WEST VIRGINIA CODE CHAPTER 8 ARTICLE 1

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PART I. PURPOSE AND SHORT TITLE.

§8-1-1. Purpose and short title.

The purpose of this chapter is to effect a recodification of the basic municipal law of this state and of various statutory provisions relating to certain intergovernmental relations involving municipalities, counties and other units of government, to provide as much uniformity as possible between the powers, authority, duties and responsibilities of special legislative charter municipalities and all other municipalities, and to give effect to the "Municipal Home Rule Amendment" to the Constitution of this state, being section thirty-nine-(a), article six of said Constitution.

For convenience of reference, this chapter may be known and cited as the "Municipal Code of West Virginia."

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Part II. Definitions.

§8-1-2. Definitions of terms.

(a) For the purpose of this chapter:

(1) "Municipality" is a word of art and shall mean and include any Class I, Class II, and Class III city, and any Class IV town or village, heretofore or hereafter incorporated as a municipal corporation under the laws of this state;

(2) "City" is a word of art and shall mean, include, and be limited to any Class I, Class II, and Class III city, as classified in section three of this article (except in those instances where the context in which used clearly indicates that a particular class of city is intended), heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) a home rule charter framed and adopted or revised as a whole or amended under the provisions of former §8A-1-1 *et seq*. of this code, or under the provisions of §8-3-1 or §8-4-1 of this code; (iii) general law, or (iv) any combination of the foregoing; and

(3) "Town or village" is a term of art and shall, notwithstanding the provisions of §2-2-10 of this code, mean, include, and be limited to any Class IV town or village, as classified in §8-3-1 of this code, heretofore or hereafter incorporated as a municipal corporation under the laws of this state, however created and whether operating under: (i) A special legislative charter; (ii) general law; or (iii) a combination of the foregoing.

(b) For the purpose of this chapter, unless the context clearly requires a different meaning:

(1) "Governing body" shall mean the mayor and council together, the council, the board of directors, the commission, or other board or body of any municipality, by whatever name called, as the case may be, charged with the responsibility of enacting ordinances and determining the public policy of such municipality; and in certain articles dealing with intergovernmental relations shall also mean the county commission of any county or governing board of other units of government referred to in said articles;

(2) "Councilmen" shall mean the members of a governing body, by whatever name such members may be called;

(3) "Mayor" shall mean the individual called mayor unless as to a particular municipality a commissioner (in a commission form of government) or the city manager (in a manager form of government) is designated or constituted by charter provision as the principal or chief executive officer or chief administrator thereof, in which event the term "mayor" shall mean as to such municipality such commissioner or city manager unless as to any particular power, authority, duty or function specified in this chapter to be exercised, discharged or fulfilled by the mayor it is provided by charter provision or ordinance that such particular power, authority, duty, or function shall be exercised, discharged, or fulfilled by the

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individual called mayor and not by a commissioner or city manager, in which event such particular power, authority, duty, or function shall in fact be exercised, discharged, or fulfilled in and for such municipality by the individual called mayor: *Provided*, That in the exercise and discharge of the ex officio justice of the peace, conservator of the peace, and mayor's court functions specified in this chapter, the term "mayor" shall always mean the individual called mayor;

(4) "Recorder" shall mean the recorder, clerk, or other municipal officer, by whatever name called, charged with the responsibility of keeping the journal of the proceedings of the governing body of the municipality and other municipal records;

(5) "Treasurer" shall mean the treasurer or other municipal officer, by whatever name called, exercising the power and authority commonly exercised by a treasurer;

(6) "Administrative authority" shall mean the officer, commission, or person responsible for the conduct and management of the affairs of the municipality in accordance with the charter, general law, and the ordinances, resolutions, and orders of the governing body thereof;

(7) "Charter" shall mean, except where specific reference is made to a particular type of charter, either a special legislative charter (whether or not amended under the provisions of former §8A-1-1 *et seq*. of this code, or under article four of this chapter, and although so amended, such special legislative charter shall, for the purposes of this chapter, remain a special legislative charter), or a home rule charter framed and adopted or revised as a whole or amended by a city under the provisions of former §8A-1-1 *et seq*. of this code or under the provisions of article three or article four of this chapter;

(8) "Ordinance" shall mean the ordinances and laws enacted by the governing body of a municipality in the exercise of its legislative power, and in one or more articles of this chapter, ordinances enacted by a county commission;

(9) "Inconsistent or in conflict with" shall mean that a charter or ordinance provision is repugnant to the constitution of this state or to general law because such provision: (i) Permits or authorizes that which the constitution or general law forbids or prohibits; or (ii) forbids or prohibits that which the constitution or general law permits or authorizes;

(10) "Qualified elector," "elector," "qualified voter," or "legal voter" shall mean any individual who, at the time he or she offers to vote or at the time he or she participates in any event or activity (such as signing a petition) under the provisions of this chapter for which he or she must be a qualified elector, elector, qualified voter, or legal voter, is a resident within the corporate limits of the municipality or within the boundaries of a territory referred to in this chapter, as the case may be, and who: (i) Has been a resident of the state for one year and of the municipality or territory in question for at 60 sixty days next preceding such election or date pertinent to any such event or activity; and (ii) in the case of a regular municipal election, special municipal election, municipal public question election,

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or any such municipal event or activity, is duly registered on the municipal registration books set up in the office of the clerk of the county commission of the county in which the municipality or the major portion of the territory thereof is located under the integration of the municipal registration of voters with the "permanent registration system" of the state, or, in the event there be no such integration of the municipal registration of voters, is duly registered in the county in which he or she resides to vote in state-county elections; or (iii) in the case of a territory election, general election, or any such territory event or activity, is duly registered in the county in which he or she resides to vote in state-county elections; and any charter provision or ordinance establishing a voting residency requirement different than that in this definition provided shall be of no force and effect; and in any case where a particular percentage of the qualified electors, electors, qualified voters, or legal voters is required under the provisions of this chapter in connection with any such event or activity as aforesaid, the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the time of such event or activity, unless it is impracticable to determine such percentage as of such time and it is provided by ordinance, resolution or order that the percentage shall be determined on the basis of the number of qualified electors, electors, qualified voters, or legal voters, as of the date of the last preceding election (whether a general election, regular municipal election, or special municipal election, and whether or not they voted at such election) held in such municipality or territory, as the case may be;

(11) "Public question" shall mean any issue or proposition required to be submitted to the qualified voters of a municipality or of a territory referred to in this chapter for decision at an election, as the case may be;

(12) "Inhabitant" shall mean any individual who is a resident within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(13) "Resident" shall mean any individual who maintains a usual and bona fide place of abode within the corporate limits of a municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

(14) "Freeholder" shall mean any person (and in the case of an individual one who is sui juris and is not under a legal disability) owning a "freehold interest in real property";

(15) "Freehold interest in real property" shall mean any fee, life, mineral, coal, or oil or gas interest in real property, whether legal or equitable, and whether as a joint tenant or a tenant in common, but shall not include a leasehold interest (other than a mineral, coal, or oil or gas leasehold interest), a dower interest, or an interest in a right-of-way or easement, and the freehold interest of a church or other unincorporated association shall be considered as one interest and not as an individual interest of each member thereof;

(16) "County commission" shall mean the governmental body created by section 22, article eight of the Constitution of this state, or any existing tribunal created in lieu of a county

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commission;

(17) “Code” shall mean the Code of West Virginia, 1931, as heretofore and hereafter amended; and

(18) “Person” shall mean any individual, firm, partnership, corporation, company, association, joint-stock association, or any other entity or organization of whatever character or description.

(c) The term “intergovernmental relations” is used in this chapter to mean undertakings and activities which may be undertaken or engaged in by two or more units of government acting jointly, and in certain headings in this chapter to call attention to the fact that the provisions under such headings apply to units of government in addition to municipalities.

(d) For the purpose of this chapter, unless the context clearly indicates to the contrary, words importing the masculine gender shall include both the masculine and feminine gender, and the phrase “charter-framed and adopted or revised as a whole or amended (or words of like import) under the provisions of former chapter eight-a of this code” shall include a charter-framed and adopted or revised as a whole or amended under the provisions of former article two of former chapter eight of this code.

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PART III. GENERAL PROVISIONS.

§8-1-3. Classification of municipal corporations.

Pursuant to the mandate of the "Municipal Home Rule Amendment" to the Constitution of this state, all municipal corporations are hereby classified by population into four classes, as follows:

(1) Every municipal corporation with a population in excess of fifty thousand shall be a Class I city;

(2) Every municipal corporation with a population in excess of ten thousand but not in excess of fifty thousand shall be a Class II city;

(3) Every municipal corporation with a population in excess of two thousand but not in excess of ten thousand shall be a Class III city; and

(4) Every municipal corporation with a population of two thousand or less shall be a Class IV town or village.

Transition from one to another class shall occur automatically when the requisite population qualification has been met, effective as of the effective date of the census, as specified in section four of this article.

The Legislature hereby declares its interpretation of the said "Municipal Home Rule Amendment" to be that a single classification by population of municipal corporations in this state is required which shall exclude any other classification of municipal corporations by population for any purpose. It is, therefore, the intention of the Legislature that the classification established in this section shall give effect to the Constitutional mandate and shall be the only classification by population applying to municipal corporations in this state. It is the further intention of the Legislature that subsequent legislation affecting municipal corporations in this state shall treat municipal corporations differently upon the basis of population, only in accordance with the general classification established in this section.

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§8-1-4. How population determined.

For any purpose pertinent to the provisions of this chapter, population shall be determined by reference to the last preceding census taken under the authority of the United States or of the Legislature of West Virginia or by the municipality pursuant to an ordinance adopted thereby, the adoption of any such ordinance being hereby expressly authorized.

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§8-1-5. Existing status of municipalities confirmed; powers, authority, duties and responsibilities conferred by law.

The corporate being of every municipality now existing is hereby confirmed and validated. Except as otherwise provided in section six of this article, any municipality shall have all of the powers, authority, duties and responsibilities conferred by law upon a municipality of the class to which it belongs.

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§8-1-5a. Municipal Home Rule Program.

(a) — The Legislature finds and declares that:

(1) The initial Municipal Home Rule Pilot Program brought innovative results, including novel municipal ideas that became municipal ordinances which later resulted in new statewide statutes;

(2) The initial Municipal Home Rule Pilot Program also brought novel municipal ideas that resulted in court challenges against some of the participating municipalities;

(3) The Municipal Home Rule Board was an essential part of the initial Municipal Home Rule Pilot Program, but it lacked some needed powers and duties;

(4) Municipalities still face challenges delivering services required by federal and state law or demanded by their constituents;

(5) Municipalities are sometimes restrained by state statutes, policies, and rules that challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient, and timely manner;

(6) Establishing the Municipal Home Rule Pilot Program as a permanent program is in the public interest; and

(7) Increasing the powers and duties of the Municipal Home Rule Board, subject to the limitations set forth herein, will enhance the Municipal Home Rule Program.

(b) The Municipal Home Rule Pilot Program is established as a permanent program and shall be identified as the Municipal Home Rule Program. Any plan or amendment to a plan approved by the board during the period of the Municipal Home Rule Pilot Program is continued. Any ordinance, act, resolution, rule, or regulation enacted by a participating municipality under the provisions of this section during the period of the Municipal Home Rule Pilot Program shall continue in full force and effect unless and until repealed: Provided, That municipalities that are participants in the Municipal Home Rule Program shall update their ordinances, acts, resolutions, rules, and regulations to comply with any additions or modifications to subsection (i), subsection (j), or subsection (k) of this section.

(c) (1) Commencing July 1, 2019, any Class I, Class II, or Class III municipality that is current in payment of all state fees may apply to participate in the Municipal Home Rule Program pursuant to the provisions of this section. Also, commencing July 1, 2019, up to four applications per year from Class IV municipalities may be approved by the board for participation in the Municipal Home Rule Program pursuant to the provisions of this section, provided the Class IV municipality is current in payment of all state fees.

(2) The municipalities participating in the Municipal Home Rule Pilot Program on the effective date of the amendment and reenactment of this section are authorized to continue

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in the Municipal Home Rule Program, subject to the requirements of this section, and may amend current written plans and/or submit new written plans in accordance with the provisions of this section.

(3) On July 1, 2019, all municipalities currently participating in the Municipal Home Rule Pilot Program shall pay an annual assessment of $2,000 for the operation and administration of the Home Rule Board. On July 1 of each year thereafter, all municipalities participating in the Municipal Home Rule Program as of that date shall pay the annual assessment. Any participating municipality that fails to timely remit its assessment when due may be assessed a penalty of an additional $2,000 by the board.

(4) There is created in the office of the State Treasurer a special revenue account fund to be known as the Home Rule Board Operations Fund. The assessments required by the provisions of subdivision (3) of this subsection shall be deposited into the fund, and expenditures from the fund shall be made in accordance with appropriation of the Legislature under the provisions of §12-3-1 et seq. of this code, and in compliance with the provisions of §11B-2-1 et seq. of this code: Provided, That legislative appropriation is not required during fiscal year 2019.

(5) Any balance in the fund created under subdivision (4) of this subsection at the end of a fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account for uses consistent with the provisions of this section.

(6) All costs and expenses lawfully incurred by the board may be paid from the fund created under subdivision (4) of this subsection.

(7) Notwithstanding any provision of this section to the contrary, if at the end of a fiscal year the unencumbered balance of the fund created in subdivision (4) of this subsection is $200,000 or more, then annual assessments shall be suspended until the board determines that the unencumbered balance in the fund is insufficient to meet operational expenses. The board shall notify all participating municipalities of the suspension of the annual assessment prior to the end of the fiscal year and provide an estimate of when payment of annual assessments will resume.

(d) The Municipal Home Rule Board is continued. The Municipal Home Rule Board shall consist of the following five voting members:

(1) The Governor, or a designee, who shall serve as chair;

(2) The Executive Director of the West Virginia Development Office, or a designee;

(3) One member representing the Business and Industry Council, appointed by the Governor with the advice and consent of the Senate;

(4) One member representing the largest labor organization in the state, appointed by the Governor with the advice and consent of the Senate; and

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(5) One member representing the West Virginia Chapter of the American Planning Association, appointed by the Governor with the advice and consent of the Senate.

The Chair of the Senate Committee on Government Organization and the Chair of the House Committee on Government Organization shall serve as ex officio nonvoting members of the board.

(e) The Municipal Home Rule Board shall:

(1) Review, evaluate, make recommendations, and approve or reject, for any lawful reason, by a majority vote of the board, each aspect of the written plan, or the written plan in its entirety, submitted by a municipality;

(2) By a majority vote of the board, select, based on the municipality's written plan, new Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule Program;

(3) Review, evaluate, make recommendations, and approve or reject, for any lawful reason, by a majority vote of the board, the amendments to the existing approved written plans submitted by municipalities: Provided, That any new application or amendment that does not reasonably demonstrate the municipality's ability to manage its associated costs or liabilities shall be rejected;

(4) Consult with any agency affected by the written plans or the amendments to the existing approved written plans; and

(5) Perform any other powers or duties necessary to effectuate the provisions of this section: Provided, That any administrative rules established by the board for the operation of the Municipal Home Rule Program shall be published on the Municipal Home Rule Board's website, and made available to the public in print upon request.

(f) Any Class I, Class II, Class III, or Class IV municipality desiring to participate in the Municipal Home Rule Program, or any municipality desiring to amend its existing approved written plan, shall submit a written plan to the board stating in detail the following:

(1) The specific laws, acts, resolutions, policies, rules, or regulations which prevent the municipality from carrying out its duties in the most cost-efficient, effective, and timely manner;

(2) The problems created by those laws, acts, resolutions, policies, rules, or regulations;

(3) The proposed solutions to the problems, including all proposed changes to ordinances, acts, resolutions, rules, and regulations: Provided, That the specific municipal ordinance instituting the solution does not have to be included in the written plan; and

(4) A written opinion, by an attorney licensed to practice in the State of West Virginia,

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stating that the proposed written plan does not violate the provisions of this section.

(g) Prior to submitting its written plan, or an amendment to an existing approved written plan, to the board, the municipality shall:

(1) Hold a public hearing on the written plan or the amendment to the existing approved written plan;

(2) Provide notice of the public hearing at least 30 days prior to the public hearing by a Class II legal advertisement: Provided, That on or before the first day of publication, the municipality shall send a copy of the notice by certified mail to the Municipal Home Rule Board and the cabinet secretary of every state department;

(3) Make a copy of the written plan or amendment available for public inspection at least 30 days prior to the public hearing; and

(4) After the public hearing, adopt an ordinance authorizing the municipality to submit a written plan or amendment to the Municipal Home Rule Board: Provided, That the proposed ordinance has been read two times, as required by §8-11-4 of this code.

(h) By a majority vote, the Municipal Home Rule Board may select from the municipalities that submitted written plans and were approved by the board by majority vote new Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule Program.

(i) The municipalities participating in the Municipal Home Rule Program may not pass an ordinance, act, resolution, rule, or regulation, under the provisions of this section, that is contrary to the following:

(1) Environmental law;

(2) Laws governing bidding on government construction and other contracts;

(3) The Freedom of Information Act;

(4) The Open Governmental Proceedings Act;

(5) Laws governing wages for construction of public improvements;

(6) The provisions of this section;

(7) The provisions of §8-12-5a of this code;

(8) The municipality’s written plan;

(9) The Constitution of the United States or the Constitution of the State of West Virginia;

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(10) Federal law, including those governing crimes and punishment;

(11) Chapters 60A, 61, and 62 of this code or any other provisions of this code governing state crimes and punishment;

(12) Laws governing pensions or retirement plans;

(13) Laws governing annexation;

(14) Laws governing taxation: Provided, That a participating municipality may enact a municipal sales tax up to one percent if it reduces or eliminates its municipal business and occupation tax: Provided, however, That if a municipality subsequently reinstates or raises the municipal business and occupation tax it previously reduced or eliminated under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program, it shall reduce or eliminate the municipal sales tax enacted under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program in an amount comparable to the revenue estimated to be generated by the reinstated tax: Provided further, That any municipality that imposes a municipal sales tax pursuant to this section shall use the services of the Tax Commissioner to administer, enforce, and collect the tax required by the provisions of §11-15-1 et seq., §11-15A-1 et seq., and §11-15B-1 et seq. of this code and all applicable provisions of the Streamlined Sales and Use Tax Agreement: And provided further, That the tax does not apply to the sale of motor fuel or motor vehicles;

(15) Laws governing tax increment financing;

(16) Laws governing extraction of natural resources;

(17) Marriage and divorce laws;

(18) Laws governing professional licensing or certification, including the administration and oversight of those laws, by state agencies to the extent required by law; (19) Laws, rules, or regulations governing the enforcement of state building or fire codes;

(20) Federal laws, regulations, or standards that would affect the state's required compliance or jeopardize federal funding;

(21) Laws or rules governing procurement of architectural and engineering services: Provided, That notwithstanding any other provision of this section to the contrary, the change made in this subdivision applies prospectively and any ordinance enacted by the participating municipalities prior to the effective date of the amendments to this section during the 2019 regular legislative session and pursuant to the Municipal Home Rule Pilot Program remains in effect.

(22) The provisions of chapter 17C of this code; or

(23) Laws, rules, or regulations governing communication technologies or

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telecommunications carriers, as the term "telecommunications carrier" is defined by the Federal Communications Commission in 47 U.S.C. §153 or as determined by the Public Service Commission of West Virginia.

(24) Laws governing the sale, transfer, possession, use, storage, taxation, registration, licensing, or carrying firearms, ammunition, or accessories thereof.

(j) The municipalities participating in the Municipal Home Rule Program may not pass an ordinance, act, resolution, rule, or regulation under the provisions of this section that:

(1) Affects persons or property outside the boundaries of the municipality: Provided, That this prohibition under the Municipal Home Rule Program does not limit a municipality's powers outside its boundary lines to the extent permitted under other provisions of this section, other sections of this chapter, other chapters of this code, or court decisions;

(2) Enacts an occupation tax, fee, or assessment payable by a nonresident of a municipality; or

(3) Imposes duties on another governmental entity, unless the performance of the duties is part of a legally executed agreement between the municipality and the other governmental entity, or is otherwise permitted by state law;

(k) Municipalities may not prohibit or effectively limit the rental of a property, in whole or in part, or regulate the duration, frequency, or location of such rental, in whole or in part. A municipality may regulate activities that arise when a property is used as a rental: Provided, That such regulation applies uniformly to all properties, without regard to whether such properties are used as a rental: Provided, however, That nothing in this subdivision may be construed to prohibit a municipality from imposing a hotel occupancy tax as prescribed in §7-18-1 et seq. of this code.

(l) A municipality participating in the Municipal Home Rule Program may amend its written plan at any time subject to the requirements of this section.

(m) A municipality participating in the Municipal Home Rule Program may amend any ordinance, act, resolution, rule, or regulation enacted pursuant to the municipality's approved written plan at any time as long as the amendment is consistent with the municipality's approved written plan, as modified by any amendments adopted pursuant to this section, complies with the provisions of this section, and the municipality complies with all applicable state law procedures for enacting municipal legislation.

(n) On or before December 1 of each year, each participating municipality shall give a written progress report to the Municipal Home Rule Board, and on or before January 1 of each year, the Municipal Home Rule Board shall give a summary report of all the participating municipalities to the Joint Committee on Government and Finance.

(o) Notwithstanding any other provision of this code to the contrary, a distributee under the

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provisions of this section may not seek from the Tax Division of the Department of Revenue a refund of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue, nor seek a change in past amounts distributed, or any other retrospective adjustment relating to any amount distributed, to the extent that the moneys in question have been distributed by the Tax Division to another distributee, regardless of whether those distributions were miscalculated, mistaken, erroneous, misdirected, or otherwise inaccurate or incorrect. For purposes of this section, the term "distributee" means any municipality that has enacted a sales and use tax under this section or as otherwise permitted by law that receives or is authorized to receive a specific distribution of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue pursuant to this section.

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§8-1-6. Application of provisions of this chapter; inconsistent or conflicting special legislative charter provisions; amendment of special legislative charters; inconsistent or conflicting ordinance provisions; status and tenure of officers and members not affected; transactions already entered into not affected.

In furtherance of the purpose of this chapter as set forth in section one of this article, each municipality is subject to the provisions contained in this chapter and may exercise the power and authority conferred by this chapter. In this regard, it is recognized that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions. In view of these possibilities, it becomes necessary for the Legislature to set forth certain rules of construction to be applied in addition to the usual and ordinary rules of statutory construction, and to set forth a substantive provision as to application in connection with possibility (2).

As to possibility (1), the pertinent provisions of this chapter shall supersede such conflicting or inconsistent charter provisions and shall be deemed amendments to such charters. As to possibility (2), one year from and after the effective date of this section or the effective date of any pertinent amendment to this chapter hereafter adopted, such provisions of this chapter shall supersede such charter provisions and shall be deemed amendments to such charter, unless within such one-year period an ordinance is adopted providing that such charter provisions shall be applicable, in which event such charter provisions shall be applicable so long as said ordinance remains in full force and effect. As to possibility (3), all such charter provisions shall be construed so as to conform to and be consistent with the pertinent provisions of this chapter. As to possibility (4), the charter provisions shall remain in operation and effect until amended or repealed by general law hereafter enacted or until hereafter supplanted by a new charter or revised as a whole or amended in accordance with the provisions of this chapter. As to possibility (5), the applicable provisions of this chapter shall be deemed amendments to such charter. In determining the relationship between such charter provisions and the provisions of this chapter in any situation not included in the possibilities outlined above, the relationship shall be determined in keeping with the general concepts and principles embodied in the rules of construction set forth in this paragraph. The provisions set forth above in this paragraph shall also be applicable to the relationship

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between the pertinent provisions of various local or special acts of the Legislature (other than special legislative charters) pertaining to municipal matters and the provisions of this chapter.

Notwithstanding any of the foregoing provisions of this section, (1) particular provisions of this chapter shall supersede pertinent charter provisions whenever it is expressly provided in this chapter that such provisions of this chapter shall govern notwithstanding any charter provisions, that such charter provisions shall be of no force and effect, that the provisions of this chapter are the only applicable provisions, or that something may be accomplished only as provided in this chapter; and (2) charter provisions shall govern chapter provisions in those instances where this chapter expressly authorizes other or contrary charter provisions.

Any ordinance provision which is inconsistent or in conflict with any provision of this chapter shall be of no force and effect.

All individuals holding any office on the effective date of this chapter, and all officers and members of any commission, board, authority or other entity, by whatever name called, serving on the effective date of this chapter, and who were elected or appointed and qualified under or pursuant to the provisions of former chapter eight or chapter eight-a of this code, any act repealed by this new chapter eight or any charter provision or ordinance provision made or adopted under or pursuant to such former chapters or acts shall continue to serve, unless a vacancy sooner occurs, until their terms expire and until their successors have been elected or appointed, as the case may be, and have qualified.

Notwithstanding any of the foregoing provisions or any other provision of this chapter (even though such other provision is stated to be paramount), transactions validly entered into, causes of action which arose, and civil actions instituted, before the effective date of this chapter and the rights, duties, obligations and interest flowing therefrom remain valid, enforceable and maintainable thereafter and may be terminated, completed, consummated, prosecuted, maintained or enforced (1) as required or permitted by any statute or other law (including the provisions of former chapters eight and eight-a of this code and the acts repealed by this chapter) repealed or amended by this chapter as though such repeal or amendment had not occurred, or (2) with like effect as though this chapter had not been enacted.

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§8-1-7. Construction of powers and authority granted.

(a) The enumeration of powers and authority granted in this chapter shall not operate to exclude the exercise of other powers and authority fairly incidental thereto or reasonably implied and within the purposes of this chapter or in accordance with the provisions of the Municipal Home Rule Amendment to the Constitution of this state, the powers and authority granted by such Constitution, other provisions of this code and any existing charter. The provisions of this chapter shall be given full effect without regard to the common-law rule of strict construction and particularly when the powers and authority are exercised by charter provisions framed and adopted or adopted by revision of a charter as a whole or adopted by charter amendment under the provisions of this chapter.

(b) Any charter provision framed and adopted or adopted by revision of a charter as a whole or adopted by charter amendment under the provisions of former chapter eight-a of this code or under the provisions of this chapter which is beyond the power and authority of a municipality and any ordinance provision which is beyond the power and authority of a municipality shall be of no force and effect.

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§8-1-8. References to code provisions.

Any reference in this chapter to another provision of this code and any reference elsewhere in this code or other law to a provision in this chapter shall be construed to mean the present provision or such provision as the same may be hereafter amended from time to time. Where additional provisions are added to the subject matter of any other provision so referred to, the reference shall include such additional provisions.

Wherever in this code, in any act, in general law, elsewhere in law, in any charter, in any ordinance, resolution or order of a municipality, or in any order, ordinance or resolution of a county court or other unit of government, reference is made to any section, any article, any particular provision or any term of chapter eight of this code as it existed immediately prior to the effective date of this new chapter eight or to any section, any article, any particular provision or any term of former chapter eight-a of this code, such reference shall henceforth be read, construed and understood to mean the comparable section, article, particular provision or term in this new chapter eight.

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§8-1-9. Reporting of fraud and misappropriations of funds.

(a) Whenever a governing body for a municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer, or member of the municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the governing body for a municipality, or the municipality's board, committee, or other entity authorized in this chapter shall timely report that information or allegation in writing to the county prosecutor's office, the Legislature's Commission on Special Investigations and the State Auditor.

(b) The reporting of the information under subsection (a) of this section does not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

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