be kept current as appropriate.

All employees assigned to work on/in the water system; and on streets, alleys or other public city property shall be under the overall supervision and direction of the Street and Water Commissioner.

SECTION 10. Sewer Plant Superintendent; Creation of Office; License Requirement and Responsibilities

a. There is hereby created the office of Sewer Plant Superintendent.

b. For appointment, term of office and dismissal authority and procedures see paragraph a, section 1, part 3 of this ordinance.

c. Responsibilities. The Sewer Treatment Plant Superintendent shall:

(1) be licensed by the State of West Virginia to operate a Class II Sewer Treatment Plant as the Belington Treatment Plant is so designated.

(2) operate the sewer treatment plant on a day-to-day basis and shall be responsible for the maintenance and repair of the treatment plant, distribution system thereof, lift stations and other appurtenances thereto as appropriate and that same are maintained in good state of repair and that they function properly.

(3) ensure that proper test as required are taken and that repairs as appropriate are made on a timely basis.

(4) ensure that planned activities on construction or repairs of sewer lines, lift stations, and sewer treatment plant

are coordinated with the mayor and the chairman of the sewer and water committee of the city council.

(5) keep the mayor and chairman of the sewer and water committee of the city council informed on all matters pertaining to the sewer treatment plant.

SECTION 11. Chief of Police; Creation of Office; Responsibilities of Police Department and Police Chief; Hiring Police Officers

- a. The office of City Police Chief is hereby created.
- b. For appointment, term of office and dismissal authority and procedures see paragraph a, SECTION 1, Part III of this ordinance.
- c. The police department shall have such property and equipment, and such personnel, holding such ranks, as may from time to time be authorized by the city council. The organization and deployment of the police department shall be as prescribed in the rules and regulations of the department promulgated pursuant to this section.
- d. Chief of Police;
  - (1) The chief of police, subject to the authority of the mayor as specified in section 8-10-1 of the Code of West Virginia, shall be the head of the police department and the commanding officer thereof. He shall be responsible for the administration, training, discipline and morale of the personnel of the department and for their effective and efficient employment to prevent crime, apprehend law violators, protect persons and property, maintain law and order and enforce state law, this ordinance and other ordinance within the city.
  - (2) Police chief shall be responsible for maintaining qualified police officers in the department and he shall interview and make final recommendation to the mayor who shall appoint policemen to the department. Procedures for dismissal shall be as outlined--paragraph a, SECTION 1, Part III of this ordinance.

(3) Police chief shall prescribed professional, performance and appearance standards for the department and shall see that they are strictly enforced.

(4) Police chief shall ensure that policy and directives from the mayor are properly dессiminated to all police personnel and are strictly compiled with.

(5) Police chief shall ensure that all members of the police department have read and fully understand the provision of city ordinances as appropriate:

(For state law as to powers, authority and duties of members of municipal police departments, see W. Va. Code, 8-14-3. As to exercise of authority beyond city limits for one mile, see W. Va. Code, 8-16-5, subsec. (43) and 8-12-19.)

e. The police department and the members thereof shall, be under the overall direction of the mayor and the immediate direction of the chief of police, protect persons and property and preserve law and order within the city, and for such purposes all police officers shall have the powers and authority conferred on municipal police officers by state law.

Members of the police department shall be vigilant in the enforcement of the laws of the state as may be applicable within this city and the enforcement of the provisions of this Code and other ordinances of the city. They shall cooperate with other city officers and employees.

f. Chain of Command.

The police department chain of command shall run from the mayor to the chief of police and from him down through the officers of the department in order of rank to the patrolmen; and it shall be unlawful for any member of the police department to disobey or fail to comply with any lawful order given him by a superior officer in line of duty.

g. Rules and Regulations.

The chief of police shall prepare rules and regulations not inconsistent with state law, this ordinance or other ordinances,

for the government of the police department and the personnel, property and equipment thereof. Such rules and regulations, when approved by the mayor by endorsement thereon and approved by resolution of the city council, and when filed in the office of the city clerk for public inspection and use, with a copy thereof filed in the headquarters of the police department for the information of all members, shall be binding on all members of the department; and it shall be unlawful for any member of the police department to violate or fail to comply with any such rule or regulation which has been so promulgated, approved and filed.

h. The chief of police shall keep a current inventory showing all real and personal property of the city and its location and shall be responsible for the care and custody of all such property, equipment and materials under his functional area of responsibility. Copy will be provided the city clerk and shall be kept current as appropriate.

i. For specific details on traffic and law enforcement see Belington Traffic Ordinance 7-86.

SECTION 12. City Police Judge, Creation of Office, Appointment, Acting Police Judge; Vacancy and Responsibility.

a. See Belington City Ordinance 2-85, City Police Court Establishment and Creation of City Police Judge position. The City Police Judge shall be appointed by the mayor with the consent and approval of the city council, who shall serve for an indefinite period of time and who shall be subject to removal for cause only. For dismissal procedures see paragraph a, section 1, Part III of this ordinance.

b. In the event of the temporary absence or disability of the city police judge, the mayor shall appoint a person to serve as acting police judge during such absence or disability; and such acting police judge shall have all and the same powers and authority as the police judge.

c. Vacancy. In the event of death, resignation, removal or permanent disability of the police judge, the mayor shall appoint another person to the position of city police judge with the consent and approval of city council.

d. Responsibility. The City Police Judge shall preside over the city police court. He shall be the counservator of the peace within the City of Belington, and insofar as any ordinance of the city is concerned shall have and exercise all such powers and duties in criminal cases as a magistrate may lawfully exercise under the statutes of the state, and he shall also be ex officio a magistrate within the city, and shall, within the city, have and exercise all of the criminal powers and perform all duties fixed by law in a magistrate, except that he shall have no jurisdiction in civil cases; and he shall have such further powers and perform such other duties as may be from time to time prescribed or conferred by any law of the state or by ordinance of the city.

e. See Belington City Ordinance Number 2-85 for specific on Creation of City Police Court, appointment of City Police Judge and responsibilities thereof.

SECTION 13. Belington Public Library.

Belington Public Library was established by resolution dated December 23, 1982. The common councils for the cities of Belington and Junior, West Virginia passed said resolution to provide the citizens of the City of Belington and the town of Junior educational and instructional information through the use of a public library. (copy of said resolution is on file in the office of the Belington City Clerk)

SECTION 14. Zoning Board of Appeals.

a. Subject board is established by Belington City Ordinance 8-86, Zoning Ordinance, and as required by chapter 8-24-51, W.V. Code.

b. Zoning Board of Appeals shall consist of five (5) members who shall be appointed for terms as follows:

- (1) two members for a 3-year term
- (2) two members for a 2-year term
- (3) one member for a 1-year term.

c. Mayor shall appoint members to the board, as appropriate, with the advice and consent of the City Council.

SECTION 15. Belington Planning Commission.

a. The Planning Commission is established by Belington City Ordinance Number 5-85, Planning Commission and as prescribed by W.V. Code 8-24-4.

b. Planning Commission shall consist of eight (8) members, two of which shall consist of a member from the city council and a member who shall be a member of the administrative department of the city. The remaining six (6) members shall be nominated by the mayor and appointed by him after confirmation by the city council and shall serve for terms as follows:

- (1) two (2) members for one (1) year term
- (2) two (2) members for two (2) year term
- (3) two (2) members for three (3) year term

SECTION 16. Board of Park Commissioners.

a. Subject board is established by Belington Local Recreation Ordinance dated May 19, 1977 and as prescribed by SECTION 8-21-1, W.V. Code.

b. Said board shall consist of five (5) Commissioners who shall be nominated by the Parks and Recreation Committee of the City Council, which said nomination shall be confirmed and appointments made by city council.

c. No less than one member nor more than two (2) members of the City Council shall be a member or members of said Board. The terms of the other appointed members of said Board shall be for six (6) years, four (4) years, three (3) years, two (2) years and one (1) year each.

d. When any member of said Board, during his term of office, shall cease to be a resident of the city, he shall thereby be disqualified as a member of said board and his office shall thereupon become vacant.

PART IV Miscellaneous Restrictions of Personnel.

SECTION 1. Business Dealings.

Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality.

SECTION 2. Acceptance of Gratuities.

No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the municipality for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business.

SECTION 3. Outside Employment.

No full-time officer or employee of the municipality shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality.

SECTION 4. Political Activity.

Municipal officers and employees may individually exercise their right to vote and privately express their political views as



citizens. No municipal officer or employee shall solicit political campaign contributions or engage in or actively participate in any political campaign. These restrictions shall not apply to elective officials.

SECTION 5. Use of Municipal Time; Facilities; etc.

No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services.

SECTION 6. Use of Position.

No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the municipality, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

SECTION 7. Strikes and Unions.

No municipal officer or employee shall participate in any strike against the municipality nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees.

SECTION 8. Violations.

A violation of any section of this ordinance shall be punishable by a fine of not more than five hundred dollars for each separate violation.

## PART V. PERSONNEL REGULATIONS

SECTION 1. Applicability of this Part.

This part of this ordinance shall apply to all full-time (those working 40 hours per week) municipal officers and employees except those operating under the jurisdiction of a school, utility or other separate board or commission or elected or appointed city officials such as zoning officer and police judge.

SECTION 2. Vacation Leave.

Request for vacation leave shall be approved by the employee's department head and shall be taken at a time approved by the mayor or such other officer as he may designate. All officers and employees are entitled to vacation leave according to the following schedule:

After 1 year ---- 5 days  
After 2 years --- 10 days  
After 5 years --- 12 days  
After 10 years -- 15 days  
After 15 years -- 20 days

The maximum credit for accrued vacation leave under the provisions of this part of this ordinance shall be thirty (30) working days.

SECTION 3. Leave-Holidays occurring during leave.

When a holiday falls on an employee's normal work day during his vacation, such holiday is not to be counted as part of the vacation. In this instance, an extra day shall be allowed for any paid holiday recognized by the city falling within the vacation period.

SECTION 4. Leave-Terminal Leave; Payment in Lieu of Leave.

An employee who has resigned, or who has been laid off or dismissed, shall be entitled to and shall receive all accrued annual leave, except that an employee who shall have committed a felony or misdemeanor, or who, in the opinion of the department head, shall have been guilty of moral turpitude, and who has been

dismissed as a result thereof, will be denied all or any part of accrued leave. An employee who is involuntarily separated from employment other than for a cause due to his own misconduct shall be entitled to all his accumulated leave and current accrued leave, and the date of his discharge shall be fixed so as to permit him to take such leave. An employee separated from employment for cause due to his own misconduct will be denied all or any part of accrued leave. In case of death, payment of salary will be made to date of death and any accumulated vacation time must be paid to the estate.

#### SECTION 5. Sick Leave.

Sick leave with pay shall be granted to employees when they are incapacitated for the performance of their duties by sickness, injury or confinement due to contagious disease. Each employee shall be entitled to sick leave. Ten days accumulated sick leave shall be allowed per annum. Such sick leave shall be cumulative for not more than sixty (60) days. An employee may be required to furnish a certificate from an attending physician for all consecutive days of sick leave beyond two working days. A pregnant employee may continue to work as long as her health and physical condition permit her to do so as long as she can perform her assigned duties. Sick leave, with pay, shall not be granted to temporary, emergency or probationary employees, but shall be granted to hourly and salaried employees and shall be computed at the rate of accumulation of permanent employees. The minimum charge against sick leave shall be one-half day, and additional sick leave shall be charged in like multiples. When employment is terminated, no accumulated sick leave shall be granted. Sick

SECTION 6. Military Leave.

Any regular full-time employee who is a member of the national guard shall be entitled to military leave in addition to annual leave, as provided in section 15-1F-1 of the Code of West Virginia, which provides for field training or active service for a maximum period of thirty days in any one calendar year ordered or authorized under provisions of state laws. While on military leave the employee will be entitled to receive his normal salary or compensation from the city, notwithstanding the fact that an employee may receive other compensation from federal sources during the period of leave. However, no annual leave or sick leave may accrue during such service. Any employee shall be required to submit an order or statement in writing from the appropriate military officer in support of a request for military leave. The foregoing provisions pertaining to the national guard shall also apply to the employees who are members of any of the reserve components of the armed forces of the United States, but shall not apply to any service under any Selective Service Training or Service Act, or other such act whereby the president of the United States may order into active duty the national guard or any of the reserve components of the armed forces of the United States.

SECTION 7. Funeral Leave.

In case of death of a member of an employee's immediate family three days of sick leave may be used. (Immediate family is defined to include the following: Wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather,

use annual leave (vacation) with pay as needed if the employee requests the time off from work. In the event the employee has an earned holiday or compensatory time that has not been taken, this may be used in lieu of vacation.

SECTION 8. Civil Leave for Jury Service.

When a permanent full-time employee is called for service as a juror such employee is entitled to leave with pay only for the actual time impaneled. Employees who are excused from jury duty will be expected to report daily for work before and after jury service, as may be practical, in order to give as much attention as possible to his duties.

SECTION 9. Maternity Leave.

Sick leave may be charged for illness due to pregnancy; however, a pregnant employee may continue to work as stated in Section 5 of this part of this ordinance. Annual leave may be applied to the period thirty (30) days prior to or after expected time of delivery as the employee may desire.

SECTION 10. Leave of Absence.

Leave of absence shall not be approved under any circumstances.

SECTION 11. Compensatory Time.

Any employee who is required by the mayor or department head to work over-time or on a holiday may be allowed compensatory time off, in lieu of pay, with the approval of the mayor or department head. Such compensatory time off must be taken in compliance with other provisions of this ordinance, with the laws of the State of West Virginia, and as ordered by the council from

1st day of January	New Year's Day
19th day of January	Martin Luther King's Birthday
12th day of February	Lincoln's Birthday
3rd Monday in February	Washington's Birthday
Good Friday	(Friday before Easter)
30th day of May	Memorial Day
20th day of June	WV Birthday
4th day of July	Independence Day
1st Monday in September	Labor Day
2nd Monday in October	Columbus Day
11th day of November	Veterans Day
4th Thursday of November	Thanksgiving Day
25th day of December	Christmas Day

When any of said days or dates falls on Sunday, then the succeeding Monday shall be regarded, treated and observed as such legal holiday.

Police officers will receive those legal holidays at full pay as defined in West Virginia Code 2-2-1 according to the provisions of West Virginia Code 8-14-2a and 8-15-10a.

### SECTION 13. Leave Records.

The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all times showing credits earned and leave taken for all vacation, sick leave, compensatory time, or any other type of credit or leave allowed under the provisions of this part of this ordinance.

H. Glenn Watson

MAYOR

ATTEST:

Irene Ross

CITY CLERK

FIRST READING:

DATE: March 5, 1987

MOTION: William Coontz

SECOND: Gerald Martin

PASSED: Unanimously

SECOND READING:

DATE: March 19, 1987

MOTION: Joseph Boutwell

SECOND: William Coontz

PASSED: Unanimously

THIRD READING:

DATE: March 19, 1987

MOTION: Morley Jellett

SECOND: William Coontz

PASSED: Unanimously