CHARTER

for the

CITY OF JOHNSTOWN
NEW YORK

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CHARTER

ARTICLE 1
GENERAL PROVISIONS

Section C-1.0. Short title.

Section C-1.1. Purpose.

Section C-1.2. Boundaries of the City.

Section C-1.3. Division into wards; ward boundaries.

Section C-1.4. Corporate name and powers.

Section C-1.5. Effect on state law.

Section C-1.6. Official and fiscal year.

Section C-1.7. Definitions.

ARTICLE 2
ELECTED OFFICERS

Section C-2.0. City officers.

Section C-2.1. Manner of choosing elected City officers.

Section C-2.2. Terms of office.

Section C-2.3. Commencement and expiration of terms of office.

Section C-2.4. Eligibility.

Section C-2.5. Official oaths.

Section C-2.6. Vacancies.

ARTICLE 3
MAYOR AND COMMON COUNCIL

Section C-3.0. General powers and duties of the Mayor.

Section C-3.1. Council member-at-large.

Section C-3.2. Duties and organization of the Common Council.

Section C-3.3. Legislative powers of Common Council.

Section C-3.4. Introduction and passage of legislation.

Section C-3.5. Mayoral veto.

Section C-3.6. Sale or leasing of real property.

ARTICLE 4
CITY TREASURER AND CITY FINANCES

Section C-4.0. General powers and duties of the City Treasurer.

Section C-4.1. Examination of accounts of the City Treasurer.

Section C-4.2. Adoption of the annual budget.

Section C-4.3. Form and content of tentative budget.

Section C-4.4. Budget amendments.

Section C-4.5. Lapse of appropriations.

Section C-4.6. Submission of propositions at City elections.

Section C-4.7. Audit and payment of claims.

ARTICLE 5
ASSESSMENT AND COLLECTION OF TAXES

Section C-5.0. Assessor and Board of Assessment Review.

Section C-5.1. Annual tax levy.

Section C-5.2. Taxes for county purposes.

Section C-5.3. Collection of unpaid taxes and assessments; redemption.

Section C-5.4. Application of article to local assessments.

Section C-5.5. Sale by City of lands acquired at tax sale.

ARTICLE 6
WATER DEPARTMENT

Section C-6.0. Water Department.

Section C-6.1. Organization of the Water Board.

Section C-6.2. Water Superintendent.

Section C-6.3. Clerk of the Water Board.

Section C-6.4. General powers and duties of the Water Board.
Section C-6.5. Common Council legislation.
Section C-6.6. Water Board budget.
Section C-6.7. Use of personnel and equipment.
Section C-6.8. Collection of unpaid water rents.
Section C-6.9. Audits of claims and payment of bills.

ARTICLE 7
APPOINTED PUBLIC OFFICERS AND EMPLOYEES; GENERALLY

Section C-7.0. Appointed public officers.
Section C-7.1. Terms of office of appointed public officers.
Section C-7.2. Eligibility for appointed office.
Section C-7.3. Official oaths.
Section C-7.4. Official bonds.
Section C-7.5. Suspensions and removals of appointed City officers.
Section C-7.6. Appointment of employees.
Section C-7.7. Compensation of City officers and employees.

ARTICLE 8
ADMINISTRATION

Section C-8.0. General powers and duties of the City Clerk.
Section C-8.1. General powers and duties of the City Engineer.
Section C-8.2. General powers and duties of the City Attorney.
Section C-8.3. Johnstown City Court.
Section C-8.4. Police Department.
Section C-8.5. Fire Department.
Section C-8.6. Johnstown Public Library.
Section C-8.7. Local Health Officer; Board of Health.
Section C-8.8. Zoning Board of Appeals.
Section C-8.9. Planning Board.
Section C-8.10. Senior Citizens Center.
Section C-8.11. Plumbing and Electrical Boards.

ARTICLE 9
ETHICS

Section C-9.0. Ethical standards.
Section C-9.1. Dedicated service.
Section C-9.2. Fair and equal treatment.
Section C-9.3. Interest in appointments.
Section C-9.4. Use of City property.
Section C-9.5. Prohibited interests and private employment.
Section C-9.6. Confidential information.
Section C-9.7. Use of official position.
Section C-9.8. Debarment.
Section C-9.9. Penalties.

ARTICLE 10
TRANSITIONAL PROVISIONS

Section C-10.0. Effect of Charter on existing laws.
Section C-10.1. Offices continued or abolished.
Section C-10.2. Separability clause; liberal construction.
Section C-10.3. Effective date.

[HISTORY: Adopted by the Common Council of the City of Johnstown 1-1-2001; passed at referendum of the electors of the City of Johnstown 11-7-2000. Amendments noted where applicable.]

ARTICLE 1
GENERAL PROVISIONS

Section C-1.0. Short title.

Section C-1.1. Purpose.

Section C-1.2. Boundaries of the City.

Section C-1.3. Division into wards; ward boundaries.

Section C-1.4. Corporate name and powers.

Section C-1.5. Effect on state law.

Section C-1.6. Official and fiscal year.

Section C-1.7. Definitions.

Section C-1.0. Short title.

This Charter together with all subsequent amendments hereto provides for the government of the City of Johnstown and shall be known and may be cited as the "Charter of the City of Johnstown."

Section C-1.1. Purpose.

The purpose of this Charter is to provide the legal framework for organizing and operating the government in the City of Johnstown.

Section C-1.2. Boundaries of the City.

The boundaries of the City of Johnstown shall continue and remain intact, as established prior to the adoption of this Charter. Existing boundaries are hereby ratified and confirmed and may subsequently be altered or expanded pursuant to applicable law.

Section C-1.3. Division into wards; ward boundaries.

The City of Johnstown is hereby divided into four (4) wards. Existing ward boundaries are hereby ratified and confirmed and may subsequently be altered or expanded pursuant to applicable law. Within three (3) months following the official publication of the results of each federal decennial census the Common Council shall review the ward boundaries in relationship to the census results and make such adjustments by local law as may be necessary to assure that each ward contains, as nearly as practicable, an equal number of residents.

Section C-1.4. Corporate name and powers.

(1) The City of Johnstown shall have all municipal powers, functions, rights, privileges and immunities of every name and nature wheresoever conferred on cities by the Constitution of the State of New York and conferred or imposed on it by the Laws of the State of New York. The City may provide for the distribution of such powers among and within its departments and regulate and control the exercise thereof by its officers and employees. All powers of the City, whether express or implied, shall be exercised in the manner provided by this Charter or by local law or ordinance not inconsistent with this Charter.

(2) The enumeration of particular powers in this Charter shall not be deemed to be exclusive, but in addition to the powers enumerated or implied herein or appropriate to the exercise of

such powers. The City of Johnstown shall have all powers necessarily incident or fairly to be implied, not inconsistent with the provisions hereof. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers granted in this article.

Section C-1.5. Effect on state law.

Any state law inconsistent with this Charter shall be superseded by this Charter to the extent inconsistent except where supersession is restricted by law.

Section C-1.6. Official and fiscal year.

The official and fiscal year of the City shall commence with the first day of January in each year.

Section C-1.7. Definitions.

BOARD -- Shall mean a body of persons appointed in the manner herein provided for the purpose of administering designated City functions, advising on matters of City interest, or assisting in the making of governmental policy.

CHARTER -- Shall mean this City of Johnstown Charter and amendments, if any.

CITY -- Shall mean the City of Johnstown.

CIVIL SERVICE LAW -- Shall mean the Civil Service Law of the State of New York.

CODE – Shall mean the Code of the City of Johnstown as adopted by the Common Council and as amended. It shall include local laws, ordinances and resolutions adopted pursuant to this Charter or other applicable law.

COMMISSION -- Shall mean a body of persons appointed in the manner herein provided for the purpose of administering designated City functions, advising on matters of City interest, or assisting in the making of governmental policy.

COMMITTEE -- Shall mean a body of persons appointed in the manner herein provided for the purpose of administering designated City functions, advising on matters of City interest, or assisting in the making of governmental policy.

COUNTY -- Shall mean the County of Fulton.

DEPARTMENT HEAD -- Shall mean the City Treasurer, City Clerk, City Engineer, City Assessor, City Attorney, local Health Officer, Chief of Police and Fire Chief.

GENERAL CITY LAW -- Shall mean the General City Law of the State of New York.

MUNICIPAL HOME RULE LAW -- Shall mean the Municipal Home Rule Law of the State of New York.

OFFICER -- Shall mean and include all individuals who are elected under this Charter, department heads and their deputies, members of boards, committees and commissions, and such other individuals who qualify as officers pursuant to the Public Officers Law.

PERSON -- Shall be held to include the words persons, company, and corporation.

PUBLIC OFFICERS LAW -- Shall mean the Public Officers Law of the State of New York.

REAL PROPERTY TAX LAW -- Shall mean the Real Property Tax Law of the State of New York.

RESIDENT -- Shall mean a person who maintains a fixed, permanent and principal home within the geographic boundaries of the City of Johnstown and to which he or she, wherever temporarily located, always intends to return.

STATE -- Shall mean the State of New York.

UNIFORM CITY COURT ACT -- Shall mean the Uniform City Court Act of the State of New York.

ARTICLE 2
ELECTED OFFICERS

Section C-2.0. City officers.

Section C-2.1. Manner of choosing elected City officers.

Section C-2.2. Terms of office.

Section C-2.3. Commencement and expiration of terms of office.

Section C-2.4. Eligibility.

Section C-2.5. Official oaths.

Section C-2.6. Vacancies.

Section C-2.0. City officers.

The elected officers of the City shall be a Mayor, a Council member-at-large, one (1) Council member for each of the four (4) wards, a City Court Judge, a City Treasurer, and five (5) members of the Water Board.

Section C-2.1. Manner of choosing elected City officers.

(1) A general City election shall be held annually in November at the time and at the places for holding the general election. There shall be elected at each general City election successors to all elected City offices whose terms will expire before the date of the next general City election, and vacancies in elected offices shall be filled at such election as hereinafter authorized.

(2) The Mayor, Council member-at-large, City Treasurer, City Court Judge and Water Board members shall be elected by ballot by the qualified electors of the City.

(3) The Council member for each ward shall be elected by ballot by the qualified electors of the respective wards.

Section C-2.2. Terms of office.

(1) The term of office of the Mayor, Council member-at-large, Council members, and City Treasurer shall be four (4) years.

(2) The term of office of the City Court Judge shall be as provided in the Uniform City Court Act.

(3) The term of office of the Water Board members shall be three (3) years.

Section C-2.3. Commencement and expiration of terms of office.

(1) The term of office of each elected officer, unless elected to fill a vacancy, shall commence on the first day of January next succeeding their election.

(2) Each elected officer shall hold over after the expiration of their term until their successor is chosen and has qualified.

Section C-2.4. Eligibility.

(1) No person shall be eligible to serve as an elected officer unless at the time of the election the individual is a resident elector of the City. Council members shall also be residents of the ward from which they are elected. Whenever any elected officer shall cease to be a resident of the City, the office shall become vacant, and whenever any Council member shall cease to be a resident of the ward from which they were elected, the office shall become vacant.

(2) All elected officers shall be duly qualified pursuant to the requirements of the Public Officers Law. The City Court Judge shall satisfy the requirements of the Uniform City Court Act.

(3) No elected officer shall at the same time hold more than one (1) salaried office except as otherwise provided by this Charter, but a Commissioner of Deeds may also hold any other City office.

(4) No member of the Water Board shall receive compensation for serving on the Water Board and no member shall hold any other elected or appointed office or any employment for the City of Johnstown.

Section C-2.5. Official oaths.

Every elected officer shall, before entering upon the duties of office, take and file the official oath in accordance with Public Officers Law § 10, and for an omission so to do, shall be subject to the liabilities and penalties prescribed by the Penal Law and the Public Officers Law. All official oaths of City officers shall be filed in the office of the City Clerk. As required by law, a copy of the oath of the City Court Judge shall be filed in the Office of Court Administration.

Section C-2.6. Vacancies.

(1) If a vacancy shall occur, other than by expiration of term, in any elected office of the City, the Common Council shall appoint a person to fill such vacancy until the end of the official year in which said vacancy occurs. If the term of office of the officer vacating the office continues beyond the official year in which such vacancy occurs, a person shall be elected at the next general election after the occurring of such vacancy to fill such vacancy for the remainder of the unexpired term.

(2) A vacancy in the office of City Court Judge shall be filled pursuant to the Uniform City Court Act.

(3) If a vacancy shall occur on the Water Board, other than by expiration of term, the Water Board shall appoint a person to fill such vacancy until the end of the official year in which said vacancy occurs. If the term of office of the member vacating the office continues beyond the official year in which such vacancy occurs, a person shall be elected at the next general election after the occurring of such vacancy to fill such vacancy for the remainder of the unexpired term.

ARTICLE 3
MAYOR AND COMMON COUNCIL

Section C-3.0. General powers and duties of the Mayor.

Section C-3.1. Council member-at-large.

Section C-3.2. Duties and organization of the Common Council.

Section C-3.3. Legislative powers of Common Council.

Section C-3.4. Introduction and passage of legislation.

Section C-3.5. Mayoral veto.

Section C-3.6. Sale or leasing of real property.

Section C-3.0. General powers and duties of the Mayor.

The Mayor shall be the chief executive and administrative officer of the City. The Mayor shall be responsible for the day to day administration and supervision of all City affairs, departments, offices and agencies of the City, except offices headed by any elected official. The Mayor shall:

(1) Preside at all meetings of the Common Council. The Mayor shall have the power to vote in case of a tie vote of the Common Council. The Mayor, in his or her sole discretion, may or may not elect to exercise the power to break a tie vote of the Common Council;

(2) Have the authority to create advisory committees and appoint the members thereof;

(3) Take care that the laws of the state and all laws passed by the Common Council and the Board of Health are faithfully executed and enforced;

(4) Prepare and submit to the Common Council, on or before January 15 of each year, a state of the City message reviewing the general condition of the City in relation to its finances, government and policies and outlining such action as the Mayor believes will be to the benefit of the City in the forthcoming year;

(5) Negotiate and execute contracts, franchises and other agreements on behalf of the City subject to approval by the Common Council and assure that all terms and conditions imposed in favor of the City or its residents in any such undertaking are faithfully kept and performed;

(6) Have such other powers and duties as are provided by state law, this Charter, local law, ordinance or resolution of the Common Council.

Section C-3.1. Council member-at-large.

The Council member-at-large shall be the acting Mayor, when the Mayor is absent from the City or unable to perform the duties of the office, and shall have all the powers and be subject to all the obligations and liabilities of the Mayor. The Council member-at-large shall be the presiding officer of the Common Council in the absence of the Mayor, but shall not lose the power to vote as Council member by reason of acting as such presiding officer. When voting as a Council member, the acting Mayor shall have no casting vote on a tie. In the event that the office of Mayor shall become vacant, the Council member-at-large shall act as Mayor until such vacancy is filled pursuant to the provisions of this Charter.

Section C-3.2. Duties and organization of the Common Council.

(1) Duties of individual Council members. Each Council member shall attend the regular and special meetings of the Common Council; act upon committees to which they are appointed; report to the Mayor all subordinate officers who are guilty of official misconduct or neglect of duty; aid in maintaining peace and good order in the City; and perform or assist in performing all such duties as are imposed by this act upon the Council members of the City separately, or upon the Common Council thereof.

(2) Membership and organization. The Common Council shall be composed of the Mayor and Council members of the City. The Common Council shall meet annually in a room provided for that purpose on the first day of January at noon, or if that be Sunday, then on the next day, at ten o'clock in the forenoon, for the purpose of organization. Such meeting shall be called the annual organizational meeting of the Common Council.

(3) Official newspaper. The Common Council shall, at its first meeting in each official year, or as soon thereafter as practicable, designate at least one newspaper published in or having a general circulation in said City, as the official newspaper.

(4) Meetings. The Common Council shall hold regular meetings on the third Monday evening in each month in the Common Council chambers or at such other locations, and at such other times as it shall by resolution designate. The Mayor or any three (3) Council members may call a special meeting by causing notice thereof, specifying the objects of the meeting, to be served by the City Clerk upon each member of the Common Council, not joining in such notice, at least twenty-four (24) hours before the time of such meeting. Notice may be given in any manner reasonably designed to provide actual notice and the City Clerk shall maintain a record of the method used to provide notice and the time and date thereof.

(5) Rules of procedure. The Common Council shall adopt by resolution rules of procedure governing its meetings and be the judge of the election and qualifications of its own members.

(6) Quorum and voting requirements. A majority of the Common Council, including the Mayor as a member thereof, shall be a quorum, thereby requiring the attendance of four (4) individuals to transact business. At all meetings of the Common Council each Council member shall have one vote. Except as may otherwise be provided by this Charter or state law, an affirmative vote of the majority, three (3) votes, shall be sufficient to pass any resolution, ordinance, local law or to take official action. The ayes and noes shall be called and recorded on all local laws, ordinances, resolutions and any appointments when the Common Council is the appointing authority.

(7) Investigations. The Common Council may make investigations into the affairs of the City and the conduct of any City department, agency, office, board, committee or commission and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

Section C-3.3. Legislative powers of Common Council.

The general legislative powers of the City for all proper municipal purposes, except such as may be vested in other City boards or officers, shall be vested in the Common Council. It shall exercise, except as otherwise provided by law or by this act, all the corporate powers of the City and have the management and control of the finances and of all the property belonging to the City. It

has the authority to enact, amend or repeal local laws, ordinances, and resolutions not inconsistent with the laws of the state, for the government of the City and the management of its business, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants and protection and security of their property. The Common Council may create committees of Common Council members to assist the Council in its duties and the Council member-at-large shall appoint members thereto.

Section C-3.4. Introduction and passage of legislation.

(1) Introduction. Members of the Common Council, including the Mayor, may introduce legislation at any meeting of the Common Council. All legislation shall be introduced in writing and copies thereof shall be made available to the public upon request, immediately following introduction.

(2) Local laws. Local laws shall be used when state law requires the use of a local law, when superseding a provision of state law, when amending a previously adopted local law, and when amending the City Charter. All local laws shall be introduced, aged and enacted in accordance with the procedure prescribed by the Municipal Home Rule Law. A public hearing shall be held on every proposed local law.

(3) Ordinances.

(a) Ordinances shall be used for all general legislation of a more permanent nature, when amending a previously adopted ordinance, and for the adoption and amendment of zoning. No ordinance shall be passed within seven (7) days of its introduction, unless by unanimous consent of all the members of the Common Council. Ordinances shall be confined to one subject, and such subject shall be clearly expressed in the title. A public hearing shall be held on every proposed ordinance, except as provided below.

(b) To meet a public emergency affecting life, health, property or the public peace, the Mayor may declare an emergency, and the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain a declaration stating that an emergency exists which requires its immediate adoption. The notice and public hearing requirements of this section may be suspended and the Council may proceed to act immediately on such proposed ordinance. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be published as hereinafter described.

(4) Resolutions. Resolutions shall be used for approving contracts, the adoption and amendment of the budget, appointments when the Common Council is the appointing authority, when amending a previously adopted resolution, and for all day to day business. Resolutions may be adopted and amended at the same meeting of introduction and shall not require a public hearing, except when one is required by state law or as required pursuant to Article 4 of this Charter.

(5) Public hearings. Notice of public hearing on local laws shall be as provided in the Municipal Home Rule Law. When adopting an ordinance, the Common Council shall fix a date, time and place for a public hearing and the City Clerk shall publish in the official newspaper a notice of such hearing setting forth the date, time and place and describing in sum-

mary form the content of the proposed ordinance. The notice shall be published at least five (5) days prior to the date set for such hearing. Following the public hearing on a local law or ordinance, the Common Council may act upon the proposed ordinance or local law, if no substantive amendments are made and the aging requirements have been met. If substantive amendments are made to the proposed ordinance or local law which change the content or operation of the proposed legislation, another public hearing shall be held following the same notice requirements; however, amended ordinances do not need to meet the aging requirements after amendment.

(6) Effective date. Local laws shall become effective as provided in the Municipal Home Rule Law. Ordinances and resolutions shall take effect immediately, unless otherwise provided therein.

Section C-3.5. Mayoral veto.

(1) Except as may otherwise be provided by this Charter or state law, every local law, ordinance and resolution of the Common Council, except a resolution relating solely to the rules of procedure of the Common Council or for the appointment of officers, shall within twenty-four (24) hours after its passage be certified by the Clerk and presented to the Mayor for approval or disapproval. In the case of an ordinance or resolution, the Mayor may exercise such veto power within ten (10) days of receipt of the certified copy from the City Clerk. With respect to a local law, the Mayor may exercise such veto power within thirty (30) days following receipt of a certified copy from the Clerk.

(2) If the Mayor approves such local law, ordinance, or resolution, the Mayor shall sign it and return it to the City Clerk and it shall be deemed adopted. If any ordinance or resolution is not returned by the Mayor to the City Clerk within ten (10) days after it shall have been presented to the Mayor, or thirty (30) days in the case of a local law, the legislation shall be deemed to have been approved by the Mayor.

(3) If the Mayor vetoes such local law, ordinance, or resolution, it shall be returned to the City Clerk with the objections stated in writing and the City Clerk shall present the same with the objections to the Common Council at its next regular meeting. The Common Council, within thirty (30) days thereafter, may by a two-thirds (2/3) vote, four (4) votes, override such veto in which case the local law, ordinance or resolution shall be deemed adopted.

(4) Mayoral veto of a resolution adopting the budget shall be governed by Section C-4.2 of this Charter.

Section C-3.6. Sale or leasing of real property.

(1) Any City real estate belonging to or in control of the City may be sold at public or private sale and may be leased. No private sale or lease shall be authorized except by a resolution adopted by two-thirds (2/3) vote, four (4) votes, of the Common Council.

(2) If sold at private sale, property must be sold for fair market value, unless the public interest would be served otherwise. If sold at public sale, City real estate shall be sold at public auction to the highest bidder, after public notice to be published at least once a week for three (3) successive weeks in the official newspaper. The Council may reserve the right to reject any or all bids. Tax Map block and lot numbers shall be deemed a sufficient description in such public notice.

(3) City real estate may be sold, transferred, leased to or exchanged with any municipal corporation or municipal corporations, school district, fire district, State of New York or the United States government at and for such consideration and upon such terms and conditions as the Common Council may determine in its discretion.

(4) This section shall not apply to property acquired by tax sale. The sale of real estate acquired by the City by virtue of tax sale is pursuant to Section C-5.5 of this Charter.

ARTICLE 4
CITY TREASURER AND CITY FINANCES

Section C-4.0. General powers and duties of the City Treasurer.
Section C-4.1. Examination of accounts of the City Treasurer.
Section C-4.2. Adoption of the annual budget.
Section C-4.3. Form and content of tentative budget.
Section C-4.4. Budget amendments.
Section C-4.5. Lapse of appropriations.
Section C-4.6. Submission of propositions at City elections.
Section C-4.7. Audit and payment of claims.

Section C-4.0. General powers and duties of the City Treasurer.

The City Treasurer shall be the chief fiscal officer of the City and shall:

(1) Be responsible for the management of City funds as authorized by state law, including the authorization for and payment of all vouchers, claims, and other authorized disbursements, and maintenance of City accounts;

(2) Have all investment and debt management authority as authorized by state law and as is otherwise conferred by the Common Council and shall be responsible for the safety of and management of the funds of the City in such a manner as to gain maximum advantages to the City from interest bearing investments;

(3) Be responsible for the custody of financial records and exercise commonly accepted or statutorily required accounting functions as are necessary to confirm that the financial records are kept in accordance with standard municipal accounting procedures as well as making required financial reports for the City;

(4) Provide procedures for budgetary control for each account, pre-auditing and control of all City revenues and expenditures. The City Treasurer shall control all expenditures to assure that budget appropriations are not exceeded, pass upon each proposed expenditure for legal authorization, and, unless the City Treasurer shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no commitment or expenditure shall be made. Nothing in this subdivision shall prevent the making of a contract or lease for a term exceeding one (1) year when authorized by law nor shall anything in this subdivision require the City when it has entered into a contract or lease for a term exceeding one (1) year, to pay during the current fiscal year, any amounts larger than those which become due and owing during that year under the terms of such lease or contract;

(5) Be responsible for the collection, receipt, care and custody of all taxes and other moneys due to the City and shall be responsible to deposit all moneys received in the manner set forth in the General Municipal Law;

(6) Maintain a central payroll system, and all social security, pension and insurance records required for City personnel;

(7) File a report at a regular meeting of the Common Council in each month, showing expenditures, revenues, receipts of all funds for the preceding calendar month, together with a statement of each appropriation as amended, expenditures, and a comparison of estimated

with actual revenues at the close of the preceding month and such other information as the Common Council may require;

(8) Prepare estimates of anticipated expenditures and revenues, at the direction of and for submission to the Mayor, along with a statement of debt service requirements for use in preparing the annual budget, and such other information as the Mayor may require;

(9) Advise and assist all officers, employees and departments of the City regarding proper fiscal management of their respective activities, and in conjunction with this function, may perform internal auditing of City accounts and departments;

(10) Advise and assist the heads of the various departments and agencies in procuring goods and services to ensure compliance with state competitive bidding laws and local procurement policies;

(11) Have the power to appoint a deputy who shall generally assist the City Treasurer and who shall possess the powers and perform the duties of the City Treasurer in the City Treasurer's absence or inability to act;

(12) Have such other additional functions, powers and duties as may be prescribed by state law or by local law or ordinance of the Common Council.

Section C-4.1. Examination of accounts of the City Treasurer.

The Common Council may examine the accounts of the City Treasurer, or cause them to be examined, and may prescribe the manner of paying out and accounting for moneys received and belonging to the City in all cases not provided for by this act or by state law.

Section C-4.2. Adoption of the annual budget.

(1) On or before August 1, the Mayor shall notify, in writing, the head of each administrative unit as to the necessity for submission of budget estimates and requests and of the form and information to be contained therein. "Administrative unit" for purposes of this article shall mean an office, department, board, committee, commission or other agency receiving City funds pursuant to contract or otherwise, of the City of Johnstown.

(2) On or before September 1, the head of each administrative unit shall submit to the Mayor an estimate of revenues and expenditures of their respective administrative unit for the ensuing fiscal year, including capital projects. If the head of an administrative unit shall fail to submit an estimate as herein provided, the Mayor shall prepare an estimate for such administrative unit.

(3) The Mayor, upon receipt of the estimates of the several administrative units, shall proceed to make such review and investigation as the Mayor may deem necessary. The Mayor may require the head of each administrative unit or any officer or employee thereof to furnish data and information and answer inquiries pertinent to such review and investigation. Upon the completion of the review and investigation of the estimates, the Mayor shall prepare the tentative budget for the ensuing fiscal year for both current operating and capital purposes.

(4) On or before October 1, the Mayor's budget message, together with the tentative budget, shall be presented to the Common Council by filing with the City Clerk. The budget message shall include the outline of fiscal policy for City government, describing the important

features of the recommended budget with reference both to proposed expenditures and anticipated income, an organizational chart along with descriptions of workforce organization, goals and objectives of the tentative budget and explanations of changes from past goals and objectives, and a general summary showing the current and capital requirements for the budget year, with supporting schedules. The tentative budget shall be in the form prescribed by Section C-4.3.

(5) The City Clerk shall cause sufficient copies of the tentative budget and the budget message to be made for distribution to the public. The budget documents are public records and will be open to inspection by the public during regular business hours in the City Clerk's office.

(6) On or before November 15, the Common Council shall hold a public hearing on the tentative budget. The Common Council shall publish in the official newspaper a general summary of the tentative budget and a notice stating the times and places where copies of the tentative budget are available for public inspection and a time and place for a public hearing on the tentative budget. The notice must be published at least five (5) days prior to the public hearing.

(7)

(a) On or before December 1, and after the conclusion of the public hearing, the Common Council shall, by resolution, adopt the tentative budget or amend and adopt the tentative budget and submit the same to the Mayor for approval. The Common Council, may revise, alter, reject, add, increase or decrease any items of the tentative budget, and adopt the budget as amended. The Council shall not amend any items in the budget relating to the City debt, appropriations required to be made by law, or judgments against the City.

(b) The Common Council shall specifically enumerate each amendment, accompanied by an explanation of the proposed change and identification of a funding source if the amendment results in an increased expense. If the Common Council amends the tentative budget, such adjustments shall be made which are necessary so that the total estimated revenues, appropriated fund balances and appropriated reserves, equal the total estimated expenditures.

(c) If the budget has not been adopted by the Common Council as provided herein, then the Mayor's tentative budget shall become the budget for the ensuing fiscal year.

(8)

(a) If the tentative budget as submitted by the Mayor is adopted by resolution of the Common Council with no changes, such budget shall be deemed to be adopted without further action by the Mayor.

(b) If the budget as adopted by the Common Council contains any amendments, it shall be presented by the City Clerk to the Mayor for examination and consideration by the Mayor.

(9) On or before December 10, if the Mayor approves all the amendments of the Common Council, a statement to that fact, signed by the Mayor, shall be filed with the City Clerk along with the approved budget and the budget including the amendments as part thereof, shall be deemed adopted. If the Mayor objects to any one or more of such changes, a statement of objections to the changed items, setting forth reasons therefor, shall be filed with

the City Clerk, along with the returned budget, for presentation to the Common Council. If the Mayor does not act on the budget as amended and passed by the Common Council before December 10, then the budget as passed by the Common Council shall become the final budget for the ensuing year.

(10) On or before December 15, the Common Council may meet to reconsider those budget items vetoed by the Mayor. If an item receives four (4) affirmative votes, then the Mayor's veto with respect to that item shall be overridden. If the Council does not reconsider those items disapproved by the Mayor by the 15th of December, then the recommended budget, as modified by the Mayor's vetoes, shall become the budget for the ensuing fiscal year.

(11) Upon adoption of the resolution required by this section the amounts proposed to be appropriated shall thereupon be appropriated and the wages and salaries shown in the schedule thereof shall be fixed at the amounts shown therein.

Section C-4.3. Form and content of tentative budget.

The tentative budget shall provide a complete financial plan for the ensuing fiscal year and shall be in such form as the Mayor deems desirable. In organizing the budget, the Mayor shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. The budget shall begin with a clear, general summary of its contents and shall show in parallel columns, the following comparative information: the actual expenditures and revenues for the last completed fiscal year; the revenues and expenditures as modified for the current fiscal year; and the Mayor's recommendations and estimates as to expenditures and revenues for the ensuing fiscal year indicating the proposed real property tax levy. When applicable, the tentative budget shall also include appropriations for contingency purposes, a statement of total available fund balances, a schedule of special reserves and debt service. The total of proposed expenditures in the tentative budget shall not exceed the total of estimated income in such budget.

Section C-4.4. Budget amendments.

(1) Whenever during the fiscal year it shall appear probable to the City Treasurer that moneys available for such year will be insufficient to meet the amounts appropriated, the Treasurer shall forthwith notify the Common Council of such fact, stating the probable amount of such deficiency. The City Treasurer may include recommendations as to the action which should be taken. The Common Council may reduce any appropriation or appropriations, except as provided in Section C-8.6, by resolution so as to prevent the making of expenditures in excess of moneys available. An appropriation shall not be reduced below the minimum amount required by law to be appropriated, nor shall an appropriation be reduced by more than the balance therein less outstanding and unpaid claims chargeable to such appropriation.

(2) During the fiscal year the Common Council may make additional appropriations or increase existing appropriations by resolution. Moneys therefor may be provided by transfer from the unexpended balance of an appropriation, from the appropriation for contingencies, from unappropriated cash surplus or unanticipated revenues within a fund or by borrowing pursuant to the Local Finance Law. For the purposes of this subdivision, unappropriated cash surplus or unanticipated revenues shall be available for transfer only to the extent that the total of all revenues of such fund, together with unappropriated cash surplus, exceeds

the total of all revenues of such fund as estimated in the budget, and appropriated cash surplus as estimated in the budget.

(3) The Common Council may, by resolution, authorize department heads to transfer funds within the Departmental budget during the fiscal year. The resolution shall specify the guidelines for such intradepartmental transfers.

(4) Notwithstanding the provisions of Subdivision (2) of this section, insurance or other recovery on property destroyed or damaged, grants in aid received from the state and federal governments and other gifts which are required to be expended for particular objects or purposes may be appropriated by resolution of the Common Council at any time for such objects and purposes.

Section C-4.5. Lapse of appropriations.

Each appropriation, to the extent that it shall not have been expended or obligated, shall lapse at the close of the fiscal year for which made, except that an appropriation for a capital project shall continue in force until the purposes for which it was made shall have been accomplished or abandoned.

Section C-4.6. Submission of propositions at City elections.

(1) The Common Council may submit to the electors of the City, at a general or special election, a proposition for the purchase by the City of real property, the construction by the City of a new building or buildings or for any other special purpose, to be paid for by a tax levied for the fiscal year in which the expenditure is to be made. Such proposition shall specify the amount to be raised and the purpose to which such amount is to be applied. Notice that such proposition will be submitted at such election shall be published in the official newspapers of the City at least once a week for three (3) successive weeks prior to the holding of such election; said notice shall specify the form of ballot for and against such proposition to be used at such election.

(2) If a majority of the electors voting on such proposition shall vote in favor of such proposition, the amount so voted shall be raised by a tax levied for the fiscal year in which the expenditure is to be made in addition to the amount otherwise authorized by law to be raised by tax in such year.

(3) The provisions of the Election Law or any other law relating to the submission of questions at elections shall apply to the conduct of a general or special election at which a proposition is submitted to the electors pursuant to this section.

Section C-4.7. Audit and payment of claims.

(1) Each claim and demand for services rendered or materials furnished to the City must be presented to the City Treasurer within thirty (30) days after the rendition of the last services or the last delivery of materials charged for therein. Except as provided in Subdivisions (3) and (4) of this section, the City Treasurer shall present all claims to the finance committee of the Common Council, in writing, along with a certification that the claim is in proper form, is correctly computed, that it is legally due and payable, that an appropriation has

been made therefore, and that such appropriation has a sufficient balance to meet the obligation.

(2) Claims against the City shall be reviewed by the Finance Committee of the Common Council at least once each month. It shall be the duty of said Committee to inquire into such claims and report thereon to the Common Council, with its reasons for approval or disapproval of said claim, and the Common Council shall then vote upon the claim. The Council shall not pay any claim prohibited by law.

(3) The City Treasurer is authorized to make payments on claims or demands prior to review and audit by the finance committee and Common Council of amounts up to one thousand dollars ($1,000) or in the event that a claim or demand offers a discount or incurs a late penalty if not paid by a date certain and the claim or demand is not received by the City Treasurer in time for presentation to the Finance Committee prior to the expiration of the date certain. Any payments made pursuant to this subdivision shall be reported to the Finance Committee at its next regularly scheduled meeting.

(4) Fixed salaries, debt service, amounts becoming due on lawful contracts for periods exceeding one (1) year and the compensation for services of employees or officers regularly engaged at agreed wages may be paid without prior audit. All payrolls for personal services rendered by any person other than an elected City officer shall be certified by the officer or employee having direct supervision or the City Clerk to the effect that services indicated on the payroll were actually performed by the person or persons mentioned therein.

ARTICLE 5
ASSESSMENT AND COLLECTION OF TAXES

Section C-5.0. Assessor and Board of Assessment Review.

Section C-5.1. Annual tax levy.

Section C-5.2. Taxes for county purposes.

Section C-5.3. Collection of unpaid taxes and assessments; redemption.

Section C-5.4. Application of article to local assessments.

Section C-5.5. Sale by City of lands acquired at tax sale.

Section C-5.0. Assessor and Board of Assessment Review.

(1) The Assessor, subject to the direction and supervision of the Mayor, shall perform all the duties required by this act in relation to the assessment of property in said City and shall perform all the duties required and possess all the powers and authority as conferred on Assessors by the Real Property Tax Law. The Assessor shall also meet the qualifications for office and comply with training requirements as imposed under Article 3 of the Real Property Tax Law.

(2) There shall be a Board of Assessment Review consisting of five (5) members. The Board of Assessment Review shall be constituted as provided for in the Real Property Tax Law and shall possess all the powers and perform all the duties as conferred by the Real Property Tax Law.

Section C-5.1. Annual tax levy.

The Common Council, at the meeting at which the annual budget is adopted, shall levy on all taxable property within the City as shown in the annual assessment roll, in the amount required to be raised by tax in the annual budget, and as otherwise required by law. All taxes and unpaid assessments together with any interest and penalties which may accrue, charged upon real property, including those for local improvements and other charges, shall be a lien upon such real property on and after January 1 in the year in which the tax is levied and shall remain a lien until paid. All taxes shall be levied and collected in the time and manner provided by in Article 9 of the Real Property Tax Law.

Section C-5.2. Taxes for county purposes.

The Board of Supervisors, upon equalizing taxes for county purposes in accordance with Article 8 of Real Property Tax Law, shall levy taxes for the county and enter and extend same on the original and certified copies of the assessment roll and annex thereto a warrant to the City Treasurer and deliver same all as provided by §§ 900 and 904 of the Real Property Tax Law. The City Treasurer shall collect the county taxes levied on properties located in the City on behalf of the county. Upon final settlement with the County Treasurer, the City Treasurer shall pay from the general funds of the City the amount of uncollected county taxes and thereafter any of such taxes collected shall belong to the City.

Section C-5.3. Collection of unpaid taxes and assessments; redemption.

The City Treasurer shall enforce the payments of all such unpaid taxes and assessments pursuant to ordinance adopted by the Common Council which shall provide for the manner in which the sale of lands or of the liens thereon for nonpayment of taxes shall be conducted, for the manner in which any interested person may retain the property from such sale, and for the manner in which the results of any such sale or redemption shall be recorded and given effect. When the City holds more than one tax lien against a parcel, the liens need not be redeemed simultaneously. The liens may be redeemed in chronological order, so that the lien with the oldest lien date may be redeemed first, and the lien with the newest lien date is released last.

Section C-5.4. Application of article to local assessments.

All the provisions of this article shall apply to and include the collection of all local or special assessments for local improvement.

Section C-5.5. Sale by City of lands acquired at tax sale.

The City is authorized to sell and convey lands acquired by it at tax sale at public or private sale, after initially offering such land at sealed public bid or public auction. The Council may reserve the right to reject any or all bids received. No such sale shall be effective unless and until such sale shall have been approved and confirmed by a majority vote of the Common Council, and the resolution approved by the Mayor or by passing over the Mayor's veto as provided in this Charter.

ARTICLE 6
WATER DEPARTMENT

Section C-6.0. Water Department.

Section C-6.1. Organization of the Water Board.

Section C-6.2. Water Superintendent.

Section C-6.3. Clerk of the Water Board.

Section C-6.4. General powers and duties of the Water Board.

Section C-6.5. Common Council legislation.

Section C-6.6. Water Board budget.

Section C-6.7. Use of personnel and equipment.

Section C-6.8. Collection of unpaid water rents.

Section C-6.9. Audits of claims and payment of bills.

Section C-6.0. Water Department.

There shall be a Water Department, which shall be under the direction and control of the Johnstown Water Board which shall be known as the "Water Board."

Section C-6.1. Organization of the Water Board.

(1) The Water Board shall annually elect a President and Vice President. The President shall preside at meetings of the Water Board. In the event of the absence or inability of the President, the Vice President shall act in place of the president.

(2) In addition, the Common Council shall annually appoint, at its organizational meeting, a Council member to act as the liaison between the Water Board and the Common Council. This liaison may attend all meetings of the Water Board, but shall not be entitled to vote on any matter considered by the Water Board.

Section C-6.2. Water Superintendent.

The Water Board may create the position of Water Superintendent, for a term and salary as decided by the Board, to oversee and manage the functions of the Water Department. The Water Board may also contract with the City for such services or enter into a contract with an outside contractor to provide the services of Water Superintendent.

Section C-6.3. Clerk of the Water Board.

(1) The Water Board may appoint a Clerk for a term and salary as decided by the board. The Clerk shall be known as the "Clerk of the Water Board" and shall not be a member of the Water Board. The Water Board may also contract with the City for such services or enter into a contract with an outside contractor to provide the services of Clerk of the Water Board.

(2) The Clerk of the Water Board shall keep a record of the proceedings of each meeting of the Water Board; keep records of all the books and accounts of said Board; collect all water rents and charges; issue permits and orders; invest all Water Department funds in such a

manner as to gain maximum advantages to the Water Department, and perform all other duties prescribed by the Water Board. The Clerk of the Water Board shall also collect all sewer rents assessed by the City and maintain records of sewer rent accounts. The Clerk of the Water Board shall transmit to the City Treasurer on or before the fifteenth of each month all money collected for sewer rents.

Section C-6.4. General powers and duties of the Water Board.

The Water Board shall:

(1) Manage the City water works and keep the same and all property connected therewith in good order and repair and take all necessary measures to preserve the purity and supply of water, including the operation and maintenance of the water filtration plant(s);

(2) Oversee the installation, maintenance and replacement of water mains and laterals as necessary and determine the size, dimensions and materials with which connections may be made;

(3)

(a) Lease or purchase real property, easements, and rights-of-way and improve the same for the general use and benefit of the Water Board and for the proper and necessary carrying on of its affairs, and to provide ways and means for payment thereof out of the water rents, receipts of said board, or if the compensation cannot be agreed upon, then by condemnation in the manner provided by the Condemnation Law;

(b) In addition, the Water Board shall have the power, should it be determined by a unanimous vote of said Board to be necessary and expedient, to sell or transfer any real property so acquired by it under the provisions of this law. Real estate may be sold at public or private sale. If sold at private sale, property must be sold for fair market value, unless the public interest would be served otherwise. If sold at public sale, real estate shall be sold at public auction to the highest bidder, after public notice to be published at least once a week for three (3) successive weeks in the official newspaper, the Water Board may reserve the right to reject any or all bids. The City of Johnstown shall have the right of first refusal of any land or building to be offered for sale or lease by the Water Board. The City shall have thirty (30) days to exercise the right of first refusal and to offer to purchase or lease the land or building at the highest offer received by the Water Board. Real estate may be sold, transferred, leased to or exchanged with the City or any municipal corporation or municipal corporations, school district, fire district, State of New York or the United States government at and for such consideration and upon such terms and conditions as the Water Board may determine in their discretion;

(4) Establish a scale of rents to be called water rents, and to be paid at such times and in such manner as the Water Board may prescribe and to collect all water rents and charges and assessed penalties, interest, and costs from persons for corporations in arrears;

(5) Have the authority to adopt rules and regulations in furtherance of its duties, to see that all rules and regulations so made are duly obeyed, and to prosecute in the name of the City, all persons violating the same for any penalty, fine or forfeiture incurred thereby;

(6) File a report with the City Treasurer each month, showing expenditures, revenues, receipts of all funds for the preceding calendar month, together with a statement of each appropriation as amended, expenditures, and a comparison of estimated with actual revenues at the close of the preceding month. In addition the Water Board shall provide to the City Treasurer other documents and information which the City Treasurer needs to perform the duties of the City Treasurer. The Water Board shall also submit an annual report to the Common Council within ninety (90) days following the end of each fiscal year. The report shall set forth the Water Board's financial condition and describe its current and future activities in narrative form;

(7) Prepare the Departmental budget and maintain operation records and reports, including records and accounts of each user;

(8) Appoint, upon the recommendation of the Water Superintendent if there is one, and when necessary for the good of the City suspend or remove Water Department employees, except as otherwise provided by collective bargaining agreement or state law, and establish salaries therefor;

(9) Shut off the supply of water to premises where the owner or owners are delinquent in payment under rules and regulations prescribed by the Common Council, and shall not turn on said supply of water until accounts are settled with the Department;

(10) Enter, at a reasonable time, upon any premises having lines connected with the water system for purposes related to the operations of said systems;

(11) Perform any similar or related duties incident to the functions of the Department and as may be assigned by the Common Council by the adoption of a local law, ordinance, or resolution and to comply with all federal and state regulations pertaining to the provision of public water.

Section C-6.5. Common Council legislation.

The Common Council shall have the sole authority to determine when water can be sold to users outside of the City and to issue bonded indebtedness for Water Department purposes. Common Council legislation shall be required for acts which require a local law pursuant to Section C-3.4 of the Charter and when amending an ordinance adopted prior to the effective date of this Charter.

Section C-6.6. Water Board budget.

(1) The Water Board shall, on or before November 1 of each year, prepare and adopt an operating budget for the ensuing fiscal year. If such budget will include a request to the Common Council for a tax levy for any anticipated deficiency, the Water Board shall present such request to the Mayor and Common Council on or before September 1, so that such request may be considered during the City budget process.

(2) The Water Board budget shall begin with a general summary of its contents and shall show, in parallel columns, the following comparative information: the actual expenditures and revenues for the last completed fiscal year; the revenues and expenditures as modified for the current fiscal year; and the expenditures and revenues for the ensuing fiscal year. The total of proposed expenditures in the budget shall not exceed the total of estimated income in such budget. The Water Board shall cause sufficient copies of the budget to be made for

public distribution. The Water Board budget shall be a public record and will be open for inspection by the public during regular business hours of the Water Department.

(3) Whenever during the fiscal year it shall appear probable to the Water Board that moneys available for such year will be insufficient to meet the amounts appropriated, the Water Board may amend the budget in such fashion to remedy the deficiency. In the event of an unforeseen emergency affecting the water supply or the operation of the Water Department, the Common Council may appropriate funds to the Water Board to cover any deficiency.

(4) The Water Board shall, on or before November 1 of each year, prepare and adopt a six-year capital improvement program. Said program shall consist of a capital budget for the next fiscal year, which shall be included as part of the operating budget and a five-year schedule of anticipated capital expenditures. The five-year schedule shall not be binding upon the Water Board and shall be annually reviewed and modified by said Board.

Section C-6.7. Use of personnel and equipment.

The Water Board may authorize employees of the Water Department to perform certain tasks and functions for other City departments or offices in the City of Johnstown. The Water Board may authorize the use of Water Department equipment, tools and machinery by other City departments or offices. The Water Board may request the Common Council to authorize the use of equipment, tools and machinery of certain departments and offices to be used by the Water Department and upon approval of said Council, such use may occur. The Water Board shall consult with other City departments and the Common Council on determining the need to replace and/or purchase new equipment, tools and machinery. When practical, feasible and in the best interest of said City, the Water Board shall enter into cooperative agreements with other City departments and the Common Council for the acquisition and utilization of new equipment, tools, machinery and personnel.

Section C-6.8. Collection of unpaid water rents.

In case the Clerk of the Water Board shall be unable to collect any water rents or other charges, the Water Board shall have power to sue for and collect such rents together with penalties, interest and costs from the persons liable therefor and shall have the authority to shut off the water supply until such rents are paid.

Section C-6.9. Audits of claims and payment of bills.

(1) Except as provided in Subdivisions (3) and (4) of this section, the Clerk of the Water Board shall present all claims to the Audit Committee of the Water Board, in writing, along with a certification that the claim is in proper form, is correctly computed, that it is legally due and payable, that an appropriation has been made therefor, and that such appropriation has a sufficient balance to meet the obligation.

(2) Claims against the Water Board shall be reviewed by the Audit Committee at least once each month. It shall be the duty of said Committee to inquire into such claims and report thereon to the Water Board, with its reasons for approval or disapproval of said claim, and the Water Board shall then vote upon the claim. The Water Board shall not pay any claim prohibited by law.

(3) The Clerk of the Water Board is authorized to make payments on claims or demands prior to review and audit by the Audit Committee and Water Board of amounts up to one thousand dollars ($1,000) or in the event that a claim or demand offers a discount or incurs a late penalty if not paid by a date certain and the claim or demand is not received by the Clerk of the Water Board in time for presentation to the Audit Committee prior to the expiration of the date certain. Any payments made pursuant to this subdivision shall be reported to the Audit Committee at its next regularly scheduled meeting.

(4) Fixed salaries, debt service, amounts becoming due on lawful contracts for periods exceeding one (1) year and the compensation for services of employees or officers regularly engaged at agreed wages may be paid without prior audit. All payrolls for personal services rendered by any person shall be certified by the officer or employee having direct supervision to the effect that services indicated on the payroll were actually performed by the person or persons mentioned therein.

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Deputy engineer post may remain vacant

By DANIEL DeVRIES
The Leader—Herald

JOHNSTOWN — The position of deputy city engineer has been vacant since the August resignation of Chris Foss, and it may not be filled at all this year, City Engineer Michael A. Clark said Tuesday.

Clark said the city has not advertised to search for candidates, and for the time being, the Department of Public Works is handling the work without too much extra burden.

"The person it would benefit most is me in terms of workload," Clark said. "There's occasions when I'm shorthanded."

Clark said the main drawback of having a deputy is that he has not been able to take much time off. "The way the city charter is written, the deputy engineer is more or less my decision," Clark said. "At this point, it's up in the air."

City Treasurer Michael C. Gifford said $40,000 remains in this year's budget for a deputy engineer's salary.

Gifford said over the past few years, the city Water Board has paid for about one-third of the operations of the engineer's office.

If a new deputy is not chosen, Gifford said the money will roll over into the 2003 budget.

"If everything works out, then we will have $40,000 extra," Gifford said.

Foss resigned in 2001 to work with a private-sector engineering firm in Gloversville.

Former Mayor William Pollak had tried to promote Foss upon the resignation of former City Engineer George Bevington, but the Common Council rejected the appointment, and Clark was eventually hired.

ARTICLE 7
APPOINTED PUBLIC OFFICERS AND EMPLOYEES; GENERALLY

Section C-7.0. Appointed public officers.

Section C-7.1. Terms of office of appointed public officers.

Section C-7.2. Eligibility for appointed office.

Section C-7.3. Official oaths.

Section C-7.4. Official bonds.

Section C-7.5. Suspensions and removals of appointed City officers.

Section C-7.6. Appointment of employees.

Section C-7.7. Compensation of City officers and employees.

Section C-7.0. Appointed public officers.

(1) The appointed officers of the City shall be a City Clerk, a Deputy City Clerk, a City Attorney, a City Engineer, a Deputy City Engineer, an Assessor, Assistant City Court Judge, members of boards, commissions and committees, and so many Commissioners of Deeds as the Common Council may by resolution establish and such other appointed officers and deputies as may by provided herein.

(2) The Deputy City Clerk, Deputy Engineer, and all other deputies hereafter created, shall possess the powers and perform the duties of their respective department head and act in their place during the absence or inability to act or during an unfilled vacancy in the office.

(3) The Common Council may from time to time determine and provide what other City officers, departments, committees, commission and boards are necessary for the administration of the City and, as it deems advisable, may by ordinance create various other offices, committees, commissions and boards and define and state the powers and the duties to be performed. The Common Council may abolish, change, amend or otherwise modify any office, department, committees, commissions and boards of the City.

(4) Except as otherwise provided by state law or by this Charter, the appointed public officers of the City shall be appointed by the Mayor subject to the confirmation of the Common Council. The Deputy City Clerk and Deputy City Engineer shall be appointed by the Mayor upon the recommendation of the Department head. Members of all committees, commissions and boards shall be appointed by the Mayor, except as otherwise provided by state law or by this Charter.

(5) A vacancy occurring in any appointed public office of the City, otherwise than by expiration of term, shall be filled for the balance of the unexpired term by the same authorities and in the same manner as an appointment for a full term.

Section C-7.1. Terms of office of appointed public officers.

(1) The term of office of the City Clerk, Deputy City Clerk, City Attorney, City Engineer, and Deputy City Engineer, shall be four (4) years. The term of office of the City Assessor shall be as provided in the Real Property Tax Law. The term of office of the Assistant City Court Judge shall be as provided in the Uniform City Court Act.

(2) Where the term of office of an appointed officer is not specifically fixed by this Charter or by a general law, it shall be one (1) official year; provided, however, that any officer permanently appointed to an office classified in the competitive class of the civil service shall hold such office for an indefinite term subject to the provisions of the Civil Service Law.

(3) The term of office of each appointed officer shall commence on the January 1, unless a different date is specified.

(4) Each appointed officer shall hold over after the expiration of their term until a successor is chosen and has qualified.

Section C-7.2. Eligibility for appointed office.

(1) All appointed officers shall be duly qualified pursuant to the requirements of the Public Officers Law. The Assistant City Court Judge shall possess the qualifications required in the Uniform City Court Act.

(2) No person shall at the same time hold more than one (1) salaried office in the City, except as otherwise provided by this Charter, but a Commissioner of Deeds may also hold any other City office.

(3) No appointed department head may serve as the chair, leader, officer, or member of an executive committee of a state, county or City political party.

Section C-7.3. Official oaths.

Every appointed officer shall, before entering upon the duties of the office, take and file the official oath in accordance with Public Officers Law § 10, and for an omission so to do, shall be subject to the liabilities and penalties prescribed by the Penal Law and the Public Officers Law. All official oaths of City officers shall be filed in the office of the City Clerk. As required by law, a copy of the oath of the assistant City Court Judge shall be filed in the Office of Court Administration.

Section C-7.4. Official bonds.

The Common Council shall decide, at its first meeting in January of every year, the officers who will be required to execute and file an official bond in accordance with the Public Officers Law and the expense thereof shall be a charge upon the City. The Common Council shall fix the amount of such bond required of each officer. Any officer required to file a bond who fails to do so shall be subject to the penalties prescribed in the Penal Law and Public Officers Law. The City may also provide blanket undertakings as authorized by the Public Officers Law. All official undertakings shall be filed in the office of the City Clerk.

Section C-7.5. Suspensions and removals of appointed City officers.

(1) A person holding an appointed public office in the noncompetitive or exempt class of the civil service may be disciplined by the officer or body having the power of appointment in accordance with the procedure set forth in Subdivision 2 of § 75 of the Civil Service Law, as it existed on January 1, 1992. If the officer is found guilty of disciplinary charges, the penalty to be imposed may consist of either: a reprimand; a suspension without pay for a

period not exceeding two (2) months; or termination from office. If the officer is found guilty, he or she shall be provided a copy of the charges, the written answer thereto, a transcript of the hearing, and the determination rendered by the appointing authority. The civil service agency having jurisdiction shall be notified of the determination.

(2) No proceeding pursuant to this provision shall be commenced more than two years after alleged incompetence or misconduct has occurred or has become known to the appointing authority. This limitation shall not apply where the alleged incompetency or misconduct would, if proven in a judicial proceeding, constitute a crime.

Section C-7.6. Appointment of employees.

The Mayor shall, upon the recommendation of the appropriate department head, appoint and, when necessary for the good of the City, suspend or remove any City employees, except as otherwise provided by this Charter, collective bargaining agreement, or state law.

Section C-7.7. Compensation of City officers and employees.

The Common Council shall fix the salary or compensation of all persons in the service of the City, and the time of payment thereof.

ARTICLE 8
ADMINISTRATION

Section C-8.0. General powers and duties of the City Clerk.

Section C-8.1. General powers and duties of the City Engineer.

Section C-8.2. General powers and duties of the City Attorney.

Section C-8.3. Johnstown City Court.

Section C-8.4. Police Department.

Section C-8.5. Fire Department.

Section C-8.6. Johnstown Public Library.

Section C-8.7. Local Health Officer; Board of Health.

Section C-8.8. Zoning Board of Appeals.

Section C-8.9. Planning Board.

Section C-8.10. Senior Citizens Center.

Section C-8.11. Plumbing and Electrical Boards.

Section C-8.0. General powers and duties of the City Clerk.

The City Clerk shall be the Clerk of the Common Council and of such other boards, bodies, and commissions as the Common Council shall direct. The City Clerk, subject to the direction and supervision of the Mayor, shall:

(1) Keep the minutes of the meetings of the Common Council and of each board of which he or she is Clerk;

(2) Have the custody and control of the corporate seal, books, papers, documents and official minutes of the City;

(3) Maintain a record of all bonds of City officers and all contractors or other bonds running to the City or any of its officers;

(4) Make certified copies, upon request and payment of the fee therefor, of all records and documents recorded in the office of the City Clerk;

(5) Keep an accurate account of all fees and moneys received and remit such fees and moneys as expeditiously as possible to the City Treasurer;

(6) Serve as records access officer pursuant to the Public Officers Law and records management officer pursuant to the Education Law;

(7) Be responsible for giving notice of Common Council meetings to its members and the publishing or posting all legal notices as required by law or this Charter;

(8) Administer the issuance of all licenses and permits issued by the City, except where local legislation provides otherwise;

(9) Serve as registrar of vital statistics for the City of Johnstown pursuant to the Public Health Law;

(10) Provide secretarial and clerical services for the Common Council in the discharge of its official duties;

(11) Perform such other duties as may be required by the Common Council.

Section C-8.1. General powers and duties of the City Engineer.

The City Engineer shall be the head of the Department of Public Works. The City Engineer shall be qualified by education, training and experience in engineering, public works administration, or other relevant experience. The City Engineer, subject to the direction and supervision of the Mayor, shall:

(1) Be responsible for the proper and efficient conduct of all public works within the City and supervise the performance of public works contracts;

(2) Manage, maintain and operate all of the physical properties of the City including but not limited to streets, sidewalks, parks, lands and buildings;

(3) Provide technical and professional assistance and advice on all projects of an engineering or public works nature undertaken by the City;

(4) Be the custodian of the official map and written description of the boundaries of the City, as established, changed and amended from time to time. The City Engineer shall cause any change or amendment to be recorded on the map by appropriate revision or notation;

(5) Provide such other engineering and technical services and duties for the City government as may be required by the Common Council.

(6) The City engineer shall make recommendations of appointments and promotions of department employees to the Mayor who will make the appointment.

Section C-8.2. General powers and duties of the City Attorney.

(1) The City Attorney, subject to the direction and supervision of the Mayor, shall be the chief legal officer of the City. The City Attorney shall act as legal advisor to the Common Council, Mayor and other City boards and officers. The City Attorney shall appear for and protect the rights and interests of the City in all actions, suits or proceedings brought by it or against it or against any City officer, department, board or commission in connection with municipal business. The City Attorney shall institute all actions on behalf of the City at the direction of the Mayor with the approval of the Common Council. Offers of settlement of lawsuits shall be made or accepted by the Mayor with the approval of the Common Council, upon the advice and consent of the City Attorney.

(2) The City Attorney shall prepare all contracts, bonds or other instruments in which the City is concerned, and before execution thereof shall endorse on each his or her approval of the form and correctness thereof.

(3) The City Attorney may employ counsel, pursuant to a contract approved by the Common Council, to assist in the argument and conduct of important cases or proceedings in which the City or any officer, board or department thereof is an interested party, or to assist in matters requiring specialized legal skills or experience. The City Attorney shall have the power to appoint a confidential secretary.

Section C-8.3. Johnstown City Court.

The City Court of the City of Johnstown is hereby continued and the procedures before and jurisdiction of shall be governed by the provisions of the Uniform City Court Act.

Section C-8.4. Police Department.

(1) There shall be a Police Department which shall consist of the Chief of Police and such other officers and positions within the Department as now exist or as the Common Council may hereafter determine. The Department shall have jurisdiction, supervision and control of all functions and duties customarily performed by a Police Department. Police officers shall have all the powers, authority and duties conferred upon them by the laws of the state, and perform such other duties as may be assigned to them by the Chief of Police.

(2) The Chief of Police shall be appointed by the Mayor subject to the approval of the Common Council from the competitive class of the civil service. The Chief of Police shall recommend the appointment and promotion of officers to the Mayor and the Mayor shall make the appointments pursuant to the applicable provisions of the Civil Service Law. The Chief of Police, unless otherwise provided by the Civil Service Law or collective bargaining agreement, shall discipline or suspend officers and employees subject to applicable civil service protections.

(3) The Chief of Police, subject to the direction and supervision of the Mayor, shall:

(a) Have jurisdiction and control of the administration and operation of the Police Department;

(b) Enforce and prevent the violation of all federal, state and local laws, ordinances, resolutions and regulations in force in the City;

(c) Direct and regulate the movement of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the protection of human life;

(d) Perform such other duties as required by the Common Council as prescribed in the local laws, ordinances and resolutions of the Common Council.

Section C-8.5. Fire Department.

(1) There shall be a Fire Department which shall consist of the Fire Chief and such other officers and positions within the Department as now exist or as the Common Council may hereafter determine. The Department shall have jurisdiction, supervision and control of all functions and duties customarily performed by a Fire Department. Fire personnel shall have all the powers, authority and duties conferred upon them by the laws of the state, and perform such other duties as may be assigned to them by the Fire Chief.

(2) The Fire Chief shall be appointed by the Mayor, subject to the approval of the Common Council, from the competitive class of the civil service. The Fire Chief shall recommend the appointment and promotions of officers to the Mayor and the Mayor shall make the appointments pursuant to the applicable provisions of the Civil Service Law. The Fire Chief, unless otherwise provided by the Civil Service Law or collective bargaining agreement, shall discipline or suspend officers and employees subject to applicable civil service protections.

(3) The Chief of the Fire Department, subject to the direction and supervision of the Mayor, shall:

(a) Have jurisdiction and control of the administration and operation of the Fire Department;

(b) Have jurisdiction over the control, fighting and extinguishment of any conflagration which occurs within the City limits;

(c) Provide fire-fighting services and facilities for the protection of life and property within the City, and in accordance with such mutual aid agreements as may be enforced;

(d) Be responsible for the operation, repair and maintenance of a fire alarm signal system;

(e) Investigate the causes, circumstances and origins of fires and submit to the Chief of Police and the District Attorney a written report of every incident in which arson is suspected;

(f) Provide for the maintenance and administration of a fire prevention and safety program;

(g) Act as chief code enforcement officer pursuant to the provisions of the New York State Uniform Fire Prevention and Building Code and for locally adopted zoning and housing codes when directed by the Common Council and cause the inspection of properties and physical facilities within the City to insure compliance with applicable codes;

(h) Perform such other duties as required by the Common Council as prescribed in the local laws, ordinances and resolutions of the Common Council.

Section C-8.6. Johnstown Public Library.

(1) The City of Johnstown Public Library, chartered in 1901, shall continue and shall be entitled to all rights, powers, privileges, public moneys and other benefits conferred upon public libraries by law or other state statutory authority and shall be subject to all the rules, regulations, prescribed by law applicable to public libraries in the State of New York. As provided for in the original grant establishing the library from Andrew Carnegie, two thousand five hundred dollars ($2,500) shall be annually raised by tax and appropriated for the maintenance and extension of such library. The annual budget may provide for additional appropriations for the library to be expended by the trustees of such library for its maintenance and extension; however the amount appropriated during the fiscal year may not be decreased by budget amendment during the fiscal year except by a two-thirds (2/3) vote, four (4) votes, of the Common Council.

(2) The Library Board shall file a report with the City Treasurer each month, showing expenditures, revenues, receipts of all funds for the preceding calendar month, together with a statement of each appropriation as amended, expenditures, and a comparison of estimated with actual revenues at the close of the preceding month. In addition, the Library Board shall provide to the City Treasurer other documents and information which the City Treasurer needs to perform the duties of the City Treasurer.

(3) The City of Johnstown shall have the right of first refusal of any land or building to be offered for sale or lease by the Library Board. The City shall have thirty (30) days to exercise

the right of first refusal and to offer to purchase or lease the land or building at the highest offer received by the Library Board. The Library Board may reserve the right to reject any and all bids.

(4) As provided by Education Law § 226, the director of the library shall be appointed by the library board of trustees subject to any applicable provisions of the Civil Service Law.

Section C-8.7. Local Health Officer; Board of Health.

(1) The Mayor may appoint a local Health Officer and the local Health Officer shall have all of the powers and duties provided in the Public Health Law. The City may also contract for the services of a local Health Officer.

(2) The Board of Health shall be organized and constituted as provided in the Public Health Law. The Board shall have all the powers and duties as provided in the Public Health Law.

Section C-8.8. Zoning Board of Appeals.

There shall be a Zoning Board of Appeals as constituted by ordinance and shall continue to be organized and perform all the functions and possess all the powers and duties it presently exercises pursuant to ordinance and state law.

Section C-8.9. Planning Board.

There shall be a Planning Board as constituted by ordinance and shall continue to be organized and perform all the functions and possess all the powers and duties it presently exercises pursuant to ordinance and state law.

Section C-8.10. Senior Citizens Center.

The City of Johnstown, in accordance with § 95-a of the General Municipal Law of the State of New York, is authorized and empowered to establish, maintain, and operate programs devoted in whole, or in part, to the welfare of the aging. The Common Council pursuant to applicable provisions of the Civil Service Law may appoint a director of the Senior Citizens Center. The director of the Senior Citizens Center shall continue to possess all the powers and duties it presently exercises pursuant to ordinance and state law.

Section C-8.11. Plumbing and Electrical Boards.

There may be a Plumbing Board and Electrical Board as constituted by ordinance and shall continue to be organized and perform all the functions and possess all the powers and duties it presently exercises pursuant to ordinance and state law.

ARTICLE 9
ETHICS

Section C-9.0. Ethical standards.

Section C-9.1. Dedicated service.

Section C-9.2. Fair and equal treatment.

Section C-9.3. Interest in appointments.

Section C-9.4. Use of City property.

Section C-9.5. Prohibited interests and private employment.

Section C-9.6. Confidential information.

Section C-9.7. Use of official position.

Section C-9.8. Debarment.

Section C-9.9. Penalties.

Section C-9.0. Ethical standards.

The proper operation of the City requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the government structure; that public offices not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, this article applies to all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this article is to establish ethical standards of conduct for all such officials and employees by setting forth those facts or actions that are incompatible with the best interest of the City and by directing disclosure by such officials and employees of private, financial or other interests in matters affecting the City.

Section C-9.1. Dedicated service.

Officials and employees shall adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. Officials and employees shall not exceed their authority or breach the law, and they shall work in full cooperation with other public officials and employees.

Section C-9.2. Fair and equal treatment.

No person in the service of the City or seeking admission thereto shall be appointed, promoted, reduced, or in any way favored or discriminated against because of sex, race, national origin, political or religious opinions, or affiliations.

Section C-9.3. Interest in appointments.

No person shall, either directly or indirectly, pay, render, or give any money, service, or other valuable thing to any person for, or on account of, any test, appointment, promotion, or removal for which he or she may be considered.

Section C-9.4. Use of City property.

No official or employee shall request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally, or are provided as part of a City policy for the use of such official or employee in the conduct of official business.

Section C-9.5. Prohibited interests and private employment.

(1) No official or employee shall engage in any business or transaction, or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties, or which would impair independence of judgment or action in the performance of official duties.

(2) No official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of official duties or would impair independence of judgment or action in the performance of official duties.

(3) No official or employee, whose salary is paid in whole or in part by the City, shall appear on behalf of private interests before any agency of the City. A Council member shall not appear in a representative capacity before any administrative agency or board of the City exercising judicial or qualified judicial functions.

Section C-9.6. Confidential information.

No official or employee shall, without proper legal authorization, disclose confidential information concerning the City, nor shall such information be used to advance the individual's financial or other private interest.

Section C-9.7. Use of official position.

No official or employee shall use his or her office or position of employment, directly or indirectly, orally, by letter, or otherwise, to solicit, compel or induce, the payment of any political assessment, subscription, or contribution to any political party or for any political purpose. The right of City employees to form, join and participate in, or refrain from forming, joining, or participating in any employee organization of their own choosing is hereby recognized.

Section C-9.8. Debarment.

(1) No former Council member or Mayor shall hold any other appointed City office or City employment until one (1) year after the expiration of the term for which he or she was elected or from the date of resignation from office.

(2) No official or employee shall, after the termination of service or employment, appear before any board or agency of the City in relation to any case, proceeding or application in which he or she personally participated during the period of service or employment or which was under his or her active consideration.

Section C-9.9. Penalties.

Violation of any provisions of this article may constitute cause for suspension, removal from office or employment, or other disciplinary action as the Common Council may provide. In addition, any officer or employee may request an advisory opinion from the Fulton County Board of Ethics pursuant to § 808 of the General Municipal Law.

ARTICLE 10
TRANSITIONAL PROVISIONS

Section C-10.0. Effect of Charter on existing laws.

Section C-10.1. Offices continued or abolished.

Section C-10.2. Separability clause; liberal construction.

Section C-10.3. Effective date.

Section C-10.0. Effect of Charter on existing laws.

(1) All local laws, ordinances and resolutions of the Common Council and all regulations and bylaws of boards or bodies of the City previously adopted and in effect as of the adoption of this Charter, including the Code of the City of Johnstown, shall continue in full force and effect, except to the extent that such local laws, ordinances, resolutions, regulations and bylaws have been repealed, modified or superseded in their application to the City by the adoption of this Charter.

(2) The Charter of the City of Johnstown enacted effective January 1, 1963, as amended, is hereby repealed.

Section C-10.1. Offices continued or abolished.

(1) Existing terms of office shall continue uninterrupted by this Charter. All officers of the City of Johnstown now in office, whether elected or appointed, shall continue in office and discharge duties thereof until the end of the terms for which they were elected or appointed, and until their successors are elected or appointed and qualify as provided in this Charter. All officers and employees of the City who shall hold office or be employed under the Civil Service Laws and Rules when this Charter shall take effect, shall continue in their respective positions and employment and in their respective civil service classifications and status as officers or employees of the City, insofar as such may be consistent with provisions of this Charter.

(2) The office of City Chamberlain shall be abolished as of the effective date of this Charter and the functions, duties and responsibilities of the office shall be transferred to the office of the City Treasurer.

(3) One Supervisor for each ward shall continue to represent each of the four (4) wards of the City on the County Board of Supervisors.

Section C-10.2. Separability clause; liberal construction.

If any clause, sentence, paragraph, section or part of this revised Charter shall be adjudged by any court of competent jurisdiction to be invalid, or ineffective in whole or part, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. This Charter shall be liberally construed to effectuate its objectives and purposes.

Section C-10.3. Effective date.

This Charter shall become effective on January 1, 2001, upon approval by public referendum in the manner provided by applicable law. An administrative code may be adopted and amended at any time subsequent to the approval and adoption of this Charter.