



City of Elkins

Rules and Ordinances Committee Meeting

September 2, 2025

3:30 PM

Phil Gainer Community Center
142 Robert E Lee Ave. Ext.

Charter Authority of the Rules & Ordinances Committee: Consider and propose to Council new and amended ordinances, rules, and policies.

AGENDA

1. **Call to order and roll call**
2. **Public comment**
3. **Minutes**
 - a. Proposed minutes for the meeting of June 2, 2025.
4. **Reports**
5. **New business**
 - a. Request from Fairness WV for consideration of an ordinance prohibiting discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
 - b. Proposed amendments to council's rules of parliamentary procedure
6. **Announcements**
7. **Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	September 2, 2025
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of June 2, 2025.
Recommended By:	City Clerk
Summary:	Minutes proposed for the meeting of June 2
Fiscal Impact:	n/a
Recommendation:	Consider for approval
Attachments:	1. rules and ordinances - 2025_06_02 - minutes_proposed

RULES AND ORDINANCES COMMITTEE MEETING MINUTES

*Phil Gainer Community Center
142 Robert E. Lee Ave. Ext.
June 2, 2025
3:30 p.m.*

Present were members: C. Lowther (chair), A. Carroll, L. Severino (via phone).

Also present were: Jerry Marco (mayor), Mike Kesecker (operations manager), Gerry Roberts (city attorney), Tracy Judy (treasurer), Chris Marshall (human resources), and Mikayla Goins (executive secretary and recording secretary for this meeting).

PUBLIC COMMENT

MINUTES

Carroll **MOVED APPROVAL OF THE MINUTES OF THE MEETING OF APRIL 7, 2025.** The motion carried.

NEW BUSINESS

The Committee discussed Bag limit and other sanitation topics. No action was taken.

Carroll **MOVED RECOMMENDING COUNCIL APPROVAL OF A BAG LIMIT OF 12 WHITE KITCHEN BAGS (13 GALLON SIZE); 6 LARGER TRASH BAGS (30 GALLON SIZE); AND 3 CONTRACTOR’S BAGS (55 GALLON). NO ONE BAG SHALL WEIGH MORE THAN 30LBS.** The motion carried.

Lowther **MOVED TO POSTPONE COUNCIL RULES AMENDMENT UNTIL THE NEXT MEETING.** The motion carried.

Carroll **MOVED RECOMMENDING COUNCIL APPROVAL OF AMENDING §110.055 OF THE CITY OF ELKINS MUNICIPAL BUSINESS AND OCCUPATION TAX ORDINANCE TO INCORPORATE A DE MINIMIS EXEMPTION FOR CERTAIN SMALL BUSINESSES AND INDEPENDENT CONTRACTORS IN ACCORDANCE WITH HB 2451.** The motion carried.

The meeting adjourned at 4:18p.m.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	September 2, 2025
Section:	New business
Category:	Action Item
Agenda Item Name:	Request from Fairness WV for consideration of an ordinance prohibiting discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
Recommended By:	Requested by the organization Fairness West Virginia, represented locally by Katy Ross
Summary:	The organization Fairness West Virginia requests council consideration of the attached draft ordinance. This proposed ordinance would prohibit discrimination in employment, housing, and public accommodations in Elkins based on categories including race, religion, sex, sexual orientation, gender identity, age, disability, marital/familial status, and veteran status. It would provide limited exceptions and establish a private right of action in Circuit Court for enforcement.
Fiscal Impact:	n/a
Recommendation:	Consider for recommendation to council
Attachments:	<ol style="list-style-type: none"> 1. Elkins draft nondiscrimination ordinance (1) 2. FAQs-non-discriminations ordinance

ELKINS, WEST VIRGINIA NONDISCRIMINATION ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF ELKINS, WEST VIRGINIA AS FOLLOWS:

SECTION 1: The Municipal Code of the City of Elkins, West Virginia is hereby amended to create a new Article entitled “Unlawful Discrimination” to read as follows:

Sec. 1-1. Purpose and Intent. It is the purpose and intent of the Elkins City Council to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. The Council’s purpose in enacting this ordinance is to promote the public health and welfare of all persons who live and work in the City of Elkins. It is important for the City of Elkins to ensure that all persons within the City have equal access to employment, housing, and public accommodations.

Sec. 1-2. Definitions. For the purposes of this ordinance, the following terms shall have the following meanings:

- (1) **AGE.** An individual’s status as having obtained forty or more years of age.
- (2) **CITY CONTRACTOR.** Any person, corporation, or entity that has a contract to do business with the City of Elkins.
- (3) **DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY.** Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person’s real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
- (4) **EMPLOYEE.** Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse, or child.
- (5) **EMPLOYER.** A person who employs one or more employees in the City of Elkins, or any agent of such person. Employer shall include the City of Elkins and any City Contractor.
- (6) **FAMILIAL STATUS.** Means an individual’s past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen (18) who may or may not reside with that individual.

- (7) GENDER IDENTITY. The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- (8) MARITAL STATUS. An individual's past, current, or prospective status as single, married, domestically partnered, divorced, or widowed.
- (9) NATIONAL ORIGIN. An individual's or his or her ancestor's place of origin.
- (10) PUBLIC ACCOMMODATION. Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. The term does not include any private club, bona fide membership organization, or other establishment that is not in fact open to the public.
- (11) RELIGION. All aspects of religious belief, observance, and practice.
- (12) SEXUAL ORIENTATION. Actual or perceived homosexuality, heterosexuality, or bisexuality.
- (13) VETERAN STATUS. An individual's status as one who served in the active military, naval or air service.

Sec. 1-3. Civil Rights Declared. The right of an otherwise qualified person to be free from discrimination because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as and declared to be a civil right. This right shall include, but not be limited to, all of the following:

- (1) The right to obtain and hold employment and the benefits associated therewith without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any public accommodation without discrimination.
- (3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.

- (4) The right to exercise any right granted under this ordinance without suffering coercion or retaliation.

Sec. 1-4. Exceptions. Notwithstanding the foregoing, the following are not discriminatory practices prohibited by Sec. 1-3 of this ordinance:

- (1) A religious corporation, association, or society that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.
- (2) An employer who observes the conditions of a bona fide affirmative action plan or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.

Sec. 1-5. Enforcement. A violation of this ordinance constitutes a civil infraction and can be enforced by a private right of action.

- (1) There is hereby established in the City of Elkins a private right of action for individuals who are aggrieved of any of the unlawful discriminatory practices described in section 1-3 of this ordinance. Plaintiff may file a complaint in Randolph County Circuit Court, in compliance with the relevant rules of that Court, and must show through clear and convincing evidence that the defendant committed an unlawful discriminatory practice as described in section 1-3 of this ordinance.

Sec. 1-6. - Other Remedies. This ordinance may not be construed to limit any other remedies available under local, state, or federal law.

SECTION 2: This ordinance shall become effective on **[date]**.

What do local fairness laws do?

They protect local citizens from discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status in employment, housing and public spaces.

But Elkins is a kind, welcoming community where discrimination doesn't happen. Isn't a law like this unnecessary?

Elkins is a great community where most people are good to each other but just because you haven't heard of discrimination in your community doesn't mean it has never happened and this law would provide a safeguard against it happening in the future. In addition, these types of laws telegraph to the community and the world that Elkins is an inclusive community and thus encourages businesses to locate there knowing that the law will help attract a talented workforce and also encourage young people to stay instead of moving away.

Don't these types of laws infringe on my pastor's freedom to preach on Sundays or whom my church can hire?

No, this law includes an exemption for churches or houses of worship which are also protected by the US and WV Constitutions. In fact, this law also protects people of faith from discrimination.

Won't this law place a financial burden on local government for enforcement?

No, there is no financial burden on local government for enforcement. because the law provides the individual who is the victim of discrimination with a private cause of action to seek justice in the courts and requires no action by local government.

Won't this law lead to lots of frivolous lawsuits clogging up our judicial system?

No, in the 17 years these local fairness laws have been in existence in the (currently) 20 communities that have them, there have only been a grand total of three claims brought to court and they have all been settled in favor of the victim of discrimination.

Aren't these local fairness laws unconstitutional because they provide more protections than state and federal law? If Elkins adopts one, won't this embroil the city in endless litigation?

No, there is no question that WV municipalities have the power to enact these human rights laws. For example, W. Va. Code 8-12-5 confers power to municipalities to:

"(18) to prevent and suppress conduct and practices which are immoral [;]

"(43) to protect and promote the public morals, safety, health, welfare, and good order;

"(47) to investigate and inquire into all matters of concern to the municipality or its inhabitants [.]"

See also W. Va Code 5-11-12 (political subdivisions have the power to create human relations commissions).

Those powers exist independent of the city's home rule powers.

The fact that none of the 20 local ordinances in WV have ever been challenged in court over the past 17 years of their existence is further proof that these laws are constitutionally sound.



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	September 2, 2025
Section:	New business
Category:	Action Item
Agenda Item Name:	Proposed amendments to council's rules of parliamentary procedure
Recommended By:	City Clerk
Summary:	<p>The attached memo updates the committee on revisions to council's parliamentary rules, based on the WVML model framework. Key issues include redundancies with the charter, appointment inconsistencies requiring ratification, inflexible public comment rules in city code, and overly broad agenda-setting authority. Recommendations focus on clarifying appointments, tightening agenda and motion procedures, setting rules for remote participation, and strengthening parliamentary formality. The committee is asked to begin deliberation and consider immediate action where needed.</p> <p>Also attached are:</p> <ul style="list-style-type: none"> • WVML Model Rules Framework • Elkins City Council's Current Rules
Fiscal Impact:	n/a
Recommendation:	Review, discuss, and consider next steps and recommendations.
Attachments:	<ol style="list-style-type: none"> 1. City Clerk's Memo Concerning Proposed Council Rules Changes 2. WVML Model Rules of Procedure 3. Current Rules of Elkins City Council

Memo

To: Rules & Ordinances Committee

From: Sutton Stokes, City Clerk

Date: August 30, 2025

Re: Proposed changes to council rules

At the August West Virginia Municipal League (WVML) conference, city officials were reminded that parliamentary rules are not optional but essential tools for lawful, efficient, and inclusive governance. Clear rules keep meetings structured, reduce conflict, and ensure fair participation while protecting the legitimacy of council actions through transparency, accountability, and compliance with state law. Furthermore, properly adopted and consistently applied rules provide a vital safeguard when council actions are challenged in court or through any sort of administrative oversight. By contrast, incomplete and inconsistently applied rules provide an easy avenue for challenging and overturning council actions.

Although Elkins City Council already has rules of procedure, it is evident they are due for comprehensive revision. I was already working on this prior to the August WVML meeting, and I am now working to blend my recommended changes with those in the model framework prepared by the WVML's counsel. A full draft will be presented to this committee in time for its October meeting. **This memo is intended to give the committee an opportunity to begin consideration of certain significant issues and recommendations that will likely require discussion and deliberation.**

It is important to approach these revisions without regard to the personalities of *current* council members or staff. While Elkins is fortunate to have a collegial governing body and highly professional administrators today, rules must be designed to preserve the institution of city government in the long term. Procedures that may feel overly formal now will protect future councils in less favorable circumstances—and it would be a mistake to wait until less favorable circumstances arise before making changes, because it may be too late.

Issues with Current Rules

- **Redundant Restatement of Charter:** Current rules unnecessarily repeat provisions of the charter concerning standing committees and mayoral appointments thereto. These will be omitted.

- **Inconsistent Provisions on Appointments:** Current rules improperly assign the mayor authority to appoint members to the Planning Commission and Parks & Recreation Commission; there is also an incorrect belief that the Mayor is an ex officio member of Planning Commission. City code requires that all such appointments be confirmed by council; as council rules do not supersede city code, this inconsistency must be eliminated. Accordingly, this language will not be included in the revision, and I recommend that council take action to confirm and ratify the appointment and past actions of the mayor and current councilmember serving on the Planning Commission, as well as the current councilmember serving on the Parks Commission.
- **Public Comment in City Code:** Current public comment rules are embedded in city code, giving them the force of law and reducing council's flexibility. These should be removed from code and replaced with more flexible provisions in council's rules.
- **Agenda-Setting Authority:** At present, nearly any councilmember or administrative officer may place items on the council agenda. This is inappropriate and risks diluting the authority of council by confusing the chain of command. Agenda authority should be limited to the mayor, council committees, or three councilmembers acting together. It is difficult to imagine an important item not being able to reach the council floor through one of these three avenues; by contrast, under the current rules, it is all too easy to imagine a frivolous or even malicious item reaching the council floor—again, not with the current officials, but with possible future ones.

Recommendations for New Draft Rules

- **Motions and Seconds:** Reinstate the requirement for a second before a motion is debated on the council floor. Committees may operate more informally, but council should uphold stricter standards. Hand in hand with the stricter rules for docketing agenda items suggested above, the purpose here is to ensure that more than one out of ten members wants to discuss a certain topic.
- **Remote Participation:** City code currently allows remote participation in council meetings by members, but does not impose any specific rules or guidelines. To reduce the chances of confusion or abuse concerning this policy, council should adopt rules requiring advance notice (e.g., six hours) for members wishing to attend remotely and limit the number of times per year (e.g., three) that this may occur without council approval.
- **Public Comment Flexibility:** Remove rigid “right to be heard” language and codified five-minute limits. Instead, authorize council to adopt rules governing sign-up, comment length, total time, and subject-matter limits as appropriate.
- **Parliamentary Formality:** Confirm and strengthen the chair's authority to recognize speakers, enforce limits on debate, and ensure orderly procedure. Typical rules include all members having the right to speak once on an agenda item; the requirement that any speaker first be recognized by the chair; and the obligation that the chair must recognize anyone with the right to speak. Strict adherence to rules like these would probably be the most noticeable change for current members but might be the most crucial step to prevent disorder or misuse of process in the future. (Note: The rules will state that any

provision therein can be suspended by council at any time; this can be as simple as the chair stating, for this specific topic, “Unless there is any objection, the limits on debate are suspended for this item”; if an objection is raised, suspending the rules could still be accomplished through a motion. Conversely, if the body comes to regret suspending rules on debate, for example, an overlong debate can still be ended by the motion to call the question.)

Questions and Actions for Committee Consideration

For discussion at this meeting, with specific draft language to be reviewed and endorsed at a future committee meeting:

1. Should the committee recommend immediate council action to confirm and ratify the appointments to the Planning Commission (mayor and current councilmember) and Parks Commission (current councilmember)?
2. Does the committee agree in principle that new draft rules should restrict agenda docketing to the mayor, committees, or three councilmembers?
3. Should current rules on public comment be removed from city code and, in the draft rules, what balance should be struck between openness to citizen input and council's flexibility in managing meetings?
4. What notice period and annual limits, if any, should be imposed on remote participation?
5. How much structure should be built into debate limits, recognition by the chair, and enforcement of decorum?

##

WEST VIRGINIA MUNICIPAL LEAGUE

MODEL RULES OF PARLIAMENTARY PROCEDURE For Class III or IV Municipal Governing Bodies in West Virginia

Background and Purpose

The attached West Virginia Model Rules of Parliamentary Procedure for Class III or IV Municipal Governing Bodies in West Virginia, together with the Appendices (the “Materials”), are provided for training purposes as a reference source only. They are intended solely for the use and benefit of West Virginia Municipal League members.

Any municipal resolution or ordinance that you adapt, adopt, or administer may vary from this model. This model is not controlling and may not be cited as legal authority for your municipality. These Materials are provided solely to offer a common instructional framework.

Why Rules Matter

Parliamentary rules are not just tradition—they are tools for fair, efficient, and lawful governance. Clear rules of procedure:

- Keep Meetings on Track – Provide structure and clarity for how business is conducted.
- Prevent Conflict – Minimize confusion, chaos, and personal disputes by ensuring everyone plays by the same rules.
- Promote Inclusion – Ensure all voices can be heard through orderly debate and fair recognition.

Rules Protect Legitimacy

- Help ensure that motions, votes, and decisions are valid and enforceable.
- Reinforce transparency, accountability, and due process as required by West Virginia law.
- Strengthen public trust in local decision-making.

Rules Are a Legal Shield

In litigation or administrative review, courts often ask:

“Did the council follow its own rules?”

“Were remote votes authorized?”

“Was public notice provided before action?”

A well-adopted and consistently followed rulebook is one of the best defenses against procedural challenges.

Using Robert’s Rules or Other Authorities

Some municipalities reference *Robert’s Rules of Order* or similar authorities as their parliamentary guide. That is acceptable, provided those rules are applied consistently and understood by Councilmembers. However, if a city claims to follow a certain set of rules but rarely or improperly adheres to its procedures, the city may benefit from formally adopting its own rules—with appropriate local adaptations—instead.

Adapting the Model

Municipalities are encouraged to amend or supplement these Model Rules to reflect their own local customs, practices, and governance structures—in consultation with their legal counsel. However, no amendment or local rule may contradict the West Virginia Open Governmental Proceedings Act, the Freedom of Information Act (FOIA), or any applicable provision of the West Virginia Code.

“This document is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the West Virginia Municipal League, Inc., its members, and agents are not engaged in rendering legal, accounting, or other professional service to you. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.”

*Adopted From a Declaration of Principles Jointly Adopted by a Committee of the
American Bar Association and a Committee of Publishers and Associations*

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[EXAMPLE RESOLUTION]

RESOLUTION NO. [INSERT NUMBER]

**A RESOLUTION OF THE [CITY/TOWN] OF [INSERT MUNICIPALITY NAME],
[INSERT COUNTY NAME], WEST VIRGINIA, ADOPTING MODEL RULES OF
PARLIAMENTARY PROCEDURE FOR THE CONDUCT OF MEETINGS**

WHEREAS, the [City/Town] of [Insert Municipality Name] is committed to conducting its meetings in an open, orderly, and efficient manner consistent with the West Virginia Open Governmental Proceedings Act; and

WHEREAS, clear rules of parliamentary procedure promote transparency, fairness, and consistency in the deliberation and decision-making processes of the [City/Town] Council; and

WHEREAS, the Council finds that the *Model Rules of Parliamentary Procedure* for Class III or IV Municipal Governing Bodies in West Virginia provide a practical and lawful framework for meeting conduct;

NOW, THEREFORE, BE IT RESOLVED BY THE [CITY/TOWN] COUNCIL OF [INSERT MUNICIPALITY NAME], WEST VIRGINIA, THAT:

1. The *Model Rules of Parliamentary Procedure*, attached hereto and incorporated by reference, are hereby adopted as the Rules of Procedure for the [City/Town] Council and all its boards and commissions.
2. These Rules shall govern the conduct of all regular, special, emergency, and work session meetings, except where superseded by the City Charter, West Virginia Code, or other applicable law.
3. The Mayor, Recorder, and all Councilmembers are authorized and directed to implement these Rules as necessary to ensure effective and lawful meetings.

ADOPTED THIS [INSERT DATE] DAY OF [INSERT MONTH], [INSERT YEAR].

[CITY/TOWN] OF [INSERT MUNICIPALITY NAME]

BY: _____

[Mayor Name], Mayor

ATTEST: _____

[Recorder/Clerk Name], Recorder

MODEL RULES OF PARLIAMENTARY PROCEDURE

For Class III or IV Municipal Governing Bodies in West Virginia

West Virginia Municipal League Inc.

Release Date: August 1, 2025

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7. Article VII – Amendments, Authority, and Interpretation

Appendix A – Glossary of Parliamentary Terms

Appendix B – Guide to Motion Practice and Procedure

Appendix C – Presiding Officer Scripts & Speaking Guide

Appendix D – Index of Key Terms, Motions, and Procedures

ARTICLE I – GENERAL PROVISIONS

Section 1.1: Purpose and Scope

These Rules of Procedure (“Rules”) govern the conduct of meetings and legislative actions of the Governing Body (“Council”) of [*INSERT NAME OF MUNICIPALITY*] in [*INSERT COUNTY NAME*], West Virginia, (hereinafter, “City”) and all boards and commissions of the City. They provide structure, ensure lawful compliance, and promote efficient deliberation.

Section 1.2: Definitions

Council means the governing body, including the Mayor, unless otherwise provided by Charter.

Meeting means the convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter which results in an official action, as defined in W. Va. Code §6-9A-2(5). Meetings may be held by telephone conference or other electronic means.

Quorum means a majority of the members of the governing body, including the Mayor, where a quorum is necessary for the transaction of business. No member of the governing body of any

municipality shall vote upon any ordinance, order, measure, resolution, or proposition, in which they may be interested other than as a citizen of such municipality.¹

Presiding Officer is the [*MAYOR*] or, in their absence, the [*RECORDER*], or, in the absence of both the mayor and the recorder, by one of its members selected by a majority of the members of the governing body present, unless otherwise provided by Charter provision.²

Recorder or **Clerk** refers to the municipal officer responsible for keeping the journal and minutes of the proceedings of the governing body and who shall have charge of and preserve the records of the municipality.

Note on Defined Terms: For clarity, defined terms such as ‘Councilmember,’ ‘Presiding Officer,’ and ‘Recorder’ are capitalized throughout these Rules.

See also Appendix A – Glossary of Parliamentary Terms for additional definitions used in council procedure.

Section 1.3: Meetings

All meetings of Council shall comply with the West Virginia Open Governmental Proceedings Act (W. Va. Code §6-9A-1 et seq.) and the City Charter.

Types of meetings include:

- Regular Meetings: Held at intervals established by ordinance, charter, or resolution.
- Special Meetings: Called between regular meetings with at least two business days’ notice.
- Emergency Meetings: Convened when immediate action is necessary; notice must be posted as soon as practicable prior to the meeting.
- Work Sessions: Informal meetings for discussion only. No official action may be taken.

All binding actions of the Council shall be taken at regular meetings, special meetings, or emergency meetings.

Section 1.4: Attendance and Participation

Councilmembers are expected to attend all meetings of the City Council. No official action may be taken unless a quorum is present. Before calling the meeting to order, the Presiding Officer must be reasonably certain that a quorum is present.

A Councilmember is considered “present” under any of the following conditions:

1. Physical Presence — The member is physically located at the official meeting site.
2. Remote Participation — If physical attendance is difficult or impossible, the member may attend by telephone or other electronic means, provided that:

¹ See W.Va. Code 8-9-1.

² See W. Va. Code 8-9-1 Proceeding of Governing Bodies. *See also*, W.Va. Code 8-10-3. Powers and duties of recorder.

- The Presiding Officer is physically present at the meeting site unless an emergency condition exists where it is impossible for the Mayor or Recorder to attend in person;
 - The identity of any remote participant is clearly identifiable; and
 - All participants can hear and be heard simultaneously in real time, including members of the public.
3. Full Participation — A member attending remotely under this section may participate fully in the meeting, including discussion, debate, and voting, as if physically present.
 4. Notice Requirement — A member must provide at least six (6) hours’ written notice to the Recorder prior to attending a regular or special meeting remotely. Such attendance shall count toward quorum. This notice allows sufficient time to arrange the necessary technology to ensure that remote participation is accessible, audible, and visible to the public and Council in accordance with law. The available resources will commonly consist of a telephone conference number or videoconferencing service.
 5. Annual Limit on Remote Attendance — No member may attend more than [INSERT #] regular meetings remotely in a calendar year, unless additional virtual attendance is approved by a majority vote of the Council.

Councilmembers attending remotely shall identify themselves before speaking. Recognition by the Presiding Officer satisfies this requirement for purposes of public clarity and accurate minutes.

Remote participation must comply with any duly adopted local policy and applicable provisions of W. Va. Code § 6-9A (Open Meetings Act).

Section 1.5: Oath of Office³

At the first meeting involving any newly elected or appointed Councilmember, the first order of business shall be the administration and subscription of the Oath of Office in accordance with state law.

The oath shall be administered by the Mayor, Recorder, or another official authorized by law to administer oaths, and shall substantially conform to the language prescribed in the West Virginia Constitution and W. Va. Code §6-1-3:

“I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of [*Councilmember*] to the best of my skill and judgment, so help me God.”

The subscribed oath shall be recorded in the meeting minutes and a signed copy retained by the Recorder in the official records of the municipality.

No Councilmember shall be permitted to vote, make motions, or otherwise participate in the formal actions of the Council until the oath has been taken and recorded.

³ Failure to take the oath renders subsequent participation unauthorized and may expose the City to legal challenge.

ARTICLE II – MEETING PROCEDURES

Section 2.1: Preparation and Distribution of Agendas

The Recorder shall coordinate the preparation and distribution of meeting agendas in compliance with the Open Meetings Act. This includes:

1. Compiling items approved for inclusion in accordance with Section 3.3.⁴
2. Preparing meeting packets and distributing agendas and supporting materials to each Councilmember prior to the meeting.
3. Confirming that scheduled public hearings are duly advertised.
4. Ensuring that meeting notices and agendas are posted as required by law.

Section 2.2: Minutes

The Recorder shall prepare official minutes, including:

- Date, time, and location;
- Names of members present and absent;
- Motions made and the names of the movant and seconder;
- A summary of discussion or notable comments;
- The results of each vote, including how each member voted.
- In addition, the Recorder shall serve as the official timekeeper for any portion of the meeting in which debate, Council remarks, or public testimony is subject to a time limit, unless the Presiding Officer appoints another timekeeper.

Approved minutes may be corrected at any time an error or omission is discovered, provided that the correction is limited to accurately reflecting what actually occurred. Such corrections shall be proposed by any Councilmember or the Recorder, reviewed for accuracy, and approved by a majority vote of the Council. All corrections shall be noted in the minutes of the meeting at which they are approved, and the original minutes shall be clearly marked to indicate that a correction was made, including the date of the correction.

Reconsideration of a vote, however, is subject to specific procedural rules (See Article IV, Section 4.2 and Appendix B §B-10).

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⁴ The authority for setting the agenda is described in Section 3.3. Local charters or policies may affect who can place items on the agenda.

Section 2.3: Order of Business⁵

The standard order of business shall be:

1. Invocation and Pledge (if customary)
2. Call to Order – the Presiding Officer shall call the meeting to order at the appointed hour.
3. Roll Call - The Recorder shall call the roll of the members, or the Presiding Officer may verbally note the presence or absence of individual members, and the names of those present or absent shall be entered in the minutes.
4. Approval of Minutes
5. Proclamations (if any)
6. Public Hearings (if scheduled) and Public Comments - Members of the public will be afforded an opportunity to address the Governing Body. This section is for informational purposes only, and not for Council debate. Each speaker is afforded not more than [*three (3) minutes*], or any other reasonable restriction as established by vote of the Governing Body.⁶
7. Consent Calendar⁷
8. Unfinished Business – Specific title and subject matter of each item shall be included.
9. New Business – Specific title and subject matter of each item shall be included.
10. [Executive Session]⁸
11. Manager Report or Staff Reports
12. Council Comments - The Mayor or Councilmembers may speak or present materials for informational purposes only. Being informational in nature, the section shall not be used for extensive discussion or debate.
13. Adjournment

⁵ Some municipal charters may specify a particular order of business. In such cases, the charter provision should govern. The order provided here is a general guide and should be adapted to suit the needs of the governing body.

⁶ Public participation may be governed by council-adopted rules, provided such rules are reasonable, content-neutral, and consistent with applicable law.

⁷ The use of a Consent Agenda (or Consent Calendar) is optional and not required. It is a procedural convenience adopted by some - but not all - municipalities. The Consent Agenda allows routine or non-controversial items to be approved with a single motion and vote, saving time and administrative effort. Items commonly placed on a Consent Agenda include:

- Approval of minutes from prior meetings;
- Confirmations of mayoral or administrative appointments;
- Routine contracts and procurement approvals;
- Non-substantive resolutions, such as those recognizing events or issuing proclamations.

There is no separate discussion of individual consent items unless a member of Council requests an item be removed. Any member may do so without discussion or a vote. Once withdrawn, the item is treated as a regular agenda.

⁸ Executive sessions must be conducted in strict compliance with the West Virginia Open Governmental Proceedings Act. Permissible subjects for executive session are limited to those listed in W. Va. Code § 6-9A-4. Additionally, the agenda must include a description sufficient to reasonably inform the public of the matter to be discussed or acted upon. A generic reference to “personnel” or “legal matters” may be insufficient without further context.

There may be a deviation from the Order of Business by a motion to *Suspend the Rules* or by *Unanimous Consent*. To secure *Unanimous Consent*, the Presiding Officer states that there will be a change in the Order of Business if no member objects, but the Presiding Officer may not add new items.

Section 2.4: Recess, Continuance, and Adjournment

Council may recess and reconvene a meeting to a future time and place. The time, date, and location must be announced on the record, posted on or near the meeting room door, and notice given as required by the Open Meetings Act.

Adjournment ends the meeting. No business may be conducted after adjournment.

Note: Meetings may only be continued to address items already on the original agenda.

ARTICLE III – LEGISLATIVE INSTRUMENTS AND AGENDA CONTROL

Section 3.1: Forms of Action

Council may act by **ordinance**, **resolution**, or **motion**, depending on the subject matter and applicable law.

- **Ordinance:** An ordinance is required where formal legislation is mandated by statute, charter, or case law. Under West Virginia Code §8-11-3, council action must be by ordinance in the following cases (unless otherwise provided by law):
 1. Levying taxes or establishing fees;
 2. Requiring a license to do business;
 3. Establishing offenses and penalties;
 4. Authorizing bonds or indebtedness;
 5. Approving public improvements;
 6. Purchasing or selling municipal property;
 7. Laying out or vacating streets, alleys, or public ways;
 8. Enacting planning or zoning measures;
 9. Granting public utility franchises;
 10. Entering contracts or agreements with other jurisdictions; and
 11. Any other matter required by the municipal charter or the West Virginia Code to be enacted by ordinance.

Ordinances must be introduced, read, and adopted in accordance with West Virginia Code §8-11-4, which generally requires a proposed ordinance to be read by title at two separate meetings at least one week apart, unless full reading is demanded. Additional requirements apply to revenue-

raising ordinances and certain technical codes. Charter provisions may impose stricter procedures but cannot reduce these statutory minimums.

- **Resolution:** A resolution is used for administrative, ceremonial, or policy decisions not requiring a formal ordinance. Resolutions are adopted by motion and majority vote and may be used to approve certain contracts, set internal procedures, or express the Council’s intent or opinion.
- **Motion:** A motion is a procedural tool to propose and adopt action within a meeting. When passed, it becomes a formal act of Council.

All legislative instruments **should be reviewed by legal counsel** if they affect legal rights, contractual obligations, finances, regulatory compliance, or other matters with significant legal implications.

Section 3.2: Introduction of Legislation (Ordinances)⁹

Ordinances may be introduced by:

1. The Mayor, through staff preparation and submission for inclusion on the meeting agenda;
2. A Councilmember, who may request that the Recorder include the item, subject to agenda approval procedures outlined in Section 3.3;
3. A Council committee, if committees are used and authorized to recommend legislation.

[Optional Provision: A proposed ordinance must be sponsored by at least one Councilmember or the Mayor.]

Section 3.3: Agenda Control and Disputes

A. Agenda Authority.

Unless otherwise provided by Charter, the Presiding Officer shall have primary authority to approve and direct the content and order of the meeting agenda. The Presiding Officer may consult with the City Manager, Recorder, staff, or other officers when preparing the agenda.

B. Role of Officers.

Agenda development may include the following roles, subject to the Presiding Officer’s approval and any applicable Charter provisions:

- City Manager (in council–manager governments): May recommend agenda items, particularly for administrative, operational, or staff-driven matters.

⁹ Placing an ordinance on the meeting agenda is subject to the rules in **Section 3.3**, including any local charter provisions or adopted rules concerning agenda authority.

- Recorder: Shall compile and publish the agenda, distribute supporting materials to Councilmembers, and ensure legal notice requirements are satisfied in accordance with the Open Meetings Act.
- Councilmembers: May submit requests for agenda items. Inclusion is subject to the approval of the Presiding Officer unless otherwise governed by Charter or rule.

C. Charter and Rule-Based Rights.

If the municipal Charter expressly authorizes individual Councilmembers - or members of the public - to place items on the agenda, or requires inclusion upon request by a quorum or specific number of members, such provisions shall control.

[D. Optional Rule for Council-Initiated Items.

Any agenda item requested in writing by a quorum of the Councilmembers shall be placed on the agenda for the next regular meeting. The request shall be submitted to the Recorder with sufficient time for inclusion in accordance with the notice requirements of the Open Meetings Act. This provision shall apply regardless of whether the Presiding Officer has approved the item for inclusion.]

Section 3.4: Hierarchy and Characteristics of Legislative Acts

A. City Charter – Highest Local Authority

The Charter is the foundational governing document of the municipality, comparable to a constitution. It defines the structure, powers, and procedures of local government. All ordinances and resolutions must conform to the Charter. In any conflict, the Charter prevails.

B. Ordinance – Subordinate to Charter, Superior to Resolution

An ordinance is a legislative act with the force of law. It is used for matters of general application including:

- Adoption of permanent rules,
- Establishment of penalties,
- Creation or modification of offices or departments,
- Levying of taxes,
- Regulation of public or private conduct.

Adoption requires:

- At least two readings (or as required by Charter or State Law),
- Public notice in accordance with W. Va. Code §8-11-4 **when applicable**, such as for revenue ordinances, zoning measures, or other ordinances where notice is required by law.
- A recorded majority vote.

1. Ordinances on second reading may be amended and adopted at the same meeting only if the amendment does not constitute a substantive change. Substantive amendments offered may require the ordinance to be postponed to a subsequent meeting.
2. Amendments shall be processed in accordance with Article IV, Section 4.2 (Motions to Amend).

C. Resolution – Lowest in Hierarchy

A resolution expresses the Council’s will, intent, or internal policy. It may be used to:

- Approve contracts (unless Charter or State Law requires an Ordinance)
- Make appointments,
- Set internal rules,
- Convey opinions or intentions.

Resolutions may not conflict with ordinances, the Charter, or state law.

1. Substantive amendments to a resolution may require deferral to a later meeting to allow review and deliberation.

D. Withdrawal of Ordinances and Resolutions

Once introduced, an ordinance or resolution is in the possession of the Council and may be withdrawn only with the Council’s consent.

E. Substitutes for Ordinances and Resolutions

A Councilmember may propose substitution of an entire ordinance or resolution with new language, provided:

- The substitute remains germane to the title and subject matter of the original;
- The proposal is made in accordance with the Council’s rules for amendments and debate;
- The substitute does not violate notice requirements for ordinances.

Note: A substitution that materially changes the purpose or scope of an ordinance on second reading may require reintroduction and republication to satisfy due process and statutory notice.

ARTICLE IV – MOTIONS AND VOTING

Section 4.1: Motions Generally

Council action is taken through motions, which must be clearly stated and seconded unless these Rules permit action by unanimous consent. However, Unanimous Consent shall not be used when

state law requires the passage of an ordinance, resolution, or motion by recorded vote of each member to be entered in the official record of the meeting.

The Presiding Officer shall restate the motion before debate and shall call for a vote after discussion.

Section 4.2: Types of Motions

Common motions include:

- **To adopt** (e.g., to pass an ordinance or resolution);
- **To amend** (propose changes to a pending motion);
- **To table** (postpone temporarily);
- **To postpone** (defer action to a later meeting);
- **To reconsider** (review and potentially reverse a prior vote);
- **To adjourn** (end the meeting);
- **To call the question** (end debate and vote).

The Presiding Officer may reject dilatory, redundant, or obstructive motions.

Reference Guide – Motion Practice.

For a step-by-step overview of how motions are introduced, seconded, debated, amended, and voted upon, refer to **APPENDIX B: Guide to Motion Practice**. This exhibit provides practical examples and clarifications intended to assist Councilmembers and the Presiding Officer in applying these rules consistently. While advisory in nature, its contents reflect widely accepted practices and may be formally adopted by resolution or incorporated into these Rules by amendment.

Section 4.3: Debate and Decorum

Debate shall be directed to the Presiding Officer and confined to the merits of the motion.

Councilmembers shall not engage in personal attacks, interrupt others, or speak without recognition. The Presiding Officer may rule on decorum and has authority to warn or silence disorderly speakers.

Section 4.4: Voting and Majority Requirements

Unless otherwise required:

- A motion passes with a majority of votes cast, provided a quorum is present.
- A tie vote fails.

Each member present shall vote unless excused due to conflict of interest or recognized abstention.

Councilmembers shall not explain or justify their vote during the act of voting; such statements are considered debate and must occur prior to the vote being called.

The Mayor and Recorder shall, unless otherwise provided by charter provision, have votes as members of the governing body, and, in case of a tie, the Presiding Officer at the time shall cast the tie-breaking vote, unless they have previously voted.¹⁰

Votes shall be taken by voice, show of hands, or roll call if requested. When any Councilmember participates remotely, voting shall be conducted by roll call to ensure each member is identified and their vote is publicly observable and recorded, except that actions adopted by consensus without objection need not be subject to roll call. Roll call is required for ordinances and any vote involving finances or personnel.

Abstentions shall be noted in the minutes but do not count as a vote for or against the motion.

Clarification: Unless otherwise prohibited by Charter or state law, if a member abstains due to a conflict, the quorum count still includes them.

Section 4.5: Appeal of Decision of Presiding Officer

Any Councilmember may appeal a decision of the Presiding Officer, including rulings on points of order or decorum. An appeal must be made **promptly** before any other debate or business has intervened.

When an appeal is made, the Presiding Officer shall clearly state the decision being appealed and may briefly state the reasons for that decision. The body may debate the appeal, but debate shall be confined to the merits of the appeal and not the underlying question.

When debate, if any, is concluded, the Presiding Officer shall put the question to the Council: *“Shall the decision of the Presiding Officer be sustained?”* A majority vote of those present sustains the decision.

The right to appeal does not apply to procedural questions that are not directly presented in the proceedings or to purely factual rulings.

ARTICLE V – PUBLIC HEARINGS AND EXECUTIVE SESSIONS

Section 5.1: Public Hearings

¹⁰ See W.Va. Code §8-9-2. Mayor and recorder may vote; tie vote.

Public hearings serve as formal opportunities for public comment on specific legislative, zoning, or budget matters. Council shall hold public hearings when required by:

- The West Virginia Code,
- The municipal Charter or ordinances,
- Or by vote of the Council as a matter of discretion.

Public Hearings may be:

- Held during a regular or special meeting,
- Delegated to staff or subcommittees when allowed by law,
- Held at City Hall or another accessible public venue within city limits (or elsewhere in the county when necessary).

Note: Council retains final decision-making authority.

Section 5.2: Conduct of Public Hearings

The Presiding Officer shall open the hearing, state the matter under consideration, and call speakers in the order received or as otherwise organized.

To maintain fairness, efficiency, and decorum during public hearings, the Council may adopt separate procedural rules governing public participation. Such rules may include, but are not limited to:

- Time limits for individual speakers (e.g., 3 minutes);
- Procedures for designating a group spokesperson;
- Guidelines for submitting written comments;
- Management protocols for overflow attendance (e.g., overflow rooms, rotating speakers).

Any such rules shall be adopted separately by ordinance or resolution, made publicly available, and applied uniformly in accordance with the West Virginia Open Governmental Proceedings Act.

Written Comments:

Written comments and handouts submitted in connection with a public hearing shall comply with the same standards of relevance, decorum, and civility as oral comments. All written submissions become public records subject to the West Virginia Freedom of Information Act (FOIA) and shall be preserved by the Recorder as part of the official record of the hearing, without need for separate Council action or motion to incorporate them into the minutes.

Written public comments submitted in advance of a meeting are part of the official record but need not be read aloud during the meeting. The Recorder shall inform the Council during the meeting if written public comments have been received and ensure those comments are available for inspection or review in accordance with applicable law.

Exception – Nonstandard or Unmanageable Submissions:

If a written comment consists of oversized materials, physical exhibits, or non-standard media (e.g., audio/video files, physical objects, or digital storage devices) that cannot reasonably be reproduced, retained, or archived using the City’s normal equipment and processes, such materials shall not be included in the minutes or retained unless:

- Required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), or
- Required by another applicable federal or state statute, or
- Upon motion, the Council votes to accept and retain the item(s) as part of the record.

In such cases, the Recorder may summarize the nature of the excluded materials in the minutes and shall retain any portion that can reasonably be accommodated.

Section 5.3: Executive Sessions (Closed Meetings)

Executive sessions may only be entered in accordance with the West Virginia Open Governmental Proceedings Act (W. Va. Code §6-9A-4).

To enter executive session:

1. A member must move to do so,
2. The motion must state the statutory authority for closure, and
3. The motion must be approved by a majority of the members present.

Section 5.4: Confidentiality and Disclosure

Disclosure of discussions that occur during executive session may not in all cases constitute a violation of the West Virginia Ethics Act, but unauthorized disclosure of legally protected or privileged information raised during executive session may violate other provisions of law, may constitute a breach of fiduciary duties, or may result in civil or criminal penalties under applicable state or federal statutes. Breach of confidentiality may also be grounds for censure or other Council action consistent with these Rules.

Accordingly, discussions in executive session shall be treated as confidential if they pertain to matters protected by state or federal law, including but not limited to taxpayer information, personally identifiable information, protected health information (HIPAA), or attorney-client privileged communications.

Attorney-client privileged discussions shall remain confidential unless the Council votes to waive the privilege. Councilmembers are expected to safeguard any information that is legally confidential or otherwise privileged.

Section 5.5: Prohibited Actions in Executive Session

No action may be taken in executive session unless expressly allowed by law. Any final vote or decision must be made in open session.

The Recorder shall record in the minutes:

- The motion to enter executive session,
- The statutory reason cited,
- The time the session began and ended,
- And the time the public meeting resumed.

ARTICLE VI – CONDUCT, DECORUM, AND DEBATE

Section 6.1: Standards of Conduct

All Councilmembers are expected to conduct themselves with dignity, respect, and courtesy to one another, to the public, and to staff. This includes:

- Listening attentively,
- Speaking respectfully,
- Avoiding personal attacks or inflammatory language,
- Refraining from interrupting others except as permitted by parliamentary procedure.

Councilmembers are public fiduciaries and must act in the best interests of the city and its citizens.

Section 6.2: Decorum in Debate

Debate must be germane to the question under discussion and shall be directed to the Presiding Officer. The Presiding Officer may:

- Recognize speakers in order,
- Limit repetitive or irrelevant comments,
- Declare a speaker out of order,
- Enforce time limits if adopted by rule or consent.

The Presiding Officer may call any member to order. A Councilmember called to order must cease speaking until the question of order is resolved.

The Presiding Officer may direct any Councilmember to discontinue remarks that are persistently irrelevant, repetitious, or in violation of these Rules. Members shall not engage in side conversations or other acts tending to distract from the business before the Council.

All remarks must be addressed through the Presiding Officer. Members shall confine their comments to the question under debate and avoid personal attacks or accusations.

Speaking Order: The Councilmember who introduces a motion shall have the first opportunity to speak to it. No member may speak a second time on the same matter until all other members have had the opportunity to speak once.

Balanced Debate: When feasible, the Presiding Officer should alternate recognition between members with differing viewpoints to ensure balanced discussion.

When debate or public comment is subject to a time limit, the Recorder shall serve as the official timekeeper, unless otherwise designated by the Presiding Officer.

Section 6.3: Disorderly Conduct

Any person—member, staff, or attendee—who disrupts the meeting may be warned, silenced, or removed by order of the Presiding Officer.

Disorderly conduct includes:

- Interrupting speakers,
- Shouting or cursing,
- Making threats,
- Displaying signs that obstruct view or endanger safety,
- Refusing to yield the floor after time has expired.

Note: Any removal of a member of the public must be consistent with the First Amendment and narrowly tailored to preserve order, not suppress viewpoint.

If a Councilmember continues to violate the rules of decorum after being warned by the Presiding Officer, the Presiding Officer may formally “name” the member, which shall be recorded in the meeting minutes as a step toward possible censure or further disciplinary action under these Rules or other applicable law.

Signs, banners, or displays that obstruct views, endanger safety, or distract from the orderly conduct of the meeting may be limited or removed at the discretion of the Presiding Officer to preserve decorum.

Section 6.4: Conflicts of Interest and Recusal

Councilmembers must disclose any conflict of interest or potential conflict on matters before the body. The following guidelines apply:

- A member with a direct personal or financial interest must recuse themselves from discussion and voting.
- The recusal and general nature of the conflict shall be noted in the minutes.
- Recused members shall leave the chamber during debate and vote.

Disclosures must be made in accordance with the West Virginia Ethics Act (W. Va. Code §6B-2-5), including subsection (j) (Limitations on Voting), which prohibits a Councilmember from voting on any matter listed in that section.

Section 6.5: Public Communication and Representation

A. Councilmembers shall make clear that they speak only for themselves unless expressly authorized by the Mayor or a majority vote of the Council to speak on behalf of the Governing Body.

B. Councilmembers shall not negotiate contracts, agreements, or commitments on behalf of the City unless specifically authorized by the Mayor or Council.

Section 6.6: Duties of the Presiding Officer

A. General Authority.

1. Preserve order and decorum and exercise general supervision over the Council chambers during meetings.
2. Guide and direct the proceedings of the Council in accordance with these Rules.
3. Recognize members entitled to the floor and rule on questions of procedure.
4. Decide all points of order, subject to appeal by any member. The Presiding Officer may, at their discretion, submit a procedural question to the Council for decision.
5. Put to a vote all questions that are properly moved or otherwise arise during proceedings.

B. Participation in Debate.

The Presiding Officer may participate in debate without relinquishing the chair, unless otherwise prohibited by Charter.

Section 6.7: Question of Privilege

A Question of Privilege relates to matters of immediate and overriding importance affecting the rights, reputation, or comfort of the Council or its members. A Councilmember may raise a Question of Privilege at any time it does not interrupt voting. The Presiding Officer shall decide whether the matter is admitted as a Question of Privilege and whether it requires immediate consideration before resuming the pending business.

ARTICLE VII – AMENDMENTS, AUTHORITY, AND INTERPRETATION

Section 7.1: Amendment of Rules

These Rules may be amended, repealed, or supplemented by the Council using the same procedure required for adopting ordinances or resolutions, as determined by local law.

Any proposed amendment must be introduced in writing and placed on the agenda in accordance with the rules governing legislative action.

Section 7.2: Parliamentary Authority

Where these Rules are silent, the Council shall refer to the adopted parliamentary authority. Unless another authority is named by ordinance or resolution, the default shall be:

[Insert Preference: e.g., Robert's Rules of Order, Newly Revised], latest edition¹¹.

The Presiding Officer may consult the secondary authority and issue a ruling subject to appeal by a majority of Council.

Section 7.3: Interpretation

In the event of ambiguity or conflict within these Rules, the following order of precedence shall guide interpretation:

1. The Constitution and statutes of West Virginia;
2. The municipal Charter (if applicable);
3. Adopted ordinances of the municipality;
4. Adopted Resolutions of the municipality;
5. These Rules of Procedure;
6. The designated parliamentary authority of Section 7.2.

Nothing in these Rules shall be construed to supersede state law, court rulings, or legally binding interpretations by the West Virginia Ethics Commission.

Section 7.4: Suspension and Noncompliance

These Rules, or any part thereof, may be temporarily suspended by a majority vote of the Councilmembers present, provided that such suspension does not violate any statutory provision, Charter requirement, or adopted ordinance.

¹¹ It is recommended that Municipalities choose a parliamentary manual for guidance and to cover issues not addressed by their own charter or these rules. Robert's Rules of Order, Sturgis Standard Code of Parliamentary Procedure, or Mason's Manual of Legislative Procedure serves as the "back-up" manual for many. Other publications are Jefferson's Manual, and the U.S. House Rules. Be sure to specify the edition if not the most recent version, for example, "*Mason's Manual of Legislative Procedure, 2020 edition*".

If the Presiding Officer proposes suspension of a rule and no member objects, the officer may announce the rule suspended and proceed accordingly.

The suspension shall apply only to the matter under immediate consideration and shall not carry over to other agenda items unless explicitly stated.

A violation of these Rules shall not, by itself, invalidate any action taken by the Council, unless the violation also constitutes a breach of state law, municipal Charter, or due process rights.

Note: Nothing in this section excuses noncompliance with the West Virginia Open Governmental Proceedings Act or other mandatory legal standards.

[End of Rules of Procedure – Appendices Attached]

APPENDIX A

GLOSSARY OF PARLIAMENTARY TERMS

Adjourn – To terminate a meeting officially.

Adopt – To approve or give effect to an item, such as a motion or ordinance.

Adopt a report – To formally accept a report. Adoption commits the Council to everything included in the report.

Affirmative vote – A “yes” vote to a question before the Council. Signifies agreement to its acceptance.

Agenda – The official list of business to be considered at a meeting.

Amend – To change a motion or document by adding, deleting, or substituting words or provisions.

Annul – To void or cancel an action previously taken.

Appeal – A request that a ruling of the Presiding Officer be submitted to Council for a vote.

Debatable – Capable of being discussed.

Division of the Body – A request for a more precise count of votes when the outcome of a voice vote is unclear. Often done by standing or show of hands.

Division of Question – Separation of a motion into parts that may each be voted on independently.

Unanimous Consent – A method of passing routine or favored items without objection. Also called “general consent.”

Incidental motions – Motions related to procedure, order, or questions arising out of other motions.

Lay on the Table – To postpone a motion temporarily, with the intent to resume later during the same meeting.

Limit Debate – To restrict the time or number of speakers on a motion.

Main Motion – A principal proposal for Council to debate and decide.

New Business – Items introduced for consideration that are not left-over from a prior meeting.

Object to Consideration – A motion to prevent debate or vote on a main motion.

Order of Business – The sequence in which agenda items are considered.

Orders of the Day – The agreed-upon agenda or order of business. A member may “Call for the Orders of the Day” to require the Council to return to the set agenda if debate has strayed.

Ordinance – A law adopted by the municipal governing body.

Pending Question – A motion or issue currently under consideration but not yet decided.

Postpone to a Time Certain – To defer consideration of a motion to a specific later date or time.

Postpone Indefinitely – To kill a motion without a direct vote on its content.

Postpone Temporarily – See “Lay on the Table.”

Precedence – The established priority among types of motions when multiple motions are on the floor.

Presiding Officer – The individual charged with conducting the meeting, usually the Mayor.

Privileged Motions – High-priority motions that must be addressed before others (e.g., to adjourn or raise a question of privilege).

Question of Privilege – A request or motion relating to the comfort, dignity, or rights of Council or individual members.

Reconsider – A motion to revisit and potentially reverse a previously decided motion.

Refer to Committee – To delegate a matter to a group for investigation or recommendation.

Resume Consideration – To return to a motion that was previously laid on the table.

Special Committee – A temporary committee formed for a specific task or issue.

Special Meeting – A non-regular meeting convened for a specific agenda item(s) stated in advance.

Standing Committee – A permanent committee with continuing responsibility for certain matters.

Unfinished Business – Items from a prior meeting that were postponed or not resolved.

Viva Voce Vote – A voice vote, with decisions based on the volume of “ayes” and “noes.”

Previous Question (Call the Question) – A motion to close debate and proceed to an immediate vote.

Withdraw – A request by the maker of a motion to remove it from consideration.

[Remainder Of Page Intentionally Blank – Appendix B on Next Page]

APPENDIX B

Guide to Motion Practice and Procedure

This Exhibit provides a practical reference for Councilmembers and the Presiding Officer in handling motions. It may be adopted by resolution or incorporated into these Rules of Procedure by amendment.

Sec. B-1. Generally.

- (a) The business of a meeting is carried on by means of motions. In a broad sense a motion is a formal statement of a proposal for the Council to consider and vote upon.
- (b) It is well to become familiar with the steps of handling a motion and with their phraseology. Only after these mechanics of a motion become second nature, can a person concentrate on the content of the motion.
- (c) The following are the steps in handling a motion:
 - 1. A member seeks recognition from the Presiding Officer.
 - 2. The Presiding Officer recognizes the member.
 - 3. The member makes the motion.
 - 4. Another member seconds the motion, without the need to be recognized.
 - 5. Presiding Officer states the motion to the Council in the exact form as made by the moving member.
 - 6. Members may discuss the motion, if debatable. Debate normally begins with the maker of the motion.
 - 7. The Presiding Officer puts the motion to a vote.
 - 8. The Presiding Officer announces the result.

Sec. B-2. Addressing the Presiding Officer.

Any member of the Council may propose a motion. The member may do this at any appropriate time whenever there is no person actively engaged in speaking. In most cases, it is out of order to interrupt a speaker. To present a motion, a member first addresses the presiding officer by official title. Addressing the chair is equivalent to requesting permission to present a motion or to discuss a motion already presented.

Sec. B-3. Recognition by the Presiding Officer.

The Presiding Officer recognizes a member by calling the member by name, or by nodding to the member, or by designating the member in some other way. As soon as the Presiding Officer recognizes a member, that member is entitled to the undivided attention of the body while the member proposes or discusses a motion.

Sec. B-4. Form of Motions.

A motion is a proposal that the Council take certain action or express certain sentiments. It is always stated in the form: “*I move ...*,” followed by the proposal to be considered. Motions should always be worded in the affirmative, to avoid confusion. An occasional brief remark may introduce the motion, but no discussion or debate is in order until the motion has been seconded and stated by the Presiding Officer.

If discussion is needed before a motion can be formulated, a member may move that the subject be discussed informally.

Sec. B-5. Second to the Motion

- (a) After a member has proposed a motion, it is then in order for another member to *Second the Motion*. The member seconding the motion may, without the need to be recognized by the Presiding Officer say: “I second the motion.” If the Presiding Officer does not hear a second to a motion, the Presiding Officer should ask, “Is there a second to the motion that ...” and repeat the motion, since it may be that some of the members have not understood its meaning. If no second is forthcoming, the Presiding Officer declares the motion “lost for want of a second.”
- (b) Seconding a motion simply means that the seconder wishes to have the motion presented to the Council for consideration. It does not necessarily imply that the seconder favors the motion or intends to vote for it. The requirement of a motion and a second is based on the belief that at least two (2) members should be interested in the discussion of a proposition before a motion is presented to the body.
- (c) Routine motions, such as approving the Minutes are frequently stated by the Presiding Officer without waiting for a second, unless some member objects. This is a form of *Unanimous Consent*. If any member objects, the Presiding Officer must call for a second. Note: Unanimous Consent must not be used when state law requires a recorded vote of each member to be entered in the minutes.

Sec. B-6. Stating the motion by the Presiding Officer.

- (a) As soon as a motion has been properly moved and seconded, it is the duty of the Presiding Officer to state the motion promptly to the body. The Presiding Officer must state the motion in the exact form that was used by the maker of the motion, Until the Presiding Officer has stated the motion, the motion is under the control of its maker and can be withdrawn or modified by the maker as the maker wishes. Once the motion has been stated to the Council, it is in the possession of the body to do with it as it chooses.
- (b) If a motion is proposed in a form which is misleading, vague, or overly complicated, it is the duty of the Presiding Officer to request the member to rephrase the motion or to assist the member in making the motion clearer. If the Presiding Officer assists in rephrasing the motion, the Presiding Officer should make sure that the meaning of the motion is not changed. The Presiding Officer should ask the member whether the rephrased motion, as stated to the body expresses the proposal correctly.

- (c) If a motion proposes action which is contrary to law, or ordinance, or if it is obviously dilatory (that is, made for the purpose of delaying business) or is completely unsuitable for the consideration of the body, the Presiding Officer should rule it out of order. The Presiding Officer may say, “The chair rules your motion out of order,” and state the reason for so doing.

Sec. B-7. Debate and Discussion.

The Councilor making a motion shall be recognized first in debate and shall have the privilege of closing debate unless debate is closed earlier by the motion *Previous Question*. A member obtains the floor to debate a motion in the same manner as the member does to propose a motion. Once a member has been recognized for the purpose of debating a motion, the member must be protected in the member’s right to speak, so long as the member observes the rules of decorum and confines remarks to the subject of the motion. A Councilor having been recognized shall not be interrupted except to call the Councilor to order. If called to order, the Councilor shall cease speaking until the *Point of Order* is decided, after which debate may proceed. Debate is restricted to the measure under consideration and neither its proposer nor the proposer’s motives can be discussed. The rules of debate require that all discussion be impersonal and that it be addressed through the presiding officer.

Sec. B-8 Voting on motion.

When it appears that all members who wish to discuss the question have done so the Presiding Officer may inquire: “Is there any further discussion?” or, “Are you ready for the vote?” This query gives notice that debate is about to close and that if any member wishes to claim the floor, the member should so do immediately. If no one claims the floor, the Presiding Officer, after a pause, puts the question to a vote in its final form after any adopted amendments have been incorporated into the motion. The Presiding Officer or Recorder will then conduct the vote. The announcement of the vote by the Presiding Officer is the last step in the production line which has carried the motion from its introduction by an individual member to its disposal by vote of the Council.

Sec. B-9. Precedence and classification.

- (a) The rank of motions, which is called “precedence,” keeps the business of the meeting going with easy efficiency, and every motion is attended to in its proper turn. The order of precedence of motions is based on the degree of their urgency; and it is logical and easy to understand. The following is a list of the more important motions, arranged in the order of their precedence:

1. *Adjourn.*
2. *Recess.*
3. *Question of Privilege.*
4. *Lay on the Table.* (“*Postpone temporarily*”.)
5. *Previous Question.* (“*Vote immediately*”.)

6. *Limit or Extend Debate.*
7. *Postpone to a Time Certain.*
8. *Refer to Committee.*
9. *Amend.*
10. *Postpone Indefinitely.*
11. *The Main Motion:*

(b) Motions are classified as follows:

- (1) Main motions. This group is made up of motions which bring subjects (as contrasted with procedural questions) before the body for decision. These motions constitute the principal business of a meeting. They are the most important of all motions because once adopted, they become the official statements of the Council.
- (2) Subsidiary motions. This group is made up of seven (7) motions which are alternative methods of changing or disposing of the main motion. Their name derives from the fact that they are subsidiary to the main motion, and, therefore, can be proposed only when a main motion is before the Council. If a main motion is pending and some members do not wish to vote on it directly at the time, they have several choices as to how the motion may be modified or resolved. For example, a member may believe that it is an unsuitable motion for the body to consider and may move to object to consideration of the question. Another may think that the motion should be changed so that it conforms more nearly to the ideas of the body and may move to amend it. The recognized subsidiary motions are:
 - a. *Lay on the Table.*
 - b. *The Previous Question.*
 - c. *Limit or Extend the Limit for Debate.*
 - d. *Postpone to a Time Certain.*
 - e. *Commit or Refer.*
 - f. *Amend.*
 - g. *Postpone Indefinitely.*
- (3) Incidental motions. The motions of this group arise incidentally out of the business which is before the body. In general, they are concerned with the rights and privileges of members and procedures of the Council. They have only a few characteristics in common. The purpose of this group of motions is to handle procedural problems which arise out of the consideration of other questions. These problems, naturally, must be settled before consideration can be given to the question out of which they arise.

Incidental motions are not included in the list of precedence because they may be proposed at any time and must be decided whenever they arise. Therefore, they present no problem of precedence. The important incidental motions are:

- a. *Appeal.*
- b. *Point of Order.*

- c. *Parliamentary Inquiry.*
- d. *Suspend the Rules.*
- e. *Withdraw a Motion.*
- f. *Object to Consideration.*
- g. *Division of a Question.*
- h. *Division of the Body.*

Many additional motions may arise incidentally during the discussion of another motion. Further examples of motions which may arise incidentally are: *Motion to Excuse a Member from Voting; Motion to Consider a Resolution Paragraph by Paragraph; Motion to Close Nominations.*

- (4) Privileged motions. This small group is composed of motions which are so important that they are given privileges not accorded to other motions. They are, in effect, main motions which, because of their urgency, must be decided before the pending question. They relate to the members and to the board rather than to the main motion. Privileged Motions include:
 - a. *Fix the Time to which the Body shall Adjourn.*
 - b. *Adjourn.*
 - c. *Take a Recess.*
 - d. *Raise a Question of Privilege.*
 - e. *Call for the Orders of the Day.*
- (c) The chief purpose of dividing motions into four (4) groups is to determine their rank or precedence. This rank is fixed and definite and is based on logical reasoning. There are two (2) important rules of precedence:
 1. When a motion is pending, any motion of a higher rank may be proposed, but no motion of lower rank is in order. The motion to adjourn has the highest rank, and a main motion has the lowest. If a main motion is pending, any motion of higher rank can be proposed. If a motion to refer to committee is pending, the motions listed in paragraphs (a)(1) through (a)(7) of this section can all be proposed, but a motion to amend or to postpone indefinitely cannot.
 2. Motions are considered and voted upon in inverse order to the order of their proposal, the last one proposed being considered and disposed of first.

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This quick-reference chart is provided for convenience and summarizes common motions under Rules and Robert's Rules of Order. In case of conflict, the Model Rules text and your adopted parliamentary authority control.

To Do this:	You Say This...	May You Interrupt the speaker?	Needs Second?	Is it Debatable?	Is it Amendable?	Vote Required	Can it be Reconsidered ?
Adjourn the meeting	"I move to adjourn."	No	Yes	No	No	Majority	No
Take a short break	"I move to recess for [time]."	No	Yes	No	Yes	Majority	No
Complain about heat or noise	"I rise to a question of privilege."	Yes	No	No	No	No vote	No
Temporarily set aside business	"I move to lay the matter on the table."	No	Yes	No	No	Majority	No
End debate and vote now	"I move the previous question."	No	Yes	No	No	2/3	Yes
Limit or extend debate	"I move to limit [or extend] debate to..."	No	Yes	No	Yes	2/3	Yes
Postpone to a later time	"I move to postpone the matter to ____"	No	Yes	Yes	Yes	Majority	Yes
Refer to a committee	"I move to refer the matter to the Committee"	No	Yes	Yes	Yes	Majority	Yes
Change the wording of a motion	"I move to amend the motion by..."	No	Yes	Yes	Yes	Majority	Yes
Kill the motion without direct vote	I move to postpone the matter indefinitely.	No	Yes	Yes	No	Majority	Yes
General Motion for Business	"I move that..."	No	Yes	Yes	Yes	Majority	Yes
Motions Listed Above are in Order of Precedence							
Point out a rule breach	"Point of order!"	Yes	No	No	No	Chair rules	No
Appeal a ruling by the chair	"I appeal the decision of the chair."	Yes	Yes	Yes	No	Majority	Yes
Ask about procedure	"Parliamentary inquiry!"	Yes	No	No	No	No vote	No
Suspend a rule	"I move to suspend the rules so that..."	No	Yes	No	No	2/3	No
Withdraw your motion	"I wish to withdraw my motion."	No	No	No	No	Majority	No
Object to something improper	"I object to consideration of this motion."	Yes	No	No	No	2/3	Yes
Split a motion into parts	"I move to divide the question."	No	Yes	No	No	Majority	No
Require a counted vote	"I call for a division of the body."	Yes	No	No	No	Chair counts	No
Return to the agenda	"I call for the Orders of the Day."	Yes	No	No	No	No vote	No
Set a time to adjourn	"I move to fix the time to which to adjourn."	No	Yes	No	Yes	Majority	Yes
Take up an item tabled earlier	"I move to take [item] from the table."	No	Yes	No	No	Majority	No

Sec. B-10. Reconsideration

(a) The purpose is to permit the Governing Body to reconsider a vote on previous action. The reconsideration of a negative vote on final action is as proper as reconsideration of a favorable vote.

(b) Right of Reconsideration

1. The motion to *Reconsider* may be made at the same meeting or a subsequent meeting. However, certain rules apply as appropriate under the circumstances.
2. The motion to *Reconsider* must be made by a member who voted on the prevailing side.
3. The motion to *Reconsider* is inappropriate after the action taken has gone into effect or after it is too late for any reason, to reverse the action taken.
4. Whether a measure is reconsidered depends on whether the motion to *Reconsider* passes or fails.
5. Should the motion to *Reconsider* pass, the item is immediately before the Governing Body to be acted upon or scheduled for hearing at a subsequent meeting.
6. Should the motion to *Reconsider* fail, the item remains as adopted.
7. Either the motion to *Reconsider* or notice of intent to reconsider must be made not later than the next regular meeting. A member of the Governing Body may indicate notice of intent to propose reconsideration either orally or in writing.

(c) Effect of Reconsideration.

The effect of making the motion to *Reconsider*, or of giving notice of the motion, is to suspend all action on the subject of the motion until the reconsideration is acted upon.

(d) Reconsideration at a subsequent meeting.

1. When notice is required for a question, the Governing Body shall comply with all rules requiring public notice.
2. If reconsideration will be taken up at a subsequent meeting, notice of intent will be placed on the agenda. The determination of reconsideration is dependent on the passage or failure of the motion to *Reconsider*.

(e) Debate of Motion.

Debate on the motion to *Reconsider* will be limited to the merits of the reconsideration and not the merits of the question to be reconsidered.

(f) Vote.

The passage of the motion to *Reconsider* requires a majority vote, even if the measure to be reconsidered requires a two-thirds vote.

Common Motions

Sec. B-11. *Main Motion*

(a) *Main Motion.* A *Main Motion* presents an ordinance, resolution, or other proposition for passage, adoption, approval, or rejection. The question is usually stated in the positive form, “to pass”, “to adopt”, “to approve” “to confirm”, “to concur.”

(b) A *Main Motion* must be seconded before debate can take place and only one *Main Motion* may be on the floor at a time. A Councilor may give brief explanatory comments before making the motion but must refrain from debate until the motion has been seconded and the member assigned the floor for debate by the Presiding Officer.. In the absence of a *Second*, the motion fails. *Main Motions* are debatable, amendable, and can be reconsidered after adoption.

(c) *Main Motions* become the official recorded statement of an action taken by the Governing Body. A *Main Motion* should therefore be worded in a concise, unambiguous, and complete form appropriate to such a purpose.

(d) A *Main Motion* should not be offered if its only effect is to propose that the body refrain from doing something since the same result can be accomplished by no motion at all.

Sec. B-12 *Motion to Amend*

- (a) Every amendment proposed must be relevant to the subject of the proposition.
1. A *Motion to Amend* takes precedence over the original *Main Motion* out of which it arises and must be voted upon before the original *Main Motion*.
 2. After an amendment is adopted, the question as amended must be put to a vote.
 3. Rejection of a *Motion to Amend* leaves the *Main Motion* worded as it was before the amendment was offered.
 4. Form of amendments

- i Amendments should be offered in a concise, unambiguous and in a complete form of a motion.
 - ii. In form, amendments may be divided into the following types:
 - a. To add (that is to place at the end)
 - b. To insert
 - c. To strike out
 - d. To strike out and insert
5. Decision on amendments
 - i. An amendment, once adopted, may not thereafter at the same meeting be changed or modified, except upon *Reconsideration* of the vote by which it was adopted or by way of the *Motion to Amend Something Previously Adopted*.
 - ii. When a proposed amendment has been defeated, the same amendment may not be proposed again without first Reconsidering the vote by which the amendment was lost.
6. The Presiding Officer may require amendments to be submitted in writing.
7. Withdrawing Amendments and Accepting Modifications
 - i. Amendments may be withdrawn by the maker before being seconded and stated by the Presiding Officer. After an amendment is seconded and stated by the Presiding Officer, it is in the possession of the Governing Body and be withdrawn only with the consent of the Governing Body.
 - ii. The maker of an amendment may modify an amendment before it is seconded and stated by the Presiding Officer. After it is seconded and stated, it is in the possession of the Governing Body and can be modified only with the consent of the body. The Presiding Officer may put the question of modification without waiting for a motion, if there is no objection.
8. There is no such thing as a “Friendly Amendment.” So called “Friendly Amendments are handled just like any other amendment.

Sec. B-13 *Postpone to a Time Certain*

(a) The *Motion to Postpone To a Time Certain* defers action on a pending question to some definite, time, day, or meeting. When a question has been postponed to a certain time, it becomes an order of the day for that time. When the time to which a question has been postponed arrives and the question is taken up, it can be postponed again if the additional delay will not interfere with the proper handling of the postponed question. The *Motion to Postpone to a Time Certain* is debatable, amendable, and may be reconsidered.

Sec. B-14 *Previous Question*

(a) *Previous Question* (Call the Question). Debate may be closed immediately by the motion *Previous Question*. The motion *Previous Question* may motivate *Unanimous Consent* to ending debate. Before *Previous Question* has been seconded, the Presiding Officer may ask if there is any objection to closing debate. If there is no objection, the Presiding Officer shall immediately call the question and order a vote on the matter as it currently stands with the Governing Body. If one member objects, the Presiding Officer shall ask if there is a second to the motion. If there is a second to the call, the Presiding Officer must immediately take a vote on whether to order the call for the question. The call for the question requires a 2/3 majority vote before the vote on the question to which applied. The *Previous Question* is neither amendable nor debatable and can be reconsidered.

Sec. B-15 *Motion to Lay on the Table/ Take from the Table*

(a) Any measure before the Governing Body may be set aside temporarily when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question. The *Motion to Lay on the Table* is not debatable, not amendable, and cannot be reconsidered.

A motion that has been laid on the table must be taken from the table and acted upon by the end of the next regular meeting; otherwise, the measure is considered lost and must be reintroduced if further action is desired.

(b) The *Motion to Take from the Table* is to bring back before the Governing Body a question that has previously been laid on the table. The *Motion to Take from the Table* is not debatable, not amendable and cannot be reconsidered.

Sec. B-16 *Point of Order*

Point of Order. Any Councilor or the Presiding Officer may call attention to violations of the rules or a mistake in procedure by rising to a *Point of Order*. The Presiding Officer may permit a brief explanation from the member raising the Point of Order before ruling on the claim and may submit the question to the Governing Body for decision by a majority vote. The Presiding Officer is not required to decide any *Point of Order* not directly presented in the proceedings of the body. Such an assertion does not require a second, is not debatable nor amendable and cannot be reconsidered. Every member of the Governing Body has a responsibility to require adherence to these rules by fellow governing body members.

Sec. B-17: Questions of Privilege – Examples

Example 1 – Comfort:

A Councilmember raises a Question of Privilege to request that the chamber air conditioning be adjusted because the room temperature is too high for comfort.

Example 2 – Noise Disruption:

A Councilmember raises a Question of Privilege to ask the Presiding Officer to close the door to the meeting room because hallway noise is disrupting debate.

Example 3 – Protection of Reputation:

A Councilmember may raise a Question of Privilege if personal comments made during debate unfairly attack their motives or integrity. The Presiding Officer may require the remarks to be withdrawn.

Example 4 – Audio Clarity:

A Councilmember raises a Question of Privilege to ask that a speaker repeat their remarks more clearly or speak into the microphone so everyone can hear.

Sec. B-18. Division of the Question

When a motion contains two or more independent parts that can stand alone, any member may move to divide the question so that each part may be considered and voted on separately.

Key points:

- Must be seconded.
- Not debatable or amendable.
- The Presiding Officer decides if division is appropriate.

Example:

“Madam Mayor, I move to divide the question so that the funding proposal is voted on separately from the policy statement.”

Sec. B-19. Division of the Body

If the result of a voice vote is unclear, any member may call for a “Division of the Body” to require a counted vote by show of hands or standing.

Example:

“Madam Mayor, I call for a division.”

The Presiding Officer then directs members to stand or raise hands for an accurate count.

Sec. B-20. Call for the Orders of the Day

Any member may interrupt proceedings to demand that the Council return to the approved agenda if debate has strayed.

Example:

“Mr. Mayor, I call for the Orders of the Day.”

If there is no objection, the Council resumes the next item in the order of business.

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APPENDIX C

Presiding Officer Scripts & Speaking Guide

Purpose and Importance

Addressing all remarks through the Presiding Officer (typically the Mayor) is a fundamental rule of order in public meetings. This standard promotes civility, fairness, and professionalism by preventing direct, personal exchanges between members. It ensures that discussion is issue-focused, not personality-driven, and helps avoid disruption, disorder, or confrontational debate.

This practice:

- Prevents personal attacks by requiring all remarks to flow through the chair,
- Maintains structure by giving the Presiding Officer control over who speaks and when,
- Encourages mutual respect even in disagreement,
- Protects impartiality of the debate process.

By following this simple principle—always direct your comments to the Presiding Officer - members help uphold the dignity and order of the council.

The examples that follow illustrate how the Presiding Officer may handle common and less common motions under these Rules, including requests for Unanimous Consent and procedural corrections that may arise during debate.

COMMON EXAMPLES

1. Approving Minutes

“Mr. Mayor, I move to approve the minutes of the June 15 meeting.”

2. Adjourning the Meeting

“Madam Mayor, I move to adjourn.”

3. Responding to a Colleague’s Comment (Indirectly)

“Mr. Mayor, I’d like to respond to the concerns raised by the Councilmember from Ward 4.”

4. Seeking Clarification from Staff

“Madam Mayor, could we ask the Public Works Director to clarify the current status of the project timeline?”

5. Moving to Amend a Motion

“Mr. Mayor, I move to amend the motion by changing the implementation date to October 1.”

6. Calling the Question (Ending Debate)

“Madam Mayor, I move the previous question.”

(This is a motion to end debate and proceed to vote.)

7. Raising a Point of Order

“Mr. Mayor, point of order: discussion is currently off-topic and should be confined to the motion on the floor.”

EXAMPLE SCRIPT: MAYOR CALLING A MEMBER TO ORDER

If a member speaks out of turn, makes personal remarks, or fails to address the Presiding Officer, the Presiding Officer should act promptly but respectfully to restore order. Here’s a sample script:

Councilmember (interrupting or speaking directly to another member):

“You always block projects like this, and you’re doing it again!”

Mayor:

“Councilmember, you are out of order. All remarks must be addressed through the Chair. Please direct your comments to me and refrain from personal remarks.”

(If behavior continues, the Presiding Officer may issue a warning or call for a motion to censure, depending on local rules.)

EXAMPLE SCRIPT: PRESIDING OFFICER ADDRESSING A SPEAKER WHO EXCEEDS TIME OR BECOMES DISRUPTIVE

Member of the Public (after 3 minutes):

“And why haven’t any of you done anything about this yet? Are you even listening? What are you hiding?”

Mayor:

“Sir/Ma’am, your three minutes have expired.”

(If the speaker does not yield the floor)

Mayor (firm tone):

“I’m going to remind you that public comment is limited to three minutes. This is not a question-and-answer session. If you have additional written comments, you may submit them to the Recorder. Please return to your seat so we may proceed with the meeting.”

(If the speaker continues to interrupt or refuse to stop)

Mayor:

“You are now out of order. If you do not yield the floor, you may be asked to leave. We value public input, but we must maintain respectful and orderly proceedings.”

(If the behavior escalates further, the Mayor may call a recess or direct security, if applicable.)

OPTIONAL REINFORCEMENT FOR CLARITY

At the beginning of public comment period, the Mayor may also state:

“Each speaker is allotted three minutes. Please direct your comments to the Council as a whole through the Chair, and note that this is not a time for back-and-forth dialogue. We welcome your input, and we ask that all speakers respect the time limit and decorum of this meeting.”

EXAMPLE SCRIPT: MOTION TO LIMIT DEBATE

Context: Council is discussing a proposed ordinance, and discussion is dragging on. A Councilmember wants to limit debate to 10 minutes total, with no member speaking more than once for 2 minutes.

Councilmember 1:

“Mr. Mayor, I move to limit debate on the pending motion to ten (10) minutes total, with each member limited to one (1) two-minute comment.”

Councilmember 2:

“I second the motion.”

Mayor:

“There’s a motion to limit debate to ten minutes total, and to limit each member to one two-minute comment. This motion is not debatable. All those in favor, say ‘Aye.’

[Pause for vote]

All those opposed, say ‘No.’”

[If motion passes:]

Mayor:

“The motion to limit debate is adopted. Total debate time is now limited to 10 minutes, and each Councilmember may speak once for up to 2 minutes.”

[If motion fails:]

Mayor:

“The motion to limit debate has failed. We return to regular discussion on the main motion.”

Notes:

- This is a subsidiary motion (it modifies the rules for the main motion on the floor).
- Not debatable—goes straight to a vote.

EXAMPLE SCRIPT – DIVISION OF THE QUESTION

Councilmember:

“Mr. Mayor, I move to divide the question so the funding proposal and the policy statement are voted on separately.”

Mayor:

“There is a motion to divide the question. Is there a second? [Pause]

Hearing a second, I find the parts are sufficiently distinct and will be handled separately. Debate will proceed on Part One first.”

EXAMPLE SCRIPT – DIVISION OF THE BODY

Councilmember:

“Madam Mayor, I call for a division of the body.”

Mayor:

“Division of the body has been requested.

All those in favor, please stand [or raise your hand].

[Count]

All those opposed, please stand [or raise your hand].

The vote is __ in favor, __ opposed.”

EXAMPLE SCRIPT – CALL FOR THE ORDERS OF THE DAY

Councilmember:

“Mr. Mayor, I call for the Orders of the Day.”

Mayor:

“The Orders of the Day have been called.

Without objection, we will return to the approved agenda.

[Pause for objection]

Hearing none, we will proceed to the next scheduled item, which is ____.”

(If there is an objection, the Mayor should note that a 2/3 vote is required to set aside the agenda.)

EXAMPLE SCRIPT: USING UNANIMOUS CONSENT

Unanimous Consent is a quick way to handle routine or noncontroversial actions without a formal motion or vote, if no one objects.

Example 1 – Correcting Minutes Quickly

Mayor:

“Are there any objections to approving the minutes as distributed? [Pause]

Hearing none, the minutes are approved.”

Example 2 – Changing the Order of Business

Mayor:

“Without objection, we will move Item 8 ahead of Item 7 to accommodate the presenter’s schedule. Is there any objection? [Pause]

Hearing none, we will proceed with Item 8 next.”

Example 3 – Adopting a Routine Consent Calendar

Mayor:

“If there is no objection, the Consent Calendar will be adopted as presented. [Pause]

Hearing none, the Consent Calendar is adopted.”

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APPENDIX D

Index

Term / Concept	Where Defined or Used	Notes
Adjourn	Art. II, Sec. 2.4; Art. IV, Sec. 4.2; Appendix A; Appendix B, Sec. B-9	Ends the meeting formally
Agenda	Art. II, Sec. 2.1–2.3; Art. III, Sec. 3.3; Appendix A	Preparation, control, and disputes
Amend / Amendment	Art. IV, Sec. 4.2; Appendix B, Sec. B-12; Appendix A	Includes forms, modification, withdrawal
Appeal a Decision	Art. IV, Sec. 4.5; Appendix B, Sec. B-9; Appendix A	Council right to appeal ruling
Approval	Art. III, Sec. 3.1	Approval as a form of final action
Call the Question / Previous Question	Art. IV, Sec. 4.2; Appendix B, Sec. B-14; Appendix A	Ends debate and moves to vote
Censure / Naming a Member	Art. VI, Sec. 6.3	Formal decorum enforcement
Chair / Presiding Officer	Art. I, Sec. 1.2; Duties: Art. VI, Sec. 6.6; Appendix A; Appendix C	Defined role, authority, and scripts
Clerk / Recorder	Art. I, Sec. 1.2; Art. II, Sec. 2.1–2.2; Art. V, Sec. 5.5; Art. VI, Sec. 6.2; Appendix A	Prepares agendas, keeps official records, serves as timekeeper when limits apply
Committees (Standing / Special)	Art. III, Sec. 3.2 (optional); Appendix A	Rules for referring matters
Consent Calendar / Consent Agenda	Art. II, Sec. 2.3	Routine items grouped for efficiency
Conflict of Interest	Art. VI, Sec. 6.4	Disclosure, recusal, recordkeeping
Debate Rules	Art. IV, Sec. 4.3; Art. VI, Sec. 6.2; Appendix B, Sec. B-7	Order, fairness, time limits
Decorum	Art. VI, Sec. 6.1–6.3	Standards of conduct and enforcement
Division of the Body	Appendix A; Appendix B, Sec. B-19	Requests counted vote when voice vote is unclear
Division of a Question	Appendix A; Appendix B, Sec. B-18	Separate a motion for individual votes
Emergency Meeting	Art. I, Sec. 1.3	Special notice requirements
Executive Session	Art. V, Sec. 5.3–5.5	Rules for confidentiality and votes

Friendly Amendment	Appendix B, Sec. B-12	Clarifies it is not distinct
Incidental Motions	Appendix A; Appendix B, Sec. B-9	Includes Withdraw, Point of Order, Suspend Rules
Lay on the Table / Take from the Table	Art. IV, Sec. 4.2; Appendix B, Sec. B-15	Temporarily set aside, resume later
Limit or Extend Debate	Art. IV, Sec. 4.2; Appendix B, Sec. B-9	Also see scripts in Appendix C
Main Motion	Art. IV, Sec. 4.2; Appendix B, Sec. B-11; Appendix A	Brings new business forward
Meeting Types	Art. I, Sec. 1.3	Regular, Special, Emergency, Work Sessions
Minutes	Art. II, Sec. 2.2	Corrections, approval, and recording votes
Motion Practice	Art. IV, Sec. 4.1–4.2; Appendix B	Full steps, seconding, withdrawal
Naming a Member	Art. VI, Sec. 6.3	Recording misbehavior toward censure
Notice Requirements	Art. I, Sec. 1.3; Art. II, Sec. 2.1; Art. V, Sec. 5.1	Open Meetings Act compliance
Object to Consideration	Appendix A; Appendix B, Sec. B-9	Prevents debate on improper topics
Order of Business	Art. II, Sec. 2.3	Agenda sequence and flexibility
Orders of the Day	Appendix A; Appendix B, Sec. B-20	Agenda order; “Call for” restores order
Ordinance	Art. III, Sec. 3.1, 3.4; Appendix A	Formal local law
Overflow Rooms / Public Seating	Art. V, Sec. 5.2	Managing large crowds fairly
Parliamentary Authority	Art. VII, Sec. 7.2	Robert’s Rules default
Point of Order	Art. IV, Sec. 4.2; Appendix B, Sec. B-16; Appendix A	Corrects procedural errors
Postpone to a Time Certain	Art. IV, Sec. 4.2; Appendix B, Sec. B-13	Delay item to definite date
Postpone Indefinitely	Appendix A; Appendix B, Sec. B-9	Dispose of motion without direct vote
Precedence of Motions	Appendix B, Sec. B-9	Ranking of urgency and sequence
Presiding Officer Duties	Art. VI, Sec. 6.6; Appendix C	Recognizing speakers, ruling on order
Privileged Motions	Appendix A; Appendix B, Sec. B-9	E.g., Adjourn, Recess, Question of Privilege
Public Comment	Art. II, Sec. 2.3; Art. V, Sec. 5.2	Sign-up, time limits, decorum

Public Hearings	Art. V, Sec. 5.1–5.2	Notice, testimony, exhibits, cross-exam
Question of Privilege	Art. VI, Sec. 6.7; Appendix B, Sec. B-17; Appendix A	Comfort, rights, reputation issues
Quorum	Art. I, Sec. 1.4; Appendix A	Minimum presence for action
Recess	Art. II, Sec. 2.4; Appendix B, Sec. B-9	Short break, same meeting continues
Refer to Committee	Appendix A; Appendix B, Sec. B-9	Assign work for study or report
Remote Participation	Art. I, Sec. 1.4	Written notice, annual limits
Resolution	Art. III, Sec. 3.1, 3.4; Appendix A	Policy or administrative action
Roll Call Vote	Art. IV, Sec. 4.4	Required for ordinances, finance votes
Special Meeting	Art. I, Sec. 1.3; Appendix A	Limited agenda, notice required
Standing / Special Committees	Appendix A	Definitions, optional use
Suspend the Rules	Art. VII, Sec. 7.4; Appendix B, Sec. B-9	Temporarily adjust procedure
Unanimous Consent	Appendix A; Appendix B, Sec. B-5	Routine approval when no objection
Voting	Art. IV, Sec. 4.4; Appendix B, Sec. B-8	Majority required, tie-breaks, abstentions
Withdraw Motion	Appendix A; Appendix B, Sec. B-9	Remove motion from floor
Written Comments (Public)	Art. V, Sec. 5.2	FOIA rules, how entered into record

**City of Elkins
Rules of Council
Amended: June 6, 2024**

Rule Titles

1. Meetings
2. Committees
3. Agenda Items and Informational Packets
4. Order of business at regular meetings
5. Reading of the minutes
6. Procedures for enacting ordinances
7. Informational presentation
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14. Members of the public speaking before city council

1. Meetings

- a) The city council shall meet in regular public session at the council chamber in the city hall building at 7:00 p.m. on the first and third Thursdays of each month.
- b) Special meetings shall be held upon the written petition of two or more members of council or the call of the mayor.
- c) If the city council shall determine that the council chamber in the city building is not or will not, for any reason, be an appropriate place for the holding of a meeting, the council may, upon motion, designate another place open to the public within the city for the holding of such meeting.
- d) During an emergency situation or a declared state of emergency the mayor may change the location of the meeting and/or permit meetings to be held telephonically or via live audio or

visual stream, so long as they continue to meet the minimum standards of the W.V. Open Meetings Act as interpreted by the W.V Ethics Commission.

2. Committees

- a) The city council shall have the following standing committees:
 - 1. Committee on finance: recommends an annual budget to council. Supervises budget management and makes reports to council; reviews and proposes to council municipal dept instruments and grants; makes fiscal forecasts and reports the same to council.
 - 2. Committee on rules and ordinances: considers and proposes to council new and amended ordinances, rules, and policies.
 - 3. Committee on municipal properties: monitors and reports to council on the condition of and proposed plans for city buildings, real estate, and rights-of-way; reviews and proposes to council capital investment in buildings, real estate and associated infrastructure.
 - 4. Committee on personnel: reviews and proposes to council employment policies, including employee compensation and benefits and an employee handbook; reviews applications for primary staff positions recommended by the mayor and makes hiring recommendations to council.
 - 5. Committee on public safety: monitors and reports to council on the activities of, condition of and proposed plans for municipal public safety assets, including police, fire, and emergency services; reviews and proposed to council capital investment in public safety equipment and infrastructure.
- b) All standing committees shall consist of no fewer than three and no more than five councilors. All standing committees shall be appointed by the mayor.
- c) In addition to the foregoing standing committees, there may be one or more ad-hoc committees assigned a mission or missions by council or the mayor. All members of such committees shall be appointed by the mayor.
- d) The mayor shall also appoint one council representative to the Elkins Parks and Recreation Commission and one council representative to the Elkins Planning Commission.

3. Agenda Items and Informational Packets

To promote the orderly conduct of the business of the city council and the timely preparation of an accurate agenda, the following rules are hereby established and applicable to the conduct of city council and council committee meetings:

- a) Council meeting agenda items may be submitted to the city clerk by the mayor, by a committee chair, by any three members of council or by any administrative officer. Agenda

items may not be removed from the agenda without the permission of the individual or body who submitted the initial request.

- b) Committee meeting agenda items may be submitted to the clerk of the committee by the mayor, any member of the committee or by any administrative officer. Agenda items may not be removed from the agenda without the permission of the individual or body who submitted the initial request.
- c) Items may be provided for inclusion in the council or committee informational packets by the mayor, any member of council, or any administrative officer; such items may not be removed without the permission of the person who submitted the item.
- d) By law, agendas must be posted no later than three business days before a meeting. Therefore, every effort should be made to submit agenda items to the clerk no later than 12:00 p.m. on the fourth business day preceding a council or committee meeting (keeping in mind weekends and interceding holidays). Because council members' informational packets are prepared on the second business day before a council or committee meeting, every effort should be made to submit supporting documentation for agenda items (such as agenda items reports, invoices, explanatory correspondence, etc.) no later than 12:00 p.m. the second business day preceding the council or committee meeting.
- e) The city clerk or city attorney will prepare and/or approve the final form of resolutions; the city attorney will prepare and must approve the final form of ordinances. The city clerk shall assign a number to each ordinance and resolution introduced and shall have authority to edit and correct resolutions as to form.
- f) To ensure that items docketed on the council agenda are as ripe for consideration and action as possible, the standard practice shall be to bring matters to the attention of the relevant council committee prior to laying them before full council. The city clerk, in consultation with the relevant committee(s), shall advise and support anyone needing assistance in navigating this process.

4. Order of business at regular meetings

- a) The order of business for each meeting shall be determined by the clerk. The presiding officer, being the mayor, mayor designee, or chair, shall abide by the order of business as presented in the duly posted meeting agenda.
- b) The presiding officer may, by publicly stated reason and with unanimous consent of the body, change the order of business irrespective of the order as set forth in subsection (a).
- c) All meeting agenda items must be considered at that meeting. Agenda items may be withdrawn, postponed, or otherwise disposed only by a duly approved motion. If a member requests that an agenda item be considered in executive session, as permitted by W.V. Code §6-9A-4, said request shall be made by motion. The motion must state the grounds for convening an executive session and an executive session may be held only upon a majority

affirmative vote of the members present. All members of the body are permitted to be included in any executive session. Other elected officials, staff, citizens, or attendees may be included in the executive session at the request of the member making the motion.

5. Reading of the minutes

Members are provided copies of the minutes in advance of the meeting at which they will be considered for approval; because members have the opportunity to review minutes beforehand, minutes are not typically read at the meeting. M. Upon motion, duly approved, the minutes may be amended and adopted, including any submitted alternations or corrections.

6. Procedures for enacting ordinances

All ordinances shall be acted upon by Council in accordance with the City Code and the West Virginia Code.

7. Informational presentations

Council or the mayor may request or permit an informational presentation by anyone presenting business pertinent to the city. No substantial deliberation or action shall be taken in response to a presentation unless the item is otherwise listed in the order of business.

8. Reports

All reports of committees shall be delivered by the committee chair when requested by the mayor during the regularly scheduled Council meetings. In the absence of the chair another committee member may be called upon to report.

Staff reports shall be delivered by the administrative officer, or their designee. When appropriate the chief water operator, chief wastewater operator, city staff or representatives of the city's boards and commissions may be called upon by council or committee to report.

9. When a member abstains from voting

No member shall vote on any question before the city council if they are directly and immediately interested therein other than as a citizen of the City of Elkins; however, no member may abstain from voting without, prior to a vote being taken, having stated their reason for not voting.

10. Executive session

Rules regulating the application and confidentiality of executive session during council and committee meetings shall be adopted separately and titled *City Council Rule on Executive Session*. They shall appear as an addendum to the adopted City of Elkins Rules of Council.

11. Rescission, amendment, and suspension of rules

No standing order or rule of the city council shall be rescinded or amended except by a majority vote of the members elected to the city council.

12. Discussion, debate, and voting

- a) Agenda business items must be moved before being debated or discussed. At their discretion, the chair may propose action on an item by unanimous consent.
- b) Items not appearing on the agenda may not be substantively discussed.
- c) The mayor or acting chair may participate in debates and discussions without relinquishing the chairmanship.
- d) Members need not rise to speak. Members must be recognized by the chair before obtaining the floor, but the chair must recognize any member who seeks the floor while entitled to it.
- e) No one except council members and the chair may participate in or contribute to discussion and debate unless recognized by a member or the chair in due order.
- f) The standard method of voting will be by voice. The chair will first ask all those in favor of a motion to say “aye,” and they will next ask all those opposing a motion to say “nay.” If the result of the voice vote is not unanimous, the chair or any member shall request a roll-call vote.

13. Parliamentary rules of order

For circumstances not described in these rules, refer to *Robert's Rules of Order, Newly Revised*, a copy of which shall remain on file in the office of the city clerk.

14. Members of the public speaking before city council

- 1) Per Elkins City Code Chapter 31.05, rev.:
 - a) Privilege of citizens and taxpayers to be heard; limitation on time to speak. Any citizen or taxpayer of the City may be heard either in person or by counsel upon any matter introduced or pending before the Common Council; but no speech or hearing shall exceed five minutes, except by the unanimous consent of the Council. If a citizen or taxpayer of the City requests to be heard either in person or by counsel upon any matter which is not introduced or pending before the Common Council, said citizen or taxpayer of the City may be permitted to address Council upon unanimous consent of the Council. Said speech or hearing shall not exceed five minutes, except again by unanimous consent of the Council.
 - b) Citizens or counsel to speak only once on one subject at any one meeting. No citizen or taxpayer of the City or his counsel shall speak more than once on one subject at any one meeting of the Common Council, except by unanimous consent.
 - c) Manner of addressing Council. Any person, before addressing the Council, shall rise to his feet, respectfully address the presiding officer, and remain standing while delivering his address. The person addressing Council shall state his name and

address, and if the person represents a group or is speaking on behalf of someone other than himself.

- d) Order of recognition. If two or more persons desire to address the Common Council at the same time, the presiding officer shall recognize the person who first addressed the chair, and the other person shall at once be seated.
- e) Acknowledgment. The mayor or the presiding officer of the meeting shall acknowledge the person addressing the Common Council. The mayor or the presiding officer may request that the matter being addressed in the public comment be referred to the appropriate Council committee.

15. Expulsion

If a citizen, council member, official, or any other person in attendance at a council meeting becomes unruly, the chair will, by gavel, advise such person that they are out of order and must cease and desist whatever speech or other actions that the chair deems unruly. If the unruly actions continue after such censure, the chair shall direct the chief of police or his representative to remove such person or persons.