

ACTS
of the
LEGISLATURE
of
WEST VIRGINIA
MUNICIPAL CHARTERS

REGULAR AND FIRST EXTRAORDINARY
SESSIONS

1925



NOTE BY CLERK OF THE HOUSE OF DELEGATES.

The general laws of the regular and first extraordinary session are published in a separate volume.

List of Members and Officers of the Legislature of West Virginia

1925

SENATE

President—M. Z. WHITE, Williamson.
 Clerk—JOHN T. HARRIS, Parkersburg.
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	Cecil B. Highland, (R).....	New Martinsville
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Eighth.....	-Clyde B. Johnson, (D).....	Charleston
	Naaman Jackson, (R).....	Logan
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	E. P. Aklerson, (D).....	Clay
Tenth.....	-A. C. Herold, (D).....	Sutton
	R. F. Kidd, (D).....	Glenville
Eleventh.....	-F. S. Suddarth, (D).....	Grafton
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Fourteenth.....	-E. Bunker Reynolds, (R).....	Keyser
	A. L. Helmick, (R).....	Thomas
Fifteenth.....	-P. E. Nixon, (D).....	Paw Paw
	H. P. Henshaw, (D).....	Bunker Hill

(R)..... Republican.
 (D)..... Democrat.
 (-)..... Holdover Senators.

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Clerk—M. S. HOOGES

Chief Assistant—V. F. FRAZZELL

*Sergeant-at-Arms—W. H. C. CURTIS

†Sergeant-at-Arms—J. J. JOHNSON

Door Keeper—W. H. HUTCHINSON

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	Charles Beard, (R).....	Martinsburg
Boone.....	*H. H. Andrews, (R).....	Whitesville
	**D. M. Jarrett, (D).....	Danville
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	Grover C. Belknap, (D).....	Gassaway
Brooke.....	James L. Deuley, (R).....	Wellsburg
Cabell.....	†Edmond Schon, (D).....	Huntington
	W. B. Hawkins, (D).....	Huntington
	G. L. Armstrong, (D).....	Huntington
	Abe Davis, (D).....	Huntington
Calhoun.....	Eli F. Roberts, (D).....	Hur
Clay.....	R. R. Lockhart, (D).....	Clay
Doddridge.....	S. S. Cox, (R).....	West Union
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	J. L. Spradlin, (R).....	Thurmond
	E. M. Tutwiler, (R).....	Mount Hope
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	W. W. Stovens, (D).....	Alderson
Gilmer.....	J. M. Hays, (D).....	Glenville
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Logan.....	W. C. Turley, (D).....	Logan
Marion.....	H. A. Bartlett, (R).....	Fairmont
	Fred R. Brumage, (D).....	Fairmont
	J. D. Furbee, (D).....	Glover's Gap

*Died May 26, 1925

†Qualified May 7, 1925

‡Died Feb. 9, 1925

*Resigned June 6, 1925

**Qualified June 6, 1925

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NAME	NAME	POST OFFICE
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	Foster Rine, (R)	Moundsville
Mason.....	R. T. Embleton, (R).....	Hartford
	F. A. Morrison, (R).....	Point Pleasant
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	Milton McColloch, (R).....	Wheeling
	Harry A. Weiss, (R).....	Wheeling
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	G. W. Coffield, (D).....	New Martinsville
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	George W. Dye, (D).....	Parkersburg
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Wyoming.....	Wallace C Morgan (R).....	Hanover

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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1925

REGULAR SESSION

MUNICIPAL CHARTERS

CHAPTER 1

(Senate Bill No. 13—By Mr. Helmick)

AN ACT to create the municipal corporation of "The City of Thomas," in the county of Tucker, defining the powers thereof, and describing the limits of said city, and to grant a charter thereto.

[Passed April 17, 1925; in effect from passage. Approved by the Governor.]

Sec.		Sec.	
1.	Creating municipal corporation, defining powers and limits.	21.	Issuance of executions; default.
2.	Corporate boundaries.	22.	Jail; maintenance of prisoners.
3.	Wards; council to create new wards and change boundaries; voting places.	23.	Mayor's docket.
4.	Officers; appointments; eligibility of officers; vacating office.	24-25.	Appeal.
5.	Municipal authorities.	26.	Enforcing penalty; proceedings.
6-7.	Elections; time of, and method of holding; officers to be elected; terms of office.	27.	Appeals similar to justice's court.
8.	Oath and bonds of officers.	28.	Duties and salary of clerk.
9.	Council to control appointive officers.	29-30.	Duties of collector; notice and payment of taxes; time payable; statement to council; salary.
10.	Bonds of officers.	31.	Chief of police; bond; duties; forfeiture of bond.
11.	Removal from office; filling vacancies.	32.	Duties and salary of solicitor.
12.	Rules governing council.	33.	Additional duties chief of police.
13.	Minute book; keeping of records; certifying copies of ordinances.	34.	Arrest; issuance and execution of process; collection of fines; jurisdiction and liability of chief of police.
14.	Correcting minute book.	35.	Treasurer; appointment and removal; regulations; bond; compensation; liability.
15.	Passage of ordinances.	36.	City commissioner; compensation; duties.
16.	Powers of council.	37.	Lien for taxes; enforcement.
17.	Franchises; regulations concerning franchises.	38.	License and license taxes.
18.	Additional general authority of council.	39.	Application for and expiration of licenses.
19.	Powers of mayor; salary; salary of councilmen.	40.	Condemnation proceedings.
20.	Process in proceedings.	41.	Sidewalks; assessment for; liens.

Sec. 42. Street paving; assessment for; payment; liens. 43. Sewers; assessment for; payment; liens; handling of funds. 44. Previously constructed sewers; compensation. 45. Assessment of property; taxes;	Sec. 46. capitation tax. 46. Annual financial statement; penalty for failure to publish. 47. Bonds, additional levy. 48. Succession to town of Thomas; officers to continue. 49. Repealing inconsistent acts.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of the county of Tucker, in the state of West Virginia, within the boundary described in the next succeeding section of this act, be and they are hereby made and created a municipal corporation by the name of "The City of Thomas," by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, and purchase, or otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by law and the provisions of this act.

Sec. 2. The corporate boundaries of the said city shall be as follows, that is to say:

Beginning at a large hemlock (now concrete stone) southwest of the school house known as "Thomas schoolhouse"; thence south sixty degrees, east one hundred and twenty-two poles to a hemlock with beech and spruce pointers, (now concrete stone), north thirty degrees, east three hundred and fifty-three poles to a stake with hemlock, beech and spruce pointers (now concrete stone); thence north sixty degrees, west one hundred and twenty-two poles to a bunch of May cherries, (now concrete stone), two poles West Virginia Central railroad (now Western Maryland railroad); thence south thirty degrees, west three hundred and fifty-three poles to the beginning, crossing the North fork of the Blackwater river at fifteen poles and re-crossing the same again at three hundred and fifteen poles.

Sec. 3. The territory of said city is hereby divided into two wards, as follows:

First Ward: All the territory within said city lying north of First street, and northwest of the main line of the Western Maryland railroad to the corporation line below the Western Maryland depot.

Second Ward: Lying south of First street, and southeast of the main line of the Western Maryland railroad.

The common council may reduce or increase the number of

10 wards, and change the boundaries thereof, always having due
11 regard to population.

12 The common council shall designate and provide a voting
13 place in each ward.

Officers

Sec. 4. The officers of the city shall be a mayor, clerk, a
2 solicitor, an assessor, a treasurer, two councilmen from each
3 ward, a councilman at large, a chief of police who may at the
4 discretion of the council be also appointed *ex-officio* collector;
5 and if said chief of police is not appointed *ex-officio* collector,
6 a collector is to be appointed, and the council shall have
7 authority to appoint a city commissioner if, within their judg-
8 ment, the appointment is necessary to the welfare of the city.

9 The chief of police, the treasurer, the assessor, the solicitor,
10 and the city commissioner shall be appointed by the city council.
11 No person shall be eligible to any elective office unless he or
12 she is a qualified voter of said city, nor unless he or she has
13 resided therein for at least three months next before the elec-
14 tion, and in case of councilmen from one of the wards unless
15 he is a *bona fide* resident of the ward from which he is elected
16 and was assessed with and paid the tax on either real or per-
17 sonal property that had an assessed valuation of three hundred
18 dollars or more, and the removal of a councilman from a ward
19 in which he was elected in said city or his ceasing to pay tax
20 on an assessed valuation of not less than three hundred dollars
21 real or personal property, shall vacate his office and no person
22 shall be eligible to be appointed to any city office unless he is a
23 qualified voter thereof.

Sec. 5. The municipal authorities of said city shall consist
2 of the mayor, five councilmen and the clerk, who together shall
3 form a common council, and all the corporate powers of said
4 city shall be exercised by said council, or under its authority,
5 except where otherwise provided.

Elections

Sec. 6. Elections shall be conducted under the general laws.
2 The first election held hereunder shall be on the first Tuesday
3 in February, one thousand nine hundred and twenty-six, and
4 biennially thereafter as hereinafter provided. Every person who
5 has been a *bona fide* resident of the city for three months next
6 preceded any election, and otherwise a qualified voter under

7 the constitution and laws of this state, shall be entitled to vote
8 at such election in the ward in which he or she resides.

9 The election shall be held, conducted and the results thereof
10 be ascertained, returned and determined under such rules and
11 regulations as may be prescribed by the council which shall not
12 be inconsistent with the general laws of the state governing
13 municipal elections, and shall conform as nearly as practicable
14 to such laws. Contested elections shall be heard and decided by
15 council, and the proceedings therein shall conform as nearly
16 as may be to similar proceedings in the case of the county and
17 district officers. The council shall be judge of the election, re-
18 turns and qualifications of its own members. In case two or
19 more persons receive an equal number of votes for the same of-
20 fice, if such number be the highest cast for such office, the city
21 council shall decide by vote which of them shall be returned
22 elected, and shall make their return accordingly.

First Election Biennial Thereafter

Sec. 7. On the first Tuesday in February, one thousand nine
2 hundred and twenty-six, there shall be elected by the qualified
3 voters of said city a mayor, and clerk and one councilman at
4 large and by the qualified voters of each ward two councilmen.
5 The term of office of the mayor, clerk, and councilman at large
6 shall be for a period of two years commencing on the first
7 Monday in March, one thousand nine hundred and twenty-six,
8 and until their successors shall be elected and qualified. The
9 term of office of the councilman from each ward receiving the
10 greatest number of votes shall be for a period of four years
11 commencing on the first Monday in March, one thousand nine
12 hundred and twenty-six, and until their successors shall be
13 elected and qualified. The term of office of the councilman
14 from each ward receiving the next highest number of votes
15 shall be for a period of two years, commencing on the first
16 Monday in March, one thousand nine hundred and twenty-six
17 and until their successors shall be elected and qualified.

18 And on the first Tuesday in February, one thousand nine
19 hundred and twenty-eight, and every two years thereafter there
20 shall be elected by the qualified voters of said city, a mayor,
21 clerk, and one councilman-at-large whose term of office shall be
22 two years as aforesaid, and by the qualified voters of each ward
23 one councilman whose term of office shall be four years as
24 aforesaid.

25 All of the other officers provided for in this act may be
26 appointed to hold and discharge the duties of more than one
27 of said offices. The same person shall not be eligible for a
28 second appointment unless he shall have fully settled up all
29 business of his former term or terms.

Sec. 8. Every person elected or appointed to any office in
2 said city shall, within twenty days after his election, or ap-
3 pointment, and before entering upon the discharge of the du-
4 ties thereof, take and subscribe the oath of office prescribed
5 by law for officers generally, which may be done before the
6 mayor or clerk of said city or before any person authorized by
7 law to administer oaths, and the same, together with the cer-
8 tificate of the officer administering the oath shall be filed with
9 the clerk of said city and preserved by him. And if a bond
10 be required by said officer he shall likewise give such bond
11 and with such surety and in such penalty as the council may
12 fix, and to be approved by the council before he shall assume
13 duties of the office to which he is appointed or elected.

Sec. 9. The council shall prescribe the powers and define
2 the duties of all officers by it appointed, except so far as the
3 same are by this act defined; shall fix their compensation,
4 and may require and take from them respectively, bonds pay-
5 able to the city in its corporate name, with such securities and
6 in such penalties as may be deemed proper, conditioned for
7 the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to
3 receive funds, assets or property belonging to the city, or
4 having charge of the same, such bonds, obligations or other
5 writings as may be deemed necessary and proper to secure
6 the faithful performance of their several duties. All bonds,
7 obligations or other writings taken in pursuance of any of
8 the provisions of this act shall be made payable to The
9 City of Thomas, with such sureties and in such penalties as
10 may be deemed proper, conditioned for the faithful perfor-
11 mance of their duties and for the accounting and paying over
12 as required by law, all moneys coming into their hands by
13 virtue of their offices, and the respective persons and their
14 heirs, executors and assigns bound thereby, shall be subject
15 to the same proceedings on said bonds, obligations and other
16 writings, for enforcing the conditions of the terms thereof,

17 by motion or otherwise, before any court of competent juris-
18 diction, held in and for the county of Tucker, that collectors
19 of county levies and other sureties are, or shall be subject to,
20 on their bonds for enforcing the payment of the county levies.

Sec. 11. The council shall have the authority to remove from
2 office any elective officer of the city for misconduct, drunken-
3 ness or neglect of duty, by an affirmative vote of five of the
4 members of the council but only after reasonable notice to such
5 officer, and a hearing of the charges preferred; and any va-
6 cancy in office, however occasioned, may be filled by the coun-
7 cil for the unexpired term.

Sec. 12. The council shall fix the place and time for hold-
2 ing its regular meetings; may provide for special and ad-
3 journed meetings; shall have power to compel the attendance
4 of its members; and may prescribe rules and regulations not
5 inconsistent herewith, for the transaction of business and for
6 its own guidance and government. The council shall be pre-
7 sided over at its meetings by the mayor, or in his absence, by
8 the clerk, or in the absence of both the mayor and clerk, then
9 one of the councilmen selected by a majority of the councilmen
10 present. A majority of the council elected shall be necessary
11 to constitute a quorum for the transaction of business. No
12 member of the council shall vote upon, or take part in the
13 consideration of any proposition in which he is, or may be
14 interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a
2 well-bound book to be called the minute book, an accurate
3 record of all its proceedings, ordinances, acts, orders and reso-
4 lutions, and in another to be called the ordinance book, accurate
5 copies of all the ordinances adopted by the council, both of
6 which shall be fully indexed and open to the inspection of any
7 one required to pay taxes to the city or who may be otherwise
8 interested. All oaths and bonds of officers of the city and all
9 papers of the council shall be endorsed, filed and securely kept
10 by the clerk, except the bond of the clerk which shall be filed
11 with the mayor. All printed copies of such ordinances pur-
12 porting to be published, under authority of the council, and
13 transcripts of such ordinances, acts, orders and resolutions,
14 certified by the clerk under the seal of the city, shall be deemed
15 *prima facie* correct, when sought to be used as evidence in any
16 court or before any justice.

Sec. 14. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected and
3 signed by the presiding officer for the time being. Upon the
4 call of any member, the yeas and nays on any question shall be
5 taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or
2 measure for the expenditure of money other than to defray the
3 current and incidental expenses of the city, shall be deemed
4 passed or adopted unless it shall have been fully read at two
5 consecutive meetings of the council, and shall have received a
6 majority of the votes of members present, when it shall stand
7 and be declared adopted, and not otherwise.

Sec. 16. The council of said city shall have the following
2 general powers enumerated in the subdivisions of this section.
3 as follows:

4 (1) To lay off, open, close, vacate or maintain public
5 grounds, parks, public places, name and re-name the same, to
6 have control and supervision thereover, to protect the same
7 from damage or other injury by persons or property, to fix
8 fines and punishments for any injury thereto in violation of
9 any of the orders of said council, and to maintain good order
10 and prevent violations of the ordinances of said city therein
11 or thereon.

12 (2) To establish, maintain and regulate free public
13 libraries and reading rooms, and to purchase books, papers,
14 maps, manuscripts and other proper things therefor, to receive
15 donations and bequests of money or property for the same,
16 in trust or otherwise, and to pay the necessary expenses for
17 establishing, maintaining and regulating the same out of the
18 funds for general purposes; *provided*, such expenditure shall
19 not exceed one hundred dollars per annum unless by a unani-
20 mous vote of all of the members of the council.

21 (3) To protect divine worship within the limits of said
22 city, and to fix fines and punishment for disturbance of any
23 assemblage of people, then and there, met for the worship of
24 God, to prohibit any interference with or disturbance of divine
25 worship of God, to prohibit any interference with or distur-
26 ance of divine worship or an assemblage of people met together
27 for the worship of God by any person or persons loitering
28 about the premises or places where such worship is being had
29 or such assemblage is met, or from loitering in the public

30 streets or public places adjacent thereto in such manner as to
31 interrupt such worship.

32 (4) To acquire either by purchase, condemnation or any
33 other modes provided by general law, ground within said city
34 for such streets and alleys as the council may deem proper;
35 to locate, lay off, vacate, close, open, alter, grade, straighten,
36 widen, narrow, pave or re-pave, construct and keep in good
37 repair, the roads, streets, alleys, pavements, sidewalks, cross-
38 walks, drains, viaducts and gutters therein, and such bridges
39 as may be owned or built by the said city, for the use of the
40 public or of any of the citizens thereof, and to improve and
41 light the same and to keep the same free from obstruction of
42 every kind and clean; *provided* the municipality shall not be
43 liable for, or responsible in, damages for injuries to persons
44 or property caused by or from any defect or obstruction in or
45 on any street or alley within said city, that has been or may
46 be taken over by the state road commission, under and by
47 virtue of the laws of this state; nor shall said municipality
48 be liable in damages for injuries to persons or property caused
49 by or from a defect or obstruction in or on the plot of ground
50 between the gutter or curb of any street and the paved or
51 plank sidewalks extending there along or between any such
52 sidewalks and the property lying next adjacent thereto, unless
53 the municipality had actual notice of such defect or obstruc-
54 tion prior to the time of the injury complained of; and, *pro-*
55 *vided, further*, that where said city shall be required to
56 respond in damages by reason of injury to persons or property
57 occasioned by the failure of any abutting owner to so provide
58 or keep in repair any sidewalk along such property, after
59 being notified by the council so to do, that such property owner
60 shall be liable to the city for any sum of money, costs and
61 counsel fees which it has been required to pay by reason
62 thereof.

63 (5) To regulate the width of sidewalks and the streets
64 and the width and the care of the public grounds or grass plots
65 abutting thereon, and to order the sidewalks, footways, cross-
66 ways, drains and gutters to be curbed, paved, or re-paved and
67 kept in good order, free and clean, and to provide for the
68 removal of snow and ice therefrom, and for sprinkling the
69 same by the owners or occupants of the real property next
70 adjacent thereto, and to provide and enforce punishments for
71 obstructing, injuring, or preventing the free and proper use

72 thereof, and to provide and enforce fines and penalties for
73 throwing therein or thereon any paper, glass, rubbish, decay-
74 ing substances or other things that would make said streets,
75 sidewalks, grass plots, cross-walks, drains, or gutters unsightly
76 or unhealthy.

77 (6) To regulate the use of the walks, highways, bridges,
78 streets, alleys and gutters and the rate of speed of travel
79 thereon, and to prevent and punish for fast riding or driving
80 thereon of any horse, bicycle, wheeled vehicle, wagon, steam
81 or electric or traction engine, motor car or automobile, and
82 to prevent injury to such streets, alleys, roads and highways
83 from overloaded or improperly loaded vehicles, and from
84 dragging logs or other matter therein, and to regulate the
85 speed of engines or trains or streetcars upon or across any such
86 streets, alleys, highways, bridges, public places or any other
87 place where the council deems the public safety requires such
88 regulation.

89 (7) To regulate the planting, trimming, and preservation
90 of shade trees, by persons and by corporations, in streets,
91 alleys, roads, public grounds and places, and shall require the
92 owner of adjacent property to trim or remove any shade
93 tree or ornamental shrubbery or other tree that in the opinion
94 of the council is an obstruction to the streets, alleys, or side-
95 walks, or a menace to public safety.

96 (8) The council shall have the right to require the owner
97 or occupier of any property in the city to keep his premises
98 clean and free from all matters that would endanger the health
99 of the city, and may require the removal of any waste paper
100 or waste material of any kind or character upon the private
101 property of any citizen or property owner that would cause
102 the spread of fire or when the council deems the same should
103 be removed; and may require the removal or straightening
104 of any fence, wire, pailings, or other material enclosing any
105 lot, when, in the opinion of the council, the same is dangerous
106 or obstructs or encroaches upon the streets, alleys, or side-
107 walks; *provided*, that in all cases, if the owner or occupier of
108 such property fails to do any of the things enumerated in
109 this section required by the council, after notice by the coun-
110 cil, the council may take such action as may be necessary to
111 perform such acts and the expense thereof shall be charged
112 to the property owner and collected as taxes are collected.

113 (9) To regulate the making of division fences of an un-
114 sightly nature and party walls by the owners of adjoining
115 and adjacent premises and lots, insofar as the same shall not
116 be in conflict with general law.

117 (10) To regulate or require drainage by the owner or
118 occupier of any lot or other real estate, by proper drains,
119 ditches, and sewers, and to require the owner or occupier of
120 any lot to fill the same, at his own expense, so that water will
121 not collect in a body thereon, or so the same will not become
122 a menace to public health.

123 (11) To regulate or prohibit street carnivals, or street
124 fairs, or street parades, advertising exhibition, or other exhi-
125 bitions thereon, or the exhibition of goods, wares, merchandise,
126 material or artificial curiosities upon any street, sidewalk,
127 alley or public place of the said town.

128 (12) To regulate or prohibit the ringing of bells, blowing
129 of steam whistles, or use of hand-organs, or other instruments
130 of an annoying character, or other music of itinerant per-
131 formers in the streets, or public speaking and preaching in
132 the streets, roads, parks, or public places of the municipality.

133 (13) To license, regulate or prohibit auctioneering.

134 (14) To license, regulate or prohibit the sale of goods,
135 wares, merchandise, drugs or medicine on the streets or other
136 public places.

137 (15) To prevent the illegal sale, offering or exposing for
138 sale or advertising of spiritous liquors, wine, porter, ale, beer,
139 or drinks of a like nature.

140 (16) To prevent the illegal sale of tobacco, cigars, snuff,
141 or cigarettes, within said municipality, and to prevent the
142 smoking, by any person under twenty-one years of age, of any
143 cigarette, in any public building, or upon any public grounds,
144 street, alley, sidewalk, or public place within said city, and to
145 fix fines and punishments for violations thereof.

146 (17) To regulate, control or prohibit runners for hotels,
147 boarding houses and eating houses, and to regulate draymen or
148 persons hauling or transporting for hire at and about the
149 railroad depots and stations and other public places and in
150 an assesmblage of people within the said city.

151 (18) To regulate, assess and collect a license fee for the
152 said city for the doing of anything or business on which a
153 state license is required, subject to the exceptions provided by
154 general law.

155 (19) To provide, assess and collect a license tax from
156 residents in said city who own and operate or run an auto-
157 mobile therein, or from any person, whether a resident of said
158 city or not. who shall run or operate an automobile in said
159 city for hire, or keep the same for hire within said city;
160 *provided*, that any person, not a resident of said city, who
161 shall run or operate an automobile in said city, not for hire,
162 for a longer period than one month at any time, shall be
163 liable to pay the license tax assessed against resident automo-
164 bile owners.

165 (20) To establish, when the council may deem proper,
166 locate, and keep in repair, market places, market houses, and
167 regulate markets, prescribe the time for holding the same, to
168 authorize the seizure thereat and destruction of any and all
169 such foods and drink products, as shall be found unwhole-
170 some, dangerous or offensive, and without recourse against
171 the municipality for its cost or value.

172 (21) To regulate the sale of food and drink products,
173 milk, fresh meats, fish and vegetables, and to provide penalties
174 for the sale of any such that are unwholesome or unfit for
175 use.

176 (22) To regulate and provide for the weighing of hay,
177 coal and other articles for sale in the markets, or to residents
178 of said city.

179 (23) To require the merchants and other persons selling
180 goods, foods or materials that must be weighed, to keep cor-
181 rect scales, to seize and destroy such as may be found to be
182 incorrect, and not corrected after due and proper notice to
183 the owner or person using the same, without damage or
184-194 expense to the municipality for the value thereof.

195 (24) To prevent injury or annoyance to the public or
196 individuals from anything dangerous, offensive or unwhole-
197 some.

198 (25) To regulate the keeping, handling and transportation
199 of explosives and dangerous combustibles within the munici-
200 pality; and to regulate or prohibit the use of firecrackers, sky-
201 rockets, toy pistols, air rifles or guns, within the said
202 municipality.

203 (26) To regulate or prohibit the erection or operation, or
204 maintenance in what the council deems an improper locality
205 within said city, any blacksmith shop, livery stable, barn,
206 stable, cattle pen, poultry house, pig pen, privy, bill board,

207 sign board, gas or other engine, coal mine, coal plant, or coal
208 bin, or any other thing that may in the opinion of the council
209 be a menace to persons or property or public safety, or that
210 would injure private property or annoy citizens of said city.
211 (27) To regulate or prohibit the use of walls or walks for
212 signs; to regulate or prevent the distribution or posting of
213 any sign, bill or other paper that, in the opinion of the council
214 or mayor, is indecent or immoral.

215 (28) To define by ordinance what shall constitute a
216 nuisance, and to abate all nuisances, whether defined or not,
217 and to require the removal or abatement of any building,
218 obnoxious business, sign board, bill board, signs, or other
219 thing, which in the opinion of the council is a nuisance.

220 (29) To regulate or prohibit the distribution of hand bills,
221 circulars and other advertisements of like kind, on the streets,
222 roads, alleys and public places, or the placing of same in pri-
223 vate yards, building or other structures, without having first
224 procured the consent of the owner or occupier of such
225 property.

226 (30) To regulate or prohibit within the municipality or
227 within one mile of its corporate limits, the erection or mainte-
228 nance of any slaughter house, soap factory, glue factory, lamp
229 black factory, tannery or other house, shop or factory of like
230 kind or character.

231 (31) To establish within said municipality public drink-
232 ing fountains and water troughs; and to regulate the time and
233 place and manner of bathing in pools, streams and public
234 waters within the police jurisdiction of said municipal corpo-
235 ration.

236 (32) To prevent hogs, cattle, sheep, horses, and other
237 animals and fowls of all kinds, from going at large in the
238 municipality; and to establish and maintain places for their
239 detention, make regulations respecting the same, appoint a
240 pound master and define his duties and provide for the sale
241 of such property impounded.

242 (33) To arrest, convict and punish any person for com-
243 mitting adultery or fornication, or for any lewd or lascivious
244 cohabitation within said city, and for keeping an assignation
245 house, house of ill fame, or for leasing or letting to any other
246 person any house or other building to be kept or used as such,
247 or for knowingly permitting any house, under the control or
248 owned by any person, to be used as an assignation house or

249 house of ill fame; and to convict and punish for frequenting,
250 entering or loitering in any assignation house or house of ill
251 fame within said municipality.

252 (34) To arrest, convict and punish any person for im-
253 porting, printing, publishing, selling, giving away, exhibiting
254 or distributing any book, picture or device, or other thing
255 containing any obscene picture or language, or making any
256 indecent representation.

257 (35) To restrain, convict and punish vagrants, mendi-
258 cants, beggars, tramps, common prostitutes, and their asso-
259 ciates, and drunken or disorderly persons within the munici-
260 pality, and to provide for their arrest and manner of punish-
261 ment.

262 (36) To prevent and prohibit the use of indecent or pro-
263 fane language within the corporate limits, and to provide
264 and fix punishment therefor.

265 (37) To prevent and prohibit any tumult, riot, quarrel,
266 angry contention, or abusive language, and to prevent the use
267 of insulting epithets, assaults, assault and battery, and fix
268 fines and punishments therefor.

269 (38) To prevent and prohibit trespass upon private
270 property or the doing of anything which would annoy the
271 owner or occupier of any premises, and to fix and provide
272 fines and punishments therefor.

273 (39) To provide against danger or damages by fire, and
274 to that end, to require, when the council may think necessary,
275 an inspection of all the properties within the said city, and to
276 require the owner or occupier of any property in which a
277 defective or dangerous chimney or flue is found, to imme-
278 diately repair the same, and to prevent the use thereof until
279 repaired as required.

280 (40) To prohibit and prevent intoxication or drunkenness,
281 and the drinking of intoxicants in any public place, store,
282 street, or alley, and to fix fines and penalties therefor.

283 (41) To prohibit and punish for larceny where the amount
284 stolen is less than twenty dollars.

285 (42) To prohibit, prevent, and punish for anything that
286 is against the good morals and common decency, and that
287 would tend to corruption, vice or crime.

288 (43) To protect the public schools in said city, and to
289 prohibit and prevent any disturbance thereof in and about

290 the buildings or upon the grounds, and to prevent injury,
291 destruction or defacement of any school property or building.

292 (44) To establish a board of health and vest it with the
293 necessary power to maintain its object, and to fix fines and
294 penalties for any violation of its lawful orders.

295 (45) To establish quarantine, and to erect and maintain
296 pest houses and places of detention, and to make and enforce
297 necessary orders for controlling or preventing the spread of
298 infectious and contagious diseases, and for abating pestilences.

299 (46) To prohibit the bringing into the corporate limits
300 by railroads, carriers, persons, or in any manner, persons who
301 are paupers or persons who are afflicted with contagious
302 diseases; and to punish by fine and imprisonment, or both,
303 any person who shall bring into the corporate limits any such
304 pauper or person afflicted with contagious diseases, knowing
305 or having reason to believe at the time, that such person is a
306 pauper or afflicted with such contagious disease, and to collect
307 and recover from any such railroad company, carrier, or other
308 person, the expense of keeping and maintaining such pauper
309 or diseased person, until such person can be lawfully removed
310 from the corporate limits.

311 (47) To provide for the poor of the municipality, and to
312 that end, the municipality may contract with the county court
313 of Tucker county, for the keeping of such poor person, or any
314 number of them, at the county poor house, at a price and
315 on such terms as may be agreed upon between the county
316 court and the proper municipal authorities.

317 (48) To authorize the taking up and providing for the
318 maintenance and safe keeping, and educating of (for such
319 period as may be deemed expedient) all children within said
320 city who are destitute of proper parental and other care.

321 (49) To arrest, convict and punish any person for cruelty,
322 unnecessarily beating, torturing, mutilating, killing, or over-
323 loading, or over-driving, or wilfully depriving necessary sus-
324 tenance, any horse or other domestic animal.

325 (50) To regulate the hitching of horses within the corpo-
326 rate limits, and the driving of cows and cattle through, upon
327 and along the streets and alleys of the said city.

328 (51) To prohibit, prevent and punish for the pollution
329 of any stream of water running into or through the said
330 municipality; and to prohibit and prevent the throwing into

331 any stream of any trash, dirt, filth, offal, decayed substances
332 or matters, or anything that would make said water unhealthy
333 or unfit for domestic use.

334 (52) To prohibit, prevent and punish for any desecration
335 of the Sabbath day; prohibit the playing of any game, exhib-
336 iting any show, theatre, picture show, and the keeping open
337 of business places, except hotels, eating houses, boarding
338 houses, restaurants, drug stores and places where ice cream or
339 soft drinks are furnished.

340 (53) To restrain, prevent and punish fraudulent prac-
341 tices of any kind or character within the municipality.

342 (54) To arrest, convict and punish any person for
343 gambling or keeping any gaming table, commonly called faro
344 bank, or table and chips used in playing such game, crap, crap
345 table, chips or dice used in playing such game; or roulette or
346 the wheel, chips, or other equipment used in playing such
347 game; or keno table or table of like kind or device used in
348 playing the same; or table of like kind under any denomina-
349 tion, whether the game or games be played with cards, dice,
350 or otherwise on which anything is bet or wagered, whether the
351 same be played in any public or private room or residence;
352 and may convict and punish any person who shall be a partner
353 or concerned in interest in the keeping of any such gambling
354 devices heretofore enumerated, or in any game played, such
355 as is prohibited hereby, or in keeping or maintaining any
356 gambling house or place of gambling for money or anything
357 of value; and shall have the right to destroy such gambling
358 paraphernalia as may be found in use on any such premises;
359 and any officer armed with a warrant for the arrest of any
360 person engaged in any such unlawful game or for the search
361 of any room in which gambling is suspected, or for the seizure
362 of any gambling paraphernalia, shall have the right to break
363 into any building, other than a private dwelling house, without
364 notice or demand, and into a private dwelling or room, after
365 demand and refusal to open same, to execute any such
366 warrant.

367 (55) To restrain all felons and persons guilty of offenses
368 against this state or the United States, and deliver them over
369 to the authorities or court having jurisdiction of the offense
370 whereof such person is accused.

371 (56) To apprehend and punish any person who, without
372 a state license therefor, is guilty of carrying about his person,

373 within the municipality, any revolver or other pistol, dirk,
374 bowie knife, sling shot, razor, billy, metallic or other false
375 knuckle, or any other dangerous or deadly weapons of like
376 kind and character, as provided by chapter fifty-one of the
377 acts of the legislature of one thousand nine hundred and nine,
378 or any amendment thereof, and the punishment therefor,
379 whether for the first or other offenses, shall be that prescribed
380 by said chapter for any such person guilty under the misde-
381 meanor clause provided therein; *provided*, that the mayor
382 acting as *ex-officio* justice of the peace, may, after enforcing
383 this ordinance, hold such offender to answer to an indictment
384 in the circuit court of Tueker county for such offense, under
385 the state law.

386 (57) To regulate the erection, construction, alteration and
387 repair of dwelling houses, buildings and other structures,
388 within the municipality, to issue permits therefor, and to
389 compel the numbering of such houses and buildings by the
390 owners and occupiers thereof; and to prescribe by ordinance
391 the distance which dwelling houses, and other structures in
392 resident districts shall be set back from the sidewalk.

393 (58) To regulate the hanging of doors, the construction
394 of stairways and elevators, and require fire escapes in theatres,
395 churches school buildings, factories and other places deemed
396 necessary by the council.

397 (59) To establish fire limits and to regulate the construc-
398 tion of buildings, and designate materials to be used in the
399 construction of buildings within such limits.

400 (60) To regulate the building of fire walls, fire places,
401 chimneys, boilers, smoke stacks, stove pipes, and the burning
402 of waste paper, trash or other waste matter, in the corporate
403 limits.

404 (61) To require any building that, in the opinion of the
405 council, is dangerous, to be repaired, altered, or removed by
406 the owners thereof, or put in a safe condition, such as the
407 council may approve, at the expense of such owner or occupier,
408 and to provide punishments for failure to comply with any
409 order of the council concerning same.

410 (62) To regulate the height, construction and inspection
411 of all new buildings thereafter erected, the alteration and
412 repair of any buildings now or hereafter erected, to require
413 permits to be obtained of the council therefor, and the sub-

414 mission of plans and specifications to the council for its
415 approval; to regulate the limits within which it shall be lawful
416 to erect any steps, porticos, bay windows, awnings, signs,
417 columns, piers, or other projection or structural ornaments
418 of any kind for the houses or buildings on any street or alley.

419 (63) To provide for the extinguishing and prevention of
420 fires, and for this purpose, the council may equip and govern
421 fire companies, prescribe the powers and duties of such com-
422 panies and departments, and of the several officers thereof,
423 or may authorize volunteer fire companies, under such rules
424 and regulations as the council may prescribe, and impose on
425 those who fail to obey any lawful command of the officer in
426 charge of any such company, or volunteer company, any pen-
427 alty which the council is authorized to impose for violation of
428 an ordinance, and to give authority to any such fire officer
429 to direct the pulling down or destruction of any building,
430 fence, wall or other thing, if such officer deem it necessary to
431 prevent the spreading of any fire which is being extinguished
432 under the direction of such officer, and without any liability on
433 the municipality for damages therefor.

434 (64) To protect the persons and property within the
435 corporate limits and preserve the peace and good order
436 therein, and for this purpose, to appoint, when necessary, a
437 police force and such other officers as may be deemed neces-
438 sary; and to provide a lockup, jail or other suitable place to
439 confine persons sentenced to imprisonment for violation of the
440 ordinances of said city; *provided, however*, that the jail of
441 Tucker county may be used for that purpose, if authorized by
442 the county court of said county.

443 (65) To require any person violating any of the ordi-
444 nances of said city, or any order for which a fine, imprison-
445 ment or both is imposed, to work upon the streets of said city
446 in case of non-payment of said fine, until the same is paid
447 by such labor, or in case imprisonment is imposed, to work
448 upon the streets of said city during the term of such imprison-
449 ment in addition to the payment of such fine, under such
450 regulations as the council may prescribe.

451 (66) To prescribe the powers, define the duties of the
452 officers appointed under the corporate authority, fix their
453 terms of service and compensation, if not otherwise prescribed
454 by this charter, and to acquire and take from them bonds,
455 when deemed necessary, payable to the state of West Virginia,

456 of the city of Thomas, with the sureties, and in such penalties
457 as may be prescribed, conditioned for the faithful discharge
458 of their respective duties; *provided*, that the compensation of
459 any officer, elected or appointed, shall not be increased nor
460 diminished during the time for which he is elected or
461 appointed, unless due notice of such intention is first served
462 on the officer interested.

463 (67) To make regulations with respect to, and have super-
464 vision and control over the erection, removal and relocation
465 of all telephone, telegraph, electric light or other poles within
466 said city, and the extension of wires, lines or poles by any
467 individuals or corporations.

468 (68) To grant and regulate all franchises in, upon, over
469 and under the streets, alleys and public ways of said city,
470 under such restrictions as shall be provided by ordinances and
471 general law; but no exclusive franchise shall be granted by
472 said city council to any individual or corporation; nor shall
473 any franchise be granted for a longer period than fifty
474 years.

475 (69) To acquire, erect or authorize or prohibit the erec-
476 tion of gas works, electric light works or water works within
477 the city limits; to prevent injury to such works or the pollu-
478 tion of any gas or water used or intended to be used by the
479 public or individuals; and to do all things necessary to ade-
480 quately supply said city and the inhabitants thereof with
481 pure, healthful and wholesome water; to use, generate, dis-
482 tribute, sell and control electricity and gas for heat, light and
483 power, and to furnish light for the streets, highways, build-
484 ings, stores and other places in and about said city.

485. (70) To prevent injury to any gas works, electric light
486 works, water system or any gas meter or meters within said
487 municipality.

488 (71) The council shall have the right to require of any
489 water company or person furnishing water for the use of the
490 inhabitants of said city, for hire, compensation or reward, to
491 obey any order of the council with respect to keeping the
492 reservoir or other source from which said water is furnished,
493 free from filth and in a good, clean condition, and may require
494 said water company to properly filter the water distributed
495 for use, and may require said company to put in such lines as
496 may be necessary to pump the said water into the reservoir

497 or other receptacle therefor, without pumping the same into
498 the main distributing lines, or in any other way or manner
499 effecting them; and may fix fines and penalties for any failure
500 on the part of any corporation, company or other person dis-
501 tributing water, to obey any order of the council or any
502 authorized officer of the town, respecting the same, or any
503 ordinance that may be enacted by the council relative thereto.

504 (72) The council shall have the right to own, maintain,
505 operate any electric light plant within said city, or to pro-
506 vide for, or purchase electric power and to use, generate,
507 distribute and sell electricity and gas for heat, light and
508 power, and to furnish light for the streets, houses, buildings,
509 stores and other places in and about said city, and for such
510 electricity other than that furnished for the municipality in
511 lighting its streets or public places, it may charge reasonable
512 rates, but such rates in all cases shall be uniform; and such
513 electric light plant shall be under the supervision and control
514 of the council, and its wires, poles, distributing system and
515 machinery shall be kept in such repair so that as little danger
516 as possible shall arise therefrom, and so that same will furnish
517 an adequate supply of electricity to all persons in said city
518 desiring to use the same.

519 (73) The council shall have the right to provide a sewer-
520 age system for said city, and may require the owner of any
521 property abutting upon any street or alley in which a sewer
522 has been laid or placed, to connect a sewer leading from his
523 or her property or lot into any public sewer which is located in
524 such street or alley adjoining same, and if the owner or occu-
525 pier of said lot or property fails or refuses so to do, after
526 having been given a reasonable notice, the council may enter
527 upon such lot and construct such sewers, and may levy the
528 actual cost thereof against the lot upon which the same is
529 built and collect such costs from the owner of such lot in the
530 same manner as city or state taxes are collected; in addition
531 thereto, the council may punish by fine, or fine and imprison-
532 ment, any person who permits any drainage from his residence
533 or lot to enter upon any street or upon any property after a
534 sewer has been placed in a street or alley adjacent to his
535 property to which he should connect, after notice has been
536 given to him by the council to make such connection.

537 (74) The council shall have the right to impose fines and
538 penalties for any interference with or destruction of the sewer
539 system or any part thereof in said city, or for the destruction
540 of or damage to any street, alley or sidewalk in said city, or
541 any improper use thereof; it shall have the right to regulate
542 or prevent the use of the sidewalk for bicycles, pushcarts,
543 sleds, tricycles, roller skates and other things of like character,
544 and to fix fines and penalties for violation of the ordinances
545 respecting same.

546 (75) To grant by ordinance or resolution permits for the
547 temporary use of such parts of its streets, roads, alleys and
548 public places as the council may deem proper and right to be
549 used in the construction, alteration or repair of buildings
550 located thereon, or for such other purposes as the council may
551 deem proper and right, and under such regulations and for
552 such time as the council may prescribe.

553 (76) The council may buy, lease and operate either within
554 or without the municipality, stone quarries, crushers and land
555 for said purposes or for the purpose of furnishing a supply of
556 stone or other material suitable for macadamizing or paving
557 the streets, sidewalks and alleys, and improving public
558 property.

559-574 (77) Whenever in the opinion of the council it is neces-
575 sary that any sidewalk be built or repaired, it shall first have
576 a competent engineer fix a grade line for such sidewalk and
577 shall then, by order of council, name the character of material
578 out of which same is to be built, and fix the width thereof,
579 and put in such curbing as the council may deem necessary,
580 and shall then give notice, in writing, to the owner or occupier
581 of said lot, if he be found, and if he be not found, by posting
582 a notice thereof upon the said lot and at the front door of the
583 court house of Tucker county for at least ten days, requiring
584 the construction of said sidewalk in accordance with the
585 requirements of the council, and upon the grade fixed by the
586 said engineer, and if such sidewalk be not built, altered or
587 repaired within twenty days after such notice is first given
588 or posted, the council shall proceed to put in the same under
589 its supervision and control, and shall charge the expense
590 thereof against the property along which the same is being
591 placed, altered or repaired, and shall cause an itemized
592 account of the same to be made up and delivered to such

593 property owner or occupier of such premises, if found, and
594 if he be not found, have the same recorded in the county
595 clerk's office of Tucker county, and the same shall constitute
596 a lien upon the said lot or property and shall be collected as
597 other taxes are collected; *provided*, nothing herein contained
598 shall prevent the council from requiring immediate repair of
599 such sidewalks now or hereafter constructed that may become
600 dangerous, and after notice to the property owner along which
601 the same run, the council may make such immediate repairs,
602 if the property owner fails to make same after such notice,
603 and the expense thereof shall be a lien in the manner afore-
604 said.

605 (78) The council shall have the right, when, in its opinion,
606 it is necessary or proper to do so, to pave any street or alley
607 of said city, and to prescribe the materials to be used in such
608 paving and to charge one-third of the total costs of preparing
609 and paving the said streets to the adjacent property owners
610 on each side of the said street or alley, and to pay one-third
611 thereof out of such funds as the council may provide, but
612 such paving shall be done and such assessments and charges
613 made against the property owner as provided by chapter eight
614 of the acts of the legislature of one thousand nine hundred
615 and eight, and any amendments thereto, or hereafter made.

616 (79) To operate by ordinance such committees or boards,
617 and delegate such authority thereto as may be deemed neces-
618 sary or advisable by the council; and to employ such legal
619 counsel on behalf of the city, from time to time, as the city
620 may deem necessary to protect the interests of the city.

621 (80) To provide for the annual assessment of the taxable
622 property in said city, including dogs kept in said city, and to
623 provide a revenue for said city for municipal purposes and
624 appropriate such revenue to its expenses; *provided*, nothing
625 hereinafter contained shall require the council to keep in
626 repair and maintain any bridge or bridges within said cor-
627 poration, nor or hereafter owned by the county of Tucker,
628 but the officers of said corporation in the preservation of law
629 and order shall have jurisdiction over any such bridges within
630 such corporation; and *provided, further*, that the police regu-
631 lations as may be ordained by said city, and the right and
632 power to enforce the same shall extend one mile into the

633 state of West Virginia beyond the corporate limits of said
634 city.

635 (81) The council may, within any prescribed area, pro-
636 hibit the erection on any street or in any square, of any
637 building, or of any addition to any building more than ten
638 feet high, unless the outer walls thereof be made of brick and
639 mortar or other fire-proof material. And may require the
640 removal of any building or addition which shall be hereafter
641 erected contrary to this prohibition, at the expense of the
642 owner or owners thereof.

643 (82) The council shall keep all roads, streets and alleys
644 within its limits passable and in good repair, and may provide
645 the expenses therefor by a direct taxation, as provided under
646 this charter, or in any other manner authorized by law; and
647 the residents of said city who are taxed therein for the pur-
648 pose of maintaining such streets and alleys shall be exempt
649 from the payment of any county road tax.

650 (83) In the enforcement of the ordinances, orders, rules,
651 regulations and by-laws of the said city, no fine shall be
652 imposed exceeding five hundred dollars, and no person shall
653 be imprisoned or compelled to labor on the streets of said city,
654 as aforesaid, exceeding six months; *provided*, that any viola-
655 tion of the prohibition or liquor laws of this state shall be
656 punished by the fines and penalties herein prescribed; and
657 violations of the road law or automobile laws, may be punished
658 by the fines and penalties prescribed by general law, unless
659 different fines and penalties are expressly prescribed by the
660 ordinances of said city. And in all cases where a fine is
661 imposed for an amount exceeding ten dollars, or a person be
662 imprisoned or compelled to labor as aforesaid, an appeal
663 may be taken from such decision upon the same terms and
664 conditions that appeals are taken from the judgment of a
665 justice of this state; and in no case shall a fine of less than ten
666 dollars be imposed where the ordinance prescribes a fine, if
667 the defendant requests that such fine be made at least ten
668 dollars for the purpose of appeal.

669 (84) The council shall have the right to enforce the
660 ordinances of said city. And in all cases where a fine is
661 imposed for an amount exceeding ten dollars, or a person be
662 imprisoned or compelled to labor as aforesaid, an appeal
663 may be taken from such decision upon the same terms and

664 conditions that appeals are taken from the judgment of a
665 justice of this state; and in no case shall a fine of less than ten
666 dollars be imposed where the ordinance prescribes a fine, if
667 the defendant requests that such fine be made at least ten
668 dollars for the purpose of appeal.

669 (85) The council shall have the right to enforce the
670 attendance of its members at all regular meetings and at all
671 special meetings of which such members have notice, and may
672 cause the arrest and punishment, by fine or fine and imprison-
673 ment, of any such member who refuses to attend and take
674 part in its proceedings.

675 (85)) It shall be the express duty of the council to present
676 charges against any of its members, or any officer of the city,
677 who fails to perform, or who does not promptly and diligently
678 perform any duty prescribed by this act, or by any ordinance
679 or resolution of the council, and upon hearing thereof before
680 the council, after notice to such officer, he shall be removed
681 from office by the council, if the charges be found correct.

Sec. 17. Franchises may be granted by the city council to
2 persons or corporations allowing such occupancy of portions
3 of the streets and alleys, as may be necessary for works of
4 public utility and service, but no such franchise shall hereafter
5 be granted except under the following restrictions and condi-
6 tions: No ordinance shall be passed granting any franchise
7 for the use of any of the streets or alleys of the city for any of
8 the purposes above named, until the same shall have been filed
9 with the clerk at least thirty days prior to the time when it is
10 to be acted upon by council, and notice of such application,
11 stating the object of such franchise and when the same shall
12 be considered by the council, shall have been given thirty days
13 notice, in some newspaper of general circulation published in
14 the city.

15 Nor shall such franchise be granted within thirty days after
16 the application has been filed, nor until an opportunity has
17 been given any citizen or corporation, interested in the grant-
18 ing or refusing of said franchise to be heard.

19 Nor shall any franchise be hereafter granted by council for
20 a longer period than fifty years; *provided*, that council shall
21 have the power to renew any such franchise for the term of
22 fifty years when the same shall have expired. No franchise
23 hereafter granted for a longer period than fifty years shall be

24 of any force or validity. No grant of any such franchise shall
25 be made unless at the time of making it, the grantee, its suc-
26 cessors or assigns, shall indemnify the city against all damages
27 caused by the construction of such works.

28 If any corporation, or person to whom a franchise has been
29 heretofore or may hereafter be granted, or their successors or
30 assigns, shall fail to comply with the conditions of the ordinance
31 granting such franchise within one year from the time said
32 conditions are directed to be performed, said franchise shall
33 be and the same become null and void.

Sec. 18. To carry into effect these enumerated powers and
2 all others by this act or general law conferred, or which may
3 hereafter be conferred upon the said city or its council or any
4 of its officers, the said council shall have and possess full
5 authority to make, pass and adopt all needful ordinances,
6 by-laws, orders and resolutions not repugnant to the consti-
7 tution and laws of the United States or of this state; and to
8 enforce any or all of such ordinances, by-laws, orders or reso-
9 lutions by prescribing for a violation thereof, fines and penal-
10 ties and imprisonment, in either the county jail of Tucker
11 county or the city prison, if there be one, but no sentence shall
12 exceed ninety days. Such fines and penalties shall be imposed
13 and recovered, and such imprisonment inflicted and enforced,
14 by and under the judgment of the mayor of said city, or in
15 case of absence or inability to act, of the clerk of said city, or
16 in the case of absence or inability to act of both of said officers,
17 of one of the councilmen, appointed for that purpose by the
18 council.

Sec. 19. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 resolutions of the council thereof are faithfully executed; he
4 shall be *ex-officio* a justice and conservator of the peace within
5 the city and shall within the same, have, possess and may exer-
6 cise, all the powers and perform all the duties whether in civil
7 or criminal proceedings, vested by law in a justice of the peace.
8 Any summons, warrant or other process, issued by him may be
9 executed at any place within the county; he shall have power
10 during the recess of the regular meetings of council to appoint
11 special police officers when he shall deem it necessary, and it
12 shall be his duty to see that the peace and good order of the
13 city are preserved, and that persons and property therein are

14 protected; and to this end he may arrest and detain, or cause the
15 arrest and detention of all riotous and disorderly persons be-
16 fore taking other proceedings in the case; he shall from time to
17 time recommend to the council such measures as he may deem
18 needful for the welfare of the city; he shall not receive any
19 money due or belonging to the state or corporation or to
20 individuals, nor have civil jurisdiction of a justice, unless
21 and until he shall have given the bond and security required
22 of a justice of the peace by chapter fifty of the code of West
23 Virginia; and all the provisions of said chapter relating to
24 moneys received by justices shall apply to moneys received
25 by him in like cases.

26 The mayor shall receive a salary of one hundrd and fifty
27 dollars per annum, to be paid on the first day of March of each
28 year, and in addition thereto the mayor shall receive all fees
29 that accrue to him in proceedings for the enforcement of
30 ordinances and all such fees shall be collected and retained by
31 the mayor; he may tax such costs against any person or corpora-
32 tion found guilty of the violation of any ordinance of the city
33 as are provided to be taxed and recovered by justices of said
34 county in criminal cases, and the mayor shall be entitled to
35 the same fees as those received by a justice of this county in
36 similar proceedings. Each councilman of the city shall receive
37 from the city, to be paid out of the city treasury, the sum of
38 fifty dollars per annum, payable on the first day of March of
39 each year.

Sec. 20. The process in proceedings to enforce any ordi-
2 nance prescribing a fine or imprisonment, or a fine and im-
3 prisonment, for the violation thereof shall be a summons in the
4 name of the City of Thomas, as plaintiff, directed to the chief
5 of police, to one of the regular police officers of the city, or to
6 any constable of any district within the said city, requiring
7 him to summons the person accused of such violation and who
8 shall thereafter be designated as defendant, to appear before
9 the mayor at the time and place therein named, to make
10 answer to such accusation and be dealt with according to law;
11 such summons shall contain such a statement of the facts
12 alleged as will inform such person of the general nature of the
13 offense against the city with which he stands charged, and ex-
14 cept in cases of arrest upon view, shall be issued only upon the
15 complaint on oath, of some creditable person. But the mayor

16 may for good cause appearing, by endorsement on the summons.
17 order the person so accused to be forthwith apprehended and
18 brought before him for a hearing of the charge. The clerk of
19 said city as well as the mayor, shall have authority to receive
20 any complaint in writing of the violation of any ordinance,
21 and to sign and issue the proper summons based upon such
22 complaint. The mayor shall possess, and may exercise, the
23 power and authority belonging to a justice under sections two
24 hundred and twenty-four and two hundred and twenty-five
25 of chapter fifty of the code of West Virginia, in summoning
26 and enforcing the attendance and examination of witnesses, in
27 punishing for contempt, in granting continuances, and in
28 securing and enforcing the further attendance of the accused
29 with a view to a trial or hearing. If any recognizance be taken
30 for such further attendance, and is forfeited, the mayor may
31 record the default, and an action be maintained in the name
32 of the city, before the mayor, or any justice having jurisdiction,
33 against the accused and his sureties, if any, to recover the pen-
34 alty thereof.

Sec. 21. The mayor shall have power to issue an execution
2 for any fine and costs assessed or imposed by him, for the
3 violation of any ordinances, or he may at the time of rendering
4 judgment therefor, or at the time thereafter and before satis-
5 faction of such judgment, by his order in writing, require the
6 immediate payment thereof; and in default of such payment
7 he may cause the person so in default to be apprehended and
8 brought before him, and commit him to the jail of Tucker
9 county or in his discretion to the prison of said city, if one
10 shall have been provided, and require him to labor on the
11 streets until the fine and costs are fully paid; but such impris-
12 onment shall not exceed ninety days.

Sec. 22. The jail of Tucker county may be used as a lockup
2 for said city. The jailer of said county shall take and receive
3 into his custody by any person authorized to be confined there-
4 in by the ordinance of said city, or sentenced to imprisonment
5 therein, or committed thereto, for non-payment of fine or
6 costs or for failure to enter into a recognizance by the judg-
7 ment or order of the mayor, in proceedings for violation of an
8 ordinance; and the expense of maintaining such persons while
9 so in confinement shall, if such person be found guilty of such

10 violation, be charged to such person as part of the costs, but
11 whether collected from such person or not, such expense shall
12 be paid to said jailer by the city.

Mayor's Docket

Sec. 23. A book, well bound and indexed, to be denominated,
2 the docket, shall be kept in the office of the mayor, in which
3 shall be noted each case brought or tried by him, together with
4 the proceedings therein, including a statement of complaint,
5 the summons, the return, the fact of appearance or non-appear-
6 ance, the defense, the hearing, the judgment, the costs, and in
7 case the judgment be one of conviction, the action taken to
8 enforce the same; the record of each case shall be signed by the
9 mayor or other person acting in his stead; and the original
10 papers thereof, if no appeal be taken, shall be kept together
11 and preserved in his office.

Appeal

Sec. 24. In any case for the violation of an ordinance of the
2 said city in which there is a judgment by the mayor, or im-
3 prisonment, or for a fine of more than ten dollars, an appeal
4 shall lie at the instance of the person against whom such judg-
5 ment shall be rendered, to the circuit court of Tucker county.
6 Such appeal shall not be granted by the mayor unless, within
7 ten days from the date of the judgment such person shall enter
8 into a recognizance with security deemed sufficient, in a pen-
9 alty double the amount of fine and costs, with condition that
10 the person appealing, will appear before the said court on the
11 first day of the next term thereof, to answer for the offense
12 against the city with which he stands charged, and not depart
13 thence without leave of the court, and will perform and satisfy
14 any judgment which may be rendered against him by the cir-
15 cuit court on appeal. The provisions of chapter one hundred
16 and sixty-two of the code of West Virginia, relating to recog-
17 nizance in criminal cases, shall be applicable to the recognizance
18 contemplated by this section, except where therein otherwise
19 provided; but any money recovered thereon or by virtue
20 thereof shall inure to said city.

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any; the summons, a transcript of the record including the
4 judgment, the recognizance, and any other papers belonging

5 to the case; and such clerk shall receive and file the same, and
6 place the case upon the trial docket of the next succeeding
7 term of said court, and said court shall proceed to try the same
8 in its order.

Sec. 26. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury
3 or otherwise, the court shall ascertain by its judgment the fine
4 or imprisonment, or the fine and imprisonment to be paid or
5 suffered by such defendant, having regard to the punishment
6 prescribed by such ordinance, and shall include in any such
7 judgment, the costs incurred by said city, as well in the pro-
8 ceedings before the mayor as those in court, including a fee to
9 the attorney for the city of five dollars, and the fees, if any,
10 of the jailer or the keeper of the city prison; and the proceed-
11 ings to enforce the collection of any such fine and costs, as may
12 be provided in sections, ten, eleven and twelve of chapter thir-
13 ty-six of the code of West Virginia, except that the writ men-
14 tioned in the tenth section, may be issued by the clerk, upon
15 the order of the mayor of the city, and the notice contemplated
16 by the eleventh section shall be given to such officer. If the
17 judgment be for the defendant, he shall recover his costs
18 against the city, but no docket fee shall be charged against
19 the city.

Sec. 27. From all judgments by the mayor, in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Clerk

Sec. 28. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council, and have charge of
3 and preserve the records, papers, contracts and other docu-
4 ments belonging to the city; it shall be his duty to attend the
5 sessions of the police court, and keep an accurate record of the
6 proceedings, and all judgments shall be entered by him, within
7 twenty-four hours after the same is rendered; he shall, in
8 cases of sickness or disability of the mayor to act, or in case
9 of his absence from the city, or during any vacancy in the
10 office of the mayor, perform the duties of the mayor, and shall
11 be vested with all the powers necessary for the performance
12 of such duties; he shall also perform the other duties pertain-
13 ing to the fiscal affairs of the city, or otherwise, as may be
14 required of him by this act or by the council.

15 As soon as the rate of levy shall have been fixed by council
16 according to law, the clerk shall furnish the officer whose duty
17 it is to make out the land and personal property books, a certi-
18 fied copy of the order of the council fixing the rate of tax, and
19 such officer shall thereupon extend the tax against the property
20 situated in the city, in the land and personal property books,
21 in separate columns in said book.

22 The clerk shall receive a salary of one hundred and fifty
23 dollars per annum, such salary shall be in lieu of any fees
24 that may accrue to him from issuing of licenses, or transcripts
25 of any records.

Sec. 29. The collector shall, when the extended copies
2 of the assessor's books are completed and returned to the clerk
3 of the county court, have access to the same, for the purpose
4 of making out the tax tickets of the taxes therein extended,
5 and it shall be the duty of the collector to make out all tax
6 tickets, and when the same shall have been examined, compared
7 and approved by the financial committee of the council and
8 found to be correct, they shall be forthwith turned over to the
9 collector, whose receipt shall be returned to the council and
10 entered upon its record, and the collector shall be charged
11 therewith.

12 The collector shall give notice that said tax tickets are in
13 his hands for collection, stating the penalty for non-payment
14 thereof, and the time and place where same may be paid, which
15 notice shall be published for fifteen days in one or more news-
16 papers published in said city, or elsewhere in Tucker county,
17 if there is no newspaper in said city.

18 The collector shall immediately proceed to collect from the
19 persons by distraint or otherwise, the entire amount of the
20 taxes with which they are severally charged therein, and re-
21 maining unpaid on the first day of January next, succeeding
22 said levy, with interest at the rate of one per centum per month
23 from the said first day of January until they are fully paid.

24 All license taxes shall be payable on the first day of July of
25 each year, or at such time as such licenses may be issued.

Sec. 30. The said collector shall receive all taxes, assess-
2 ments, fines and costs, water rents, and other money due the
3 city authorized by this act, or by any ordinance of said city,
4 to be paid to the city and shall receipt for the same; he shall
5 keep an accurate account of all money paid to him for the use

6 of said city, showing under separate accounts the amounts
7 received for account of taxes, sewer purposes, street pavements,
8 licenses, water rents and other bills due the city, fines and
9 costs and of other matters pertaining to his office, which books
10 shall at all times be open to the inspection of the council. or to
11 any committee appointed by it for such purposes; he shall pay
12 over promptly any money which he may receive, within five
13 days after the receipt thereof, into the hands of the treasurer
14 of said city, showing an itemized statement of the several
15 funds included in such payment, taking the treasurer's receipt
16 therefor; he shall keep his office at the office of the mayor, unless
17 otherwise ordered by the council and shall keep his office open
18 for the transaction of business, as may be directed by the coun-
19 cil; he shall on or before the first day of January and July of
20 each year and oftener, if directed by the council, present to the
21 council a full complete and detailed statement of all money
22 with which he is chargeable, or that has been received by him
23 from all sources up to that time, together with a statement of
24 all money paid to the treasurer and proper receipt therefor.
25 and he shall at such times return a list of all taxes, levies and
26 assessments and other claims in his hands for collection which
27 he shall not have been able to collect by reason of insolvency,
28 removal, or other cause, to which list he shall append an affi-
29 davit that he has used due diligence to collect the several items
30 therein mentioned, but has been unable to do so, and if the
31 council should be satisfied as to the correctness of such list, it
32 shall allow him a credit for said claims, but may thereafter take
33 such lawful measures to collect same as may be by it prescribed.
34 The said collector shall receive all taxes on licenses, and receipt
35 to the party paying same by endorsement upon the permit
36 granted by order of the council and shall charge himself with
37 the amount received from the same, and report to the council,
38 at the next regular meeting thereafter, the amount so received
39 and pay the same over to the treasurer, taking his receipt for
40 the same; he shall upon the expiration of his term of office, or
41 upon order of the council, turn over to his successor all money,
42 books of account and all other property of said city in his pos-
43 session; he shall receive such salary as may be fixed by the
44 council which shall be not less than at the rate of six hundred
45 dollars nor more than twelve hundred dollars per annum.

Sec. 31. The chief of police of said city before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, payable to the City of Thomas, in a penalty of not less than two thousand nor more than ten thousand dollars, as the council may prescribe; he shall be custodian of all notes, bonds, certificates and other evidences of indebtedness to the city, together with all valuable papers which may be placed in his possession by the council; he shall be chargeable with, and it shall be his duty to collect the city taxes, levies, and assessment, under such regulations as may be prescribed by law and the ordinances of the city, and in case the same are not paid within one year, after they are placed in his hands for collection, he may detain and sell therefor in like manner, and have the same power and authority possessed by the officer charged with the collection of state taxes.

If the chief of police shall fail to collect, account for and pay over to the treasurer of said city, any or all of the money with which he may be chargeable, belonging to said city, according to the conditions of his bond and orders of the council, it shall be lawful for the council to recover same by action or by motion, upon ten days notice in the corporate name of the city, in the circuit court of Tucker county, against him or his sureties, or any or either of them, or his or their executors or administrators.

Solicitor

Sec. 32. It shall be the duty of the solicitor to prepare when directed by council, all ordinances for said city, to represent the said city in all matters and proceedings in any court, in which the said city is interested and counsel the said council when requested; he shall receive a compensation for his services, to be fixed by the council.

Chief of Police

Sec. 33. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him, for neglect of duty or

5 insubordination, suspend any such officer from duty, and re-
6 port his actions and reasons therefor, to the next regular meet-
7 ing of the council for action thereon; he shall make a list of
8 all dogs within the said city liable to tax and collect the license
9 tax thereon as may be provided by ordinance of said city; he
10 shall be present in the police court whenever the same shall be
11 in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of the council
13 entered of record, but not otherwise, appoint one or more
14 policemen as the council may be determine.

See. 34. In ease a violation of any ordinance of said city is
2 committed in the presence or within the view of the chief of
3 police or other police officer, the offender may be forthwith
4 apprehended and taken before the mayor, and a complaint
5 under oath, stating such violation there lodged and filed; and
6 thereupon such offender may be tried and dealt with according
7 to law, without summons. The chief of police shall execute
8 within the county of Tucker when directed to him, any proper
9 process issued by the mayor in proceedings for the enforcement
10 of ordinances; and shall collect by levy of execution or other-
11 wise, and duly account for, all fines assessed and costs imposed
12 in such proceedings. He shall also have all the rights and
13 powers, within said city in regard to the arrest of persons, the
14 collection of claims and execution and return of process, that
15 are or may be lawfully exercised by a constable of a district
16 within the same, and shall be entitled to the compensation
17 therefor; and he and his sureties shall be liable for to all fines,
18 penalties and forfeitures, for which a constable is liable, for
19 any dereliction of duty in office, to be recovered in the same
20 manner and in the same courts, that such fines, penalties and
21 forfeitures are recovered against constables.

Treasurer

See. 35. The treasurer may be a citizen, a bank or trust
2 company of said city, and shall be selected by council and shall
3 hold office during the pleasure of the council. All money due
4 the city shall be paid to the chief of police and be by the chief
5 of police deposited with the treasurer. The money deposited
6 with the treasurer shall be disbursed only upon orders drawn
7 against the same, signed by the mayor and countersigned by
8 the clerk. The treasurer shall receipt to the chief of police
9 for all money paid by him, and shall keep regular books of

10 account, showing the amount of the several funds paid or
11 deposited with the treasurer by said chief of police, and shall
12 make report to the council once a month, or at such other times
13 as the council may direct, showing the receipts and disburse-
14 ments of the funds of the city, and the treasurer shall produce
15 his books and accounts to council or any committee of the same
16 for inspection, upon order of the council.

17 The treasurer shall give bond with security to be approved by
18 the council, in a sum of not less than five thousand dollars,
19 with condition that the said treasurer shall account for and
20 pay over all money received for the account of said city, as may
21 be directed by the council. The said treasurer shall receive
22 compensation as the council may fix, which shall not be at the
23 rate of more than two hundred dollars per annum. Any bank
24 or trust company of said city is hereby authorized to act as
25 treasurer of said city, and the same shall be liable for all money
26 deposited therein.

City Commissioner

Sec. 36. The city commissioner, if one should be appointed,
2 shall receive such compensation as may be fixed by the council.
3 The city commissioner (if one should not be appointed, then
4 the chief of police), shall be chosen with the following duties:
5 He shall have general supervision of the streets, alleys, drains
6 and sewers of said city, and of the construction of new streets,
7 alleys, sewers and drains, and of making changes in the ones
8 existing. He shall also be the chief health officer of said city,
9 and shall report forthwith to the council anything that is in his
10 judgment detrimental to the health of the public, and espe-
11 cially, he shall report any contagious or epidemic disease that
12 may occur in said city. He shall see to the lighting of the
13 streets, and that the same are properly lighted, pursuant to
14 contract. He shall have supervision of the water works and of
15 all tangible property of the said city, and all appliances used by
16 the fire department of said city, and shall see to it that the same
17 is properly taken care of and kept in proper condition for use.
18 It shall be his duty to investigate all applications for new streets
19 and alleys, and all applications for the use of the public water
20 for all purposes, and report the same to the council with his
21 recommendation, in regard thereto.

22 It shall likewise be his duty to report to the council, every
23 obstruction found in any of the streets or alleys of said city,

24 and on such report the mayor shall summon the offender to
25 show cause why the same should not be removed at the expense
26 of the offender and why a fine should not be imposed upon the
27 offender for violation of the ordinance of said city in regard
28 thereto. It shall likewise be the duty of the said city com-
29 missioner to supervise and protect all of the buildings and
30 other property belonging to said city and to provide for the
31 proper heating and cleaning and lighting of the city buildings
32 and lockup, and such other duties as may be imposed upon him
33 by the common council.

Lien for Taxes

Sec. 37. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penal-
3 ties assessed thereto, or imposed upon the owners thereof, by
4 the authorities of said city from the time the same are so
5 assessed or imposed, which shall have priority over all other
6 liens, except the lien for taxes due the state, county and dis-
7 trict; and which may be enforced by the council in the same
8 manner provided by law for the enforcement of the lien for
9 county taxes. If any real estate within said city be returned
10 delinquent for the non-payment of delinquent taxes thereon, a
11 copy of such delinquent list may be certified by the council to
12 the auditor and the same may be sold for the city taxes, interest
13 and all commissions thereon, in the same manner, at the same
14 time and by the same officer as real estate is sold for the non-
15 payment of state taxes.

License

Sec. 38. The council shall have the authority to require a
2 city license as follows: For anything to be done, carried on or
3 exhibited within the said city, for which a state license is now,
4 or may be hereafter required, for the keeping of hacks, car-
5 riages, carts, wagons and other vehicles for hire within the city,
6 and for the keeping of dogs within the city, and the council
7 may provide for the killing of all dogs, the keeping of which is
8 not licensed. And upon all such licenses the council may im-
9 pose a reasonable tax for the use of the city.

Sec. 39. The council shall prescribe by ordinance, the man-
2 ner in which licenses of all kinds shall be applied for and
3 granted, and shall require the payment of the tax thereon to
4 be made to the chief of police of said city before delivery to

5 the person applying therefor, and the provisions of sections
6 thirty-nine, forty and forty-one of chapter thirty-six of the
7 acts of one thousand nine hundred and five, relating to licenses,
8 shall govern the city in the granting of licenses similar in
9 character to those herein mentioned, except where otherwise
10 herein provided. Licenses for keeping dogs shall also expire
11 on the thirtieth day of June next after they are granted, and
12 all other licenses may be for such times as the council may
13 determine.

Powers of Council

Sec. 40. The council shall have the right to institute pro-
2 ceedings in the name of the city, for the condemnation of real
3 estate for streets, alleys, sewers, drains, market grounds, land-
4 ings, wharves, city prison, or other work or purpose of public
5 utility; such proceednigs shall conform to the provisions of
6 chapter forty-two of the code of West Virginia, and the costs
7 thereof shall be borne by the city, except that in contests
8 involving a hearing by the circuit court, costs shall be recovered
9 by the prevailing party.

Sidewalks

Sec. 41. The common council shall have power to determine
2 the material to be used in building all sidewalks and shall
3 determine through the city commissioner's report where such
4 sidewalks shall be erected, and the width and grade thereof,
5 and shall fix upon the material with which the same shall be
6 built, and may make an order requiring the owners of lots, or
7 parts of lots, facing or abutting on such sidewalk or footway,
8 to pave the same with such material and on such grade and of
9 such width as may have been determined at the expense of
10 such owner, and under the supervision of the city commissioner,
11 and if such owner of such abutting lot, or lots, fail or refuse to
12 pave the same in the manner or within the time required by
13 the council, the said common council may cause the same to be
14 done, at the expense of the city, and to assess the amount of
15 such expense upon the owner, and the clerk shall notify the
16 owner of such lot the amount of such assessment and if such
17 assessment be not paid within thirty days from the date of said
18 notice, he shall cause a memorandum showing the name of
19 owner of said lot, a description of the lot, and the amount of
20 assessment to be filed in the office of the county clerk of Tucker
21 county, which shall be entered of record in the judgment lien

22 docket in his office and the same shall constitute a lien upon
23 such property, which may be enforced by a suit in equity in
24 the name of the city, in the circuit court of Tucker county as
25 other liens against real estate are enforced, and upon the
26 payment of such assessment, the clerk shall issue to the person
27 entitled thereto, a release of said lien; *provided, however,* that
28 reasonable notice shall first be given to said owners that they
29 are required to construct such sidewalks or footways, and in
30 case the owner is a non-resident of the state, the notice afore-
31 said may be given by publication for four successive weeks, in
32 a newspaper published in said city. The provisions of this
33 section shall also be applicable to needed repairs to any of the
34 pavements of the city, and to the substitution of new pave-
35 ments for any which may have been heretofore, or which may
36 hereafter be laid and completed, and which may be deemed
37 insufficient.

Street Paving

Sec. 42. The council shall have the authority to provide
2 that any street or alley or any portion thereof, between the
3 curbstones, shall be macadamized, or paved with bricks or cob-
4 blestones or other suitable material, upon the lowest and best
5 terms available, and the whole cost of macadamizing or paving,
6 from curb to curb of such street or alley, shall be assessed to
7 the owners of the land or lots, or fractional parts of lots, front-
8 ing or abutting on such street or alley, that is to say: The prop-
9 erty owners on each side of said street or alley to be assessed
10 one-third each and the city one-third of the costs of said im-
11 provements, to each property owner a sum proportionate to the
12 distance or extent in feet by him owned and one-third of a sum
13 so assessed shall be paid by each property owner to the city
14 within thirty days after the completion of the work, and the
15 remainder in two equal installments in six and twelve months
16 thereafter, with interest thereon, or at such other times as the
17 council may prescribe. The expense of macadamizing or pav-
18 ing at the intersections of streets or alleys shall be defrayed by
19 the city. After the said improvements have been made, the
20 council shall cause a notice to be published for one week in a
21 newspaper of said city, showing the owners of the property and
22 the number of feet fronting on said improvements, as well as
23 the time and the place where the said council will proceed to
24 fix the assessment as above provided, and giving notice to any

19 be paid within six months after said last named date, and the
20 said council may by ordinance compel the owners of lots or
21 parcels of ground, fronting or abutting on any street or alley
22 in which such sewer is constructed, under the supervision of
23 such officer as the council may designate, to connect any resi-
24 dence, store, or warehouse, factory or other building occupied
25 by persons as a place of residence or labor, with such sewer
26 within thirty days after its completion and may inflict fines
27 and penalties for any violation of such ordinance.

28 The intersection of all streets and alleys shall be provided
29 with sewers at the expense of the city, but all connections to
30 sewers in street or alley, to be made by property owner abut-
31 ting on said street wherein sewer is constructed. The sums
32 of money thus assessed for sewer connection shall be a lien, on
33 the lots, tracts or parcels of land upon which they are assessed,
34 which lien may be enforced by a suit in equity in the circuit
35 court of Tucker county, to subject the said real estate to the
36 payment of the sum so assessed against it as herein provided,
37 in the same manner that judgment liens are enforced. The
38 council shall cause a notice to be published for one week in
39 some newspaper published in said city or elsewhere in Tucker
40 county, showing the owners of real estate and number of feet
41 owned by each fronting on said improvement, as well as the
42 time and place where the said council will proceed to fix the
43 assessment as herein provided, and giving notice to any person
44 having an interest in the said property so assessed, to appear
45 and show cause, if any he can, why such assessment should
46 not be made; and the council may in making or reviewing said
47 assessment consider the petition of any person, or corporation
48 affected thereby, relative to the inequality of said assessment,
49 and may equalize and adjust the same. A copy of the list of
50 such assessments, showing the name of owner, number of lot
51 or parcel of land and amount of assessment, attested by the
52 mayor and clerk, shall be filed in the office of the clerk of the
53 county court of Tucker county and recorded in the judgment
54 lien docket in said office, within thirty days after the said
55 assessments are approved by the said council, otherwise the
56 lien of said assessment shall be void as to any purchaser of said
57 real estate for value and without notice, who shall have pur-
58 chased such real estate, and the clerk shall execute and deliver

59 on behalf of said city a release of such lien, upon the payment in
60 full of said assessment.

61 The funds derived by the said city from assessments for
62 construction of sewers, as herein provided, shall be used by
63 said city for sewer construction only, and the collector and
64 treasurer shall keep separate accounts of receipts and disburse-
65 ments of said fund, and shall make separate report with re-
66 spect to said fund from time to time as the council may direct,
67 and the said collector and treasurer shall be liable to said city,
68 on their official bonds, for the payment of all money which
69 may come into their hands, respectively, by virtue hereof, and
70 shall pay over the same upon the proper order of the council.

Sec. 44. The sewers heretofore constructed, in any of the
2 streets or alleys of said city at the expense of the property
3 owners abutting thereon, and by authority of said council,
4 may be taken for public use by said city, and the same may
5 be used subject to the provisions of the preceding section, but
6 before any such sewer is so occupied by the city compensation
7 shall be made to the persons having paid for the same or en-
8 titled thereto. Such compensation shall be determined by the
9 award of three arbitrators, one selected by the council, one
10 selected by the person or persons having paid for the construc-
11 tion of said sewer, or his assigns, and the two selected shall
12 choose a third arbitrator, and the said arbitrators shall, after
13 hearing all evidence as to what would be a just compensation
14 for such sewer, make their award in writing, which award
15 shall be final, and entered of record by the council. The arbi-
16 trators so chosen and selected, shall not be interested in the
17 matters submitted to them other than as taxpayers in said city.
18 And the owners of any real estate abutting on any such street
19 or alley, in which any such private sewer has been constructed
20 by the authority of the council, and at their own expense, shall
21 not be required to pay any assessment levied or assessed against
22 the same for the construction of a sewer in a street or alley, in
23 which such private sewer has been constructed, until said pri-
24 vate sewer is taken by said city and compensation made there-
25 for as herein provided, and any private sewer so taken by said
26 city shall be held, used and occupied as provided in the next
27 preceding section, and the property abutting thereon subject to
28 the assessments as therein provided.

Sec. 45. All assessments of property for purposes of taxation, the preparation for, and levying of all taxes and levies, general or special, shall be ascertained, advertised and levied, and in all respects conform to the provisions of chapter nine of the acts of one thousand nine hundred and eight, and any amendments which may be made thereto, any provision, section, or clause in this act to the contrary notwithstanding. An annual capitation tax of one dollar may be levied upon each male inhabitant of said city, who has attained the age of twenty-one years.

Financial Statement

Sec. 46. In the month of August in each year, the council shall cause to be published in two newspapers of opposite politics in the city, if there be such published therein, at a compensation not to exceed the rate as provided by law for like publications, for one issue, or if no such newspaper be published therein, to publish in pamphlet form not less than one hundred copies of a sworn statement of the financial condition of said corporation; said statement shall contain an itemized account of the receipts and expenditures of the city, showing the source from which all money was derived, the name of the person to whom an order was issued, together with the amount of each order, and why such order was issued, arranging the same under distinct heads, and also a specific list of the debts of the city showing the purpose for which any debt was contracted, the time it became due, the rate of interest, up to what time, the interest thereon has been paid, the amount of money in the treasury at the end of the preceding administration and debts contracted by it; such statement shall be prepared by the city every twelve months and shall then be printed according to the provisions of this section. Either method of making this report shall be sworn to by the clerk, by the mayor and members of finance committee of the council. One copy of such printed record shall be delivered to the judge of the circuit court, one to the clerk of the county court and one to the circuit clerk of Tucker county, and one shall be kept as a part of the records of the city, and the remainder shall be held for distribution as called for by the taxpayers of the city.

If council fail or refuse to perform the duties hereinbefore or hereinafter named, every member of such council and the clerk thereof, concurring in such failure or refusal, shall be guilty of

31 misdemeanor, and upon conviction thereof, shall be fined not less
32 than ten nor more than one hundred dollars.

Bonds, Additional Levy

Sec. 47. The municipal authorities of said city shall have
2 power and authority to issue and make sale of the bonds of said
3 city, as provided by law, and apply the proceeds thereof to the
4 payment for any general improvement, or to any debt or obli-
5 gation of the said city, as provided by law.

Sec. 48. The City of Thomas shall succeed to all the rights,
2 powers and responsibilities, and be vested with the title to all
3 property of the town of Thomas and the City of Thomas as
4 heretofore existing, and all officers of said town acting as such,
5 at the time this enactment takes effect, shall continue until
6 first Monday in March, one thousand nine hundred and twenty-
7 six, or until their successors, the officers herein mentioned are
8 elected or appointed and qualified, to exercise the powers,
9 perform the duties, and receive the compensation heretofore
10 conferred, prescribed and allowed by former charter, by gen-
11 eral law or by the ordinances of said city, such ordinances in
12 force at the time referred to shall continue to have full opera-
13 tion and effect until amended, repealed or superseded by the
14 council of said city.

Sec. 49. All acts and parts of acts coming within the purview
of this act and inconsistent herewith, are hereby repealed.

CHAPTER 2

(Senate Bill No. 39—By Mr. Marsh)

AN ACT to amend and re-enact section five (as amended) and section twenty-one of chapter eighty-three of the acts of the Legislature of West Virginia of one thousand nine hundred and eleven, granting a charter to the City of Parkersburg, in the county of Wood.

[Passed March 25. In effect from passage. Approved by the Governor.]

Sec.

5. Election defined; election board created; duties of the same; members; appointment and terms; qualification of members; oath; vacancies; electioneering; organization of board; compensation; additional duties; penal-

ties; declaration and nomination of candidates; primary ballot; number of ballots; distribution; declaration of nominees; ballots for general and special elections; precincts and polls; duties of election officers, appointment of election officers; oath;

<p>Sec. eligibility; compensation; method of appointment; notification; removal; vacancies; conduct of election; canvass; recount; certificates of election; care of poll books, ballots, etc.; tie vote; contests; qualification of voters.</p> <p>21. Removal from elective office; petition; certification by city clerk; election called by council; publication of notice; removed officer</p>	<p>Sec. may be a candidate; other nominations by petition; official ballot; declaration of election; officer so elected to fill unexpired term; purpose.</p> <p>23. Ordinances and franchises effective in ten days, if published; suspension by petition; reconsideration by council; submission to voters; effective if passed by popular vote.</p>
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Be it enacted by the Legislature of West Virginia:

That section five of chapter eighty-three of the acts of the legislature of West Virginia of one thousand nine hundred and eleven, as amended and re-enacted by the acts of February nineteenth, one thousand nine hundred and fifteen, and section twenty-one of said chapter eighty-three, be amended and re-enacted so as to read as follows:

Section 5. (a) The word "election" in this section shall
 2 include: primary elections held for nomination for candidates
 3 for elective offices hereunder; general elections held for election
 4 of mayor and council; special elections held under removal pro-
 5 visions of section twenty-one hereof; special elections on ordi-
 6 nance referendums held under the provisions of sections twen-
 7 ty-two and twenty-three hereof; special bond or levy elections
 8 held for no other purpose than to pass upon ratification of
 9 proposed bond issues or levies.

10 (b) There is hereby created for said City of Parkersburg
 11 an election board for the purpose of preparing and having
 12 printed and distributed the ballots and providing and dis-
 13 tributing the other supplies for any election held in the city
 14 under this act, for which said board is appointed, for appoint-
 15 ing election officers, for canvassing, and in proper cases re-
 16 counting the votes cast at such election, and for declaring the
 17 result of such election and for such other purposes as may be
 18 specified herein.

19 This board shall be composed of three members. One mem-
 20 ber of said board shall be appointed by the council of said city,
 21 one member by the county court of Wood county, and one
 22 member by the circuit court of Wood county, or the judge
 23 thereof. The members of said election board shall be appointed
 24 not less than thirty days, nor more than sixty days, prior to
 25 each election to be held in said city under this act, and shall
 26 serve until the result of the election for which they are ap-
 27 pointed has been ascertained and declared and all matters
 28 pertaining thereto finally determined.

29 (c) The members of this board shall be qualified voters of
30 the said city and persons of good moral character, and not
31 addicted to the use of intoxicating liquors. No officer or em-
32 ployee of said city shall be eligible for appointment to, or
33 service on, said election board. No one shall be eligible for
34 appointment to, or service on, said election board who has been
35 an officer or employee of said city within ninety days next
36 preceding the election for which he may be appointed, or who
37 has any interest in the result of said election other than as a
38 taxpayer and citizen of said city.

39 (d) The members of said election board shall qualify as
40 such by taking and subscribing an oath that they will support
41 the constitution of the United States, the constitution of the
42 state of West Virginia and that they will faithfully and im-
43 partially perform their duties as members of said board, as
44 prescribed by law.

45 (e) In the event of a vacancy occurring on the election
46 board, such vacancy shall be filled by the same authority as
47 originally made the appointment.

48 (f) No member of said election board shall, after becoming
49 a member thereof, do any electioneering for or against, or solicit
50 the vote or influence of any person for or against any candidate
51 or measure to be voted for, or on, at any election for which
52 said member is appointed to serve.

53 (g) Said board shall elect one of its own members as
54 chairman, and one as secretary, and shall keep a record of its
55 proceedings in a well bound book which shall be preserved by
56 the city clerk with other records of the city. In said book shall
57 also be recorded the certificates of appointment of the members
58 of said board, and their oaths of office.

59 (h) The members of said election board shall receive the
60 sum of four dollars per day for the time actually employed in
61 the performance of their duties hereunder, payable out of the
62 city treasury.

63 (i) Except as otherwise expressly provided in this act, or
64 as may be inconsistent with any provision of this act, the said
65 election board shall be charged with all the duties and respon-
66 sibilities which under the general election law of the state
67 devolve upon the clerks of the county court and circuit court,
68 upon the board of ballot commissioners, upon the board of
69 canvassers and upon the county court; and they shall be sub-

70 ject to all the pains and penalties for breaches of law and
 71 omissions of duty which are provided by general law in chap-
 72 ters three and five of the code of West Virginia on the part
 73 of the several officers, who, under the general election law,
 74 perform in state and county elections, the duties hereby de-
 75 volved upon the election board.

76 Any member of such election board, who shall violate any
 77 provision of this act, for the violation of which no penalty
 78 is otherwise provided herein, or under chapters three or five
 79 of the code of West Virginia, shall be guilty of a misdemeanor
 80 and upon conviction thereof shall be punished by a fine of not
 81 more than one hundred dollars, or by imprisonment in the
 82 county jail for not more than three months, or, in the discre-
 83 tion of the court, by both fine and imprisonment.

84 (j) Candidates to be voted for at any general municipal
 85 election in the City of Parkersburg, at which a mayor and
 86 four councilmen are to be elected under the provisions of this
 87 act, shall be named at a primary election, and no other names
 88 shall be printed upon the ballot provided for use at such pri-
 89 mary election, except those authorized to be placed thereon
 90 in the manner herein prescribed.

91 The primary election for nomination of candidates for munici-
 92 pal offices shall be held on the second Tuesday preceding the
 92-a general municipal elections. Any person desiring to become
 93 a candidate for mayor or councilman shall, at least ten days
 94 prior to said primary election, file with the city clerk a state-
 95 ment of said candidacy in substantially the following form :

96 STATE OF WEST VIRGINIA, WOOD COUNTY :

97 I,, being first duly sworn
 98 say that I reside at-----street, in the City of
 99 Parkersburg, county of Wood, state of West Virginia; that
 100 I am a qualified voter therein; that I am a candidate for nomi-
 101 nation to the office of (mayor or councilman) to be voted upon
 102 at the primary election to be held on the Tuesday after the
 103 first Monday in April, 19..., and I hereby request that my
 104 name be printed upon the official primary ballot for nomina-
 105 tion by such primary election for such office.

106 (Signed).....

107 Subscribed and sworn to before me by.....
 108 on this.....day of....., 19.....

109 (Signed).....

110

Notary Public.

111 and shall at the same time file therewith the petition of at
 112 least twenty-five qualified voters requesting such candidacy.
 113 Each petition shall be verified by one or more persons as to
 114 the qualifications and residence, with street number,
 115 of each of the persons so signing the said petition, and
 116 the said petition shall be in substantially the following
 117 form:

Petition Accompanying Nomination Statements

118 The undersigned, duly qualified electors of the City of
 119 Parkersburg, residing at the places set opposite our respective
 120 names hereto, do hereby request that the name of (name of
 121 candidate) be placed on the ballot as a candidate for nomi-
 122 nation for (name of office) at the primary election to be held
 123 in said city on the Tuesday after the first Monday in April,
 124 19.... We further state that we know him to be a qualified
 125 elector of said city and a man of good moral character, and
 126 qualified, in our judgment, for the duties of such office.

127	Names of Qualified Electors.	Number.	Street.	Age.	Length of
128					Residence
129					in City.

130 (k) Immediately upon the expiration of the time for filing
 131 the statements and petitions of candidates with the city clerk,
 132 the said clerk shall file all such statements and petitions with
 133 the election board and the said election board shall cause to
 134 be published in two daily newspapers published in, and of
 135 general circulation in, the said city, the names of the persons
 136 who are to be voted for at the primary election, arranged for
 137 each office in alphabetical order, and as they are to appear
 138 upon the primary ballots; and the said election board shall
 139 cause the ballots to be used at said primary election to be
 140 printed and authenticated with the *fac-simile* signature of each
 141 member of said board. Upon said ballots, the names of the
 142 candidates for mayor shall be placed in alphabetical order
 143 immediately after the words, Vote for one, and at the left of
 144 each name there shall be printed a square, within which the
 145 voter may by mark indicate his choice. Following these names,
 146 shall be printed the names of the candidates for council in
 147 alphabetical order, and under the words, Vote for
 148 four, and at the left of each name shall be printed a
 149 similar square. The ballots shall be printed upon,

150 plain, substantial white paper, and shall be printed as herein-
151 after prescribed, and shall be in substantially the following
152 form:

Official Primary Ballot

153 Candidates for nomination for mayor and councilman of
154 the City of Parkersburg at the primary election to be held on
155 the.....day of March, 19.....

156 For Mayor

157 (Vote for one)

158 (Names of Candidates)

159 For Councilmen

160 (Vote for four)

161 (Names of candidates)

162 Official Ballot—Attest:

163

164

165

166 Election Board.

167 The number of ballots so printed for any election hereunder
168 shall be twenty per centum in excess of the total number of
169 listed and registered voters in the city, according to the last
170 city list or registration as authorized by paragraph (x) hereof.

171 (l) When the ballots for any election hereunder have been
172 printed they shall be delivered to the said election board, and
173 the said board shall on the day preceding any election here-
174 under, sit in the council chamber in the city building from
175 ten o'clock A. M. until five o'clock P. M. for the purpose of
176 delivering ballots, poll books and other election supplies to
177 the respective commissioners of election appointed to receive
178 them as hereinafter provided. The number of such ballots
179 so delivered for each precinct shall be equal to twenty per
180 centum in excess of the total number of listed and registered
181 voters in such precinct according to the last city listing or
182 registration which may have been made pursuant to the au-
183 thority granted by paragraph (x) of this section. Such list
184 or registration of voters in each precinct respectively shall be
185 delivered with the other supplies as above provided for.

186 (m) At such primary election the two candidates receiving
187 the highest number of votes for mayor shall be the candidates
188 and the only candidates, whose names shall be placed upon the
189 ballot for mayor at the next succeeding general municipal

190 election; and the eight candidates receiving the highest num-
191 ber of votes for councilmen at such primary election, or all
192 such candidates if fewer than eight, shall be the candidates,
193 and the only candidates, whose names shall be placed upon the
194 ballot for councilmen at such municipal election. In the event
195 of the death or resignation of a nominee before election, the
196 candidate receiving the next highest number of votes at the
197 primary shall be placed on the ticket in his stead.

198 (n) The ballots for general and special elections hereunder
199 shall be in the same general form as hereinabove provided for
200 primary elections, so far as applicable, and shall be printed
201 under the same supervision and in same number and shall be
202 handled in the same way and under the same regulations as
203 hereinabove provided for such primary election; *provided*, that
204 the form of ballots for special elections under the provisions
205 of section twenty-one, twenty-two and twenty-three of this act
206 shall conform to the provisions of those sections.

207 (o) The establishment and boundaries of election precincts
208 in said city shall be determined by the city council by ordin-
209 ance; the establishment of voting places in such precincts shall
210 be made by said election board; the announcing of such voting
211 places, the preparation and distribution of ballots, the ascer-
212 taining and declaring the results of all elections shall conform
213 to and comply with the general election laws of the state so
214 far as the same may be applicable and not herein otherwise
215 provided, and all officers provided for in this section shall
216 perform the same duties and be subject to the same penalties
217 for omissions of duty or for violation of law, as are provided
218 by said general election laws for officers performing the cor-
219 responding duties at state and county elections, unless herein
220 otherwise expressly provided.

221 (p) For the purpose of conducting elections hereunder,
222 there shall be appointed election officers as follows for each
223 voting precinct in the city: Three commissioners of election,
224 two poll clerks and two challengers. These officers shall have
225 the same duties and responsibilities and shall conduct the
226 election in conformity with, and shall be subject to, the same
227 regulations and penalties as are provided by chapters three and
228 five of the code of West Virginia relating to elections and
229 offenses thereat, so far as the same may be applicable.

230 Before entering upon the discharge of their duties, each of
231 said election officers shall take and subscribe the same oath

232 required by law for the corresponding election officers ap-
233 pointed under the general election law of the state.

234 No person shall be eligible to appointment as a commis-
235 sioner of election or poll clerk, or shall act as such, at any
236 election hereunder who has anything of value bet or wagered
237 on the result of such election.

238 No person shall be appointed or shall serve as an election
239 officer at any election hereunder, who is a candidate to be
240 voted for at such election or who is not a qualified voter of
241 the city, is not of good standing and character, who is ad-
242 dicted to the use of intoxicating liquors, or who is, or has
243 been within sixty days next preceding such election, an officer
244 or employe of the city of Parkersburg, and, in addition to
245 these qualifications, each challenger must be a qualified voter
246 of the election precinct in which he serves.

247 Such election officers shall receive for their services as com-
248 pensation, to be paid by the city, such sum as may from time
249 to time be fixed by ordinance, not greater than the sum pro-
250 vided by law for the compensation of similar officers at state
251 and county elections; *provided*, that in the absence of any such
252 provision by ordinance, they shall so receive the same com-
253 pensation as may be provided by state law for compensation of
254 such similar officers.

255 (q) The election officers for the several precincts shall be
256 selected and appointed as follows:

257 **FOR A PRIMARY ELECTION:** The election board shall meet in
258 the council chamber in the city building at ten o'clock A. M.
259 on the Wednesday preceding a primary election to be held
260 hereunder and each member of the board shall nominate one
261 qualified person as commissioner of election for each voting
262 precinct in the city, and the board shall thereupon appoint the
263 persons so nominated, together with two clerks and two chal-
264 lengers for each precinct; *provided*, that any group or groups
265 of qualified voters in any precinct may by petition or petitions,
266 each signed by not fewer than twenty-five per centum of the
267 qualified voters in such precinct, nominate to the election
268 board qualified persons for election officers for such precinct,
269 and if any such petition is filed with the chairman or secretary
270 of said board, at or before the time fixed for such meeting
271 above provided for, then all the election officers for any such
272 precinct shall be selected from the nominations so made; all

273 the signatures to any such petition need not be upon the same
274 paper and such petitions shall be signed and verified as pro-
275 vided in paragraph (j) hereof; no person shall sign two such
276 petitions, and if any voter shall sign two such petitions, then
277 his name shall be stricken from both and not counted on either
278 in determining the number of signers. *Provided, further*, that
279 if there be two nominating petitions filed for any precinct, the
279-a board shall select two commissioners, one clerk and one chal-
279-b lenger from the petition having the larger number of signers,
279-c and one commissioner, one clerk and one challenger from
279-d the petition having the smaller number of signers, and if
279-e there be three such petitions filed for any precinct, the board
279-f shall select one commissioner from each, and one clerk and
279-g one challenger from each of those having a larger number
279-h of signers than the third petition has; and, *provided, fur-*
279-i *ther*, that to fill any position not covered by such nomina-
279-j tions, the board shall appoint a qualified person as above
279-k provided.

280 **FOR A GENERAL ELECTION:** The board shall meet in the
281 council chamber of the city building at ten o'clock A. M. on the
282 Wednesday preceding a general election, at or before which
283 time each of the two candidates for mayor shall have the
284 right to submit in writing to the board, nominations of quali-
285 fied person for one commissioner of election, one clerk and one
286 challenger for each or any voting precinct in the city. Where-
287 upon the election board shall appoint as election officers the
288 persons so nominated and shall appoint one additional com-
289 missioner of election for each precinct. In case no nomina-
290 tions, or an incomplete list or lists of nominations are submit-
291 ted, the board shall select and appoint as above provided elec-
292 tion officers to fill the places for which no such nominations
292-a are made.

293 For a special election called for acting upon the authoriza-
294 tion of bond issues or the authorizing of special levies, at
295 which no officers are to be elected, the officers of election shall
296 be appointed by the election board in the manner which is
297 hereinabove provided for the selection of such officers for
298 primary elections, and subject to the same right of nomina-
298-a tion by petition.

299 For a special election for the removal of an elective officer
300 or officers, as provided by section twenty-one of this act, if

301 there are but two candidates for mayor to be voted for, the
302 officers of election shall be selected and appointed as and in
303 the manner herein provided for general elections; if at such
304 special election there are more than two candidates for mayor
305 to be voted for, or if there are no candidates for mayor but
306 only candidates for council to be voted for, then, in the one
307 case the candidates for mayor and in the other case the candi-
308 dates for council, may each nominate in writing qualified per-
309 sons for one commissioner, one clerk and one challenger for
310 each and any voting precinct and from the nominations so
311 made, the election board shall appoint three commissioners,
312 two clerks and two challengers for each precinct; *provided*,
313 that said board shall select and appoint, as above provided,
314 election officers to fill any places not covered by the nomina-
314-a tions so made by the candidates.

315 Each precinct election officer appointed hereunder shall be
316 notified in writing, by said election board, of such appoint-
317 ment, by notice addressed to such appointee at his place of
318 residence, and deposited in the postoffice at Parkersburg, post-
319 age prepaid, on the day of such appointment, save when herein
320 otherwise expressly provided.

321 No precinct election officer so appointed shall be removed by
322 the election board, save for cause, a statement of which cause
323 shall be spread upon the board's records.

324 In case any precinct election officer so appointed shall before
325 3 o'clock P. M. on the day preceding an election hereunder,
326 notify the election board of his inability or unwillingness to
327 serve, or in case of a vacancy otherwise arising before that
328 time, as from death or removal, the election board shall there-
329 upon proceed to fill the resulting vacancy from nominations
330 previously made, or then submitted, by the same person or
331 group upon whose nomination the nominee unable or unwilling
332 to serve was originally appointed, and in the absence of any
333 such nomination, the vacancy shall then be filled by the said
334 board, and in either event the said board shall immediately
335 cause written notice of the appointment to be delivered to the
336 appointee in person.

337 (?) The commissioners of election for each precinct shall
338 designate in writing one of their number to receive from the
339 election board the ballots, ballot boxes, and poll books for their
340 precinct. The person so designated shall, on the day pre-
341 ceding any election, attend at the council chamber in the city

342 hall for that purpose between the hours of ten o'clock A. M.
343 and four o'clock, P. M., at the meeting of the board provided
344 for in paragraph (l) hereof, and shall receive the said
345 ballots and supplies and receipt to the board therefor.
346 If any such commissioner has not appeared by four P. M. on
347 said day, the election board shall designate a special mes-
348 senger, and shall cause said ballots and supplies to be by said
349 special messenger delivered to one of the election commis-
350 sioners for such precinct. Such messenger shall be allowed
351 and paid by the city the sum of two dollars for his services
352 in acting as such messenger.

353 (s) If any precinct election officer shall fail to appear at
354 the hour appointed for the opening of the polls, the commis-
355 sioners of election, or the remaining commissioners, may ap-
356 point a qualified person to serve in his stead, but if the quali-
357 fied voters of the precinct present at the polls, being at least
358 ten in number, shall nominate a qualified person such nomi-
359 nee shall be appointed. If none of the commissioners of
360 election shall appear at any precinct at the hour appointed
361 for the opening of the polls, the qualified voters of the precinct
362 present, being at least ten in number, shall elect by *viva voce*
363 vote three commissioners to act in their stead.

364 (t) The conduct of any election hereunder, and the count-
365 ing of votes and ascertaining the result by the precinct elec-
366 tion officers herein provided for, shall, unless otherwise herein
367 expressly provided, be governed (so far as the same may be
368 applicable) by the general election laws of the state as con-
369 tained in chapters three and five and elsewhere in the code of
370 West Virginia.

371 The said precinct election officers shall make return of the
372 result of the election to the election board at the city building
573 within eight hours after the closing of the polls, at which time
374 they shall deliver to said board the sealed packages of ballots
375 cast at said election at their respective precincts, together
376 with one of the duplicate certificates required by said general
377 election law showing results of the vote at such precinct, as
378 well as both sets of poll books and tally sheets; the other
379 duplicate certificates shall before ten o'clock A. M. on the day
380 following the election be delivered to the city clerk who shall
381 post the same in his office for public inspection.

382 (u) On the second day following any election hereunder,
383 the election board shall meet in the council chamber in the

384 city building at ten o'clock A. M., and shall proceed publicly
385 to canvass the returns received from all the voting places in
386 said city. The procedure, including the opening of ballot
387 packages, the counting of ballots, the re-sealing thereof, the
388 recount of votes in any precinct upon demand of any candidate
389 or candidates, canvassing the returns of said election, declara-
390 tion of result and making of certificates thereof shall follow
391 the form of procedure laid down in section sixty-eight of
392 chapter three of the code of West Virginia for the county
393 court sitting as a board of canvassers, so far as the same may
394 be applicable and not inconsistent with any of the provisions
395 hereof.

396 The demand for the recount above referred to must be
397 made before six o'clock P. M. of the second day following the
398 election, or within two hours after the completion of the can-
399 vass, if such canvass be not completed before six o'clock P. M.
400 on said day.

401 The certificates of result hereinabove referred to shall fol-
402 low the form provided in section sixty-nine of chapter three
403 of said code so far as the same may be applicable; one of such
404 certificates shall be recorded in the records of said board; one
405 of such certificates shall be transmitted to each person voted
406 for as a candidate at such election; one shall be delivered to
307 the city clerk by whom the same shall be laid before the city
408 council at its next meeting.

409 Said election board shall cause the certificate showing the
410 result of said election to be published at least once in two daily
411 newspapers, published and of general circulation in said city,
412 beginning in the earliest issue practicable after the comple-
413 tion of the canvass and of any recounts in connection there-
414 with.

415 One set of the poll books and tally sheets, together with
416 the sealed packages of ballots used in said election, shall,
417 immediately upon the completion of the canvass, be delivered
418 by the election board to the city clerk, whose duty it shall
419 be to safely keep and preserve the same for one year in some
420 secure and suitable place in the city building, and thereafter
421 until all pending contests and other questions pertaining to
422 said election shall have been determined, after which same
423 shall be destroyed by fire.

424 The other set of poll books and tally sheets shall be pre-
425 served in the custody and under the control of said election

426 board, whose duty it shall be to safely and securely keep the
427 same for the same period as hereinabove prescribed, and so
428 that no person other than the members of said election board
429 shall have access thereto. At the expiration of the prescribed
430 time, said books and ballots shall be destroyed by fire.

431 (v) In the case of a tie vote resulting from any election
432 held in said city under this act, on any question submitted
433 to the voters of said city, or between two or more candidates
434 voted for at any election, the said election board shall deter-
435 mine the said tie by declaring the nomination or election of
436 one of said candidates, or by declaring the question voted
437 upon, carried or lost as the case may be.

438 (w) In the event of a contest between candidates over
439 nominations for, or elections to, an elective office under this
440 act, or in the event of a contest by any qualified elector of
441 said city over the result of any election held under the pro-
442 visions of sections twenty-two or twenty-three of this act,
443 the said election board shall hear and determine the said
444 contest, and proceedings governing the same before said
445 board shall be the same as provided by law for the govern-
446 ance of the county court in contests over the election of county
447 officers, save as herein otherwise provided.

448 In any matter of contest hereunder an appeal as a mat-
449 ter of right shall lie direct from said election board to the
450 circuit court of Wood county. Upon such appeal being taken,
451 the circuit court shall try the contest *de novo*. Notice of such
452 appeal shall be given and the bond required by section three
453 of chapter six of the code shall be filed within the time
454 therein limited; whereupon, all ballot packages, poll books
455 and tally sheets in the custody of the election board or city
456 clerk and pertaining to said election shall be transmitted
457 to the circuit court, and shall, under the direction and subject
458 to the orders of the court, be preserved by the clerk thereof.
459 The judgment of said court shall be certified to said election
460 board, who shall enter the same upon their minutes as the
461 judgment of the board.

462 (x) Any person who is qualified to vote for members of
463 the state legislature in Wood county, and who has been a
464 resident of the City of Parkersburg for sixty days next
465 preceding the election at which he offers to vote, shall be
466 qualified to vote in any election held under this act in the

467 precinct in which such person is on the day of the election a
468 *bona fide* resident; *provided*, that any person who will be
469 qualified to vote at any election shall also be qualified to vote
470 at the preceding primary election to name candidates to be
471 voted for at such election. Until the City of Parkersburg
472 shall have adopted the provisions of the general registration
473 law of the state, as authorized by statute, no person shall be
474 denied the right to vote because such person's name does
475 not appear on the list or register of voters which the city
476 council shall have authority to cause to be made, and which
477 may be provided for by ordinance, but any person whose
478 name does not so appear, as well as any person whose name
479 does so appear but whose right to vote is challenged by any
480 voter or election officer, shall be required by the commis-
481 sioners of election to make an affidavit showing that such
482 person possesses all the necessary qualifications for a voter
483 at such election, and in general, giving the information so
484 far as applicable to municipal elections, provided to be given
485 to registrars under the general election law, as contained in
486 section ninety-eight-a of chapter three of the code of West
487 Virginia. This affidavit may be made before one of the
488 commissioners of election or before any person authorized
489 to administer oaths, and shall contain the names of two
490 qualified voters of such precinct who shall be known to said
491 election commissioners to be reliable persons and who shall
492 state under oath that such person who desires to vote and
493 who has made the affidavit herein required is known to them,
494 and that the statements therein made they believe to be true,
495 which affidavit shall be signed by said two persons and sworn
496 to before one of the commissioners of election, or some other
497 person authorized to administer oaths. Upon such affidavit
498 being made, as provided, if a majority of said commissioners
499 of election believe the party applying to vote is a qualified
500 voter in that precinct, the said person shall be permitted to
501 vote and his name shall be added by the commissioners to
502 the list of voters of such precinct furnished to them by the
503 election board, as provided by paragraph (1) hercof, if his
504 name is not already upon such a list. But if a majority of
505 said commissioners do not believe that such person is a quali-
506 fied voter in such precinct, his vote shall be rejected. All affi-
507 davits taken pursuant to this section shall be returned with

508 the precinct returns, and shall by the election board, be
509 sealed and delivered to the clerk of the circuit court of Wood
510 county, to be dealt with as provided by section eighty-three
511 of chapter three of the code of West Virginia.

Sec. 21. The holder of any elective office may be removed
2 at any time by the electors qualified to vote for a successor of
3 such incumbent. The procedure to effect the removal of an
4 incumbent of an elective office shall be as follows: A petition
5 signed by electors entitled to vote for a successor to the incum-
6 bent sought to be removed, equal in number to at least twenty
7 per centum of the entire vote for all candidates for the office
8 of mayor cast at the last preceding general municipal election,
9 demanding an election of a successor of the person sought to be
10 removed, shall be filed with the city clerk, which petition shall
11 contain a general statement of the grounds for which the
12 removal is sought, which grounds shall relate either to the
13 fitness of such officer to hold the office or to his official conduct
14 therein. The signatures to the petition need not all be made to
15 or on one paper, but to the signature of each signer shall be
16 added his place of residence, giving street and number, his
17 age and length of residence in the city.

18 One of the signers of each such paper shall make oath before
19 an officer competent to administer oaths that all statements
20 made are true, as he believes, and that each signature to the
21 paper appended is the genuine signature of the person whose
22 name it purports to be, and shall state the number of signatures
23 to such paper at the time the affidavit is made.

24 Within ten days from the date of filing such petition, the
25 city clerk shall examine the same, together with the voter's
26 list or register, and from information derived from said regis-
27 ter and from other sources shall ascertain whether or not said
28 petition is signed by the requisite number of qualified electors,
29 and if necessary, the council shall allow him extra help
30 for that purpose, and he shall attach to said petition his
31 certificate showing the result of such examination. In the
32 case of an elector who has signed such petition and whose
33 name does not appear on the said voters list or register,
34 the qualification of such elector shall, if not otherwise
35 satisfactorily shown, be conclusively established by an affidavit
36 such as is provided for in paragraph (x) of section five
37 hereof, in the case of a voter offering to vote whose name

38 is not on such register. If, by the clerk's certificate, the
39 petition is shown to be insufficient, the clerk shall at once
40 notify the party filing the same, and the petition may be
41 amended within ten days from the date of said certificate.
42 The clerk shall within ten days after such amendment,
43 make like examination of the amended petition and if
44 his certificate shall show the same to be insufficient, it shall be
45 returned to the person filing the same; without prejudice, how-
46 ever, to the filing of a new petition to the same effect.

47 If the clerk shall find the petition to be signed by a suffi-
48 cient number of qualified electors, he shall submit the same to
49 the city council without delay. If the petition shall be found
50 by it to be sufficient, the council shall order, and fix a day for
51 holding such election not less than forty days nor more than
52 fifty days from the date of the clerk's said certificate. And
53 council shall thereupon select a member of the election board
54 to conduct such election, as provided in section five of this act,
55 and shall at once notify the president of the county court, and
56 the judge of the circuit court of Wood county of the calling of
57 said special election and ask for the appointment by the county
58 court and the circuit court, respectively, of members of the
59 election board, as provided by said section five. The question
60 of the removal of more than one elected officer may be deter-
61 mined at such election.

62 The city council shall cause a notice of such election showing
63 the name or names of the officer or officers sought to be removed
64 to be published once a week for four weeks before the day fixed
65 for such election, in two daily newspapers published, and of
66 general circulation, in the said City of Parkersburg.

67 The election board shall make all arrangements for holding
68 such election, and the same shall be conducted, and the result
69 thereof declared in all respects as provided for other city elec-
70 tions, except as may be otherwise herein provided.

71 Any officer sought to be removed may be a candidate to
72 succeed himself, and unless he requests otherwise in writing,
73 the election board shall place his name on the official ballot
74 without nomination. Other nominations hereunder shall be
75 made without the intervention of a primary election by filing
76 at least ten days prior to the date fixed for such special election.
77 a statement of candidacy accompanied by a petition signed by
78 electors entitled to vote at said special election equal in number

79 to at least ten per centum of the entire vote for all candidates
 80 for the office of mayor at the last preceding general municipal
 81 election, which said statement of candidacy and petition shall
 82 be substantially in the form set out in section five of this act,
 83 so far as the same is applicable, substituting the word, special,
 84 for the word, primary, in said statement or petition, and stat-
 85 ing therein that such person is a candidate for election instead
 86 of nomination. On the tenth day prior to the day fixed for said
 87 special election the city clerk shall file with the election board
 88 all such statements and petitions which shall have been filed
 89 with him.

90 The ballot for said special election shall be substantially in
 91 the following form :

Official Ballot

93 Special election for the balance of the unexpired term (or
 94 terms) ofas(and
 95 ofas)

96 For Mayor .
 97 (Vote for one)
 98 (Names of candidates)
 99 For Councilmen
 100 (Vote for)
 101 (Names of candidates)

102 Official Ballot—Attest:

103
 104
 105
 106 Election Board.

107 In any such special removal election the candidate receiving
 108 the highest number of votes for any office shall be declared
 109 elected. If the incumbent receives the highest number of
 110 votes, he shall continue in office; if some person other than
 111 the incumbent receives the highest number of votes, the incum-
 112 bent shall thereupon be deemed removed from office upon the
 113 qualification of his successor. In case a candidate other than
 114 the incumbent, who receives the highest number of votes shall
 115 fail to qualify within ten days after receiving notification of
 116 his election, the office shall be deemed vacant and the vacancy
 117 shall be filled as otherwise provided by law.

118 The successor of any officer so removed shall hold office
 119 during the unexpired term of his predecessor.

120 The purpose of this section is to give the electors of the
121 city the right to cut short the official term of any elected city
122 officer whose conduct in office is for any cause unsatisfactory
123 to the electors, or who is not, in their judgment, fit to hold
124 the office from which it is sought to remove him. The method
125 of removal herein provided shall be cumulative and additional
126 to and supplemental to any other method provided by law.

Sec. 23. No ordinance or franchise passed by the council
2 save when otherwise required by the general laws of the state
3 or by the provisions of this act, except an ordinance for the
4 immediate preservation of the public peace, health or safety,
5 which shall contain a statement of its urgency, shall go into
6 effect before ten days from the time of its final passage, and
7 and not then unless within two days after passage, Sundays and
8 holidays excepted, the same shall be published in full in some
9 newspaper published in and of general circulation in said city.
10 And if during said ten days a petition signed by qualified
11 electors of said city, equal in number to at least twenty per
12 centum of the entire vote cast for all candidates for mayor at
13 the last preceding general election at which a mayor was elected.
14 protesting against the passage of such ordinance, or franchise,
15 be presented to the council, the said ordinance or franchise shall
16 thereupon be suspended from going into operation, and it shall
17 be the duty of the council to reconsider such ordinance, or fran-
18 chise, and if the same is not entirely repealed, the council shall
19 submit the ordinance, or franchise, as is provided by sub-sec-
20 tion (b) of section twenty-two of this act, to the vote of the
21 electors of the city, either at the next general election or at a
22 special election to be called for that purpose, and such ordi-
23 nance, or franchise shall not go into effect or become operative
24 unless a majority of the qualified electors, voting for or against
25 the same shall vote in favor thereof. Said petition shall be in
26 all respects in accordance with the provisions of said section
27 twenty-two, except as to the percentage of signers, and be exam-
28 ined and certified to by the clerk in all respects as therein
29 provided.

CHAPTER 3

(Senate Bill No. 66—By Mr. Wilkin)

AN ACT to incorporate the City of Hollidays Cove, in Hancock and
Brooke counties, fixing its corporate limits and prescribing and

defining the powers, rights and duties of said City of Hollidays Cove, and of the officers thereof, the same being an Emergency Measure.

[Passed January 20, 1925; In effect from passage. Approved by the Governor.]

Sec.	Sec.
1. Creating municipal corporations, defining powers and limits.	39. Powers and duties of city physician.
2. Boundaries.	40. Duties of chief of police.
3. State laws in effect; former ordinances in effect; succession to rights and property of town.	41. Duties of chief of fire department.
4. Officials; qualifications; appointment; salaries.	42. Powers and duties of health commissioner; may be city physician.
5. Powers of council.	43. Duties of building inspector.
6. Qualification of voters.	44. Committees of council; appointment and duties.
7. First election.	45. Authority of peace officers conferred on city officers.
8. Time of holding elections; terms of officers.	47, 48. Right to give bond.
9. Nomination of officers; primary; time of holding primary; statement of candidacy; filing of same; ballots; counting and canvassing same; those declared nominated; municipal election.	49, 50, 51. Appeal; method; duties of Sec.
10. Preparation for elections; rules governing elections; tabulation of vote; certification to council and city clerk; canvass by council.	mayor; trial in circuit court.
11. Registration of voters.	52. Abating nuisances; powers of mayor, council and police.
12. Beginning of terms of officers; tie vote.	53, 54, 55. Special assessment; bond issue; sewers, paving etc.; petition; order; general procedure; contracts; payment lien on property; release.
13. Conduct of elections.	56, 57. Resolution for paving and sewerage; notice.
14. Qualifications of councilmen and mayor.	58. Cost of paving street intersections.
15. Organization of council; tie vote; president <i>pro tempore</i> .	59. Payment for improvements; bonds.
16. Auditing books.	60. Paving or sewerage; ordinance.
17. Removal of officers by council; causes; removal of appointive officers; appeal to council.	61. Validity of special assessments.
18. Conduct of council meetings.	62. Council vote to authorize improvements.
19. Regular meetings of council.	63. Improvements through public property.
20. Special meetings of council; method of call; matter to be considered.	64. Improvements etc. to be speedily made.
21. Contested election.	65, 66, 67, 68. Bonds to be approved by attorney general; notice of approval or disapproval; effect of approval; cost of approval.
22. Oath of officers; filing of same; qualifying.	69. What included in costs of improvements.
23. Bonds of officers and employees.	70. Time of payment.
24. Quorum of council.	71. What included in assessment.
25. Manner of voting in council.	72. Void assessment; remedy.
26. No officer to hold two positions.	73, 74. Collection of assessments; release of liens.
27. Failure to make appointments.	75. Remedies saved.
28. Vacancies; manner of filling.	76. Sidewalks; payment for.
29. Corrupt voting; penalty.	77. Additional methods of paving.
30. Power of council to summon witnesses, etc.; contempt.	78, 79, 80, 81, 82, 83, 84, 85, 86. Issuance of bonds; bond election; submission to voters; publication of ordinance; ballots and conduct of election; proclamation of indebtedness; bond terms; debt limitation.
31. Absence of mayor; president <i>pro tempore</i> .	87, 88, 89. Damages against city; suits; right of action; construction of proceedings.
32. Terms of office; salary of mayor; appointive officers; removal of same; duties of mayor; payment of fines.	90. Serving notice.
33. City manager; salary; duties; salaries of other officers and employees.	91. Duties of city clerk in municipal elections.
34. Duties of city clerk.	92. Policemen; appointment and removal; duties.
35. Powers and duties of police judge.	93. Compensation of councilmen.
36. Powers and duties of city collector and treasurer.	94. Reports by City Manager.
37. Powers and duties of city attorney; assistant.	95. County assessor to furnish list.
38. Powers and duties of city engineer.	96. Issuance of process.
	97. Power to convey real estate.

Sec. 98.	Subdivision of lots; survey.	Sec. 110.	Succeeding to duties of officers.
99.	Motor vehicles; license.	111.	License taxes; application. Issuance and revocation.
100.	Eminent domain.	112.	Jails.
101.	Assessments for removing snow, etc.	113.	Sale or lease of public utility; manner.
102.	103, 104, 105, 106. Taxes; annual levy; estimate of requirements; laying levy; limitation of levy; capitation tax; collection of taxes; liability for tax; lien for taxes.	114.	Grant of franchises.
107.	Authority over roads.	115.	Powers as to ordinances.
108.	Municipal buildings and public utilities; sale of bonds.	116.	Existing ordinances and officers to continue.
109.	Removal of officers; proceedings.	117.	To comply with general law.
		118.	Present officers to continue.
		119.	When act effective; ratification by voters; election.
		120.	Repealing inconsistent acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the counties of
 2 Hancock and Brooke as lie within the boundaries prescribed by
 3 section two of this act shall be and remain, and they are hereby
 4 made, a body politic and corporate, by the name and style of the
 5 "City of Hollidays Cove," and as such, and by that name, may
 6 contract, and be contracted with, sue and be sued, plead and be
 7 impleaded, answer and be answered unto, and may purchase,
 8 take, receive, hold and use goods and chattels, lands and tene-
 9 ments, and choses in action, or any interest, right or estate
 10 therein, either for the proper use of said city or in trust for the
 11 benefit of any person, association or corporation therein, and the
 12 same may grant, sell, convey and assign, let, pledge, mortgage,
 13 charge and encumber, in any case and in any manner in which
 14 it would be lawful for a private individual so to do, except where
 15 such power may be limited by law; and may have and use a
 16 common seal, and alter and renew the same at pleasure; and
 17 generally shall have the rights, franchises, capacities and pow-
 18 ers conferred herein, and by the laws of this state upon munici-
 19 pal corporations not inconsistent with the provisions of this
 20 act.

Boundaries

Sec. 2. The corporate limits of the city of Hollidays Cove
 2 shall be as follows, to-wit:
 3 Beginning at the north west corner of lot ninety-one (91)
 4 of the Park Place plan of lots; thence north six degrees
 5 thirty-seven minutes east one thousand nine hundred and
 6 eighty and six-tenths feet to a point, thence south eighty-three
 7 degrees twenty-three minutes east one hundred and fifty-two
 7a and four-tenths feet to a point; thence south eighty-one degrees
 7b fifty-nine minutes east seven hundred and fifty-four and
 8 seventy one-hundredths feet to the point where the east-

9 erly boundary line of the alley between Orchard and Elm
10 streets intersects line of lands of Iris Hooker; thence along
11 said easterly boundary line of said alley north ten degrees
12 fifty-one minutes east four hundred and sixty and thirty-two
13 one-hundredths feet to the center of Lee avenue; thence
14 across Lee avenue and along the easterly boundary line of
15 aforesaid alley north two degrees thirty minutes east five
16 hundred and fifteen feet to a point in Ferguson avenue;
17 thence along the southerly edge of Ferguson avenue south
18 eighty-three degrees thirty-five minutes east one thousand
19 four hundred and fifty-five feet to a point east of the right of
20 way of the Chester branch line of the P. C. C. & St. L. R. R.
21 company; thence south six degrees twenty-five minutes west
22 three hundred and sixty-five and four-tenths feet to a point;
23 thence south eighty-three degrees thirty-five minutes east
24 four hundred and fifty and four-tenths feet to a point in the
25 public road, thence along the public road south twelve de-
26 grees two minutes east two hundred and two feet to a point;
27 thence south sixty degrees twenty-nine minutes one thousand
28 three hundred and thirty-nine and eight-tenths feet to a
29 point; thence south nineteen degrees one minute east one
30 hundred and fifty-five feet to a point; thence south nine de-
31 grees three minutes east three hundred and thirty-one feet to
32 a point in the public road known as the Steubenville and
33 Pittsburgh pike; thence south eighty-four degrees fourteen
34 minutes west two hundred and sixty nine and two-tenths feet
35 to a point on the bank of Harmon's creek; thence along Har-
36 mon's creek by the following lines: north sixty-nine de-
37 grees fifteen minutes, west three hundred and fifty feet, north
38 seventy-eight degrees three minutes west eight hundred and
39 fifty-five feet, south seventy-six degrees ten minutes west
40 five hundred and eighty-eight feet to a point west of the
41 Chester branch railroad bridge; thence through the property
42 of the Granite Improvement company, south five degrees ten
43 minutes west one hundred and ninety-eight and three-tenths
44 feet to a point; thence twenty-one degrees thirty-seven min-
45 utes west four hundred and sixty-three and four-tenths feet
46 to a point on the Hancock-Brooke county line; thence along
47 said line south eighty-six degrees fifty-two minutes west nine
48 hundred and sixty-eight and five-tenths feet to a point;
49 thence south fifteen degrees thirty-three minutes west eight

50 hundred and sixteen and seven-tenths feet to a point; thence
51 north sixty-nine degrees nineteen minutes west two hundred
52 and twenty-three and five-tenths feet to a point on the east-
53 erly edge of road leading from Steubenville, Ohio, to Weir-
54 ton, West Virginia; thence along the easterly edge of said
55 road south thirteen degrees thirty-five minutes west four
56 hundred and forty-three and eight-tenths feet to a point;
57 thence crossing the road and running along the southerly
58 boundary line of the Park Place plan of lots, north sixty-five
59 degrees fifteen minutes west one thousand two hundred and
60 twelve and eight-tenths feet to the southwest corner of Park
61 Place; thence along the westerly boundary line of Park Place
62 north twenty-seven degrees forty-five minutes east five hun-
63 dred and five and six-tenths feet to the place of beginning.

General Laws to Continue in Force

Sec. 3. All general and special laws of the state of West
2 Virginia, governing cities and towns, and now applicable and
3 not inconsistent with the provisions of this act shall apply
4 to and govern the City of Hollidays Cove. All by-laws, ordi-
5 nances and resolutions lawfully passed and in force in the
6 town of Hollidays Cove under its former organization, and
7 not inconsistent herewith shall remain in force throughout
8 the City of Hollidays Cove until altered or repealed by the
9 council of said City of Hollidays Cove. All rights and prop-
10 erty heretofore vested in said town of Hollidays Cove are con-
11 tinued in its title and no right or liability, either in favor of
12 or against the said town of Hollidays Cove at the time this
13 act takes effect, and no suit or prosecution of any kind, shall
14 be affected by such change, unless otherwise provided for in
15 this act.

Composition of Officials.

Sec. 4. The municipal authorities of the City of Hollidays
2 Cove shall consist of a mayor, and five councilmen, who shall,
3 for the assessment year preceding their respective elections
4 as hereinafter provided, have been assessed with and paid
5 taxes in the City of Hollidays Cove upon a valuation of at
6 least five hundred (\$500.00) dollars worth of real estate or
7 personal property therein and any person elected to any one
8 of such offices who has not been assessed with and paid taxes
9 on such amount of property shall not qualify or enter into

10 the performance of the duties thereof, but such office shall
11 thereby become vacant and shall be filled by a qualified per-
12 son, as provided herein for other vacancies. In addition to
13 the municipal authorities mentioned in this section above, the
14 city may have a police judge, manager, city clerk, city
15 auditor, city physician, health commissioner, building in-
16 spector, city attorney, city engineer, city collector and treas-
17 urer, lockup keeper, humane officer or officers, and such num-
18 ber of policemen and firemen as council by ordinance or reso-
19 lution may direct.

20 The officers heretofore named in this section, other than the
21 mayor, and councilmen, shall be appointed by the mayor
22 with the consent of the council, but none of such officers shall
23 be appointed until council shall, by a majority of the full
24 membership thereof, authorize the filling of such office. All
25 of the officers named in this and the preceding section shall
26 be paid proper salaries which shall be fixed by the council,
27 except as herein otherwise provided, and such salaries shall
28 be within the limits provided for by this act.

Powers of Council.

Sec. 5. The council of said city shall have the following
2 general powers enumerated in the sub-divisions of this sec-
3 tion, as follows:

4 (1) To lay off, open, close, vacate or maintain public
5 grounds, parks, and public places, and name and rename the
6 same, to have control and supervision thereover, to pro-
7 tect the same from damage or other injury by persons or
8 property, to fix fines and punishments for any injury thereto
9 in violation of any of the orders of said council, and to main-
10 tain good order and prevent violations of the ordinances of
11 said city therein or thereon.

12. (2) To establish, maintain and regulate free public li-
13 braries and reading rooms and to purchase books, papers,
14 maps, manuscripts, and other proper things therefor, to re-
15 ceive donations and bequests of money or property for the
16 same, in trust or otherwise, and to pay the necessary ex-
17 penses for establishing, maintaining and regulating the same
18 out of the funds for general purposes; *provided*, such expen-
19 diture shall not exceed one hundred dollars per annum un-
20 less by a unanimous vote of all the members of the council.

21 (3) To protect divine worship within the limits of said
22 city, and to fix fines and punishment for disturbance of any
23 assemblage of people, then and there, met for the worship of
24 God, to prohibit any interference with or disturbance of di-
25 vine worship or an assemblage of people met together for the
26 worship of God by any person or persons loitering about the
27 premises or places where such worship is being had or such
28 assemblage is met, or from loitering in the public streets or
29 public places adjacent thereto in such manner as to interrupt
30 such worship.

31 (4) To acquire either by purchase, condemnation or other
32 modes provided by general law, ground within said city for
33 such streets and alleys as the council may deem proper; to
34 locate, lay off, vacate, close, alter, grade, straighten, widen,
35 or narrow, pave or repave, construct and keep in good repair,
36 the roads, streets, alleys, pavements, sidewalks, cross walks,
37 drains, viaducts and gutters therein, and such bridges as may
38 be owned or built by the said city, for the use of the public or
39 of any of the citizens thereof, and to improve and light the
40 same and to keep the same clean and free from obstruction
41 of every kind; *provided*, the municipality shall not be liable for
42 or responsible in damages for injuries to persons or property
43 caused by or from any defect or obstruction in or on any
44 street or alley within said city that has been or may be taken
45 over by the state road commission, under and by virtue of the
46 laws of this state; nor shall said municipality be liable in
47 damages for injuries to persons or property caused by or from
48 a defect or obstruction in or on the plat of ground between
49 the gutter or curb of any street and the paved or plank
50 sidewalks extending there along or between any such side-
51 walks and the property lying next adjacent thereto, unless
52 the municipality had actual notice of such defect or obstruc-
53 tion prior to the time of the injury complained of; and,
54 *provided, further*, that where said city shall be required to re-
55 spond in damages by reason of injury to persons or property
56 occasioned by the failure of any abutting owner to so pro-
57 vide or keep in repair any sidewalk along such property,
58 after being notified by the council to do so, that such prop-
59 erty owner shall be liable to the city for any sum of money,
60 costs and counsel fees which it has been required to pay by
61 reason thereof.

62 (5) To regulate the width of sidewalks and the streets
63 and the width and the care of the public grounds or grass
64 plots abutting thereon, and to order the sidewalks, footways,
65 crossways, drains and gutters to be curbed, paved, or repaved
66 and kept in good order, free and clean, and to provide for the
67 removal of snow and ice therefrom, and for sprinkling the
68 same by the owners or occupants of the real property next
69 adjacent thereto, and to provide and enforce punishments for
70 obstructing, injuring or preventing the free and proper use
71 thereof, and to provide and enforce fines and penalties for
72 throwing therein or thereon any paper, glass, rubbish, decay-
73 ing substances or other things that would make said streets,
74 sidewalks, grass plots, crosswalks, drains, or gutters un-
75 sightly and unhealthy.

76 (6) To regulate the use of the walks, highways, bridges,
77 streets, alleys and gutters and the rate of speed or travel
78 thereon, and to prevent and punish for fast riding or driving
79 thereon of any horse, bicycle, wheeled vehicle, wagon, steam
80 or electric or traction engine, motor car or automobile, and
81 to prevent injury to such streets, alleys, roads and highways
82 from overloaded or improperly loaded vehicles, and from
83 dragging logs or other matter therein, and to regulate the
84 speed of engines or trains or street cars upon or across any
85 of such streets, alleys, highways, bridges, public places or any
86 other place where the council deems the public safety re-
87 quires such regulation.

88 (7) To regulate the planting, trimming and preservation
89 of shade trees, by persons and by corporations, in streets,
90 alleys, roads, public grounds and places, and shall require
91 the owner of adjacent property to trim or remove any shade
92 tree or ornamental shrubbery or other tree that in the opinion
93 of the council is an obstruction to the streets, alleys, or side-
94 walks, or a menace to public safety.

95 (8) The council shall have the right to require the owner
96 or occupier of any property in the city to keep his premises
97 clean and free from all matters that would endanger the
98 health of the city, and may require the removal of any waste
99 paper or waste material of any kind or character upon the
100 private property of any citizen or property owner that
101 would cause the spread of fire or when the council deems
102 the same should be removed; and may require the removal

103 or straightening of any fence, wire, palings, or other ma-
104 terial enclosing any lot, when, in the opinion of the council,
105 the same is dangerous or obstructs or encroaches upon the
106 streets, alleys or sidewalks; *provided*, that in all such cases, if
107 the owner or occupier of such property fails to do any of
108 the things enumerated in this section required by the coun-
109 cil, the council may take such action as may be necessary to
110 perform such acts and the expense thereof shall be charged
111 against the property owner and collected as taxes are col-
112 lected.

113 (9) To regulate the making of division fences of an un-
114 sightly nature and party walls by the owners of adjoining
115 and adjacent premises and lots, in so far as the same shall
116 not be in conflict with general law.

117 (10) To regulate or require drainage by the owner or
118 occupier of any lot or other real estate, by proper drains,
119 ditches, and sewers, and to require the owner or occupier
120 of any lot to fill the same, at his own expense, so that water
121 will not collect in a body thereon, or so that the same will
122 not become a menace to public health.

123 (11) To regulate or prohibit street carnivals, or street
124 fairs, or street parades, advertising exhibition, or other ex-
125 hibitions thereon, or the exhibition of goods, wares, merchan-
126 dise, material or artificial curiosities upon any street, sidewalk,
127 alley or public place of said town.

128 (12) To regulate or prohibit the ringing of bells, blowing
129 of steam whistles, or use of hand-organs, or other instru-
130 ments of an annoying character, or other music of itinerant
131 performers in the streets, or public speaking and preaching
132 in the streets, roads, parks, or public places of the muni-
133 cipality.

134 (13) To license, regulate or prohibit auctioneering.

135 (14) To license, regulate or prohibit the sale of goods,
136 wares, merchandise, drugs, or medicine on the streets or
137 other public places.

138 (15) To prevent the illegal sale, offering or exposing for
139 sale, or advertising of spiritous liquors, wine, porter, ale,
140 beer, or drinks of a like nature.

141 (16) To prevent the illegal sale of tobacco, cigars,
142 snuff, or cigarettes, within said municipality, and to prevent
143 the smoking, by any person under twenty-one years of age, of

144 any cigarette, in any public building, or upon any public
145 grounds, street, alley, sidewalk, or public place within said
146 city, and to fix fines and punishments for violations thereof.

147 (17) To regulate, control or prohibit runners for hotels,
148 boarding houses and eating houses, and to regulate dray-
149 men or persons hauling or transporting for hire at and about
150 the railroad depots and stations and other public places and
151 in an assemblage of people within said city.

152 (18) To regulate, assess and collect a license fee for
153 the said city for the doing of anything or business on
154 which a state license is required, subject to the exceptions
155 provided by general law, except as otherwise herein provided.

156 (19) To provide, assess and collect a license tax from
157 residents in said city who own and operate or run an
158 automobile therein, or from any person, whether a resident of
159 said city or not, who shall run or operate an automobile for
160 hire, or keep the same for hire within said city; *provided*,
161 that any person, not a resident of the said city, who shall
162 run or operate an automobile in said city, not for hire, for
163 a longer period than one month at any time, shall be liable
164 to pay the license tax assessed against resident automobile
165 owners.

166 (20) To establish, when the council may deem proper,
167 locate and keep in repair, market places, market houses, and
168 regulate markets, prescribe the time for holding the same, to
169 authorize the seizure thereat and destruction of any and all
170 such foods and drink products, as shall be found unwholesome,
171 dangerous or offensive, and without recourse against the muni-
172 cipality for its cost or value.

173 (21) To regulate the sale of food and drink products,
174 milk, fresh meats, fish and vegetables, and to provide penal-
175 ties for the sale of any such that are unwholesome or unfit
176 for use.

177 (22) To regulate and provide for the weighing of hay,
178 coal, and other articles for sale in the markets, or to residents
179 of said city.

180 (23) To require the merchants and other persons selling
181 goods, foods or materials that must be weighed, to keep
182 correct scales, to seize and destroy such as are found
183 to be incorrect and not corrected after due and proper not-

184 ice to the owner or person using the same, without damage or
185 expense to the municipality for the value thereof.

186 (24) To prevent injury or annoyance to the public or in-
187 dividuals from anything dangerous, offensive or unwhole-
188 some.

189 (25) To regulate the keeping, handling and trans-
190 portation of explosives and dangerous combustibles within
191 the municipality; and to regulate or prohibit the use of
192 firecrackers, skyrockets, toy pistols, air rifles, or guns, within
193 the said municipality.

194 (26) To regulate or prohibit the erection or operation
195 or maintenance in what the council deems an improper
196 locality within said city, any blacksmith shop, livery stable,
197 bar, stable, cattle pen, poultry house, pig pen, privy, bill
198 board, sign board, gas or other engine, coal mine, coal plant,
199 or coal bin, or any other thing that may in the opinion of
200 the council be a menace to persons or property or public safe-
201 ty, or that would injure private property or annoy citizens
202 of said city.

203 (27) To regulate or prohibit the placing of signs
204 and the use of walls or walks for signs; to regulate or pre-
205 vent the distribution or posting of any sign or bill, either
206 on paper or painted, that in the opinion of the council or
207 mayor, is indecent, immoral or unsightly.

208 (28) To define by ordinance what shall constitute
209 a nuisance, and to abate all nuisances whether defined or
210 not, and to require the removal or abatement of any building
211 obnoxious business, sign board, bill board, signs, or other
212 thing, which in the opinion of the council is a nuisance.

213 (29) To regulate or prohibit the distribution of
214 hand bills, circulars and other advertisements of like kind,
215 on the streets, roads, alleys and public places, or the
216 placing of same in private yards, buildings or other struc-
217 tures, without having first procured the consent of the owner
218 or occupier of such property.

219 (30) To regulate or prohibit within the municipality
220 or within one mile of its corporate limits, the erection or
221 maintenance of any slaughter house, soap factory, glue fac-
222 tory, lamp black factory, tannery, or other house, shop or
223 factory of like kind or character.

224 (31) To establish within said municipality public
225 drinking fountains and water troughs; and to regulate the
226 time and place and manner of bathing in pools, streams and
227 public waters within the police jurisdiction of said municipal
228 corporation.

229 (32) To prevent hogs, cattle, sheep, horses, and other
230 animals, fowls and domesticated birds, of all kinds
231 from going at large in the municipality; and to establish and
232 maintain places for their detention, make regulations respect-
233 ing the same, appoint a pound master and define his duties
234 and provide for the sale of such property impounded.

235 (33) To arrest, convict and punish any person for
236 committing adultery or fornication, or for any lewd or las-
237 civious cohabitation within said city, and for keeping an
238 assignation house, house of ill fame, or for leasing or let-
239 ting to any person any house or other building to be kept
240 or used as such, or for knowingly permitting any house,
241 under the control or owned by any person, to be used as an
242 assignation house or house of ill fame, within said municipality.

243 (34) To arrest, convict and punish any person for im-
244 porting, printing, publishing, selling, giving away, exhibit-
245 ing, or distributing any book, picture or device, or other
246 thing containing any obscene picture or language, or making
247 any indecent representation.

248 (35) To restrain, convict and punish vagrants, mendi-
249 cants, beggars, tramps, common prostitutes, and their associates,
250 and drunken or disorderly persons within the municipality,
251 and to provide for their arrest and manner of punishment.

252 (36) To prevent and prohibit the use of indecent or pro-
253 fane language within the corporate limits, and to provide
254 and fix punishment therefor.

255 (37) To prevent and prohibit any tumult, riot, quarrel,
256 angry contention, or abusive language, and to prevent the use
257 of insulting epithets, assaults, assault and battery, and fix
258 fines and punishments therefor.

259 (38) To prevent and prohibit trespass upon private prop-
260 erty, or the doing of anything which would annoy the owner,
261 or occupier of any premises, and to fix and provide fines and
262 punishment therefor.

263 (39) To provide against danger or damages by fire, and
264 to that end, to require, when the council may think nec-

265 essary an inspection of all the properties within the said
266 city, and to require the owner or occupier of any property in
267 which a defective or dangerous chimney or flue is found, to
268 immediately repair the same, and to prevent the use thereof
269 until repaired as required.

270 (40) To prohibit and prevent intoxication or drunken-
271 ness, and the drinking of intoxicants in any public place,
272 store, street, or alley, and to fix fines and penalties there-
273 for.

274 (41) To prohibit and punish for larceny where the
275 amount stolen is less than twenty dollars.

276 (42) To prohibit, prevent and punish for anything that
277 is against the good morals and common decency, or that would
278 tend to corruption, vice or crime.

279 (43) To protect the public schools in said city, and
280 to prohibit and prevent any disturbance thereof in and
281 about the buildings or upon the grounds, and to prevent in-
282 jury, destruction, or defacement of any school property or
283 building.

284 (44) To establish a board of health and vest it with the
285 necessary power to maintain its object, and to fix fines and
286 penalties for any violation of its lawful orders.

287 (45) To establish quarantine, and to erect and maintain
288 pest houses and places of detention, and to make and en-
289 force necessary orders for controlling or preventing the spread
290 of infectious and contagious diseases, and for abating pestilence.

291 (46) To prohibit the bringing into the corporate limits
292 by railroads, carriers, persons, or in any manner, per-
293 sons who are paupers or persons who are afflicted with con-
294 tagious diseases; to punish by fine or imprisonment, or both,
295 any person who shall bring into the corporate limits any such
296 pauper or person afflicted with contagious disease, knowing
297 or having reason to believe, at the time that such person is
298 a pauper or afflicted with such contagious disease, and to
299 collect and recover from any such railroad company, carrier,
300 or other person, the expense of keeping and maintaining such
301 pauper or diseased person, until such person can be lawfully
302 removed from the corporate limits.

303 (47) To provide for the poor of the municipality,
304 and to that end, the municipality may contract with the coun-
305 ty court of Hancock county, for the keeping of such poor per-

306 son, or any number of them, at the county poor house, at a
307 price and on such terms as may be agreed upon between the
308 county court and the proper municipal authorities.

309 (48) To authorize the taking up and providing for the
310 maintenance and safe keeping, and educating of (for such
311 period as may be deemed expedient) all children within said
312 city who are destitute of proper parental and other care.

313 (49) To arrest, convict and punish any person for cruel-
314 ty, unnecessarily or needlessly beating, torturing, mutil-
315 ating, killing, or overloading, or overdriving, or wilfully
316 depriving of necessary sustenance, any horse or other domestic
317 animal.

318 (50) To regulate the hitching of horses within the
319 corporate limits, and the driving of cows and cattle through,
320 upon and along the streets and alleys of said city.

321 (51) To prohibit, prevent and punish for the pol-
322 lution of any stream of water running into or through the
323 said municipality; and to prohibit and prevent the throwing
324 into any such stream of any trash, dirt, filth, offal, decayed
325 substances or matters, or anything that would make said water
326 unhealthy or unfit for domestic use.

327 (52) To prohibit, prevent and punish for any desecra-
328 tion of the Sabbath day; prohibit the playing of any game
329 exhibiting any show, theatre, picture show, and the keeping
330 open of business places, except hotels, eating houses, boarding
331 houses, restaurants, and drug stores and other places of neces-
332 sity or charity.

333 (53) To restrain, prevent and punish fraudulent prac-
334 tices of any kind or character within the municipality.

335 (54) To arrest, convict and punish any person for gamb-
336 ling or keeping any gaming table, commonly called "Faro
337 Bank," or table and chips used in playing such game; crap,
338 crap table, chips or dice used in playing such game; or roul-
339 ette or the wheel, chips or other equipment used in playing
340 such game; or keno table or table of like kind or device used in
341 playing the same; or table of like kind under any denomina-
342 tion, whether the game or games be played with cards, dice or
343 otherwise on which anything is bet or wagered, whether the
344 same be played in any public or private room or residence;
345 and may convict and punish any person who shall be a part-
346 ner or concerned in interest in the keeping of any such gamb-
347 ling devices heretofore enumerated, or in any game played,

348 such as prohibited hereby, or in keeping or maintaining any
349 gambling house or place of gambling for money or anything
350 of value; and shall have the right to destroy such gambling
351 paraphernalia as may be found on any such premises; and
352 any officer armed with a warrant for the arrest of any person
353 engaged in such unlawful game or for the search
354 of any room in which gambling is suspected, or for the seiz-
355 zure of any gambling paraphernalia, shall have the right
356 to break into any building, other than a private dwelling
357 house, without notice or demand, and into a private dwelling
358 or room, after demand and refusal to open same, *provided*,
359 *always however*, that no search or seizure shall be made ex-
360 cept in the manner provided by general law.

361 (55) To restrain all felons and persons guilty of offenses
362 against this state or the United States, and deliver them
363 over to the authorities or court having jurisdiction of the
364 offense whereof such persons is accused.

365 (56) To apprehend and punish any person who, with-
366 out a state license therefor, is guilty of carrying about his
367 person, within the municipality, any revolver or other pistol,
368 dirk, bowie knife, sling shot, razor, billy, metallic or other
369 false knuckle, or any other dangerous or deadly weapons of
370 like kind and character, as provided by chapter fifty-one of
371 the acts of the legislature of one thousand nine hundred and
372 nine, or any amendment thereof, and the punishment therefor,
373 whether for the first or other offenses, shall be that pre-
374 scribed by said chapter for any person guilty under the mis-
375 demeanor clause provided therein; *provided*, that the mayor
376 acting as *ex-officio* justice of the peace, may, after en-
377 forcing this ordinance, hold such offender to answer to an
378 indictment in the circuit court of Hancock county, for such
379 offense, under the state law.

380 (57) To regulate the erection, construction, alter-
381 ation and repair of dwelling houses, buildings and other
382 structures, within the municipality, to issue permits therefor,
383 and to compel the numbering of such houses and buildings by
384 the owners and occupiers thereof; and to prescribe by ordin-
385 ance the distance which dwelling houses, and other structures
386 in resident districts shall be set back from the sidewalk.

387 (58) To regulate the hanging of doors, the construction
388 of stairways and elevators, and require fire escapes in the-

389 atres, churches, school buildings, factories and other places
390 deemed necessary by the council.

391 (59) To establish fire limits and to regulate the con-
392 struction of buildings, and designate materials to be used
393 in the construction of buildings within such limits.

394 (60) To regulate the building of fire walls, fire places,
395 chimneys, boilers, smoke stacks, stove pipes, and the burning
396 of waste paper, trash or other waste matter, in the corporate
397 limits.

398 (61) To require any building that, in the opinion of
399 the council is dangerous, to be repaired, altered or removed
400 by the owners thereof, or put in a safe condition, such as
401 the council may approve, at the expense of such owner or
402 occupier, and to provide punishments for failure to comply
403 with any order of the council concerning same.

404 (62) To regulate the height, construction and inspec-
405 tion of all new buildings hereafter erected, the alteration
406 and repair of any buildings now or hereafter erected, to re-
407 quire permits to be obtained of the council therefor, and the
408 submission of plans and specifications to the council for its
409 approval; to regulate the limits within which it shall be law-
410 ful to erect any steps, porticos, bay windows, awnings, signs,
411 columns, piers, or other projection or structural ornaments
412 of any kind for the houses or buildings on any street or alley.

413 (63) To provide for the prevention and extinguishing of
414 fires, and for this purpose, the council may equip and
415 govern fire companies, prescribe the powers and duties of such
416 companies and departments, and of the several officers thereof,
417 or may authorize volunteer fire companies, under such rules
418 and regulations as the council may prescribe, and impose on
419 those who fail to obey any lawful command of the officer in
420 charge of any such company, or volunteer company, any penal-
421 ty which the council is authorized to impose for violation of an
422 ordinance, and to give authority to any such fire officer to
423 direct the pulling down or destruction of any building, fence,
424 wall or other thing, if such officer deem it necessary to
425 prevent the spreading of any fire which is being extinguished
426 under the direction of such officer, and without any liability
427 on the municipality for damages therefor.

428 (64) To protect the persons and property within the cor-
429 porate limits and preserve the peace and good order therein,

430 and for this purpose, to appoint, when necessary, a police
431 force and such other officers as may be deemed neces-
432 sary; and to provide a lockup, jail or other suitable place
433 to confine persons sentenced to imprisonment for violation
434 of the ordinances of said city; *provided, however*, that the
435 jail of Hancock or Brooke county may be used for that pur-
436 pose, if authorized by the county court of said county.

437 (65) To require any person violating any of the ordin-
438 ances of said city, or any order from which a fine, im-
439 prisonment or both is imposed, to work upon the streets of
440 said city in case of nonpayment of said fine, until the same
441 is paid by such labor, or in case imprisonment is imposed,
442 to work upon the streets of said city during the term of
443 such imprisonment in addition to the payment of such fine,
444 under such regulations as the council may prescribe.

445 (66) To prescribe the powers, define the duties of
446 the officers appointed under the corporate authority, fix
447 their terms of service and compensation, if not otherwise
448 prescribed by this chapter, and to require and take from
449 them bonds, when deemed necessary, payable to the State of
450 West Virginia, or the City of Hollidays Cove, with the sur-
451 eties, and in such penalties as may be prescribed, condit-
452 ioned for the faithful discharge of their respective duties;
453 *provided*, that the compensation of any officer, elected or
454 appointed, shall not be increased nor diminished during the
455 time for which he is elected or appointed, unless due not-
456 ice of such intention is first served on the officer inter-
457 ested.

458 (67) To make regulations with respect to, and have
459 supervision and control over the erection, removal and
460 relocation of all telephone, telegraph, electric light or other
461 poles within said city, and the extension of wires, lines or
462 poles by any individuals or corporations.

463 (68) To divide the said city into five (5) wards and to
464 change the boundaries of the same.

465 (69) To acquire, erect or authorize or prohibit the erec-
466 tion of gas works, electric light works or water works within
467 the city limits; to prevent injury to such works or the pollu-
468 tion of any gas or water used or intended to be used by the
469 public or by individuals; and to do all things necessary to
470 adequately supply said city and the inhabitants thereof with

471 pure, healthful and wholesome water; and to require any
472 company furnishing gas or electricity for sale or distribution
473 in said city, to furnish an adequate supply thereof; to require
474 gas fixtures, electric light wires, telephone wires and all ap-
475 paratuses used in connection with any of these, to be kept in
476 repair and suitable for use, and free from danger, so far
477 as practicable; to use, generate, distribute, sell and control
478 electricity and gas for heat, light and power, and to furnish
479 light for the streets, highways, buildings, stores and other
480 places in and about said city.

481 (70) To require any gas company or person furnishing
482 gas for said city or the inhabitants thereof, to put in stand-
482-a ard meters for the measurement thereof, and may appoint
483 a competent person to inspect the meters and remove the
484 same if not standard and in good order; to prevent injury
485 to any gas works, electric light works, water system or any
486 gas meters within said municipality.

487 (71) The council shall have the right to require bond
488 of any water company or person furnishing water for the
489 use of the inhabitants of said city, for hire, compensation
490 or reward, conditioned that they will obey any order of
491 the council with respect to keeping the reservoir or other
492 source from which said water is furnished, free from filth and
493 in a good, clean, condition; and may require said water com-
494 pany to properly filter the water distributed for use, and may
495 require said company to put in such lines as may be necessary
496 to pump the said water into the reservoir or other receptacle
497 therefor, without pumping the same into the main distributing
498 lines, or in any other way or manner effecting them; and may
499 fix fines and penalties for any failure on the part of any
500 corporation, company or other person distributing water, to
501 obey any order of the council or any authorized officer of
502 the town, respecting the same, or any ordinance that may be
503 enacted by the council relative thereto, provided such ordin-
504 ance does not conflict with any franchise or contract given
505 by or made with said city.

506 (72) The council shall have the right to own, main-
507 tain, operate and control any electric light plant within
508 said city, or to provide for, or purchase electric power and
509 to use, generate, distribute, sell and control electricity
510 and gas for heat, light and power, and to furnish light

511 for the streets, houses, buildings, stores and other places
512 in and' about said city, and for such electricity other than
513 that furnished for the municipality in lighting its streets,
514 or public places, it may charge reasonable rates, but such
515 rates in all cases shall be uniform; and such electric light
516 plant shall be under the supervision and control of the coun-
517 cil, and its wires, poles, distributing system and machinery
518 shall be kept in such repair so that as little danger as pos-
519 sible shall arise therefrom, and so that same will furnish an
520 adequate supply of electricity to all persons in said city
521 desiring to use same.

522 (73) The council shall have the right to provide a
523 sewerage system for said city, and may require the owner of
524 any property abutting upon any street or alley in which a
525 sewer has been laid or placed, to connect a sewer leading from
526 his or her property or lot into any public sewer which is lo-
527 cated in such street or alley adjoining the same, and if the
528 owner or occupier of said lot or property fails or refuses to
529 do so, after having been given reasonable notice, the council
530 may enter upon such lot and construct such sewers, and may
531 levy the actual cost thereof against the lot upon which the
532 same is built and collect such costs from the owner of such
533 lot in the same manner as city or state taxes are collected;
534 in addition thereto, the council may punish by fine, or fine
535 and imprisonment, any person who permits any drainage from
536 his residence or lot to enter upon any street or upon any
537 property after a sewer has been placed in the street or alley
538 adjacent to his property to which he should connect, after
539 notice has been given to him by the council to make such
540 connection. The council may provide by ordinance for the in-
541 spection of all sewer connections by some person appointed
542 by council and provide for the assessment of the cost of such
543 inspection upon the property owner, which cost may be col-
544 lected the same as taxes, or as otherwise provided by coun-
545 cil.

546 (74) The council shall have the right to impose fines
547 and penalties for any interference with or destruction of
548 the sewer system or any part thereof in said city, or for
549 the destruction of or damage to any street, alley or sidewalk
550 in said city, or any improper use thereof; it shall have the
551 right to regulate or prevent the use of the sidewalk for bi-

552 cycles, push carts, sleds, tricycles, roller skates and other
553 things of like character and to fix fines and penalties for
554 violation of the ordinances respecting same.

555 (75) To grant by ordinance or resolution permits for
556 the temporary use of such parts of its streets, roads, alleys
557 and public places as the council may deem proper and right
558 to be used in construction, alteration or repair of buildings
559 located thereon, or for such other purposes as the council
560 may deem proper and right, and under such regulations and
561 for such time as the council may prescribe.

562 (76) The council may buy, lease and operate either with-
563 in or without the municipality, stone quarries, crushers and
564 land for said purposes or for the purpose of furnishing a
565 supply of stone or other material suitable for macadamizing
566 or paving the streets, sidewalks and alleys, and improving
567 public property.

568 (77) The council shall have the right, when, in its opin-
569 ion, it is necessary or proper to do so, to pave any street or
570 alley of the said city, and to prescribe the materials to be
571 used in such paving and to charge one-third of the total
572 costs of repairing and paving the said street, to the adjacent
573 property owners on each side of the said street or alley, and
574 to pay one-third thereof out of such funds as the council may
575 provide, but such paving shall be done and such assessments
576 and charges made against the property owner as provided by
577 general law of the state of West Virginia, or by this act.

578 (78) To operate by ordinance such committees or boards,
579 and delegate such authority thereto as may be deemed neces-
580 sary or advisable by the council; and to employ such legal
581 counsel on behalf of the city, from time to time, as the city
582 may deem necessary to protect the interests of the city.

583 (79) To provide for the annual assesment of the tax-
584 able property in said city, including dogs kept in said city,
585 and to provide a revenue for the city for municipal purposes
586 and appropriate such revenue to its expenses; *provided*, noth-
587 ing herein contained shall require the council to keep in
588 repair and maintain any bridge or bridges within said corpora-
589 tion, now or hereafter owned by the counties of Hancock and
590 Brooke, but the officers of said corporation in the preservation
591 of law and order shall have jurisdiction over any such bridges
592 within such corporation; and, *provided, further*, that the police

593 regulations as may be ordained by said city, and the right
594 and power to enforce the same shall extend one mile into the
595 state of West Virginia beyond the corporate limits of said city.

596 (80) The council may, within any prescribed area,
597 prohibit the erection on any street or in any square, of any
598 building, or of any addition to any building more than ten feet
599 high, unless the outer walls thereof be made of brick and mor-
600 tar or other fire-proof material. And may require the removal
601 of any building or addition which shall be hereafter erected
602 contrary to this prohibition, at the expense of the owner or
603 owners thereof.

604 (81) The council shall keep all roads, streets and alleys
605 within its limits passable and in good repair, and may pro-
606 vide the expenses therefor by a direct taxation, as provided
607 under this charter, or in any other manner authorized by
608 law; and the residents of said city who are taxed therein for
609 the purpose of maintaining such streets and alleys shall be
610 exempt from the payment of a county road tax.

611 (82) In the enforcement of the ordinances, orders, rules,
612 regulations and by-laws of the said city, no fine shall
613 be imposed exceeding five hundred dollars, and no person
614 shall be imprisoned or compelled to labor on the streets of
615 said city, as aforesaid, exceeding six months; *provided*, that
616 any violation of the prohibition or liquor laws of this state
617 shall be punishable by the fines and penalties prescribed by
618 general law, unless different fines and penalties are expressly
619 prescribed by the ordinances of said city. And in all cases
620 where a fine is imposed for an amount exceeding ten dollars,
621 or a person be imprisoned or compelled to labor as aforesaid,
622 an appeal may be taken from such decision upon the same terms
623 and conditions that appeals are taken from the judgment of a
624 justice of this state; and in no case shall a fine of less than
625 ten dollars be imposed where the ordinance prescribes a fine,
626 if the defendant requests that such fine be made at least ten
627 dollars for the purpose of appeal.

628 (83) The council shall have the right to enforce the
629 attendance of its members at all regular meetings and at all
630 special meetings of which such members have notice, and
631 may cause the arrest and punishment, by fine or fine and im-
632 prisonment, of any such member who refuses to attend and
633 take part in its proceedings.

634 (84) It shall be the express duty of the council to
635 present charges against any of its members, or any officer
636 of the city, who fails to perform, or who does not promptly
637 and diligently perform any duty prescribed by this act, or by
638 any ordinance or resolution of the council, and upon hearing
639 thereof before the council, after notice to such officer, he
640 shall be removed from office by the council, if the charges
641 be found correct.

642 (85) To provide for the payment of all appointive of-
643 ficers and employees.

644 (86) To exercise all of the legislative functions of the
645 city government, and shall have the right to demand of
646 any city official, or employee, information, explanations, facts,
647 details, correspondence, or other papers affecting the city's
648 interests; and it shall be deemed misfeasance and neglect of
649 duty for any such official or employee to fail or refuse to
650 comply with such demands.

Qualifications of Voters

Sec. 6. Every person qualified by law to vote for members
2 of the legislature of this state (and who shall have been a
3 resident of the said City of Hollidays Cove, for at least sixty
4 days preceding the day of election) shall be entitled to vote at all
5 elections in said city by or under the authority and control
6 thereof. *Provided*, that the common council of said city may by
7 ordinance provide that any person desiring to vote at any such
8 election must present to the commissioners or clerks of said
9 election a receipt showing that all taxes assessed against him
10 for the preceding year have been paid.

First Election

Sec. 7. For the purposes of the first election to be held under
2 the provisions of this act for the election of officers on the first
3 Thursday of January, one thousand nine hundred and twenty-
4 six, the council of said city then holding office shall exercise all
5 the functions relating to said first election and to the primary
6 election preceding the same, which are vested by the provisions
7 of this act in the council of said city for the conducting of city
8 elections generally; and the clerk of said council shall discharge
9 in and concerning said first election the functions herein as-
10 signed to the city clerk at elections thereafter.

Time of Holding Elections. Terms of Officers

Sec. 8. On the first Thursday in January, one thousand nine hundred and twenty-six and every two years thereafter, there shall be elected by the qualified voters of the said city a mayor and five (5) councilmen, all of whose terms of office shall be for the period of two years, beginning on the first day of February next after their election, and until their successors shall be elected and shall have qualified.

Nominations of Officers

Sec. 9. Candidates to be voted for at all general municipal elections at which a mayor and councilman from each ward are to be elected under the provisions of this act, shall be nominated by a primary election, (the said mayor shall be nominated and elected at large and the said councilmen shall be nominated from their respective wards) and no other names shall be printed upon the general ballot, except those selected in the manner hereinafter prescribed.

The primary election for such nominations shall be held on the first Thursday in December, preceding the general municipal election. For the purpose of such election council shall appoint two (2) commissioners and one (1) clerk who shall be the judges of both the primary and the general election and all primary and general elections shall be held at the same place so far as possible.

Any person desiring to become a candidate for mayor or councilman shall, at least ten (10) days prior to said primary election, file with the city clerk (now called recorder) a statement of such candidacy in substantially the following form:

State of West Virginia, _____County, ss:
 I, _____, being first duly sworn, say that I reside at _____street, City of Hollidays Cove, County of _____State of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman from first, second, third, fourth or fifth ward) to be voted upon at the primary election to be held on the first Thursday of December, 19____, and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

31

Signed_____

32 Subscribed and sworn to (or affirmed) before me by-----
 33 -----on this
 34 -----day of-----, 19-----
 35 Signed .-----
 36 Notary Public.

37 My commission expires-----19-----.

38 Immediately upon the expiration of the time of filing the
 39 statements and petitions for candidates, the said city clerk
 40 (now recorder) shall cause the primary ballots to be printed,
 41 authenticated with a fac-simile of his signature. Upon the said
 42 ballot the names of the candidates for mayor, arranged alpha-
 43 betically, shall first be placed, with a square at the left of each
 44 name immediately below the words "vote for two;" following
 45 these names shall be placed the candidates for the office of
 46 councilmen, the candidates from each ward being arranged
 47 separately so as to show which are candidates from each ward,
 48 and where there is more than one candidate from each ward the
 49 names of such candidates shall be alphabetically arranged.
 50 Preceding the names of the candidates shall be a designation
 51 of the ward from which the candidates are running and at the
 52 left of the name of each candidate in every ward there shall be
 53 a square for the mark of the voter and at the bottom of the list
 54 of candidates from each ward shall be placed the words "vote
 55 for two."

56 The ballots shall be printed upon plain, substantial, white
 57 paper and shall be headed substantially as follows:

58 "Candidates for nomination for mayor and councilmen of
 59 the City of Hollidays Cove, at the primary election," but the
 60 said ballots shall have no party designation or mark whatsoever.
 61 The ballots, after the heading above named shall be in substan-
 62 tially the following form.

63 "(Place a cross in the square preceding the name of the
 64 parties you favor as candidates for the respective offices.)

65 For Mayor
 66 Names of Candidates
 67 (vote for two)
 68 For Councilmen
 69 First Ward
 70 Names of Candidates
 71 (vote for two)
 72 Second Ward

- 73 Names of Candidates
 74 (vote for two)
 75 Third Ward
 76 Names of Candidates
 77 (vote for two)
 78 Fourth Ward
 79 Names of Candidates
 80 (vote for two)
 81 Fifth Ward
 82 Names of Candidates
 83 (vote for two)
 84 Official Ballot, attest.
 85 Signature -----City Clerk.
 86 Judges of election shall, immediately upon the closing of the
 87 polls, count the ballots and ascertain the number of votes cast
 88 for each candidate, and make return thereof to the city clerk
 89 before nine o'clock A. M. of the following day. On the day
 90 following said primary election the council shall canvass said
 91 returns so received from all the polling precincts, and shall
 92 make and publish in some newspaper of said city at least once
 93 the returns thereof. Said canvass shall be publicly made.
 94 The two candidates receiving the highest number of votes
 95 for mayor shall be the candidates and the only candidates whose
 96 names shall be placed upon the ballot for said offices at the next
 97 succeeding general election, and at the first election to be held
 98 under this charter; the two candidates receiving the highest
 99 number of votes for councilman in each ward shall be the can-
 100 didates and the only candidates at said first election, and at
 101 all other general elections at which said officers shall be
 102 elected. In the event of the death or resignation of a nominee
 103 before the election the candidate receiving the next highest
 104 number of votes at the primary shall be placed on the ticket
 105 in his stead.
 106 In case there is only one candidate for nomination, to the
 107 office of mayor or councilman from any ward his name shall
 108 be the only candidate from his ward to be placed upon the
 109 ballot at such primary election and at the general election in
 110 case he receives all of the votes cast for councilman for his
 111 particular precinct his name shall be the only name placed
 112 upon the ballot at the general election. *Provided*, that if the
 113 voters at such primary election shall write in the name of any

114 other qualified person, then the two highest for the office of
115 mayor or councilman shall be placed upon the ballot at the
116 general election in the manner hereinbefore provided.

117 In case no candidates shall file for the office of mayor, or
118 councilman from any ward or wards, as hereinbefore provided
119 for, then the council in existence at the time of such primary
120 election shall place upon the primary ballot the name of the
121 then existing mayor or councilman according to which office
122 there is a vacancy, and he shall be considered the candidate for
123 such office the same as though he had filed his candidacy as
124 provided for herein. In case, however, such mayor or coun-
125 cilman shall refuse to again accept such office the same shall
126 not be filled upon the ballot and no person shall under any
127 circumstances be considered as elected to said office but such
128 vacancy shall be filled by the new council in the manner pro-
129 vided for in this act for the filling of vacancies in the office of
130 mayor and councilmen where one or more occurs during the
131 term of any council.

132 The ballot at such general municipal election shall be in the
133 same form as for such primary election, so far as applicable,
134 and all elections in said city, of whatsoever kind, held under
135 this act, shall be conducted, returned and the result thereof
136 ascertained and declared in the manner prescribed by the laws
137 of the state relating to elections, insofar as they are not in
138 conflict or inconsistent with the provisions of this act.

Preparation for Elections

Sec. 10. The council shall on the first Monday in November,
2 preceding an election, fix the place within said town where said
3 election shall be held; shall appoint two commissioners and
4 one clerk for each voting place at which said election is to be
5 held and shall appoint one member of said council to act with
6 the city clerk as ballot commissioner, which commission shall
7 have the ballots prepared and ready to deliver to the election
8 officers on the day before said election, and said election com-
9 missioners and clerk so appointed by council shall hold and
10 conduct said election in such manner as is or may be prescribed
11 by law; they shall open the polls at sunrise and close the same
12 at sunset, shall tabulate the vote at each voting precinct and
13 certify to council the result of the vote of the precincts, re-
14 spectively, at which they are serving as such election officers,
15 and shall return to the city clerk a copy of such certificate,

16 together with the ballots, tally sheets, and registration books,
17 all of which shall be sealed in one envelope or other container.
18 Said council shall meet on the first Monday following said
19 general election and canvas the vote and shall ascertain and
20 declare the result thereof, it shall keep a record of its pro-
21 ceedings at such meeting and shall take down, record and receive
22 any evidence, motion or objection and any paper filed or offered
23 by any candidate, which record shall be open to the public,
24 and shall be kept in the custody of the city clerk.

Registration of Voters

Sec. 11. The council shall on the first Monday in November,
2 one thousand nine hundred and twenty-five, and every two
3 years thereafter, appoint such registration officers as it deems
4 necessary to register all of the legal voters within the corporate
5 limits of said city, and shall furnish to the election officers
6 hereinbefore provided for a list of all the said voters entitled
7 and qualified to vote at said city election, and said election
8 officers shall not permit any person to vote at said election
9 unless his name appears upon the registration book or list of
10 qualified voters made by such registrars.

11 The council may, and in case of a special election shall, at
12 a meeting to be held for that purpose prior to the date of said
13 election, register any legal voter or voters whose names have
14 been omitted by said registrars, and said council may give at
15 least five days' notice of said meeting, by publication in some
16 newspaper of general circulation in said city, which notice shall
17 state the time and place of said meetings, and its intention to
18 correct the registration of voters of said city, *however*, it shall
19 not be necessary to have a special registration of voters for
20 any special election, but the preceding registration of voters
21 for the regular municipal election, with such additions as are
22 hereinbefore provided for, shall be the proper registration for
23 such special election.

Beginning of Term of Officers

Sec. 12. The first officers elected under the provisions of this
2 act shall enter upon their official duties on the first day of
3 February, one thousand nine hundred twenty-six, and shall
4 serve for a term of two (2) years and until their successors
5 are elected and qualified, unless sooner disqualified, impeached
6 or dismissed.

7 Whenever two or more persons receive the same number of
8 votes for mayor or councilmen, such ties shall be decided by
9 the council in existence at the time the election shall be held;
10 *provided*, that the council in office at the time of the holding
11 of such election shall remain in office for the purpose of passing
12 upon and deciding such tie, and for such purpose only; and
13 nothing herein contained shall be construed as to interfere with
14 the duties, power and authority of the new or incoming council.

Conduct of Elections

Sec. 13. All city elections, regular or special, and all nomina-
2 tions shall conform to the election laws contained in chapter
3 three of the code of West Virginia, unless otherwise herein
4 provided.

Qualifications of Councilmen and Mayor

Sec. 14. The City of Hollidays Cove shall have a council
2 which shall be known and styled as the "Council of the City of
3 Hollidays Cove" and shall be composed of five (5) members,
4 all of whom shall be nominated, voted for and elected in the
5 manner herein provided.

6 Only citizens entitled to vote, having been a resident of said
7 city for three (3) years and having proper qualifications, here-
8 inbefore provided shall be eligible to be elected to the office of
9 councilman or mayor and each councilman or mayor so elected
10 shall continue to be a resident of the city of Hollidays Cove,
11 during his entire term of office.

President Pro Tempore

Sec. 15. The mayor shall be the presiding officer of the
2 council and be a member thereof, with the right to vote in case
3 of a tie, the same as any other member of said council, and the
4 city clerk shall be *ex-officio* clerk of the council, and also perform
5 the duties of clerk of the police court; and the mayor and the
6 clerk shall each perform such other duties as the council may
7 require of them. The council shall, at its first meeting after
8 each election, select one of its body as president *pro tempore*,
9 who shall, in the absence of the mayor, preside as chairman
10 of the meeting of the council, and in the absence of both mayor
11 and president *pro tempore* at any meeting of the council, some
12 member of the council shall be elected to preside over such
13 meeting.

Auditing Books

Sec. 16. The council shall by proper ordinance provide for
2 the auditing of all the books and accounts of the city, at least
3 once in each year, and shall appoint or employ a reputable
4 person for such purpose, and such audit shall show the com-
5 plete financial condition of the city at the time thereof, and the
6 receipts and disbursements of all the moneys during such year.
7 The council shall also provide by ordinance for the publication
8 of such audit of the financial condition of the city at least once
9 in each year, and such audit shall be spread upon the records
10 of the council and be a public record for all purposes.

Removal of Officer, Cause

Sec. 17. Any member of the council and any city official
2 either elected or appointed may be removed from his office by
3 the council for any of the following causes: Official misconduct,
4 incompetence, habitual drunkenness, neglect of duty, or gross
5 immorality. Such removal shall not be made except upon charges
6 regularly filed and acted upon as follows: The charges against
7 any such officer shall be reduced to writing and entered of
8 record by the council, and a summons shall thereupon be issued
9 by the city clerk containing a copy of the charges and requiring
10 the officer named therein to appear and answer the same on a
11 day to be named therein, which summons may be served in the
12 same manner as a summons commencing an action may be
13 served, and the service must be made at least five days before
14 the return day thereof, and it shall require the affirmative vote,
15 a majority of all the members elected to council to remove any
16 such official. The circuit court of Hancock county shall have
17 concurrent jurisdiction with the council for any of the causes
18 herein mentioned.

19 The mayor, or any other city official having the power of
20 appointment, shall have the right to remove any of his ap-
21 pointees and appoint another qualified person in his place, but
22 such removal shall be made by means of a writing served upon
23 such official so removed; and all the rights and powers of such
24 official shall cease and end from the time of such service; *pro-*
25 *vided*, that the person so removed shall have the right to appeal
26 to council, which may overrule the action of the mayor, or
27 other official.

Conduct of Council Meetings

Sec. 18. The council shall make proper rules and regulations for its own government and the conduct of its business, which rules shall not be contrary to, or inconsistent with, any of the provisions of this act, and such rules shall be duly entered of record. The council shall cause a record of its meetings to be kept and recorded by the city clerk in a well bound book provided by the council for that purpose, which book shall remain in the custody and at the office of the city clerk, and all such books and all city records shall at reasonable hours and in a reasonable manner be open to the inspection of the public.

Meetings Held, When

Sec. 19. The council shall hold regular meetings on the third Monday of each month, and the hour and place of such meetings shall be fixed by the council in the rules adopted by it.

Special Meetings

Sec. 20. Special meetings of the council shall be held when called by the mayor or four (4) members thereof. In the latter case, the call therefor shall be in writing and signed by the members issuing it and shall state the time and place of meeting and business to be considered thereat; and a copy thereof shall be served upon each member of the council then in the city. No business other than that stated in such call, shall be considered at such meeting.

Contested Elections

Sec. 21. All contested elections shall be heard and determined by the council and such contests shall be made and conducted in the same manner as provided in the case of contests for county and district officers; and the council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases, and there shall be the same right of appeal, in the same way, to the circuit court of Hancock county.

Oath of Officers

Sec. 22. All officers elected and appointed under this act shall before taking their seats or performing any of the duties of their respective offices to which they shall have been elected or appointed, take and subscribe an oath or affirmation that

5 they possess, respectively, the qualifications prescribed by this
6 act to hold such office and are not subject to any of the dis-
7 qualifications prescribed herein; that they will support the
8 constitution of the United States and the constitution of this
9 state, and honestly discharge the duties of the offices to which
10 they are elected or appointed, respectively, to the best of their
11 skill and judgment.

12 When the officer shall have made such oath in writing, filed
13 the same with the city clerk, and shall have given the bond
14 required of him, if any, he shall be considered as having quali-
15 fied for the office to which he was elected or appointed; *provided*,
16 that if any person so elected or appointed shall not qualify for
17 said office as herein prescribed, within twenty days after he
18 shall have been declared elected or appointed thereto, said office
19 shall *ipso facto* become vacant, and said vacancy shall be filled
20 in the same manner as other vacancies therein are provided for
21 in this act.

Bonds of Officers and Employees

Sec. 23. The council may require bond from any officer or
2 employe in whatever sum they may fix. All bonds of officers
3 or employes shall, before their acceptance, be approved by the
4 council. The minutes of the meeting of council shall show all
5 matters touching the consideration or approval of all bonds,
6 and when said bonds are approved and accepted, they shall be
7 recorded by the city clerk in a well bound book kept by him at
8 his office for that purpose, which book shall be open to public
9 inspection; and the recordation of such bonds, as aforesaid, shall
10 be *prima facie* proof of their correctness, and they, as so re-
11 corded, as well as copies thereof duly attested by the city clerk
12 under the seal of the city, shall be admitted as evidence in all
13 courts of this state. The city clerk shall be the custodian of
14 all bonds, except that given by him, and as to it, the city
15 treasurer shall be custodian. All bonds, obligations or other
16 writings taken in pursuance of any provisions of this act, shall
17 be made payable to "The City of Hollidays Cove," and the
18 respective persons, and their heirs, executors, administrators
19 and assigns bound thereby shall be subject to the same pro-
20 ceedings on said bonds, obligations and other writings for the
21 purpose of enforcing the conditions of the terms thereof, by
22 motion or otherwise, before any court of record held in and
23 for the county of Hancock, that collectors of county levies and

24 their sureties are or shall be subject to on their bonds for en-
25 forcing the payment of the county levies.

Quorum of Council

Sec. 24. A majority of the whole number of members elected
2 to the council shall be necessary for the transaction of business,
3 but a smaller number may adjourn from time to time and may
4 compel the attendance of absent members, in such manner and
5 under such penalties as it may by rules provide.

Manner of Voting

Sec. 25. Unless otherwise herein provided, the vote upon any
2 question or motion before the council may be *viva voce* when
3 unanimous; but if the question or motion does not receive the
4 unanimous vote of the members present, the vote shall be taken
5 by roll call of the members and made a part of the minutes
6 of the meeting, and when the vote is unanimous the minutes
7 shall so state.

No Officer to Hold Two Positions at Same Time

Sec. 26. No officer of the city shall hold two offices with the
2 city at the same time, or be employed by the city in any other
3 capacity, without first having the consent of the council, except
4 as herein otherwise provided.

Failure to Make Appointments

Sec. 27. Whenever the mayor or other officer shall fail to
2 make any and all appointments under him, as required to be
3 made by him, for a period of thirty days from the time such
4 appointment shall have been made after having been requested
5 by the council by resolution so to do, such appointment may be
6 made by council.

Vacancies

Sec. 28. Whenever a vacancy for any cause whatever shall
2 occur in the office of mayor or councilman the council shall
3 elect some qualified person to fill said vacancy until the next
4 city election, and until his successor shall have been elected
5 and qualified; and when such vacancy shall occur in the office
6 of any appointive officer, his successor shall be appointed by
7 the person making the original appointment, or his successor
8 in office, as hereinbefore provided; and all elective and ap-

9 pointive officers of said city shall hold their respective offices
10 until their successors are elected, or appointed, and qualified,
11 unless sooner removed.

Corrupting Voting, Etc., Penalty

Sec. 29. Any members of council or any officer of, or con-
2 nected with, the city government pursuant to any law of this
3 state or ordinance of the city now or hereafter passed, who
4 shall in his official capacity or under color of his office, know-
5 ingly or willfully, or corruptly vote for, assent to or report in
6 favor of, or allow, or certify for allowance, any claim or de-
7 mand against the city, which claim or demand shall be on ac-
8 count or under color of any contract or agreement not author-
9 ized by or in pursuance of the provisions of this act, or the
10 ordinances of the city, or any claim or demand against the city
11 and which claim or demand or any part thereof shall be for
12 work not performed for and by authority of said city or for
13 supplies or materials not actually furnished thereto pursuant
14 to law or ordinances, and every such member or officer as afore-
15 said, who shall knowingly vote for, assent to, assist or otherwise
16-17 permit, or aid in the disbursement or disposition of any money
18 or property belonging to the city to any other than the specific
19 use or purpose for which such money or property shall be or
20 shall have been received or appropriated or collected, shall upon
21 conviction thereof, be punished by imprisonment in the county
22 jail for a period of not less than sixty (60) days nor more than
23 one year, or by a fine of not less than sixty (\$60.00) dollars,
24 or more than two thousand (\$2000.00) dollars, or by both, at
25 the discretion of the court.

Attendance of Witnesses

Sec. 30. The council in the exercise of its powers and the
2 performance of its duties, as prescribed by this act, and by the
3 laws of the state, shall have the power to enforce the attendance
4 of witnesses, the production of books and papers, and the power
5 to administer oaths in the same manner and with like effect,
6 and under the same penalties, as notaries public, justices of the
7 peace and other officers of the state authorized to administer
8 oaths under state laws; and said council shall have the same
9 power to punish for contempt as is conferred on county courts
10 by section thirteen, chapter thirty-nine of the code. All process
11 necessary to enforce the powers conferred by this act on the

12 council shall be signed by the mayor, (or acting mayor,) and
13 may be executed by any member of the police force.

Absence of Mayor

Sec. 31. Whenever for any reason the mayor shall be absent
2 from the city, or unable to attend to the duties of his office
3 temporarily, the president *pro tem* of the council shall perform
4 them during such absence or inability; but, if such absence or
5 inability shall exceed thirty (30) days, then such appointment
6 or designation shall be submitted to the council, for confirma-
6a tion or rejection. In the absence or inability of any other
7 appointive city officials to perform the duties of his office, the
8 person or body making the original appointment, or his suc-
9 cessor in office, shall designate some one to fill such office tem-
10 porarily; or, if such absence or inability extends over a period
11 of sixty (60) days, he may appoint some one to fill such office
12 permanently.

The Term of Office. Duties of Mayor

Sec. 32. The mayor and five (5) members of council shall be
2 elected, for the term of two years, and their successors shall
3 be elected every two years thereafter, and their terms of office
4 shall begin on the first day of February of the year in which
5 they shall be elected.

6 The mayor's salary shall be fixed by council, not to exceed
7 five hundred dollars (\$500.00) per year.

8 The mayor may appoint a police judge, treasurer, city solicitor,
9 chief of police and all policemen, humane officer or officers,
10 building inspector, collector, city auditor, engineer, health com-
11 missioner, lockup keeper, and a chief of the fire department;
12 and these appointments shall require confirmation by the council.
13 The mayor shall have the full and complete power of the re-
14 moval thereof, subject to appeal to council. The mayor may
15 appoint a city manager, by and with the advice and consent of
16 the council.

17 The mayor shall appoint or employ such person as the
18 ordinances of the city may require or the council may authorize
19 by proper resolution. All such officers shall be appointed for
20 the term of two years and until their successors are appointed
21 and qualified, unless they are removed in the way and manner
22 in the act provided.

23 It shall be the duty of the mayor to attend all meetings of
24 the council and preside over that body.

25 It shall be the duty of the mayor to see that all of the laws
26 and ordinances of the city are enforced and he shall have a
27 general oversight of the peace, health and good order of the
28 city. He shall discharge the functions assigned by this act to
29 the police judge and city manager until these officers are ap-
30 pointed.

31 All fines of every kind collected by any officer or employee,
32 including the police judge, when acting as a justice shall be
33 paid to the city treasurer.

City Manager, Duties

Sec. 33. The city manager may be appointed in the way and
2 manner hereinbefore provided and shall receive such salary as
3 council may by ordinance prescribe; and he shall have the right
4 to employ such other help as council may from time to time
5 allow.

6 The manager, when appointed, shall devote his entire time
7 and attention to the duties of his office, unless otherwise pro-
8 vided by council, and shall have supervision and control of the
9 executive work and management of the heads of all departments
10 under his control as directed by the mayor. He shall make all
11 contracts for labor and supplies, and generally perform all of
12 the administrative work of the city, and such other duties as
13 council may require of him, and shall possess such other powers
14 and perform such other duties as council shall prescribe.

15 Council shall fix the salaries of all officers and employees not
16 otherwise herein provided for.

City Clerk, Duties

Sec. 34. The city clerk shall be *ex-officio* clerk of the city
2 council, he shall keep a complete record of all ordinances, reso-
3 lutions and acts of the city council. He shall enter in a separate
4 volume all ordinances of a general nature, a violation of which
5 shall subject any person to any penalty, and carefully index
6 the same. All ordinances providing for the issuing of bonds
7 the creation of a debt, the construction of any public improve-
8 ment, or of any local or temporary nature shall be entered in
9 a separate volume by the city clerk, and carefully indexed.
10 He shall keep complete books of account showing all financial
11 transactions of the city and of each department, all receipts,

12 expenditures made by the city, the sources of all income and
13 the purposes of all expenditures. He shall make out all vouch-
14 ers and pay-rolls of the city, and shall do and perform all other
15 duties which may be required of him by the council by any
16 ordinance or resolution.

17 He shall attend all meetings of the council and keep in
18 proper minute book a record of its proceedings, and sign the
19 record of each said proceeding.

20 He shall prepare and cause to be served all notices required
21 to be given to any person, firm or corporation, and after proper
22 service and return thereof of any notice, he shall file and pre-
23 serve the same.

24 He shall file in convenient form so as to be readily acces-
25 sible all correspondence carried on by the city or by any de-
26 partment thereof, and, as custodian of all the books, records,
27 and proceedings of the council, he shall make and certify copies
28 thereof whenever required and affix the corporate seal of the
29 city to any paper required to be sealed and to any certified
30 copy of any paper, order or proceeding which he may make.
31 The minutes of every meeting, after being corrected, shall be
32 signed by the mayor and city clerk and a copy of any record,
33 paper, entry, order, ordinance, resolution or proceeding made
34 by the council, or by the police court judge when properly cer-
35 tified under the seal of the city shall be admissible as evidence
36 in any court in the state in any proceeding in which the original
37 paper or record is present, would be admissible.

Police Judge Ex-Officio Justice of Peace

Sec. 35. The police judge shall be *ex-officio* a justice and a
2 conservator of the peace, with authority to issue process for all
3 offenses committed within the police jurisdiction of the City of
4 Hollidays Cove, of which a justice of the peace has jurisdiction
5 under the state statutes, and for all violations of any city
6 ordinances, and shall have charge of and preside over the police
7 court of such city; and may commit persons charged with felony
8 or misdemeanor to jail or take bond for their appearance be-
9 fore the grand jury of the circuit court of Hancock or Brooke
10 county; said police judge shall keep a record showing the style
11 of each case, which record shall be indexed and numbered.
12 Before trying any person charged with any violation of any
13 ordinance he shall issue his warrant, specifying the offense or
14 violation charged; he shall render judgment in any case as the

15 law of the state or the ordinance of the city applying thereto
16 may require; he shall also have the power to issue executions
17 for all fines, penalties and costs imposed by him and he may
18 require immediate payment thereof, and in default of such
19 payment, may commit the person in default to the jail of the
20 county of Hancock or Brooke or some place of imprisonment
21 within Brooke or Hancock county designated by the council
22 as the city jail, if there be one, until the fine and penalty and
23 costs shall be paid or satisfied, to be employed during the term
24 of imprisonment, as hereafter provided, but the term of im-
25 prisonment in any such case shall not exceed sixty (60) days,
26 and in all cases where a person is sentenced to imprisonment
27 or to the payment of a fine of ten dollars (\$10.00) or more, such
28 person shall be allowed an appeal from such decision to the
29 circuit court of said Hancock county upon the execution of an
30 appeal bond, with surety deemed sufficient by the said police
31 judge in a penalty double the amount of the fine and costs im-
32 posed by him, conditioned that the person proposing to appeal
33 will appear before the circuit court of Hancock county on the
34 first day of the next term thereof to answer for the offense
35 wherewith he is charged and not depart thence without leave
36 of the court and satisfy all costs and fines imposed against him;
37 and in no case shall judgment for a fine of less than ten (\$10.00)
38 dollars be given by the police judge, if the defendant, his agent
39 or attorney, object thereto. If such appeal is taken, the warrant
40 of arrest, the transcript of the judgment, the appeal bond and
41 other papers of the case shall be forthwith delivered by the
42 said police judge to the clerk of the said circuit court, and the
43 court shall proceed to try the case as upon indictment or pre-
44 sentment and render such judgment, including that of cost, as
45 the law and the evidence may require.

46 The expense of maintaining such persons committed to the jail
47 of the county by such police judge shall be paid by the city.
48 The police judge shall account for and pay over the amount of
49 all the fines collected by him weekly to the treasurer of the city
50 and shall make monthly reports thereof, and all other matters
51 pertaining to his office to the council of said city.

City Collector and Treasurer

Sec. 36. The city collector and treasurer shall have custody
2 of all public moneys of the city; shall keep and preserve such
3 moneys as provided by ordinance or by any law applicable

4 thereto; and shall collect and receive, and shall disburse, upon
5 warrants issued by the proper authority, all public moneys.
6 He shall keep an accurate account of all moneys in his custody,
7 or collected, or paid out by him, showing the sources from which
8 the same were received and the purposes for which disbursed.
9 The council may prescribe by ordinance or resolution the man-
10 ner in which a warrant for the payment of money shall be
11 issued, executed and authenticated. He shall be subjected to
12 the supervision and control of the council in all things, and
13 perform all duties prescribed by the council.

14 The city collector shall keep a record of all taxes assessed
15 and levied and shall extend said levies and make out tax bills
16 and receipts to be delivered to the tax payers upon the payment
17 of taxes. He shall collect all assessments made against property
18 or property owners for local benefits and give receipts therefor.
19 He shall keep separate the accounts and funds of all levies
20 and assessments for specific purposes and shall disburse the
21 same only for the purposes for which the levies and assessments
22 were made.

23 He shall file, preserve and keep all receipts and vouchers for
24 money expended or paid out by him showing the purposes for
25 which the payment was made.

26 If the legislature shall enact a law, generally referred to as
27 the "County treasurer law", which shall provide for a county
28 treasurer who shall collect and discharge all taxes, including
29 taxes levied by municipal corporations, the office of city col-
30 lector and treasurer may be discontinued and abolished.

31 The office of treasurer and collector may be held by the same
32 person.

City Attorney, Duties

Sec. 37. The city attorney shall be a member of the bar of
2 Hancock county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be con-
4 ferred upon him by any ordinance or resolution of the city
5 council, and, in addition, he shall exercise the following powers:
6 (a) Be the legal adviser of and attorney and counsel for
7 the city and for all the administrative offices thereof, in re-
8 spect to their official duties.
9 (b) Prosecute and defend all suits for or against the city
10 and prepare all contracts, bonds or other writings in which

11 the city is concerned, and endorse on each his approval of the
12 form and correctness thereof.

13 (c) Be prosecuting attorney of the police court and prose-
14 cute all cases brought before such court, and perform the same
15 duties so far as they are applicable thereto as are required of
16 the prosecuting attorney of the county.

17 (d) The city council and all administrative officers of the
18 city may require the opinion of the city attorney upon any
19 question of law involving their respective powers and duties
20 and he shall furnish the same in writing.

21 (e) Apply in the name of the city to a court of competent
22 jurisdiction for an order of injunction restraining the misappli-
23 cation of funds of the city or the abuse of its corporate powers,
24 or the execution or performance of any contract made on behalf
25 of the city in contravention of law, or which was procured by
26 fraud or corruption.

27 (f) When an obligation or contract made on behalf of the
28 city granting a right or easement, or creating a public duty,
29 is evaded or violated, the city attorney shall require the specific
30 performance of the duty by any administrative officer by appli-
31 cation for a writ of mandamus to a court of competent juris-
32 diction.

33 The city manager or city council whenever the exigencies of
34 the business of the city require such action shall have the right
35 to employ special counsel to assist the city attorney.

City Engineer

Sec. 38. The city engineer shall be a competent civil and
2 mechanical engineer and shall discharge all duties and exercise
3 all powers which shall be conferred upon him by any ordinance
4 or resolution of the city council, and in addition, he shall
5 exercise the following powers:

7 (a) Make surveys and fix grades when required by the city
7 council or city manager; prepare plats, plans and specifications
8 of all improvements which may be undertaken when required;
9 and inspect all work done by any contractor for the city while
10 the work is being performed.

11 (b) Supervise the construction of all buildings, the erec-
12 tion of which is controlled or regulated by the city.

13 (c) Furnish to any resident any street or sewer grade when-
14 ever required on such terms as the council shall prescribe.

15 (d) Make complete maps of all streets, alleys, lanes, parks
16 and public property owned by the city and keep the same on
17 file in his office, and furnish a copy thereof to the city manager.
18 He may make recommendations as to the kind of improvements
19 required or suitable for any street, alley, lane, or locality in
20 the city.

21 (e) Have general supervision of the streets and alleys in
22 the city and see that the pavements, sidewalks, gutters and
23 sewers are kept clean and repaired.

24 (f) General supervision of the work of repairing and keep-
25 ing in repair all pavements, sidewalks, curbs and sewers in the
26 city.

City Physician, Duties

Sec. 39. The city physician shall be a member of the medical
2 profession in good standing and shall discharge all duties and
3 exercise all powers which shall be conferred upon him by any
4 ordinance or resolution of the city council; and, in addition,
5 he shall exercise the following powers:

6 (a) See that all property and premises within the city are
7 kept clean and free from unsightly or obnoxious rubbish and
8 in a thoroughly sanitary condition.

9 (b) See that all ponds, cess-pools and swamps within or
10 adjacent to the city are drained, cleaned and rendered sanitary
11 so as not to injuriously affect the inhabitants of the city.

12 (c) Institute before the police court judge all proceedings
13 and prosecutions necessary to enforce all laws, ordinances and
14 regulations relating to the preservation and promotion of the
15 public health and necessary to make the city sanitary and to
16 prevent and restrict diseases, and in so doing, he shall have
17 assistance of the city attorney.

18 (d) Institute and prosecute proceedings before the city
19 council for the supervision, prevention or abatement of nuisances
20 and in so doing, he shall have the assistance of the city attorney.

21 (e) Provide for the sanitary inspection and supervision of
22 the production, transportation, storage and sale of food and
23 food stuffs, the regulation and inspection of weights and meas-
24 ures, and the collection and disposal of all waste and garbage.

25 (f) In time of epidemic or threatened epidemic, he shall
26 enforce such quarantine and isolation rules and regulations as
27 are appropriate for the emergency, and shall at all times have
28 general supervision over all contagious or infectious diseases.

29 (g) Provide for study and research into cases of poverty,
30 delinquency, crime and disease. He shall by lectures, public in-
31 structions and otherwise instruct and educate the people of the
32 community in matters affecting the public welfare which relate
33 to sanitation, cleanliness, and how to avoid, so far as passible,
34 sickness and disease.

35 (h) Instruct the least informed and most ignorant members
36 of the community how best to avoid and to cure all venereal
37 diseases, and afford them all assistance required in carrying
38 out such instructions. The city council, on his application,
39 shall procure the necessary medicines and he shall furnish to the
40 members of the community who are not financially able to pro-
41 cure the same proper medical care and treatment.

42 (i) Supervise and discharge of all obligations of the city
43 under any law of the United States of America or of the State
44 of West Virginia to treat and cure for persons addicted to the
45 use of drugs.

46 (j) Keep or cause to be kept a complete and accurate system
47 of vital statistics.

Chief of Police, Duties

Sec. 40. The chief of police shall discharge such duties as
2 may be required of him by any ordinance or resolution of
3 council and he shall act under the orders of the police court
4 judge or mayor in administering the police department.

Chief of Fire Department, Duties

Sec. 41. The chief of the fire department shall have general
2 supervision and control of the property and appliances of the
3 city to be used for the prevention and extinguishment of fires.
4 He shall be under the direction, authority and subject to the
5 orders of the mayor and city manager at all times in the ad-
6 ministration of the fire department. He shall make such in-
7 spection as may be required of buildings and property through-
8 out the city in relation to the matter of fire risks.

9 He shall, under the direction of the mayor and city manager,
10 discharge all the duties which may be imposed upon him by any
11 ordinance or resolution adopted by the city council.

Health Commissioner, Duties

Sec. 42. The health commissioner shall be a physician of good
2 standing in his profession. It shall be his duty to administer
3 to all charity cases that he may, in his discretion, deem deserv-

4 ing. He shall, in conjunction with the city manager, have charge
5 of the general health and sanitation of the city, and it shall be
6 his duty to carefully investigate all complaints and make a
7 careful detailed report to the mayor or manager, at least once
8 every month. He shall be appointed in the way and manner
9 provided by this act, and shall receive such salary as council
10 may by ordinance prescribe. Nothing herein, however, shall
11 be construed as in any way affecting the police officers of the
12 city relative to their powers and duties in regard to city sani-
13 tation contained and set forth elsewhere in this act. The offices
14 of city health commissioner and city physician may be held by
15 the same person and his appointment shall not be subject to
16 approval by the state public health council.

Building Inspector, Duties

Sec. 43. The building inspector shall be a competent person
2 for the duties of his office. He shall not, during his term of
3 office, be engaged in or interested in the building business in
4 any way or manner. The council shall by ordinance fix a proper
5 salary for him. He shall see that the ordinances of the city
6 and laws of the state concerning building are enforced, and
7 perform such other duties as the mayor, manager, or council
8 may direct.

Appointment of Committees

Sec. 44. Council shall have the right to appoint such com-
2 mittees of its own body as it may deem proper, and may give
3 such committees power and authority to perform any duties
4 and make any reports to council concerning the duties of council,
5 and council may adjourn its meetings from time to time, pend-
6 ing the consideration of any matter, franchise, or ordinance,
7 and may postpone the announcement of any vote to an ad-
8 journed meeting or to a future meeting.

Officers, Conservators of Peace

Sec. 45. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city,
3 and they, and any other officer provided for under this act,
4 may be given authority of police officer by the council.

Police Judge, Qualifications

Sec. 46. The police judge, when appointed, shall have at-
2 tained the age of thirty (30) years and shall have been a resi-

3 dent of this state for a period of five years and of the city of
4 Hollidays Cove previous to the beginning of his term of service
5 for a period of one year. After the appointment of the police
6 judge and in his absence or inability to perform his duties, the
7 city clerk shall act as police judge in his stead, and in the event
8 that neither the police judge nor the city clerk can, for any
9 cause perform such duties, then the mayor shall act as police
10 judge.

Right to Give Bond

Sec. 47. In all cases of arrest by the police of the city, ex-
2 cept in cases of felony, the person arrested shall have the
3 absolute right to give a reasonable and proper bond for his
4 appearance at police court for a trial of his case, and the police
5 judge, city clerk, mayor, chief of police, and the desk sergeant
6 or person in charge of the police headquarters shall have the
7 power, and it shall be their duty, to accept such bond from such
8 persons so arrested, and upon the giving of such bond he shall
9 be released; and it shall be their further duty to permit such
10 person arrested to communicate in any reasonable way with any
11 person or persons with whom he may desire to have communi-
12 cation in reference to his giving bail in order to obtain his re-
13 lease, and each of the said officers and all policemen shall render
14 reasonable aid in assisting such persons arrested to communicate
15 with any person whom he may desire for the purpose of securing
16 such bail.

Appeal—Criminal Cause

Sec. 48. In any case for the violation of an ordinance of the
2 said city, in which there is a judgment by the mayor or other
3 trial officer, of imprisonment, or for a fine of more than ten
4 dollars (and in all cases the fine shall not be less than ten
5 dollars when the accused requests it) an appeal shall lie at
6 the instance of the person against whom such judgment is ren-
7 dered to the circuit court of Hancock county. Such appeal
8 shall not be granted by the mayor or other trial officer unless
9 within ten days from the date of the judgment, such person
10 shall enter into a recognizance, with security deemed sufficient
11 to appear before the said court on the first day of the next
12 term thereof, to answer for the offense against said city with
13 which he stands charged, and not thence depart without leave
14 of said court. The provisions of general law, (chapter one
15 hundred and sixty-two of the code) relating to the recognizance

16 in criminal cases shall be applicable to the recognizance con-
17 templated by this section; but any money recovered thereon or
18 by virtue thereof shall inure to said city.

Appeal—Duties of Mayor

Sec. 49. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any, the summons, a transcript of the record, including the
4 judgment, the recognizance and any other papers belonging to
5 the case; and such clerk shall receive and file the same, and
6 place the case upon the trial docket of the next succeeding
7 term of said court; and said court shall proceed to try the
8 same in its order.

Trial in Circuit Court

Sec. 50. If the appellant be found guilty of violation of the
2 ordinance in question, whether upon the verdict of a jury or
3 otherwise, the court shall ascertain by its judgment the fine
4 or imprisonment, or the fine and imprisonment, to be paid or
5 suffered by such defendant, having regard to the punishment
6 prescribed by such ordinance, and shall include in any such
7 judgment the costs incurred by said city, as well in the pro-
8 ceedings before the mayor or other trial officer as those in
9 court, and the fee, if any, of the jailer or the keeper of the city
10 prison; and the proceedings to enforce the collection of any
11 such fines and costs, may be the same as provided in section
12 ten, eleven and twelve of chapter thirty-six of the code of
13 West Virginia, except that the writ mentioned in the tenth
14 section may be issued by the clerk upon the order of the mayor
15 of the city and the notice contemplated by the eleventh section
16 shall be given to such officer.

Appeals in Other Cases

Sec. 51. From all judgments by the mayor in cases other
2 than for violation of ordinances, appeals shall be allowed as
3 in similar cases before justices.

Abating Nuisances

Sec. 52. The mayor of said city shall have authority to abate
2 and remove all nuisances in said city. He may compel the own-
3 ers, agents, assignees, occupants or tenants of any lot, premises,
4 property, building or structure, upon or in which any nuisance

5 may be, to abate and remove the same by orders therefor, and
6 the council shall by ordinance provide a penalty for the viola-
7 tion of such orders. Council may by ordinance regulate the
8 location, construction, repair, use, emptying and cleaning of all
9 water closets, privies, cesspools, sinks, plumbing drains, yards,
10 lots, areaways, pens, stables and other places, where offensive,
11 unsightly, unwholesome, objectionable or dangerous substances
12 or liquids are, or may accumulate, and provide suitable penal-
13 ties for the violation of such regulations, which may be en-
14 forced against the owner, agents, assignees, occupants or ten-
15 ants of any premises or structure where such violations may
16 occur. It shall be the duty of all police officers to report to
17 the mayor the facts as to the existence of any nuisance known
18 to them.

19 If the owner, agent, tenant, assignee or occupant of any such
20 premises, lot, property, building, or structure, as is mentioned
21 herein, shall fail or refuse to abate or remove any such nuisance,
22 as mentioned herein, or comply with the provisions of any such
23 ordinance and regulations herein contained, the mayor may
24 have said nuisance abated or the provisions of said ordinance
25 or ordinances carried out, after reasonable notice to said owner,
26 occupant, tenant, agent or assignee of his intention so to do,
27 and collect the expenses thereof, with one per centum per month
28 interest added from the date of said notice, from the said
29 owner, occupant, tenant, agent or assignee by distress or sale,
30 in the same manner in which taxes levied upon the real estate
31 for the benefit of said city are herein authorized to be collected,
32 and the expense shall remain a lien upon said lot, or part of
33 lot, the same as taxes levied upon real estate in said city; which
34 lien may be enforced by a suit in equity before any court having
35 jurisdiction, as other liens against real estate are enforced.
36 In case of non-resident owners of real estate notice may be
37 served upon any tenant, occupant, assignee, or rental agent,
38 or by publication thereof once a week for not less than two
39 consecutive weeks in a newspaper of general circulation in said
40 city.

41 And in all cases where any tenant, occupant, or agent is re-
42 quired to abate and remove any nuisance under the provisions
43 of this section or comply with the provisions of any such ordin-
44 ance as is mentioned therein, the expense thereof may be
45 deducted out of the accruing or accrued rent of said property

46 or amount due said owner from said agent, and such tenant,
47 occupant, or agent may recover the amount so paid from the
48 owner, unless otherwise specifically agreed upon.

49 Any expense incurred by the mayor as herein provided in the
50 manner aforesaid, may be collected in the manner herein pro-
51 vided notwithstanding the imposition of any other penalties
52 upon any of the persons named herein, under any of the pro-
53 visions of this act. The abatement or removal of any such
54 nuisance by the city at the expense of said city as herein pro-
55 vided, shall be *prima facie* proof that the said notice to the
56 owner, occupant, agent or assignee was given as herein pre-
57 scribed.

Special Assessment. Bond Issue

Sec. 53. The City of Hollidays Cove is hereby authorized
2 to issue its bonds for the purpose of providing for grading,
3 paving, curbing, sewerage and otherwise improving the streets
4 and alleys of said city, or for constructing any sanitary sewer
5 in anticipation of special assessments to be made upon the prop-
6 erty abutting upon the streets and alleys so improved, or prop-
7 erty so seweraged or drained and such bonds may be in such
8 amount as shall be sufficient to pay the entire estimated cost
9 and expense of said improvements, for which such special as-
10 sessments are levied; said city is hereby authorized to sell said
11 bonds; *provided*, that the price for which they are sold shall
12 not be below par value of said bonds; said bonds shall be pay-
13 able in and not to exceed ten (10) years from the date of the is-
14 sue thereof and shall bear interest at and not to exceed six (6)
15 per cent per annum, payable annually; and in the issuance and
16 sale of said bonds, the said city shall be governed by all the re-
17 strictions and limitations of the constitution of this state and
18 the restrictions and limitations of the statutes of this state with
19 respect to the issuance and sale of other bonds so far as they are
20 not in conflict with the provisions of this act; and the assess-
21 ments, as paid and provided for in this charter shall be applied
22 to the liquidation of the said bonds and the interest thereon;
23 and if by reason of the penalties collected with the delinquent
24 assessments there be any balance after the payment of said bonds
25 and all accrued interest and costs, the said balance shall be
26 turned in to the city treasurer to the credit of the interest and
27 sinking fund of said city. *Provided, however*, that the said city
27a shall not make such issue and sale without at the same time pro-

28 viding for the collection of a direct annual tax sufficient to
30 pay annually the interest on such bonds and the principal there-
31 of within and not exceeding ten years. All of the assessments,
32 interest and penalties thereon, collected from the abutting
33 property owners on account of grading, paving, sewerage or
34 otherwise improving the streets and alleys of any such city,
35 under the provisions of this chapter, shall annually be ap-
36 plied to the annual tax required to pay the interest on such
37 debt and such principal within and not exceeding ten years;
38 and in the event that the assessments, interest and penalties
39 so collected do not amount to a sum sufficient to pay annually
40 the interest on such debt and the principal thereof within and
41 not exceeding ten years, then the council of said city, shall
42 collect so much of said levy as will pay annually the interest
43 on such debt and the principal thereof within and not exceed-
44 ing ten years.

*Special Assessment. Paving, Etc., Petition, Order, General
Procedure.*

Sec. 54. Whenever the council shall deem it expedient
2 to cause any street or alley in said city, or portion thereof
3 to be paved, curbed or macadamized or otherwise im-
4 proved in a permanent manner, upon the petition in writing of
5 persons owning the greater amount of the frontage of the lots
6 abutting on both sides of any street or alley, between any
7 two cross streets or between a cross street and an alley, it
8 shall order the work done in the following manner and upon the
9 following terms: The contract for such paving or other im-
10 provements shall after due advertisement in which the council
11 shall reserve the right to reject any and all bids, be let,
12 to the lowest responsible bidder. The contractor shall look
13 only to the city, for the payment of the work, and in no
14 sense to the abutting land owners. The total cost of curb-
15 ing, grading and paving or otherwise improving any such street
16 or alley, with the exception in the case of a street occupied
17 by street car tracks or other railways of the distance between
18 the rails and two additional feet outside of each rail, which
19 portion shall be borne and paid entirely by the street car or
20 other railway company operating such street or other railway
21 (unless otherwise provided by the franchise of such street car
22 or other railway company granted previous to the passage of

23 this act) shall be borne by the owners of land abutting upon
24 said street, alley or portion thereof, according to the follow-
25 ing plan, that is to say: Payment is to be made by all land
26 owners on either side of such portion of a street or block
27 so paved or improved, in such portion of the total cost, less
28 the portion, if any, chargeable to such street or other rail-
29 way company, as the frontage in feet of his land so abutting
30 bears to the total frontage of all land so abutting on such
31 street, alley or portion thereof so paved or improved as afore-
32 said. The cost of such paving or improvement chargeable to the
33 abutting owners is not to include any portion or amount paid
34 for paving of squares at intersection of streets which shall
35 in all cases be borne and paid by this city. When the paving
36 of any street, or alley, or portion thereof, shall have been
37 let to contract, it shall be the duty of the engineer of such
38 city to cause the several frontages abutting thereon to be
39 measured and to calculate the assessment upon each and every
40 land owner so abutting, adding to the contract price all other
41 charges, costs and expenses necessary to complete said improve-
42 ment and to certify the same to the council showing the proper
43 amount to be determined as provided in the foregoing plan. It
44 shall be the duty of the council to examine and compare such
45 assessment, amounts and names so certified to it, and thereupon
46 said council shall give notice by publication for one issue in
47 some newspaper of general circulation in said city, that an
48 assessment under this section is about to be laid against the
49 abutting property for paving or improvements done on said
50 streets or alleys, describing the location of such paving or im-
51 provements, and any owner or owners thereof shall have the
52 right to appear before said council within two weeks from such
53 publication thereof and move said council to correct any ap-
54 portionment or assessment excessive or improperly made as
55 charged, which corrections said council shall have the power
56 to make, and if found to be correct or when corrected by the
57 council, as aforesaid, it shall enter the same together with a de-
58 scription of the lots of land as to location, frontage, depth and
59 ownership, so far as the same may be ascertained, upon its rec-
60 ords and to enter in its records that such owners and lots be as-
61 sessed and chargeable with the amount so ascertained to be borne
62 by them, respectively, and when so approved, certified and en-
63 tered of record the same shall be and constitute an assessment

64 against said owners and lots for such respective amounts. And
65 it shall be the duty of the council to immediately certify such
66 assessments to the treasurer for collection as herein provided,
67 and a copy of said order shall be certified by the recorder to the
68 clerk of the county court of the county whereín said property
69 is situated, who shall be required to record and index the same
70 in the proper trust deed book in the name of each person against
71 whose property assessments appear therein. The amounts so as-
72 sessed against said abutting land owners shall be paid in ten
73 payments as follows: That is to say, one-tenth of said amount,
74 together with interest on the whole assessment for one year, shall
75 be paid unto the city treasurer of the city before the first day
76 of May next after said assessments have been certified to the
77 county clerk. And a like one-tenth, together with interest for
78 one year upon the whole amount remaining unpaid on or before
79 the first day of May in each succeeding year thereafter until all
80 has been paid and each of said installments of one-tenth, be-
81 ginning with the first shall bear interest on the amount of
82 said installment at six per centum per annum from the date
83 of the making of the assessment as herein provided until
84 paid; *provided, however* that any abutting owner so liable for
85 any portion of the cost of such paving shall have the right at
86 any time after the same is certified as aforesaid to the treas-
87 urer for collection to anticipate the payment of any or all of
88 said assessments and shall be allowed to pay the face of said
89 assessment with interest at six per centum per annum only to
90 the time of payment. To each of such installments of assess-
91 ments remaining unpaid in the treasurer's hands on the days
92 herein specified for the payment thereof, a penalty of ten per
93 centum shall be added and any assessments so remaining unpaid
94 in the treasurer's hands on such date, shall be taken up by the
95 council, and thereupon such council shall place such assessments
96 with the penalty added thereto, in the hands of the city treas-
97 urer or other officer of said city, whose duty it is to collect
98 delinquent taxes and assessments, to be treated and considered,
99 and payment thereof enforced in all respects as herein pro-
100 vided for the collection of taxes due the city, and they
101 shall be a lien upon the property liable therefor the same as
102 for taxes, which lien may be enforced in the same manner as
103 provided for taxes. The liens hereinbefore provided for shall
104 have priority over all other liens except those for taxes due

105 the state and shall be on a parity with taxes and assessments
106 due the city. Whenever all such assessments for paving, sewer-
107 age or curbing, macadamizing or other improvements shall be
108 paid in full to the treasurer he shall deliver to the party pay-
109 ing the same a release of a lien therefor, which may be
110 recorded in the office of the clerk of the county court as
111 other releases of liens, and whenever any such assessments
112 shall be shown to the satisfaction of the city auditor or
113 other official performing the duties of auditor, to have been
114 paid in full to any officer entitled to receive the same, such
115 auditor or the mayor, in cases where the corporation has no
116 auditor, may in like manner execute such release.

Special Assessment. Sewers. General Procedure

Sec. 55. Whenever the council shall order the con-
2 struction of any public sewer in said city, the owners of
3 the property abutting upon any street in which such sewer
4 shall be constructed, shall be charged with and liable for
5 sewerage assessment as follows: When a contract has been let
6 for said sewer the engineer of such city shall report to the
7 council, in writing, the total cost of such sewerage, includ-
8 ing all costs charges and expenses necessary to complete same.
9 and a description of the lots of land as to the location, front-
10 age, depth and ownership liable for such sewer assessment,
11 so far as the same may be ascertained together with the amount
12 chargeable against each lot and owner, estimated on the basis
13 of one dollar per foot for inside lots, and one dollar and
14 twenty-five cents per foot for corner lots, frontage measures
15 on said sewer being considered, except that such estimate as
16 to corner lots fronting thereon and having a greater depth
17 than one hundred and fifty feet shall be estimated at one dollar
18 and fifty cents per foot frontage, and any lot having a depth
19 of two hundred feet or more and fronting on two streets, one in
20 front and another in the rear of said lot, shall be assessed on
21 both of said streets, if a sewer is constructed on both streets,
22 or if fronting on a street running back two hundred feet or
23 more to an alley, shall be assessed on both the street and the
24 alley if a sewer shall be constructed in both street and alley;
25 where a corner lot has been assessed on one end it shall not be
26 assessed on the side; and thereupon said council shall give like
27 notice by publication as is required in case of street paving

28 assessments, and the same rights shall exist as to the persons
29 and property affected and the same duty as to corrections by
30 said council as are prescribed with reference to paving, which
31 report shall in like manner be examined by the council, and if
32 found to be correct or corrected as aforesaid, and such estimated
33 assessments to be a fair and equitable apportionment of the cost
34 of such sewer, it shall enter an order upon its record setting
35 forth such location, depth, ownership and said amount of such
36 sewer assessment, against each, respectively, calculated as afore-
37 said, and the entry of such order shall constitute and be an
38 assessment for such proportion and amount so fixed therein
39 against such respective owners and lots, and if after such adver-
40 tisement, notice and hearing said council shall find that such ap-
41 portionment at such rate is unjust, or inequitable, it shall as-
42 certain, fix and assess the cost thereof among and upon the abut-
43 ting owners respectively, justly and equitably, and in like man-
44 ner assess and enter the amount so fixed respectively upon its
45 records, and the council shall, in either event thereupon certify
46 the same to the treasurer for collection, and certify a
47 copy of such order to the clerk of the county court of the
48 county wherein said abutting property is situate, who shall
49 record the same in the proper trust deed book, and index the
50 same in the name of each owner of any such lot so charged with
51 such assessment, and such assessment so made shall constitute
52 and be a lien upon said lots respectively, which shall have prior-
53 ity over all other liens except those for taxes due the state,
54 and shall be a parity with other taxes and assessments due
55 the city and shall be paid by the parties liable therefor to
56 the said treasurer at all times in the manner and with the at-
57 tendant penalties for failure to pay promptly at the time pre-
58 scribed in all respects as hereinbefore provided in the case
59 assessments for paving streets and alleys in a permanent man-
60 ner, and the parties liable therefor shall in the same manner
61 and to the same extent have the right and be entitled to
62 anticipate any or all of such installments thereon as in such
63 case provided. The liens herein and hereinbefore provided for
64 street paving, macadamizing, sewerage assessments and assess-
65 ments for other improvements, shall constitute liens upon
66 the real estate upon which they are assessed, as against credi-
67 tors of the owners thereof, or purchasers for value, and
68 without actual notice of such liens only from and after the

69 time that the statement thereof certified as aforesaid, shall
70 be filed for record in the office of the clerk of the county
71 court of the county wherein said abutting property is situate.

Resolution for Paving or Sewerage; Publication

Sec. 56. Whenever it is deemed expedient by the council of said city to provide for the grading, paving, curbing, sewerage, macadamizing or otherwise improving any street or alley therein, or constructing any sanitary sewer, to be paid for in whole or in part by special assessments, said council, shall declare by resolution, three-fifths of the whole number elected thereto concurring, by an aye and no vote, the necessity of such improvement. At the time of the passage of said resolution the council, shall have on file in the office of the city recorder or town clerk, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvement, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open to the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the curbs, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement. Council shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications, whether by an appropriation for funds in the treasury unappropriated, or whether or not bonds shall be issued in anticipation of the collection of special assessments to be made against the abutting property owners as provided for in this chapter. Assessments shall be payable in ten installments as provided for herein. The resolution herein provided for declaring the necessity for such improvement shall be published at least one week after its adoption in a newspaper of general circulation in the city and an affidavit with a copy of said notice attached, shall be filed with the recorder or clerk of the council. Said resolution shall be in effect from and after the publication thereof as herein provided for.

Notice of Resolution for Paving or Sewerage

Sec. 57. A notice of the passage of the resolution required
2 in the last preceding section, embodying a copy of said
3 resolution shall be served upon the owner of each piece of
4 property to be assessed, said service to be made in the
5 manner provided in section one of chapter one hundred and
6 twenty-one of the code; *provided*, that if any of the owners
7 or persons be not residents of the county wherein said improve-
8 ment is proposed, or if it appears by the return in any case,
9 that the owner cannot be found, then a notice of the passage
10 of said resolution shall be published in some newspaper of
11 general circulation in the city in which said improvement is
12 proposed to be made one week, and such notice, whether by ser-
13 vice or publication, shall be completed at least three days be-
14 fore said improvement is begun or the assessment is levied, and
15 the return of the officer serving such notice or a certified
16 copy of said return, or where published, the certificate of
17 the publisher of said newspaper, shall be *prima facie* evidence
18 of the service of the notice as herein required. *Provided*,
19 *further*, that if the owner be a railroad company or other
20 corporation that notice shall be served upon some agent or
21 attorney for said railroad company or corporation within
22 Hancock or Brooke county; *provided*, there be such agent or
23 attorney for said railroad company or corporation within such
24 county, and such service shall be made two weeks before said
25 improvement is begun or the assessment is levied. Notice upon
26 infants may be served on their guardians and upon insane
27 persons by service upon their committee.

Cost of Paving Street Intersections

Sec. 58. The city shall pay the cost of paving the inter-
2 sections at all cross streets (but not including the places
3 where private alleys or private crossings cross the sidewalk
4 which shall be paid by the owner or owners of said private
5 alley or crossing at the time the paving is laid on said cross-
6 ing); *provided*, that whenever special assessments shall be here-
7 after levied under the provisions of this chapter, made for the
8 improvement of any street or other public place (other than side-
9 walks) the property so assessed shall not again be assessed for
10 more than half the cost and expense of repaving or repairing
11 such street or other place unless the grade be changed; but this

12 exemption shall not apply to the paving of streets or other pub-
13 lic places which were paved or improved before the passage of
14 this act.

Bonds For Payment of Such Improvements

Sec. 59. It shall be lawful for said city to issue and sell
2 its bonds as provided in this chapter for the sale of
3 other bonds to pay the corporation's part of the cost of said
4 improvement as required by this act, and may levy taxes in ad-
5 dition to all other taxes authorized by law, to pay such bonds
6 and interest thereon: *provided*, that the total indebtedness of
7 the city for all purposes shall not exceed five per centum of
8 the total value of all taxable property therein.

Ordinance for Paving or Sewerage

Sec. 60. At the expiration of the time for the giving and
2 publication of the notices as provided for herein, the
3 council shall determine whether it will proceed with the pro-
4 posed improvement or not, and if it decides to proceed there-
5 with, an ordinance for the purpose shall be passed; said or-
6 dinance shall set forth the streets and alleys upon which
7 the abutting property is to be assessed for the improvement,
8 shall contain a statement of the general nature of the improve-
9 ment and the character of the materials which may be bid upon
10 therefor; of the mode of payment therefor, a reference to the
11 resolution theretofore passed for said improvement giving the
12 date of its passage and a statement of the intention of the coun-
13 cil to proceed therewith in accordance with said resolution and
14 in accordance with the plans, specifications, estimates and pro-
15 files provided for said improvement. In setting forth the lots
16 and lands abutting upon the improvement it shall be sufficient to
17 describe them as the lots and land abounding and abutting upon
18 said improvement between and including the termini of said
19 improvement, or by the description by which they are described
20 on the land books of the county in which said lots are situate;
21 and this rule of description shall apply in all proceedings in
22 which lots or lands are to be charged with a special assessment.

Validity of Special Assessments for Street Improvements

Sec. 61. In any case in which special assessments have
2 been or shall hereafter be made upon the property for the
3 construction of any improvements authorized by this chapter,

4 and several kinds of material have been named in the ordinance
5 or ordinances providing for the same, and on which bids have
6 been received for the construction of said improvements with
7 any, either or all of said materials, said assessments shall be
8 valid and binding assessments upon the property so assessed. In
9 the case of the construction of sewers required under the pro-
10 visions of this chapter, notice of the passage of said resolution
11 as provided for herein shall be made in the manner provided for
12 in case of paving.

*Concurrence of Three-Fifths of Council in Authorizing
Improvements*

Sec. 62. No public improvement, the cost or part of the cost
2 which is to be specially assessed on the owners of property
3 shall be made without the concurrence of three-fifths of the
4 whole number of members elected to the council, unless the
5 owners of a majority of the foot frontage to be assessed, petition
6 in writing therefor, in which event the council or other body
7 or bodies having such matters in charge under the charter shall
8 be authorized (a majority of the whole number elected thereto
9 concurring) to proceed with the improvement in the manner
10 herein provided for.

Improvements Through Public Property; Assessments

Sec. 63. When the whole or any portion of the improve-
2 ment authorized by this chapter passes through or by a public
3 wharf, market space, park, cemetery, structure for the fire de-
4 partment, waterworks, school building, infirmary, market
5 house, workhouse, hospital, house of refuge, bridge, gas works,
6 public prison, court house, church, or other public structure
7 or public grounds within said city and belonging to said city
8 or to the county, state, or any church, association, or eleemosy-
9 nary institution, the council may authorize the proper propor-
10 tion of the estimated costs and expenses of the improvement to
11 be certified to the clerk of the court of the county wherein
12 said corporation is situate, and the same shall thereupon be re-
13 corded by said clerk in the proper trust deed book and shall
14 thereupon become a lien against said property and collectible as
15 other assessments are collected against individuals under this
16 chapter and it shall be the duty of those persons having
17 charge of the fiscal affairs of any such property or institution

18 to make proper arrangements for meeting of such assessments
19 when due and payable.

Improvements and Assessments to be Speedily Made and Collected

Sec. 64. Proceedings with respect to improvements shall be
2 liberally construed by the council and by the court to
3 secure a speedy completion of the work at a reasonable cost, and
4 in the collection of the assessments after the time has elapsed
5 for their payments, any merely formal objections shall be dis-
6 regarded.

*Approval of Bonds by Attorney General; Necessity and Manner
Thereof*

Sec. 65. Whenever said city shall create bonded indebted-
2 ness the payment whereof is made by taxation, the bonds shall
3 be submitted to the attorney general for his approval or dis-
4 approval of the validity thereof, before being sold, advertised
5 or offered for sale. Within two weeks from the time the result
6 of an election authorizing the issuance of said bonds shall have
7 been officially ascertained and certified as provided by law,
8 the authority so issuing such bonds shall transmit them to the
9 attorney general with a duly certified copy of all the orders,
10-11 proclamations, notices, advertisements, affidavits, and records
12 and all its proceedings connected with or pertaining to said
13 bond issue. The attorney general shall thereupon either ap-
14 prove or disapprove the validity of said bonds and attach to
15 or stamp thereon his certificate to the effect that said bonds
16 have been approved or disapproved, as the case may be, by
17 virtue of the authority of this act. He shall keep on file in his
18 office all the papers pertaining to any bond issue submitted to
19 him and shall record his findings of approval or disapproval in
20 a well bound book kept for that purpose in his office, which
21 shall be open to inspection during business hours of any person
22 in interest.

Notice of Approval or Disapproval of Bonds by Attorney General

Sec. 66. Upon approving or disapproving any such bonds
2 the attorney general shall immediately notify the said city of
3 his action, either by mail or telegram or both, and shall as soon
4 as can be done, notify the people in the political division sub-
5 ject to taxation for the payment of said bond, of his approval
6 or disapproval by notice published once a week for two suc-
7 cessive weeks in two newspapers of opposite politics, if there

8 be any, published therein, or if no newspapers be published in
9 said political division, then in some newspaper which is of
10 general circulation therein.

Effect of Approval of Bonds by Attorney General, Appeal

Sec. 67. After ten days shall have elapsed from the day of
2 the last publication of the notice to the taxpayers by the at-
3 torney general as provided for herein, the said bonds, the
4 validity of which have been approved by the attorney general,
5 shall then become incontestable, and shall be valid and binding
6 obligations upon the authority issuing the same and upon the
7 taxable property within the said city, and the validity thereof
8 shall not be contested thereafter in any court of law or equity ;
9 *provided, however,* that any person in interest, or any taxpayer,
10 within said political division, feeling aggrieved by the action
11 of the attorney general in approving or disapproving the validity
12 of such bonds, may within ten days after the date of the last
13 publication of the notice to the taxpayers provided for in this
14 act (but not after said ten days) present his or its petition
15 to the supreme court of appeals or to a judge thereof in vaca-
16 tion, praying that the action of the attorney general in ap-
17 proving or disapproving as aforesaid, be reversed or modified ;
18 and if said court, or a judge thereof in vacation, be of the
19 opinion to hear and determine the matters in said petition set
20 out, the case shall be proceeded with as in cases of original
21 jurisdiction ; but the petitioner shall file with the clerk of the
22 court a bond with security to be approved by him, and in such
23 sum as the court or judge may fix, for the payment of such
24 costs as may be awarded against him in said court. The clerk of
25 the court shall forthwith notify the attorney general of any
26 action taken by the court or judge in vacation upon such peti-
27 tion ; and for the hearing thereof the attorney general shall file
28 with the clerk of said court all papers, documents, evidence
29 and records, or certified copies thereof, which were before him
30 and on which he based his approval or disapproval ; and before
31 the day fixed for final hearing he shall file with the clerk of said
32 court a written statement of his reasons for the approval or
33 disapproval of the bonds. Upon the submission of the case, the
34 court shall decide the matters in controversy and enter such
35 order thereon as to it may seem to be just ; but hearings upon
36 such cases shall have precedence over those arising upon appeals
37 and writs of error.

Costs and Expenses of Approval of Bonds by Attorney General

Sec. 68. The costs of publishing the notice to taxpayers directed to be made in the three preceding sections, and the costs of certifying and copying all records, papers and proceedings to be used by the attorney general in passing upon the validity of such bonds, and all necessary expense incurred by attorney general in connection with any bond issue shall be paid by the said city and shall be charged by it as a part of the expense of such bond issue, and paid by the said city out of the proceeds arising from the sale thereof, if the same be finally approved; and if the same be finally disapproved, such expense shall be paid out of the general fund of said city.

What Included in Costs of Improvements

Sec. 69. There shall be included in the cost of improvements which may be assessed against properties benefitted the cost and expense of preliminary and other surveys, of making and preparing plats, plans and specifications, and of printing and publishing notices, ordinances and resolutions required to be published in relating thereto, the cost of supervising the work, any cost for services of a special attorney or engineer, and the damages caused to abutting property, as well as the cost of construction and any other necessary costs; and there shall be excluded the cost of improving and paving intersections of streets and alleys, the cost of land acquired, and any amount which any street car or other railway company may be required to contribute toward such work. Any street car or other railway company occupying any street or alley with its tracks or railway shall pay the cost of paving the space between the rails and for two feet additional outside of each rail, unless otherwise provided in the franchise of such street car or other railway company which was granted prior to the passage of this act, in which case the cost of that part of the pavement or other improvement which can lawfully be charged against such street or other railway company under its franchise shall be assessed against and paid by it. The city shall pay out of the general fund the cost of paving and improving the intersection of streets and alleys, except such part thereof as may be assessed against a street car or other railway company as above set forth.

Specifying Time of Payment

Sec. 70. If the council shall decide to pay for the work of
2 improvement as the work progresses and upon completion of
3 the work, in the ordinance directing the assessments to be made
4 to cover the cost of such work or of any part thereof they shall
5 provide for the payment of the assessments at such time or
6 times as are necessary to provide funds for payment for the
7 improvement as the work progresses, and upon completion of
8 the same. And in that event if any installments shall not be
9 paid when due, there shall be added interest thereon from the
10 time due and payable at the rate of six per centum per annum,
11 and a penalty of five per centum of the installment not paid
12 when due.

What Included in Assessment

Sec. 71. The work undertaken may include widening, grad-
2 ing, paving, re-paving, curbing, sewerage and otherwise im-
3 proving a street or streets, alley or alleys, and a part of the cost
4 of sewerage the street or streets, alley or alleys, may properly be
5 assessable under this act upon property against which no
6 assessment may be made for the other improvements upon such
7 street or streets, alley or alleys, and in that event, the cost
8 charged against any lot or parcel of land which may be properly
9 charged with a part of the cost of the entire improvement in-
10 cluding the sewerage shall be included in a single assessment.

Void Assessment; Remedy

Sec. 72. If in any case any special assessment shall be illegal
2 or void, either in whole or in part, a new assessment may be
3 made in the same manner or as nearly as may be to the other
4 assessments authorized by this act to be made to pay for the
5 improvements, the former assessment for which was illegal or
6 void.

Collection of Assessments

Sec. 73. It is hereby provided that any assessment, whether
2 the same be special or otherwise made upon property for any
3 of the purposes provided for in this act, may be collected in
4 any one of three (3) ways:

5 *First*—By levy upon the personal property of the party or
6 parties against whom the said assessment is made.

7 *Second*—By returning delinquent to the auditor the real
8 estate of the party or parties against whom the said assessment

9 is made in which case they shall be returned by the auditor to
10 the sheriff and the real estate sold by the sheriff the same as
11 provided by general law for the collection of state and county
12 taxes, or

13 *Third*—By a suit in chancery in the circuit court of Hancock
14 county, West Virginia, wherein the court may enter a decree
15 appointing a special commissioner to sell the real estate upon
16 which a lien is created by the provisions of this act by reason
17 of any improvements herein mentioned and the proceeds of
18 such sale shall be distributed as follows:

19 (First) To the payment of the costs and expenses of such
20 suit and sale.

21 (Second) To the payment of such assessment, penalty and
22 interest and the remainder, if any, shall be paid to the defend-
23 ant, owner or owners of such real estate.

Release of Liens

Sec. 74. Whenever any assessments for sidewalks, street pav-
2 ing, grading, sewerage or other improvements hereinabove pro-
3 vided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying
5 the same a proper release of the lien of such assessment, which
6 release shall be substantially in the form prescribed by section
7 two of chapter seventy-six of the code of one thousand nine
8 hundred and thirteen of this state (serial section number three
9 thousand eight hundred and fifty-nine) for the release of the
10 lien of judgments and decrees.

Remedies Saved

Sec. 75. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred upon
3 said City of Hollidays Cove shall not be exclusive or in deroga-
4 tion of any other right or remedy which it does or shall possess
5 under any law or under the constitution of the state to enforce
6 in any court of law or equity any such power, right or authority.

Sidewalks

Sec. 76. The city council is hereby authorized and
2 empowered to cause to be put down and grade, fill or ex-
3 cavate for a suitable sidewalk and curb of brick, stone or
4 other material along and for the footways and sidewalks of the
5 public streets and alleys of said city, and to order and cause

6 the grading, laying or relaying or repair of sidewalks and
7 gutters, of such material and width as the council may deter-
8 mine; and to require the owners or occupiers of the lot or lots or
9 parts of lots facing upon such streets and alleys to keep such
10 sidewalks clean and in good repair. The owners or occupiers
11 of the lots or fractional parts of lots abutting upon such streets
12 and alleys shall not grade or lay any such sidewalk, curb or
13 gutter, unless specially requested to do so by resolution adopted
14 by the council, and then only of the kind and width prescribed
15 by the council; but the city may lay such sidewalks, curb or
16 gutter and grade, fill or excavate therefor, or may let said work
17 by contract and in either case the total cost of said work, in-
18 cluding grading and excavating or filling shall be charged
19 upon and assessed against the lots or fractional parts of lots
20 abutting upon the streets and alleys so improved, or specially
21 benefited by said work, in proportion to the number of feet
22 frontage thereon of each such lot or part of lot, and shall be
23 and remain a lien thereon from the date of the acceptance of
24 the work by the city, and said lien shall have priority over all
25 other liens except those for taxes due the state and the United
26 States and shall be on a parity with the taxes and assessments
27 due the city, and shall bear interest from the date of acceptance
28 of the work by the city, or from the completion thereof when
29 done by the city, and shall become due and payable when de-
30 clared final by the council; and to each such assessment re-
31 maining unpaid thirty days after maturity there shall be
32 added and collected by the city a penalty of ten per centum
33 of the amount of such assessment in addition to the interest.
34 The amount so assessed against any lot, or fractional part of
35 lot, together with the interest and penalty aforesaid, shall also
36 be a lien against such lot or part of lot. Immediately upon
37 completion of the work, if done by the city, or upon accept-
38 ance of the work, if done by contract, the council shall cause
39 the city clerk to serve a notice upon the owners of each lot or
40 fractional part of lot over which such sidewalks are graded,
41 filled, excavated, curbed or laid, shall describe such lot or part
42 of lot so graded, excavated, filled, curbed, or laid with sidewalk,
43 together with the amount assessed against each owner; such
44 notice shall be served as provided for the service of notice of
45 street assessments in this act and shall cite all said owners to
46 appear before the council at a meeting to be held, within fifteen

47 days following the service or publication of such notice and
48 show cause, if any they can, why such assessments should not
49 become final. Protests against said assessments shall be heard
50 and determined and said assessments shall become final and be
51 recorded by the city clerk, certified for collection, and the col-
52 lection thereof, enforced against the property assessed and
53 against the owner thereof, the same as assessments for sewers
54 and paving, and a certificate of said assessments certified to
55 the clerk of the county court for recordation, and recorded in all
56 respects in the same manner and with the same legal effect as
57 provided in the case of assessments for street paving or other
58 local improvements in this act. And all of the assessments,
59 interest and penalties thereon so collected from the abutting lot
60 owners on account of the grading and curbing and laying of
61 said sidewalks shall be applied to the cost of making the im-
62 provement for which said assessments were laid, and to no other
63 purpose.

Additional Methods of Paving

Sec. 77. In case of the construction of any pavement, sewer,
2 sidewalk or other permanent improvement under the provisions
3 of this act, when an assessment shall be void or voidable by
4 reason of errors, irregularities or defects in the proceedings
5 under which improvements shall have been made, or in case
6 such assessment shall have been made against the wrong per-
7 son, it shall be the duty of the council, within two years after
8 any court shall have declared such assessment invalid, to cause
9 notice to be given to any person against whom the cost of such
10 improvement might properly have been assessed under this
11 act, of its intention to lay such assessment against him, and
12 fixing a time and place at which he may appear and show cause,
13 if any, why such assessment should not be laid. Said notice
14 shall be served as provided in this act for the giving of notices
15 in assessment proceedings, or in any manner provided by law,
16 including by publication, if the person is a non-resident of the
17 city or cannot be found.

18 At the time and place fixed for a hearing under the notice
19 aforesaid, the council shall proceed to lay and levy an as-
20 sessment for the cost of such permanent improvement in such
21 manner as would have been lawful under proper proceedings
22 at the time said improvement was made, unless the person so

23 notified shall show good cause why the same should not be laid,
24 and no further notice of such assessment shall be necessary.
25 The assessment so laid shall be a lien upon the property liable
26 therefor, as of the date of the original void, or voidable, as-
27 sessment, and shall be recorded in the same manner as herein-
28 before provided.

Bond Election

Sec. 78. No bonds shall be issued under the provisions of
2 this act until and unless the question of issuing such bonds
3 shall have first been submitted to the vote of the people of the
4 city and shall have received three-fifths of all of the
5 votes cast at said election for or against the same. When the
6 council shall have made provision for paying for any work
7 of improvement authorized in this act out of funds derived
8 from the sale of bonds in anticipation of the collection of spe-
9 cial assessments against property specially benefited and shall
10 have made such assessments in the manner provided in this
11 act, it shall cause to be held a special election, at which shall
12 be submitted to the vote of the people the question of issuing
13 such bonds. The ordinance providing for the election need
14 not specify in detail the location of the improvements contem-
15 plated or the cost thereof, or the amount of the special assess-
16 ments made, and notwithstanding the provisions of sections
17 two, three and six of chapter forty-seven-a of the code of one
18 thousand nine hundred and sixteen, it shall be a sufficient
19 description of the purposes for which said election is to be
20 held if the ordinance directing the same shall recite that it is
21 to authorize the council to issue bonds for the purpose of
22 widening, grading, paving, re-paving, curbing, sewerage, or
23 otherwise improving the streets and alleys of the city.

24 Provision may be made in the same ordinance authorizing
25 the issuing of bonds as in this section above provided, or the
26 issuing of bonds to provide funds for any other municipal
27 improvement. The provisions of chapter forty-seven-a of the
28 code, edition one thousand nine hundred and sixteen, concern-
29 ing bond elections, together with any amendments thereof shall,
30 so far as they are not in conflict with the provisions of this
31 section, apply to and control all bond elections called or held
32 under the provisions of this act.

Issuance of Bonds

Sec. 79. The said City of Hollidays Cove is hereby
2 authorized to issue their bonds and to sell the same, *provided*,
3 *however*, that in so doing they shall not violate any provision
4 of the constitution of the United States or any provision of
5 this act with regard thereto; nor shall they make such issue
6 and sale, without at the same time providing for the collection
7 of a direct annual tax sufficient to pay annually the interest
8 on such debt and principal thereof within and not exceeding
9 thirty-four (34) years. The said city shall be authorized to
10 impose taxation on every inhabitant thereof to the extent of
11 the value of his property therein. Such taxes shall be uniform
12 with respect to persons and property within their jurisdiction
13 and shall only be levied on such property, real and personal
14 and mixed and on capital on which the state imposes a tax
15 and on licenses; but no special tax shall ever be imposed except
16 the special tax put on such subjects as the state imposes a
17 license tax for the exercise of a privilege. The said city by
18 its corporate authorities, in the exercise of its police force and
19 fiscal affairs may impose a license tax for any special privilege
20 for the exercise of which the state imposes a license tax and
21 have the right to tax such privilege for the purpose of enforce-
22 ing the same. And such police regulations as may be pre-
23 scribed for said city. The jurisdiction of said city shall ex-
24 tend one mile beyond the corporate limits of said city as
24a prescribed by this act. All such taxes on such property and
25 capital may be assessed and collected by such council in such
26 manner and shall be accounted for at such time or times as
27 may be prescribed by the council. But no such tax on any
28 such property or capital outside of corporate limits and within
29 said mile shall be imposed by such council, and the power of
30 decision outside of said limits and within said mile shall only
31 extend to the imposition of a license tax on such subjects as
32 the state imposes a license tax and the power of enforcing
33 the payment thereof. The power of revoking of licenses as
34 provided for in this act shall extend to licenses issued within
35 said distance of one mile from the corporate limits thereof.
36 No person, firm or corporation for which a license tax is
37 required under the provisions of this act shall be permitted
38 to continue in business after the revocation of such license
39 as provided for herein.

Submission of Bond Issue to Voters

Sec. 80. No bonds shall be issued by any such corporation
2 under this law unless all questions connected with the same
3 shall have been first submitted to the qualified voters of such
4 corporation, at a special election held for that purpose only,
5 and have three-fifths of all the votes cast for and against the
6 same.

Publication of Bond Ordinance

Sec. 81. When the council of such city shall deem it expe-
2 dient to issue such bonds, an ordinance, specifying the pur-
3 pose and amount for which such bonds are to be issued, shall
4 be adopted by them in regular meeting and it shall then be
5 the duty of the mayor to issue a proclamation reciting said
6 ordinance, and appointing a day at which an election shall
7 be held by the qualified voters of such city to decide whether
8 they will ratify or reject said ordinance. Such proclamation
9 shall be published in some newspaper of general circulation in
10 such city, at least once a week for two weeks previous to the
11 day of the election.

Conduct of Bond Election

Sec. 82. Such election shall be conducted in all things
2 according to the laws then in force governing elections, and
3 the provisions of the charter of this city. All persons qualified
4 to vote at other municipal elections in such city, and no others
5 shall vote at such elections as are herein authorized.

Ballots for Bond Election

Sec. 83. The person voting for the ratification of any
2 such ordinance, shall have written or printed upon his ballot
3 the words, "For Ratification," and the person voting against
4 ratification shall have written or printed upon his ballot the
5 words "For Rejection."

Proclamation of Indebtedness in Bond Election

Sec. 84. The proclamation provided for in this act, shall
2 specify the aggregate amount of indebtedness, issued and
3 authorized, of such city, existing at the date of the proclama-
4 tion.

Bond Terms

Sec. 85. Bonds issued under this law shall be of the denomination of one thousand dollars. They shall be payable serially not less than two, nor more than thirty-four years after date. They shall bear not more than six per cent interest, and the interest shall be payable semi-annually. And no debt shall be hereafter created by said city, except the debt designated and provided for by this act as the bonded debt.

Debt Limitation

Sec. 86. The City of Hollidays Cove herein created shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum of the value of the taxable property in said city as ascertained by the last assessment for state and county taxes made previous to the incurring of any indebtedness. For the purpose of this act the existing indebtedness of the city shall be determined as follows, either,

(a) By including all bonds and obligations of the city of every character whatsoever and ascertaining the total amount thereof, except that bonds issued in anticipation of the collection of special assessments representing the cost of paving or other permanent improvements of streets and alleys, or the construction of sewers, and which are to be paid and discharged out of the assessments made against the specially benefitted properties, or by the owners thereof, shall not be included. From the total so ascertained there shall be deducted the amount in any sinking fund or sinking funds, in cash or invested as provided by law, created and applicable for the payment of any of the bonds or obligations included in such total, as well as the amount of any current revenues or assets of the city available for the payment of any such obligations, or,

(b) By ascertaining the total of all bonds and obligations of the city of every character whatsoever, including the bonds issued in anticipation of the collection of special assessments representing the cost of paving or other permanent improvements of streets and alleys or the construction of sewers, which are to be paid out of the assessments made against the specially benefitted properties, or by the owners thereof, and deducting from the total sum so ascertained, the amount of all special assessments made against property specially benefitted for pay-

32 ing and discharging the said bonds, the amount of current
33 revenues of the city available for the payment of its obligations
34 and the amount in any sinking funds, in cash or invested as
35 provided by law, created and applicable for the payment of
36 any of the bonds or obligations included in such total.

37 (c) Or the existing indebtedness of the city may be ascer-
38 tained in any other manner provided by law.

Suits for Damages from Improvements

Sec. 87. No person who claims damages, arising from any
2 cause due to or arising out of said improvements, shall com-
3 mence suit therefor against the corporation within sixty days
4 after the completion of the improvements, in order that the
5 corporation may take such steps as it may deem proper to settle
6 or adjust the claim.

Damages, Right of Action Against City

Sec. 88. No person shall bring any action whatever in any
2 county in this state for damages arising out of improvements
3 or changes of grade unless he shall have filed with the city
4 clerk not more than five days after being notified of the inten-
5 tion of the city to make such improvement or change of grade,
6 a statement of the damage, which in his opinion, he will sustain
7 by reason of said improvement or the change of grade thereof,
8 which statement shall be sworn to by the person so claiming
9 such damage. The notice herein provided for shall be con-
10 sidered as completed upon the date of the publication of same
11 in a newspaper or newspapers as hereinbefore provided where
12 personal service is not had upon the owner of the property.

Construction of Proceedings

Sec. 89. Proceedings with respect to improvements shall be
2 liberally construed by the court to secure speedy completion of
3 the work at reasonable cost, and a speedy collection of the assess-
4 ments after the time has elapsed for their payment, and merely
5 formal objection in such cases shall be disregarded.

Serving Notice

Sec. 90. When any notice is required to be given, or any
2 summons, warrant or other process is required to be served or
3 otherwise executed, under the provisions of this act, it shall be
4 sufficient if such notice, summons, warrant, or other process

5 be executed by an officer of the police department of said city
6 in the same way or manner in which the laws of the state pre-
7 scribe for executing summonses and subpoenas by state officers,
8 unless otherwise provided by this act.

Duties of City Clerk in Municipal Elections

Sec. 91. The city clerk, acting under state laws insofar as
2 they are not in conflict with this act, shall perform such duties
3 relating to all municipal elections held under the municipal
4 authorities of said city as the clerks of the county and circuit
5 courts of Hancock and Brooke counties perform under state
6 laws in relation to state, county and district elections in said
7 county; and he shall likewise be the custodian of all ballots, tally
8 sheets, etc., pertaining to all municipal elections.

Policemen

Sec. 92. The mayor shall appoint such number of policemen
2 as may be prescribed by the council by ordinance, and the mayor
3 shall have, at his discretion, the absolute right and power to
4 dismiss any policeman and appoint another in his stead. The
5 policemen shall be under the command of the mayor and the
6 chief of police, and shall perform any and all the duties incident
7 to the office of policeman and in addition to the usual and
8 customary duties prescribed by the laws of this state and under
9 the provisions of this act required of them, it shall specially
10 be the duty of each police to report to the chief of police, or
11 some one designated by him to receive such report, as often as
12 occasion demands, the condition of all streets, sidewalks, alleys,
13 basements, backyards, buildings, unimproved lots, and all other
14 things within the limits of said city that may come under the
15 notice of such policemen which may relate to the health of
16 citizens thereof. It shall be the duty of each police officer to
17 perform all duties of humane officer, and to exercise all the
18 functions, power and authority relating thereto which are or
19 may be prescribed by any law of this state or ordinance of
20 said city.

Members of Council, Compensation

Sec. 93. Each member of the city council shall be paid during
2 his term of office the sum decided upon by the preceding council
3 for each meeting of the council that he shall attend, *provided*,
4 that the aggregate amount to be paid to each member shall not
5 exceed the sum of one hundred dollars (\$100.00) per annum.

Reports

Sec. 94. It shall be the duty of the manager, not later than 2 the first Monday of any month after his appointment, to make 3 a detailed report to the council for the preceding month. Such 4 report shall show under distinct heads, first, the names and 5 salaries of all employes under the control and supervision of 6 of the manager; second, all expenditures or disbursements in 7 the several departments under the supervision of the manager; 8 third, an itemized statement of all purchases, together with the 9 cost thereof, for each and every department; fourth, all such 10 other matters and things as the council may by proper ordinance 11 or resolution require of said manager. Such report shall be 12 entered of record in the minutes of the council and be a public 13 record, open to the inspection of all persons. All officers or 14 employees in any departments under the supervision of the 15 manager shall, whenever required by said manager, make full 16 and complete reports of all things done by them as such officers 17 or employees, in connection with the business of the city.

County Assessor to Furnish List

Sec. 95. The county assessor shall furnish to the city clerk 2 a transcript of real and personal property in the City of Holli- 3 days Cove, as soon as practicable in each year.

Authority to Issue Process

Sec. 96. The police judge, mayor and city clerk shall each 2 have authority to issue process for all offenses committed within 3 the police jurisdiction of the City of Hollidays Cove for all 4 violations of any city ordinances.

Power to Buy Real Estate and Convey the Same

Sec. 97. The council shall have power to buy, sell or exchange 2 any real estate found necessary or convenient in the opening, 3 construction, straightening, widening, or otherwise altering of 4 any street, alley, or public way within the city, and by resolu- 5 tion and proper deed to convey to any person, firm, or corpora- 6 tion any land used or heretofore or hereafter used, or street 7 or other public purpose, when, in the judgment of the council 8 such land shall be no longer needed for such public use.

Lot Subdivisions

Sec. 98. Any owner of lots or grounds within the city who 2 sub-divides or lays them out for sale, shall cause to be made

3 an accurate map or plat of such sub-division, describing with
4 certainty all grounds laid out, or granted for streets, alleys,
5 ways, commons, or other public uses. Lots sold or intended
6 for sale shall be numbered by progressive number, or described
7 by the squares in which situated, and the precise length and
8 width shall be given of each lot sold or intended for sale. Such
9 map or plat shall be subscribed by the owner and lien holders,
10 acknowledged before an officer authorized to take the acknowl-
11 edgment of deeds, approved by the city manager, and recorded
12 in the office of the clerk of the county court.

13 The map or plat so recorded shall thereupon be a sufficient
14 conveyance to vest in the city the fee of the parcels of land
15 designated or intended for streets, alleys, ways, commons, or
16 other public uses, to be held in the corporate name in trust to
17 and from the uses and purposes in the instrument set forth,
18 expressed, designated, or intended.

19 The city, however, shall not be required to open or improve
20 any street or alley shown on such plat until the public need re-
21 quires the same to be opened and improved, and it shall not be
22 liable to any person in any manner whatever, who may or shall
23 use any of such streets or alleys before the same shall have been
24 formally accepted by the council on the part of the city and
25 ordered to be opened and improved.

26 No such plat sub-dividing lands within the corporate limits
27 of this city shall be recorded by the clerk of the county court
28 in his office until the same shall have been approved by the
29 mayor and his approval in writing endorsed on such plat.

Motor Vehicles

Sec. 99. The city council shall have power to license and
2 regulate by ordinance all taxi-cabs, automobiles and vehicles
3 of like motive power engaged in the transportation of passen-
4 gers or freight for hire over the streets and alleys of the city,
5 and may require bond from the owners thereof for their faithful
6 compliance with all ordinances and rules and regulations made
7 in pursuance thereof; also to regulate and fix the rate of charges
8 to be made for transporting and hauling passengers and freight,
9 and to make it unlawful to charge a higher rate than the maxi-
10 mum fixed by the council.

Eminent Domain

Sec. 100. The City of Holidays Cove as herein credited or
2 continued shall have the right under the power of eminent

3 domain to condemn, acquire and appropriate any property and
4 acquire the fee simple title or any lesser estate or easement
5 therein for any public use, whether said property be located
6 within or outside of the corporate limits of said city, including
7 the right to acquire property for opening and widening streets,
8 alleys and public places, and for the construction and mainten-
9 ance of sewer lines, sewerage disposal plants, water lines and
10 mains, pump stations, reservoirs or reservoir sites, dams for stor-
11 ing water, and the right to create storage reservoirs by flooding
12 adjacent properties, and for every other purpose required in the
13 construction, maintenance, and operation of water systems and
14 plants for the purpose of supplying water to the public. The
15 proceedings to acquire such lands, estates, or easements shall
16 be the same as provided by general laws of the state of West
17 Virginia for condemning and appropriating private property
18 for public use.

Assessments for Removing Snow, Weeds, etc.

Sec. 101. The city council shall have power to provide by or-
2 dinance for assessing against the abutting property the cost of
3 removing from sidewalks all accumulations of snow and ice and
4 for assessing against the property the cost of removing from
5 sidewalks all accumulations of snow and ice and for assessing
6 against the property the cost of removing rubbish and cutting
7 and removing of noxious weeds from any lot or grounds in the
8 city.

Taxes

Sec. 102. The council shall ascertain the total expense of
2 the city to be provided for by levy for the fiscal year in
3 which said levy is made, and it shall make a detailed itemized
4 estimate of the sum of money necessary to pay interest accruing
5 on the bonded indebtedness of said city, the amount required
6 for the several sinking funds for the reduction of the principal
7 thereof, the amounts necessary for the support of the various
8 departments of the city and for the improvements of its streets,
9 alleys, avenues and public grounds, real and personal property,
10 contingent expenses and other expenses, together with an item-
11 ized statement of the estimated receipts other than that to be
12 derived by the annual levy; and after receiving such estimates,
13 and before making the levy, it shall apportion the rate there-
14 of, including the estimated receipts, from licenses and all

15 other sources among the several funds so ascertained and
16 provided for, which apportionment shall be spread upon the
17 records of this city, and in making said estimate, providing for
18 the revenue for the fiscal years, etc., it shall be the duty of
19 the council to strictly observe all the provisions of chapter
20 nine of the acts of legislature, one thousand nine hundred and
21 eight, entitled "An act to regulate the rate and manner of
22 laying levies for taxation in counties, magisterial and school
23 and independent school districts, and municipal corporations,
24 and to provide penalties for the illegal expenditure of public
25 moneys, incurring of illegal obligations and the laying of
26 illegal levies by any tax levying body, and for the distribution
27 of a portion of the school fund," and all amendments thereto,
28 except where last named act shall be inconsistent with this
29 act as to limit of taxation.

Taxes, Continued

Sec. 103. The council shall have authority to levy and
2 collect an annual tax on real estate and personal property in
3 said city, and to impose a license and assess a tax thereon on
4 wheeled vehicles for public hire and for all dogs kept within
5 said city and to impose a tax upon all other subjects of tax-
6 ation under the several laws of the state which shall be uniform
7 with respect to persons and property within the jurisdiction of
8 said city, and shall only be levied on such property, real, per-
9 sonal and mixed, on which the state imposes a tax; *provided*,
10 that no greater levy shall be laid by said council on taxable
11 property of said city than fifty cents upon each one hundred
12 dollars of the assessed valuation of the property of the muni-
13 cipality, unless such greater levy shall be authorized by a vote
14 the people at an election held pursuant to said chapter nine
15 of the acts of the legislature of the year one thousand nine
16 hundred eight and subject to all the provisions of chapter
17 of the acts of the legislature of one thousand nine hundred
18 eight and any and all amendments thereto, except as herein
19 provided. There shall be a tax of two dollars (\$2.00) annual-
20 ly assessed on each and every inhabitant of said city over
21 the age of twenty-one (21) years, who is subject to a capita-
22 tion tax under the laws of the state of West Virginia. The
23 same shall be set out and included in the personal property
24 book against every such inhabitant, and shall be collected

25 under the authority of the city at the time of collecting other
26 levies and taxes.

Treasurer to Collect Tax

Sec. 104. The city treasurer shall have the power to collect
2 the city taxes except as otherwise provided in this act, and
3 he shall also have power to collect the city claims which may
4 be placed in his hands by the council for collection, except
5 that fines imposed by the police judge or mayor shall not be
6 collected by him.

Liability For Tax

Sec. 105. All goods and chattels belonging to a person,
2 firm, corporation or estate, assessed with any taxes, whether
3 the same be a capitation tax or a tax upon real estate or person-
4 al property, or an assessment on personal property, or an
5 assessment for paving or other improvements, shall be liable
6 for said tax, and may be distrained therefor in whosoever's
7 possession they may be found and the city treasurer shall
8 have the same power to collect said tax or assessment from
9 any person owing a debt to or having in his possession any
10 estate belonging to a person assessed with any tax or assess-
11 ment of any kind that the sheriff has to collect state taxes
12 in such cases. The city treasurer may distrain and sell for
13 all city taxes and assessments and in all respects have the
14 same power to enforce the collection thereof as the sheriff has
15 to enforce the collection of state taxes.

Lien for Taxes; Collection

Sec. 106. There shall be a lien upon all real estate within
2 said city for the city taxes assessed thereon, including such
3 penalties added thereto for non-payment thereof as are pre-
4 scribed by this act, from the first day of January of the year in
5 which said taxes are assessed. Said liens may be enforced by
6 appropriate suit in any court of record in Hancock or Brooke
7 county; *provided*, such suit be instituted within five years
8 from the time the said liens attached as herein provided, and
9 suit may either be instituted by and in the name of the City
10 of Hollidays Cove as plaintiff, or said city may intervene by
11 petition in any suit pending to sell or enforce liens against any
12 real estate which is subject to such lien for said taxes. The
13 liens herein created shall have priority over all other liens,
14 except those for taxes due this state.

15 Said liens for city taxes and attendant penalties may also be
16 enforced by certifying the same to the clerk of the county
17 court of Hancock or Brooke county according to the county
18 location of the property returned delinquent for non-payment
19 of taxes, for certification to the state auditor, and the same
20 may be certified down by said auditor, and sold for taxes,
21 interest, penalties and commissions thereon, in the same man-
22 ner, at the same time, and by the same officer as real estate
23 is sold for taxes, interest, damages, cost and commissions due
24 the state thereon, which officer shall account therefor, on settle-
25 ment with the city and pay over the same to the treasurer of
26 the city.

County Court Not to Have Authority Over Roads

Sec. 107. Neither the county court of Hancock or Brooke
2 counties, nor the authorities of the district in which said city
3 is situated, shall have or exercise jurisdiction within the cor-
4 porate limits with relation to the roads, streets, alleys, bridges,
5 wharves, docks or ferries, but the same shall be and remain
6 under the exclusive jurisdiction and control of the municipal
7 authorities of said city; and said city shall be liable only for
8 the construction, improvement, repair and good order of the
9 roads, streets, alleys, wharves and bridges in its corporate
10 limits.

*Municipal Buildings. Buying and Building Water Works and
Other Public Utilities, Paving Streets, Constructing
Sewers, Etc.*

Sec. 108. The City of Hollidays Cove is hereby authorized
2 to issue and sell bonds of said city for the purpose of buying
3 and building electric plants, water lines, water works, gas
4 lines and fields and other public utilities or any part thereof,
5 and for buying and building municipal buildings, jails, and
6 fire stations; and for the purpose of buying fire fighting equip-
7 ment and supplies, and for any other purpose and such bonds
8 shall be sold for not less than par, and be payable within
9 a period not to exceed thirty-four years, and shall bear inter-
10 est, not to exceed six per centum per annum; and in the issu-
11 ance and sale of said bonds the city shall be governed by
12 all the restrictions of the constitution of this state and the
13 statutes of this state, with respect to the issuance and sale
14 of bonds, *provided*, that said city shall not, by the sale or

15 issue of bonds, for the purposes above mentioned, cause the
16 aggregate of its indebtedness, of every kind whatsoever, to ex-
17 ceed five per centum of the value of taxable property therein,
18 but may for the above purpose issue bonds to the maximum
19 limit of said five per cent; nor shall said city make such issue
20 and sale of bonds without, at the same time, providing for the
21 collection of a direct annual tax sufficient to pay annually
22 the interest on the same, and to create a sinking fund to pay
23 the principal within the time for which said bonds shall be
24 issued.

Removal of Elective Officers

Sec. 109. Any elective officer may be removed at any time
2 by the circuit court of Hancock county, West Virginia, for any
3 ground or cause for which a member of the county court of the
4 county or other county officer may be removed. The proceeding
5 for the removal of an elective officer shall conform in all re-
6 spects with the proceeding to remove a county officer. On the
7 hearing of any such proceeding no person called at a witness
8 shall be excused from answering any question or giving any
9 testimony because the answer or testimony might incriminate
10 or tend to incriminate him, or render him liable to prosecution
11 for an offense. But no witness called to testify in any such
12 proceeding shall thereafter be prosecuted in any court in the
13 state for any act concerning which he is required to testify or
14 disclose by his testimony. Any person who shall be removed
15 from office under the provisions of this section shall not there-
16 after hold any office or employment in the City of Hollidays
17 Cove.

Succeeding to Duties of Officers

Sec. 110. The duties in this act or by any other law
2 provided to be discharged by any officer elected or appointed
3 under the provisions of this act shall be discharged and per-
4 formed by any officer under whatever title who shall hereafter
5 succeed any officer or office herein created and be charged with
6 the performance of the duties and obligations entrusted to and
7 imposed upon the holder of any office herein created.

License Tax

Sec. 111. The City of Hollidays Cove shall have the right
2 to require a license to do business from any person, firm or

3 corporation conducting a business in the City of Hollidays
4 Cove for which business the state requires a license.

5 The council shall prescribe by ordinance the time and manner
6 in which licenses of all kinds shall be applied for and granted,
7 and shall require the payment of a tax thereon to the city
8 clerk before the delivery thereof to the person applying there-
9 for, which tax shall include the same fees for the issuing of
10 such licenses as are charged for similar services by state and
11 county officers, which fees shall be paid into the city treasury.
12 The council may revoke any such license for a breach of any of
13 the conditions, or for other good cause shown, but the person
14 holding such license, must first have reasonable notice of the
15 time and place of hearing and adjudicating the matter, as well
16 as the cause alleged; and shall be entitled to be heard in per-
17 son by counsel, in opposition to such revocation. The term for
18 which licenses provided for in this charter shall be granted,
19 shall be governed by the general law providing for state licenses.

Establishment of Jails

Sec. 112. The City of Hollidays Cove shall have the right
2 to establish jails and places for the detention of prisoners of
3 said city at any place within Hancock or Brooke county, West
4 Virginia, and all prisoners arrested and imprisoned when await-
5 ing trial or after conviction shall be imprisoned in the jail so
6 designated by the council of said city as the city jail, or such
7 prisoners may be imprisoned in the county jail of Hancock
8 county, West Virginia, and the jailor of Hancock county, West
9 Virginia, is hereby required to receive and safely keep any pris-
10 oners of said town who shall be sentenced to the county jail
11 under the provisions hereof. *Provided, however,* that the said
12 city shall reimburse the county for all expenses sustained in
13 keeping such prisoners.

Sale or Lease of Waterworks or Other Public Utilities Owned by City

Sec. 113. In any case where the city shall own a water-works
2 system, electric light plant or other public utility or any part
3 thereof, and the council thereof shall deem it for the best in-
4 terest of such city that such utility or any part thereof be
5 sold, leased or rented, it shall be lawful for the council, by ordi-
6 nance legally passed, to submit to the legal voters of such

7 city the question of making such sale, lease or renting. In
8 such case the council shall in the ordinance submitting such
9 question to vote set forth in full the terms of such proposed
10 sale, lease or renting, the name of the proposed purchaser or
11 lessee, the date of such election, and said ordinance shall be
12 published at least once a week for two successive weeks prior to
13 the date of such election in at least one newspaper of general
14 circulation in such city. Said election shall be held in all re-
15 spects in compliance with the provisions of the general laws of
16 the state of West Virginia, so far as the same are applicable, and
17 not inconsistent herewith. If a majority of the votes cast at
18 such election upon said question be in favor of the proposed
19 sale, lease or renting of such utility, the council, upon the ascer-
20 tainment of the result of said election, shall have full power
21 and authority to proceed to execute such sale, lease or renting in
22 accordance with the terms and conditions prescribed in the
23 ordinance aforesaid, and shall have power to do any and
24 all things necessary or incident thereto; *provided, however,*
25 that if at any time after such election and before the execu-
26 tion of the authority under the ordinance, any person, firm
27 or corporation should present to the council an offer to buy
28 such public utility, plant or part thereof, at a greater price
29 than the sale price which shall have been so voted and author-
30 ized, or to lease the same upon terms which the council, in its
31 discretion, shall consider more advantageous to the municipality
32 than the terms of the lease which shall have been authorized by
33 vote as aforesaid, the council shall have the power to accept
34 such subsequent offer, and to make such sale or such lease to the
35 person making the offer, without re-submitting the question to
36 a vote. But if a sale shall have been authorized by a vote as
37 aforesaid, and such subsequent proposition be for a lease, or
38 if a lease shall have been so authorized, and the subsequent
39 proposition shall be for a sale, the council shall have no power
40 to accept the same without submitting the question thereof to
41 a vote of the people as first above provided. And before any
42 such second or subsequent proposition shall be submitted to
43 vote, after a sale or lease shall have been authorized at an
44 election held hereunder, the person making such proposition
45 shall execute bond with security to be approved by the coun-
46 cil, in a penalty of not less than twenty-five per cent of such

47 proposed bid, conditioned to carry such proposition into ex-
48 ceution if the same shall be approved at the election to be
49 called thereon. In any case where such public utility as is men-
50 tioned in this section shall be sold, leased or rented by the coun-
51 cil as hereabove provided, no part of the moneys derived from
52 such sale, lease or renting shall be applied to the payment of
53 current expenses of the municipality; but the proceeds of such
54 sale or lease shall be applied in payment and discharge of any
55 bonded indebtedness created in respect to such public utility;
56 and in case there be no such bonded indebtedness, the council,
57 in its discretion, shall have power to expend all such moneys
58 when received, in the purchase or construction of fire fight-
59 ing equipment and buildings, a town hall, and the necessary
60 land upon which to locate the same, or in the construction of
61 paved streets, sidewalks, sewers and other like permanent im-
62 provements, and for no other purposes. Or in the case there
63 be a surplus after the payment of such bonded indebtedness.
64 such surplus may be used as aforesaid.

Grant of Franchises

Sec. 114. No franchise shall hereafter be granted by the
2 council of said City of Hollidays Cove where the application
3 for such franchise has not been filed at least thirty days
4 prior to the time when it is to be acted upon, by such coun-
5 cil, with the clerk of such council, and notice of such appli-
6 cation, stating the object of such franchise, shall have been
7 given by publication for thirty days in some newspaper of
8 general circulation in said city. Nor shall such franchise
9 be granted within thirty days after the application has been
10 filed, nor until an opportunity has been given any citizen or
11 corporation interested in the granting or refusing of said
12 franchise to be heard, nor shall any franchise hereafter be
13 granted by the council of said city for a longer term than fifty
14 years; *provided, however,* that nothing in this act shall prevent
15 the renewal of any such franchise for a term not exceeding
16 fifty years, when the same shall have expired. No franchise
17 hereafter granted for any longer term than fifty years shall
18 be of any force or validity.

Powers as to Ordinances, Regulations and Fines

Sec. 115. To carry into effect the powers enumerated herein,
2 and all others conferred upon such city or its council, by this

3 chapter or by any future act of the legislature of this state,
4 the council shall have power to make and pass all needful orders,
5 by-laws, ordinances, resolutions, rules and regulations, not con-
6 trary to the constitution and laws of this state; and to pre-
7 scribe, impose and enact reasonable fines, penalties and im-
8 prisonments in the city jail or the place of imprisonment of
9 said city, if there be one, for a term not exceeding thirty days,
10 for each violation thereof. Such fines, penalties and imprison-
11 ments shall be recovered, and enforced under the judgment of
12 the mayor or police judge of such city or the person lawfully
exercising his functions.

Existing Ordinances

Sec. 116. The officers elected at the last election, in the City
2 of Hollidays Cove, shall remain in office until their successors
3 under this act are elected and qualified as hereinbefore pro-
4 vided; and after this act takes effect they shall have jurisdiction
5 over all the territory embraced in the boundary specified in
6 this act, and shall perform all the duties of such respective
7 officers under this act; but nothing in this act shall be con-
8 strued or held to in any way affect or impair any of the bonds,
9 obligations or indebtedness of the City of Hollidays Cove and
10 shall continue as though the same had been created under this
11 charter.

General Laws not Inconsistent Herewith not Repealed

Sec. 117. All general and special laws of the state of West
2 Virginia, governing cities and towns and now applicable and
3 not inconsistent with the provisions of this act, shall apply to
4 and govern the City of Hollidays Cove. All by-laws, ordinances
5 and resolutions lawfully passed and in force in the town of
6 Hollidays Cove under its former organization, and not incon-
7 sistent herewith, shall remain in force throughout the City of
8 Hollidays Cove until altered or repealed by the council of said
9 City of Hollidays Cove. All rights and property heretofore
10 vested in said town of Hollidays Cove are continued and pre-
11 served in its title and property vested in the City of Hollidays
12 Cove and no right or liability, either in favor of or against, the
13 said town of Hollidays Cove at the time this act takes effect,
14 and no suit or prosecution of any kind, shall be effected by
15 such change, unless otherwise provided for in this act.

Present Officers to Continue in Office

Sec. 118. All officers elected under the present charter of 2 "The City of Hollidays Cove" shall be subject to the provisions 3 of this act, and receive the emoluments herein mentioned, and 4 shall continue in office until the first day of February, one 5 thousand nine hundred and twenty-six, or until their successors 6 are elected or appointed and qualified, and shall exercise all 7 the powers conferred on them by this act and by general law.

When Act Effective

Sec. 119. This act shall not become effective unless the same 2 is adopted by a majority of voters in said city as hereinafter 3 provided for within six months after the passage of this act. 4 Upon the passage of this act it shall be the duty of the council 5 of the town of Hollidays Cove as the same exists at that time 6 to set a time for an election. The question of the adoption of 7 this charter shall be referred to the legal voters of the town of 8 Hollidays Cove as herein constituted and thereupon the mayor 9 of said city shall issue a proclamation setting the date of such 10 election and the object of such election and further stating that 11 a copy of said charter is on file in the office of the city clerk 12 and open to the inspection of all persons interested, but it shall 13 not be necessary for said proclamation to have therein con- 14 tained a copy of this act. Such proclamation shall be published 15 in some newspaper of general circulation in said city at least 16 once a week for two successive weeks before the election.

17 It shall be the duty of the council of said city to appoint the 18 election commissioners and clerks to conduct said election, to 19 provide ballots, poll books and other things for the proper con- 20 duct of said election; and said election shall be conducted at 21 such place as shall be provided by the mayor in his proclama- 22 tion and according to the rules and regulations for elections 23 now in force in said City of Hollidays Cove.

24 The ballots used in said election shall be printed in sub- 25 stantially the following form:

26 "Election by the voters of the City of Hollidays Cove in the 27 counties of Hancock and Brooke and State of West Virginia, 28 on the_____day of_____, 1925, on the 29 question of adopting or rejecting the city charter as enacted by

30 the Legislature of West Virginia at the regular session of one
31 thousand nine hundred and twenty-five thereof.

32 For the adoption of said charter ()

33 Against the adoption of said charter ().”

34 On the day after the said election it shall be the duty of said
35 council of said city to canvass the returns of said election and
36 ascertain and declare the result thereof. If a majority of the
37 votes so cast at said election are for the adoption of this charter
38 certificate thereof shall be published and entered in the minute
39 book of said council and publication thereof made in the next
40 succeeding issue of such newspaper in which the said proclama-
41 tion of the mayor calling said election was published.

Inconsistent Acts Repealed

Sec. 120. All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 4

(Senate Bill No. 96—By Mr. Marsh)

AN ACT to authorize the municipal corporation of the town of Cairo, in the county of Ritchie, to vote upon, issue and sell its bonds to an amount, including existing indebtedness, in the aggregate not to exceed five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county purposes, the proceeds of the sale of such bonds to be applied in and used for the grading, draining, curbing and paving the streets and alleys of said municipality of Cairo, or such of the said streets and alleys of said municipality as may be deemed necessary or expedient to grade, drain, pave and curb; to extend, repair or replace the present system of water mains, or to repair, replace and enlarge the present pumping plant for supplying water to the said town, and to provide proper appliances and adequate means for fire protection for said town.

[Passed January 27, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. To vote, issue and sell bonds;
use of funds.

2. Additional use of funds for water

supply; and fire protection; to
lease or sell water plant; sup-
plemental powers.

Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of Cairo in the 2 county of Ritchie, be and is hereby authorized, in the manner

3 provided by law, to vote, issue and sell its bonds to an amount,
4 including existing indebtedness, not to exceed five per centum
5 on the value of the taxable property therein, to be ascertained
6 by the last assessment for state and county taxes. The pro-
7 ceeds from the sale of said bonds are hereby authorized to be
8 used for the grading, draining, curbing and paving of the
9 streets and alleys of the said town, or of such streets and
10 alleys as may be deemed necessary and expedient, by the
11 common council of said town to be graded, drained, curbed
12 and paved.

Sec. 2. That said municipal corporation is also authorized
2 to use the proceeds of the sale of the said bonds, in excess of
3 the amount necessary for the grading, draining, curbing and
4 paving of the said streets and alleys, as hereinbefore authorized,
5 for the purpose of replacing, repairing or enlarging the pres-
6 ent pumping plant for supplying water to the said town, and
7 extending, repairing and replacing the present system of water
8 mains in said town, and to provide proper and adequate means
9 for fire protection for said town; to purchase and install all
10 necessary machinery, appliances and equipment, and all things
11 necessary or convenient for a complete water plant and water
12 system for the use of said municipality.

13 Said council shall possess power to dispose of, lease, rent or
14 sell the use of any water provided by said water plant, and to
15 furnish water to the citizens of said town and to other persons
16 upon such terms and at such rates as it may ordain.

17 This act shall not be deemed or construed as restrictive of
18 the powers of said municipality and its common council and
19 officers under general law, but supplemental thereto.

CHAPTER 5

(Senate Bill No. 111—By Mr. Hogg)

AN ACT to amend and re-enact section two of chapter nineteen
of the acts of the legislature of West Virginia of one thousand
nine hundred and fifteen, defining the corporate limits of the
City of Point Pleasant; and to further amend said chapter
nineteen by the addition of sections thirty-eight-*a*, thirty-
eight-*b*, thirty-eight-*c*, thirty-eight-*d* and thirty-eight-*e*, pro-
viding for the issuance and sale of bonds; providing for the is-

suance of bonds of said city for the construction, maintenance and improvement of an adequate sewer system; providing for the apportionment of the cost thereof; providing for the issuance of sewer assessment certificates by the said city and the collection thereof; and to repeal any inconsistent act or acts.

[Passed April 23, 1925: in effect from passage. Approved by the Governor.]

Sec.

2. Boundaries; submission of boundaries to voters; election; ballots; void unless ratified by popular vote; improvements by county court and road commission.

38-a. Authority to vote, upon, issue and sell bonds.

38-b. Payment of bonds for sewers;

Sec.

survey; apportionment of cost; cost of lateral sewers; city aid.

38-c. Assessments against property; order by council; certification to city treasurer; payment; installments.

38-d. Lien on property.

38-e. Repealing inconsistent acts.

Be it enacted by the legislature of West Virginia:

That section two of chapter nineteen of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, defining the corporate limits of the City of Point Pleasant, be amended and re-enacted and that said chapter nineteen be further amended by the addition of sections thirty-eight-a, thirty-eight-b, thirty-eight-c, thirty-eight-d and thirty-eight-e, providing for the issuance and sale of bonds; providing for the issuance of bonds of said city for the construction, maintenance and improvement of an adequate sewer system; providing for the apportionment of the cost thereof; providing for the issuance of sewer assessment certificates by the said city and the collection thereof; and to repeal any act or acts inconsistent herewith, which said section two, as amended, and said section thirty-eight-a, thirty-eight-b, thirty-eight-c, thirty-eight-d and thirty-eight-e are inconsistent with, as follows:

Boundaries

Section 2. The boundaries of said city shall be as follows:

2 Beginning at a point on the Kanawha river where a stake
3 is called for, being a corner of the lands formerly owned by
4 C. C. Miller, who is now deceased, and the lands of the Kan-
5 awha and Michigan railway company; thence with the division
6 lines between the said Miller lands and the railway company's
7 lands north twenty-nine degrees forty-five minutes, east one
8 thousand feet, to a stake; thence in a westerly direction in a
9 straight line to a point on the south side of Fifth street near
10 where the same is intersected by what is known as the Tippet

11 alley; thence north following said alley, in the middle thereof,
12 to the corner of the Tippet property on the south side of
13 Sixth street; thence crossing Sixth street to the southeast
14 corner of the Perry Rogers' lot; thence in a northerly direction
15 following the easterly line of the Perry Rogers' lot sixty feet
16 to a stake; thence in an easterly direction crossing Crooked
17 creek to a stake near the Kanawha and Michigan right of
18 way; thence in a southerly direction four hundred and fifty feet
19 to a point on the northwest corner of the Charles Bennet
20 property, same being on the northerly side of the Clarksburg
21 road; thence with the northerly side of the Clarksburg road,
22 as now located, to the intersection of the said Clarksburg road
23 and the southerly side of the Kanawha and Michigan right of
24 way; thence in an easterly direction and following the line
25 of the Kanawha and Michigan right of way to a stake in the
26 C. C. Miller line; thence with said line and crossing the Kan-
27 awha and Michigan right of way north twenty-nine degrees
28 forty-five minutes east four hundred and fifty feet in said
29 Miller line to a stake; thence in a north-westerly direction
30 about seven thousand and one hundred feet in a straight line
31 to a point eight hundred feet northerly of the Kanawha and
32 Michigan main line track at point of hill, north-westerly of
33 Union depot; thence in a northerly direction in a straight line
34 to a point on the west side of what is known as river road
35 and about sixty feet west of what is known as Mud bridge;
36 thence with the westerly side of the river road and Jackson
37 avenue to Jefferson avenue; thence in a northerly direction
38 with the westerly side of Jefferson avenue to the north side
39 of Twenty-second street; then in an easterly direction with
40 the north side of Twenty-second street to east side of Jackson
41 avenue, where the same is intersected by Jerico road; thence
42 following the Jerico road in an easterly direction to the east
43 side of Washington avenue; thence leaving said Jerico road
44 north eight degrees east thirty-two poles to a post set in the
45 ground on the fifteenth day of July, one thousand nine hundred
46 and four; thence south eighty-two degrees east twenty-five poles
47 to stake on the top of creek bank; thence along the top of
48 creek bank north twenty-seven degrees fifteen minutes east
49 four poles sixteen links; thence north nine degrees east five
50 poles sixteen links; north twelve degrees west two poles three
51 links; north thirteen degrees fifteen minutes east twenty poles

52 to a stake; thence north thirty-five degrees east ten poles ten
53 links to a stake in bend of the fence; thence north fourteen
54 degrees thirty minutes east thirty-eight poles ten links to a stake
55 in outline of thirty-six acre tract known as lot number one in
56 Point Pleasant Development company's survey; thence with line
57 of said lot number one, north eighty-two degrees west nine poles,
58 fifteen links to a stake; thence north forty-one degrees west
59 eleven poles eight links to a stake at the northeast corner of
60 Fair Ground; thence along the north line of said Fair Ground
61 north eighty-two degrees west nine poles to a stake; thence
62 north six degrees east sixty-one poles eleven links to a stake;
63 thence south thirty degrees east seven and one-half poles to
64 a fence post in southeast corner of cemetery lot; thence along
65 the south line of cemetery lot north seventy-five degrees forty-
66 five minutes west forty-eight poles to the east line of Jackson
67 avenue as laid out by the Point Pleasant Development com-
68 pany; thence along the east line of Jackson avenue north nine
69 degrees east thirty-four poles twelve links to a stake in the
70 outline of the Point Pleasant Development company's land and
71 with said outline and line of land of Mrs. Ham Parr north
72 seventy-six degrees west one hundred and seventy-one poles
73 to a stake in the south bank of Old Town creek; thence along
74 the south bank of said Old Town creek with its meanders and
75 binding thereon, south thirty-five degrees west sixteen poles
76 four links; north forty-seven degrees fifteen minutes west six
77 poles; north twenty-eight degrees, forty-five minutes west eight
78 poles; north seventy-five degrees west three and one-half poles;
79 south three degrees thirty minutes east three poles four links;
80 south twenty-eight degrees east six poles twenty links; south
81 twenty degrees east five poles; south twelve degrees west six
82 poles and nine links; south eight degrees west seven poles
83 seven links; north eighty-one degrees thirty minutes west four
84 poles and twenty-two links; south forty-four degrees forty-five
85 minutes west thirteen poles and twenty-three links to the top
86 of the Ohio river bank; thence north seventy-three degrees
87 thirty minutes west to the Ohio and West Virginia state line;
88 thence with said state line down the Ohio river to a point
89 opposite the center of the Kanawha river; thence crossing the
90 Ohio river and in a line with the center of the Kanawha river
91 and continuing said course up the center of the Kanawha river
92 five hundred and three poles to a point opposite the begin-

93 ning corner; thence north twenty-nine degrees and forty-five
94 minutes, east three hundred and twenty-five feet to the place
95 of beginning.

96 *Provided, however,* that before this section defining the
97 boundaries of said city shall take effect, it shall be submitted
98 to the voters of said city at the regular city election to be held
99 in the year one thousand nine hundred and twenty-five.

100 The tickets for said election herein provided for shall have
101 written or printed thereon "For changing the boundaries of
102 the City of Point Pleasant" and "Against changing the boun-
103 daries of the City of Point Pleasant." The result of the
104 election and vote upon the said question shall be ascertained
105 and certified the same as the result of the vote upon the various
106 candidates whose names are submitted at the said election, con-
107 forming to the general law governing elections as far as ap-
108 plicable, and if the majority of the votes cast upon said ques-
109 tion shall be in favor of changing the boundaries of the City
110 of Point Pleasant, as provided to be made in this section, then
111 the boundaries of the said City of Point Pleasant shall be and
112 become as delineated in this section. If, however, the ma-
113 jority of the votes cast upon said question shall be against
114 changing the boundaries of said city, or if the vote be even,
115 then the boundary limits of said City of Point Pleasant shall
116 be and remain as they were before this act went into effect.

117 *Provided, further,* that if the majority of votes cast upon said
118 question in the election herein provided be in favor of changing
119 the boundaries of the said city as provided in this section,
120 that before the county court of Mason county or the state
121 road commission shall make any improvements on any road,
122 street or alley, heretofore included within the corporate limits
123 of the said city of Point Pleasant, said county court shall
124 first submit to the voters of said Mason county, said proposed
125 improvement, and if a majority of all the votes cast shall be
126 in favor of said improvement, the said county court or said
127 state road commission may make said improvements.

Sec. 38-a. The City of Point Pleasant shall have the
2 authority to vote upon, issue and sell bonds for municipal
3 purposes, as contemplated and provided for by chapter fourteen
4 of the acts of the West Virginia legislature for the year one
5 thousand nine hundred and twenty-three.

Sec. 38-b. Whenever any such bond issue has been voted upon and carried for the purposes of constructing, maintaining or improving a sewer system or systems in the City of Point Pleasant, the council of said city shall have power and authority to provide for the payment of said bonds in the manner hereinafter provided for.

(a) After said bond issue has been ratified and approved in the manner provided for by statute, the council of the said city shall cause a survey to be made of the said city, showing the drainage area proposed to be served by the trunk line sewer which said survey shall be made the subject of a plat upon which shall be delineated all lots and parcels of real estate which will be served by the said trunk line sewer or sewers; and it shall be the duty of the council of the said city to see that the said plat showing the trunk line sewer or sewers, together with the portion of the said city to be served thereby, is duly recorded in the office of the city clerk of the said City of Point Pleasant.

(b) The cost of the said trunk line sewer shall be apportioned and borne by the owners of the property comprised in the drainage area served by the said trunk line sewer, and such apportionment shall be made in the following manner: Each owner of property comprised in the said drainage area shall bear the cost of the said trunk line system in the proportion which the frontage of his property bears to the total frontage of all property comprised in the drainage area; but in case of corner lots, the frontage to be borne by the owner of said corner lot shall be represented only by the length of the greatest dimension of said lot.

(c) As to the construction of lateral sewers draining into said main or trunk line sewer or sewers, the cost of said lateral sewers shall, when actually constructed, be chargeable to the property which they serve; that is, the owners of property shall defray the cost of the said lateral sewer to the same extent and in the same proportion that the frontage of his property bears to the total frontage of the property comprised in the area to be served by the said lateral sewer.

(d) The council of the said City of Point Pleasant shall likewise have authority and be empowered from current funds properly at their disposal from time to time to extend aid to any sewer system, either main or trunk line sewers or

42 lateral sewers, and the cost of said improvements shall like-
43 wise be apportioned and charged to the property as herein-
44 before set forth.

Sec. 38-c. When the said sewer is completed in any one
2 block, or between two designated points, the council shall cause
3 a report to be made in writing, setting out the total cost of such
4 sewer and a description of the lots or lands as to the location,
5 frontage and ownership liable therefor, including the cost of
6 acquiring or taking land or easement therein for such pur-
7 poses, and the cost of surveys, notices and other costs incidental
8 thereto, together with the amount chargeable against each lot
9 or piece of land and the owner thereof.

10 Said council shall enter an order upon its records, setting
11 forth the location and owner of each lot or piece of land and
12 the amounts of said sewer assessment there against, calculated
13 as herein provided for. The clerk of the said city shall file
14 a certified copy of said order with the clerk of the county court
15 of Mason county, who shall record the same in the proper
16 trust deed book and index the same in the name of each owner,
17 and any lot or lots which are charged therewith. The entry of
18 such order shall constitute and be an assessment for such pro-
19 portionate amounts as fixed therein against the respective lots
20 and the owners thereof. The said council shall thereupon cer-
21 tify the same to the city treasurer for collection; and for the
22 purpose of facilitating the collection of such assessments
23 against the property herein, the council may issue assessment
24 certificates with principal, installment and interest coupons
25 attached thereto in the manner herein provided for and the
26 said city treasurer shall deliver the canceled coupons and cer-
27 tificates to the party paying the same.

27 Said assessments and charges for the construction of the said
28 sewers herein provided for, shall be divided into five install-
29 ments, each for one-fifth of the amount thereof, as near as
30 practicable, making four of the said five installments in terms
31 of dollars only and when practicable in multiples of ten, the
32 cents and odd amounts to be covered by the first installment.
33 The first installment shall become due and payable in thirty
34 days from the date of the report of completion, as provided for
35 in this section, the second installment in one year, the third
36 installment in two years, the fourth installment in three years

37 and the fifth installment in four years from the date of the
38 said report. All of said certificates shall bear interest from
39 the date of issuance at the rate of six per cent per annum,
40 interest payable annually and said certificates shall be sold or
41 negotiated at not less than par, plus accrued interest, and
42 without discount to the contractors who may engage in such
43 work, or any other person; *provided, however, the City of Point*
44 *Pleasant, in negotiating and selling such certificates, shall not*
45 *be held as guarantor or in any way liable for payment thereof*
46 *except upon direct action of the city council as expressed by*
47 *resolution of record.*

48 It is further provided that the owner of any lot so assessed
49 may, at any time, anticipate and pay such assessment or cer-
50 tificates by paying in addition to the principal sum the in-
51 terest on all unpaid certificates to the date of the next annual
52 interest maturity date. *Provided, further, that if such assess-*
53 *ment shall not exceed fifty dollars, then the interest amount*
54 *shall be covered by only one principal installment and inter-*
55 *est coupon, payable in thirty days from the date of said report;*
56 *if over fifty dollars and not more than one hundred dollars,*
57 *then such amount shall be covered by two principal install-*
58 *ment and interest coupons, payable in thirty days and one year*
59 *respectively from the date of said report of completion; if over*
60 *one hundred dollars and not more than one hundred and fifty*
61 *dollars, then such amount shall be covered by only three prin-*
62 *cipal installments and interest coupons, payable in thirty*
63 *days, one year and two years respectively from said report of*
64 *completion; if over one hundred and fifty dollars and not more*
65 *than two hundred dollars, said assessment shall be covered by*
66 *only four principal instalment and interest coupons, payable*
67 *in thirty days, one, two and three years respectively from said*
68 *report of completion; if more than two hundred dollars then*
69 *said assessment shall be covered by five installments as hereien*
70 *set forth.*

Sec. 38-d. All assessments for sewer purposes against the
2 particular property as herein provided for shall constitute and
3 be a lien upon said real estate, which shall have priority over all
4 other liens, subsequently placed thereon, except liens for state,
5 county and municipal taxes assessed against the said property
6 subsequent to the date of the said report of completion.

Sec. 38-a. All parts of the said chapter nineteen of the acts 2 of the legislature of West Virginia of one thousand nine hun- 3 dred and fifteen in conflict or inconsistent with the provisions 4 of this act are hereby expressly repealed.

CHAPTER 6

(Senate Bill No. 33—By Mr. Hugus)

AN ACT to amend and re-enact section fifty of the part entitled Greater Wheeling Charter, of an act of the Legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled 'An act to amend, revise and consolidate into one act an act of the Legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: An act to amend, revise and consolidate into one act an act of general assembly of Virginia passed March eleventh, one thousand eight hundred and thirty-six, entitled: An act to incorporate the City of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the Legislature of West Virginia, which form a part of the charter of the City of Wheeling; chapter eleven of the acts of said Legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature, passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the City of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Tuesday in May, one thousand nine hundred and fifteen, as amended and re-enacted by chapter thirty-one of the acts of the legislature of West Virginia, of one thousand nine hundred and twenty-one,' the same being an emergency measure.

[Passed January 26, 1925; in effect from passage. Approved by the Governor.]

Sec.

50. Condemnation of property for use for municipal purposes; compensation; levy for parks; Wheeling park commission created, defining powers and limits; qual-

fications of members; appointment and terms; filling vacancies; organization of commission, authority; levy for maintenance and expenditure of the same.

Be it Enacted by the Legislature of West Virginia:

That section fifty of that part entitled "Greater Wheeling Charter", of chapter twenty-one of the acts of the Legislature of West Virginia, of one thousand nine hundred and fifteen, (Municipal Charters) approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen as amended and re-enacted by chapter one hundred and seventeen of the acts of the Legislature of West Virginia (Municipal Charters) and as amended and re-enacted by chapter thirty-one of the acts of the Legislature of West Virginia, one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Section 50. The council may cause to be taken or damaged
 2 for the use of the city, for streets, alleys, markets, bridges,
 3 public squares, parks, play-grounds, and other municipal pur-
 4 poses, including occupation by sewer, water pipes, gas pipes,
 5 heating pipes, compressed air pipes and electric or other sub-
 6 ways, any private property within the city, (but where such
 7 use is to secure or improve the water supply, or for park, play-
 8 ground, sanitary or cemetery purposes, outside the limits of the
 9 city) but no such property shall be taken or damaged without
 10 just compensation. The compensation, if it cannot be deter-
 11 mined by agreement with the owner of the property so taken
 12 or damaged, shall be ascertained in such manner as is or may
 13 be, prescribed by general law for the condemnation of land for
 14 public purposes. In addition to all other levies provided by
 15 law, the council of the city of Wheeling shall have the right to
 16 levy annually not to exceed five cents on each one hundred
 17 dollars of the assessed valuation of the property within the
 18 limits of the city according to the last assessment thereof for
 19 state and county purposes, for the purpose of obtaining and
 20 maintaining parks, play-grounds and recreation centers.

21 For the management of that plot of ground heretofore known
 22 as Wheeling Park, and donated to the city of Wheeling on
 23 the eighteenth day of December, one thousand nine hundred
 24 and twenty-four, for use as a municipal park, and for the man-

25 agement of such other parks as may hereafter be acquired by
26 the City of Wheeling there shall be, and there is hereby created
27 a commission to be known as "Wheeling Park Commission,"
28 and the same is hereby made a body corporate, and by that name
29 the commission may sue and be sued; plead and be impleaded;
30 and contract and be contracted with. The said commission shall
31 consist of five citizens of the city of Wheeling, who shall be
32 appointed in the manner hereinafter set out, and who shall
33 serve without compensation and shall hold no remunerative
34 political office, either state, county, or municipal; and no mem-
35 ber of the commission shall be eligible to appointment to any
36 remunerative office or position under the jurisdiction of the
37 commission. Before the first day of March, one thousand nine
38 hundred and twenty-five, the board of directors of the Wheeling
39 chamber of commerce shall appoint three members of the said
40 commission and the city council shall appoint two
41 members of the said commission. The said commissioners
42 appointed by the board of directors of the Wheeling chamber of
43 commerce shall hold office from March first, one thousand nine
44 hundred and twenty-five, for one, two and four years, respec-
45 tively, as designated by said board of directors, and the two mem-
46 bers of the commission appointed by the city council shall hold
47 office from March first, one thousand nine hundred and twenty-
48 five, for three and five years respectively, as designated by the
49 city council. Their respective successors, however,
50 shall be appointed for the term of five years each ex-
51 cepting that any person appointed to fill a vacancy occurring
52 before the expiration of a term, shall serve only for the unex-
53 pired term; any commissioner shall be eligible for re-appoint-
54 ment; *provided further, however,* that any vacancy created
55 either by the expiration of a term, or otherwise, shall be filled
56 by appointment by the appointing body, either the Board of
57 directors of Wheeling chamber of commerce, or the city coun-
58 cil, as the case may be, which may have appointed the com-
59 missioner whose place on the commission is being filled. Upon
60 the appointment of said commission, the members thereof shall
61 elect from among their number a chairman and a secretary-
62 treasurer who shall hold office for one year and be eligible for
63 re-election. Annually thereafter the commission shall organize
64 by the election of a secretary-treasurer and such other officers

65 from its own number as it may deem advisable. Members of
66 the commission may be removed from office in the same manner
67 as provided for the removal of county officers under section
68 seven, of chapter seven of Barnes' code one thousand nine
69 hundred and twenty-three. The commission shall have all and
70 sole power necessary, convenient and advisable for the proper
71 care, equipment and management of the said Wheeling Park
72 and any other parks hereafter acquired by the city of Wheeling,
73 either by gift or purchase, and shall make such rules and regu-
74 lations as it shall deem expedient for the care and management
75 thereof.

76 In order to provide for the purchase of equipment for use in
77 Wheeling Park and for the maintenance and upkeep of said
78 Wheeling Park, the city council of Wheeling shall levy annually
79 one cent or lesser amount, if requested by the commission on
80 each one hundred dollars of the assessed valuation of the prop-
81 erty within the limits of the city, according to the last assess-
82 ment thereof for state and county purposes, but this tax shall
83 not be construed to be in addition to that permitted heretofore
84 in this section fifty. The proceeds of this levy shall be for the
85 exclusive use of said Wheeling Park and any other parks ac-
86 quired as aforesaid by the city of Wheeling, and shall be dis-
87 bursed only upon the order of the commission evidenced by
88 warrants drawn on the city treasurer, and signed by the chair-
89 man and the secretary-treasurer of the commission.

CHAPTER 7

(Senate Bill No. 271—By Mr. Hugus)

AN ACT to amend and re-enact sections five, six, twelve, fifty and ninety-eight of the part entitled "Greater Wheeling Charter," of an act of the Legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled "An Act to amend, revise and consolidate into one act an act of the Legislature of West Virginia," passed February eleventh, one thousand nine hundred and seven, entitled: "An Act to amend, revise and consolidate into one act an act of the general assembly of Virginia passed March eleventh, one thousand eight hundred and thirty-six, entitled,

“An act to incorporate the City of Wheeling,” in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the Legislature of West Virginia, which form a part of the charter of the City of Wheeling; chapter eleven of the acts of said Legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature, passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the “City of Wheeling;” and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen, as amended and re-enacted by chapter thirty-one of the acts of the Legislature of West Virginia, one thousand nine hundred and twenty-one, as amended and re-enacted by an act of the legislature one thousand nine hundred and twenty-three, as amended and re-enacted by an act of the legislature one thousand nine hundred and twenty-five, initial session.

[Passed April 20, 1925; in effect from passage. Approved by the Governor.]

Sec.	Sec.
5. Election of councilmen; time of election; terms; conduct of election; registration.	ditional levy for parks etc.; creating “Wheeling Park Commission”, defining powers and duties; members; appointment and terms; filling vacancies; organization of commission; removal of members; powers; annual levy for upkeep of parks.
6. Members of council; qualifications; penalty for unlawful membership; mayor; effective after being submitted to voters and passed; election; ballot.	98. Creating civil service commission; members; election; terms; filling vacancies; duties; water department not affected unless ratified by popular vote; election; time; ballot.
12. Appointive officers; terms; health officer may be on board of commissioners; sheriff to collect taxes.	
50. Condemnation of property for parks, etc.; compensation; ad-	

Be it enacted by the Legislature of West Virginia:

That sections five, six, twelve, fifty and ninety-eight of that part entitled “Greater Wheeling Charter,” of chapter twenty-one of the acts of the Legislature of West Virginia of one thousand nine hundred and fifteen (Municipal Charters), approved by the majority of the voters of the City of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen, as amended and re-enacted by chapter one hundred and seven-

teen of the acts of the legislature of West Virginia (Municipal Charters) and as amended and re-enacted by chapter thirty-one of the acts of the legislature of West Virginia one thousand nine hundred and twenty-one, as amended and re-enacted by an act of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by an act of the legislature one thousand nine hundred and twenty-five, initial session, be amended and re-enacted so as to read as follows:

Section 5. The first election for councilmen under this charter shall be held on the fourth Thursday in May, one thousand nine hundred and seventeen, and every regular city election of councilmen shall be held biennially thereafter on the fourth Thursday in May, excepting that after the election on the fourth Thursday in May, one thousand nine hundred and twenty-five, regular election of councilmen shall be held every four years thereafter on the fourth Thursday in May. Said first election shall be conducted and the result ascertained and declared in the manner specified respecting elections in said city for municipal officers immediately preceding the time this charter takes effect, except that the officers to be elected shall be as prescribed by this charter. Thereafter such elections of councilmen shall be held in such manner as shall be prescribed by law. All other elections or votes on any question by the qualified voters of said city shall be held or taken at such places under the superintendency of such persons and subject to such regulations as are consistent with the laws of the state and ordained by the council.

The council shall by ordinance provide for the registration of voters in said city and have a new registration made before every regular city election for use at such election.

Sec. 6. Said city shall have a city council of not less than eleven members. All councilmen shall take office on the first day of July following their election and shall serve for a term of four years and until their successors are elected and have qualified, unless sooner removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No one elected a member of such city council shall be eligible to hold office as such member, who shall be interested, directly or indirectly, in the profits or emoluments of any contract, job, work or service for the city, or in any sale to it of any property, real or personal, or be, directly or indirectly, a holder

12 or owner of any bond or stock of any public utility corporation
13 enjoying a franchise, privilege or easement in or from
14 such city; or be an officer, agent, trustee, servant or employee of
15 such a corporation. If any such person shall serve or attempt
16 to continue to serve as a member of such city council who is not
17 eligible for such membership, he shall be guilty of a felony and
18 upon conviction thereof, be confined in the penitentiary of this
19 state not less than one nor more than five years. The member
20 of council nominated and elected from the city at large shall be
21 chairman or presiding officer of council, who shall be known of-
22 ficially as mayor of the city, and recognized as such for cere-
23 monial purposes, and for the purpose of being served with civil
24 processes against the city, and for the performance of all duties
25 imposed upon him by this charter.

26 *Provided, however,* that the above change in the term of coun-
27 cilmen and the election thereof every four years on and after
28 the election held on the fourth Thursday in May, one thousand
29 nine hundred and twenty-five, as hereinabove in sections five
30 and six provided, shall not become effective until and unless
31 the proposition to change the term of said city councilmen from
32 two to four years shall first be submitted to a vote of the quali-
33 fied voters of the City of Wheeling and a majority of the votes
34 cast be in favor of such change. The proposition to change the
35 term of councilmen from two to four years shall be submitted
36 to a vote of the people of the City of Wheeling at the election
37 to be held on the fourth Thursday in May, one thousand nine
38 hundred and twenty-five. The city council shall make arrange-
39 ments for the submission of said proposition to a vote of the
40 people of Wheeling at such election and shall prepare ballots
41 and submit said proposition at said election. The ballot to be
42 submitted shall be in substantially the following form:

43 For increasing the term of councilmen from two to four
44 years.

45 Against increasing the term of councilmen from two to
46 four years.

47 If the proposition receives a majority vote in favor of the
48 change, the councilmen elected at such election shall hold office
49 for four years, and the term of office for councilmen thereafter
50 elected shall be four years instead of two years as heretofore and
51 the charter of the City of Wheeling amended to read as herein-
52 above in sections five and six set out.

Sec. 12. The council shall appoint the following named
2 officers of the city, to-wit: A city manager, who shall be the
3 administrative head of the municipal government and who shall
4 be responsible for the efficient administration of all depart-
5 ments; a clerk, who shall be known as city clerk, who shall
6 keep all records of the meetings of the city council, and perform
7 such other duties as may be required by this charter or the
8-9 council; a city solicitor, who shall perform such duties as are
10 prescribed in this charter or as the city council by ordinance
11 shall prescribe; a judge of police court, a chief of police, and
12 such commissioners of municipal loans and bond issues as may
13 be required by law of the state or city ordinances and a city
14 health officer. All appointees of council shall hold office at
15 the pleasure of the council and receive such compensation
16 therefor as council may determine, excepting that the city
17 health officer shall serve for a term of four years.

18 Council may, by contract with the board of commissioners of
19 Ohio county, provide that the same person may be appointed
20 to the office of city health officer and act as such city health
21 officer and also be appointed or selected by the board of com-
22 missioners of Ohio county as county health officer during the
23 same period of time and perform similar duties for the City of
24 Wheeling and the county of Ohio, and council may contract
25 with said board of commissioners of Ohio county whereby said
26 board and said City of Wheeling shall agree upon the amount
27 of compensation to be paid said joint health officer and the
28 part of the compensation of any such health officer so appointed
29 to fill both offices, to be paid by each the City of Wheeling
30 and the board of commissioners; and council may likewise
31 contract with said board for a division of the expenses of any
32 joint city and county health office if the same person shall be
33 selected to fill the office of both city health officer and county
34 health officer and a joint health office maintained.

35 Council shall have authority to contract, by ordinance, with
36 the sheriff of Ohio county for the collection of city taxes at a
37 commission not to exceed two per cent of the aggregate col-
38 lected, and in the event of such contract being made the said
39 sheriff shall have the same powers and authority in making
40 such collections of city taxes as he is by law vested with in
41 making collections of state and county taxes, and he may act

42 by deputy in collecting city taxes, his deputies having and
43 exercising all powers of their principal in so doing.

Sec. 50. The council may cause to be taken or damaged for
2 the use of the city, for streets, alleys, markets, bridges, public
3 squares, parks, play-grounds, and other municipal purposes, in-
4 eluding occupation by sewer, water pipes, gas pipes, heating
5 pipes, compressed air pipes and electric or other subways, any
6 private property within the city, (but where such use is to secure
7 or improve the water supply, or for park, play-grounds, sanitary
8 or cemetery purposes, outside the limits of the city) but no such
9 property shall be taken or damaged without just compensation.
10 The compensation, if it cannot be determined by agreement with
11 the owner of the property so taken or damaged, shall be ascer-
12 tained in such manner as is or may be prescribed by general law
13 for the condemnation of land for public purposes. In addition
14 to all other levies provided by law, the council of the City of
15 Wheeling shall have the right to levy annually not to exceed five
16 cents on each one hundred dollars of the assessed valuation of
17 the property within the limits of the city according to the last
18 assessment thereof for state and county purposes, for the purpose
19 of obtaining and maintaining parks, play-grounds and recrea-
20 tion centers.

21 For the management of that plot of ground heretofore known
22 as Wheeling Park, and donated to the City of Wheeling on the
23 eighteenth day of December, one thousand nine hundred and
24 twenty-four, for use as a municipal park, and for the manage-
25 ment of such other parks as may hereafter be acquired by the
26 City of Wheeling there shall be, and there is hereby created a
27 commission to be known as "Wheeling Park Commission," and
28 the same is hereby made a body corporate, and by that name the
29 commission may sue and be sued; plead and be impleaded; and
30 contract and be contracted with. The said commission shall con-
31 sist of five citizens of the City of Wheeling, who shall be ap-
32 pointed in the manner hereinafter set out, and who shall serve
33 without compensation and shall hold no remunerative political
34 office, either state, county, municipal; and no member of the
35 commission shall be eligible to appointment to any remunerative
36 office or position under the jurisdiction of the commission. Be-
37 fore the first day of March, one thousand nine hundred and
38 twenty-five, the board of directors of the Wheeling chamber of

39 commerce shall appoint three members of the said commission
40 and the city council shall appoint two members of the same com-
41 mission. The said commissioners appointed by the board of
42 directors of the Wheeling chamber of commerce shall hold office
43 from March first, one thousand nine hundred and twenty-five.
44 for one, two, and four years, respectively, as designated by said
45 board of directors, and the two members of the commission ap-
46 pointed by the city council shall hold office from March first,
47 one thousand nine hundred and twenty-five, for three and five
48 years respectively, as designated by the city council. Their re-
49 spective successors, however, shall be appointed for the term of
50 five years each excepting that any person appointed to fill a
51 vacancy occurring, before the expiration of a term, shall serve
52 only for the unexpired term; any commissioner shall be eligible
53 for reappointment; *provided, further, however,* that any vacancy
54 created either by the expiration of a term, or otherwise, shall be
55 filled by appointing body, either the board of directors of
56 Wheeling chamber of commerce, or the city council, as the case
57 may be, which may be appointed the commissioner whose place
58 on the commission is being filled. Upon the appointment of said
59 commission, the members thereof shall elect from among their
60 number a chairman and a secretary-treasurer who shall hold
61 office for one year and be eligible for re-election. Annually there-
62 after the commission shall organize by the election of a secretary-
63 treasurer and such other officers from its own number as it may
64 deem advisable. Members of the commission may be removed
65 from office in the same manner as provided for the removal of
66 county officers under section seven, of chapter seven of Barnes'
67 code, one thousand nine hundred and twenty-three. The com-
68 mission shall have all and sole power necessary, convenient and
69 advisable for the proper care, equipment and management of the
70 said Wheeling Park and other parks hereafter acquired by the
71 City of Wheeling, either by gift or purchase, and shall make
72 such rules and regulations as it shall deem expedient for the
73 care and management thereof.

74 In order to provide for the purchase of equipment for use in
75 Wheeling Park and for the maintenance and upkeep of said
76 Wheeling Park, the city council of Wheeling shall levy annually
77 four cents, or lesser amount, if requested by the commission, on
78 each one hundred dollars of the assessed valuation of the prop-

79 erty within the limits of the city, according to the last assess-
80 ment thereof for state and county purposes, one cent of this tax
81 shall be construed to be a part of the tax heretofore in this sec-
82 tion permitted to be levied and three cents of this tax shall be in
83 addition to the five cents heretofore permitted to be levied. The
84 proceeds of this four cent levy shall be for the exclusive use of
85 said Wheeling Park and any other parks hereafter acquired as
86 aforesaid by the City of Wheeling, and shall be disbursed only
87 upon the order of the commission evidenced by warrants drawn
88 on the city treasurer, and signed by the chairman and the sec-
89 retary-treasurer of the commission.

Sec. 98. The city council shall elect a civil service commis-
2 sion for the purpose of examining applicants for positions and
3 promotions in the police, fire and water departments. The
4 civil service commission shall consist of three citizens not all
5 of whom shall be of one political party. At the first election
6 of members of the civil service commission, after the passage
7 of this act, one member shall be elected for a term of six years,
8 one member for a term of four years, and one member for a
9 term of two years. Thereafter the term of office of each mem-
10 ber shall be six years. Any vacancies occurring in the com-
11 mission shall be filled by the council. For the purpose of con-
12 ducting tests in the departments specified, the civil service
13 commission shall conduct practical examinations annually or
14 oftener, fixing grades and classifications as they may determine,
15 and a list of those successfully passing the examinations pre-
16 scribed shall be furnished the city manager, such list to be
17 known as the eligible list and selections must be made from
18 among the three applicants rated highest for the appointments
19 necessary to be made. Said list and all examination papers
20 shall be kept on file in the office of the city clerk and available
21 to the public at all times; *provided*, any appointees in the
22 departments under civil service shall be subjected to examina-
23 tions from time to time in the interest of efficiency and that
24 the passing of the required examinations prior to entering the
25 city's employ shall not constitute a life tenure in office. No
26 member of the civil service commission during his incumbency
27 shall be the holder of any state, county or municipal office.

28 *Provided, however*, that the above change in section ninety-
29 eight, whereby the water department is placed under the civil
30 service commission and included in the provisions of section

31 ninety-eight shall not become effective until and unless the
 32 proposition to amend section ninety-eight shall first be sub-
 33 mitted to a vote of the qualified voters of the City of Wheeling,
 34 and a majority of the votes cast be in favor of such change.

35 City council shall submit said proposition to a vote of the people
 36 of Wheeling at the election to be held on the fourth Thursday in
 37 May, one thousand nine hundred and twenty-five. The ballot
 38 to be submitted shall be in substantially the following form:

39 For placing the water department under the civil
 40 service commission.

41 Against placing the water department under the
 42 civil service commission.

43 If the proposition receives a majority vote in favor of the
 44 change, the water department shall thereafter be included in
 45 section ninety-eight of the charter of the City of Wheeling, and
 46 the charter amended to read as hereinbefore in section ninety-
 47 eight set out.

CHAPTER 8

(Senate Bill No. 283—By Mr. Suddarth)

AN ACT to amend, revise and consolidate into one act chapter seventy-nine of the acts of the legislature of West Virginia of one thousand nine hundred and thirteen relating to the charter of the City of Grafton, as amended by chapter sixty-seven of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-three, and all other acts of the legislature of West Virginia which form a part of the charter of the City of Grafton, and repealing all acts and parts of acts inconsistent or in conflict therewith.

[Passed March 30, 1925; in effect from passage. Approved by the Governor.]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Creating corporate city; general provisions. 2. Corporate boundaries. 3. City wards; number and boundaries. 4. General and special law to apply except where inconsistent herewith; former ordinances effective unless in conflict with this act; all rights and property continued and preserved. 5. Councilmen from each ward; elected by the voters; term of office; qualifications. 6. Mass convention to nominate candidates; proclamation for; pub- | <p>Sec.</p> <ol style="list-style-type: none"> 7. Members of council to elect mayor; powers and duties; council to employ and discharge persons; appoint city manager; fill vacancy; removal of city manager; council change number of wards; fix salary of city manager; approve compensation of officers and employees; appoint police judge, and fix salary; remove police judge for cause. |
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<p>Sec. 8. City manager's office; powers and duties of city manager; bond.</p> <p>9. Police judge, powers and duties of.</p> <p>10. City manager to designate bank depositories; make deposits.</p> <p>11. Officers and city employees not to receive special consideration that is not extended to the general public; fines and penalties for violation.</p> <p>12. Audit city accounts; post and file results of audits.</p> <p>13. Council to levy and collect taxes; grant or refuse licenses; main-</p>	<p>Sec. 14. Street paving; provisions for cost; liens against property; enforcement of; notice; hearings; findings of council conclusive; liens void, when; county clerk to record abstracts; fee.</p> <p>15. Additional tax for paying and sewers.</p> <p>16. Legal construction of this act.</p> <p>17. Repeal conflicting or inconsistent acts.</p> <p>18. Special election to ratify this charter; form of ballot.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Taylor as is within the boundaries prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate, by the name and style of "The City of Grafton," and as such, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, make purchase, take, receive, hold and use goods and chattels, lands and tenements and choses in action or any interest, right or estate therein, either for the proper use of said city, or in trust for the benefit of any person or corporation therein; and the same may grant, sell, convey, transfer, let, assign, pledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for private individual so to do, subject to the limitations and provisions of the constitution of the state; and may have and use a common seal, and alter and remove the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to like corporations in this state, and shall have and succeed to all powers, franchises and immunities, rights and privileges, which were conferred upon or belonged or appertained to said City of Grafton, by virtue of any act or acts of the legislature of this state heretofore passed; and shall have all the rights and privileges, capacities and powers provided by chapter forty-seven of the code of West Virginia, as contained in Barnes' edition thereof for the year one thousand nine hundred and twenty-three, and all amendments thereof, for which provision is not herein otherwise expressly made.

Sec. 2. The corporate limits of the City of Grafton shall hereafter be as follows: Beginning at the southeast corner of Roger's mill; thence in a southerly direction to the eastern

4 pier of the boom; thence crossing the Valley river to a point
5 on the west bank thereof, following said river in a southerly
6 direction to a point on said river bank to a large sycamore
7 tree located on the south end of the Joyce land near the bend
8 of the county road; thence in a northwesterly direction to a
9 large walnut tree on the Thayer land and directly west of
10 the Richman residence; thence in a straight line to the county
11 road at the southwestern corner of Cobb's lot; thence with the
12 county road to Amon Martin's line, corner of Beaumont addi-
13 tion to the corner of Judkin's land; thence in a straight line
14 southwesterly to three service bushes, corner to McWilliams;
15 thence in a straight line to the south side of the Webster road
16 where the branch railroad built to the box factory crossed
17 said road; thence with the said south side of said Webster road
18 to the western line of the Atlantic Refining company's tank
19 property; thence in a line to a chestnut on the ridge in Will-
20 hide's field; thence in a straight line to the Tygart's Valley river
21 near three linns, corner to St. Clair and Yates; thence with the
19 straight line to a chestnut on the ridge in Willhide's field;
20 thence in a straight line to the Tygart's Valley river near
21 three linns, corner to St. Clair and Yates; thence with the
22 last mentioned line extended to a point on the opposite side of
23 said Tygart's Valley river; thence with the meanderings of
24 said river following low water on the eastern side thereof, to a
25 willow on the river edge, corner of the former corporation of
26 Fetterman, below the old Huffman mill dam; thence following
27 the northerly boundaries of the former corporation of Fetter-
28 man five courses in an easterly direction to the northeast
29 corner of the said old corporation at Fetterman; thence with
30 another line of said old corporation in a southerly direction to
31 a point and angle in the eastern boundary of said old corpor-
32 ation; thence with a straight line to the northeastern corner
33 of J. H. Carroll's property; thence with the eastern line of
34 his property to the northern boundary of the Northwestern
35 turnpike and following the same in a westerly direction to the
36 eastern abutment of the concrete bridge at Wither's garage;
37 thence crossing the Northwestern turnpike to the western
38 boundary thereof; thence along the western and southern
39 boundary of said Northwestern turnpike and with the mean-
40 derings thereof to the intersection with the Grafton road near
41 the dwelling of the late John W. Blue; thence to the eastern

42 boundary line of said Grafton road; thence with the eastern
43 boundary line of said Grafton road to the point of intersec-
44 tion of the western line of the Anna V. L. Drennan lot now
45 owned by Mary E. Sommerville with the eastern line of said
46 Grafton road; thence in a southerly direction to the railroad
47 bridge at the cut-off; thence with the northern bank of Three
48 Fork creek to the beginning.

Sec. 3. The said territory of said city shall be divided into
2 five wards, and such division shall be as follows:

3 The first ward shall include all that part of said city east
4 of the Tygarts Valley river and north and west of Grant street
5 projected to the Northwestern turnpike.

6 The second ward shall include all that part of said city
7 east and north of the Tygarts Valley river and Three Forks
8 creek and between said Grant street so projected as its western
9 boundary and St. John street projected to the said Northwest-
10 ern turnpike and its eastern boundary.

11 The third ward shall include all that part of said city east
12 and north of Three Forks creek, and east of said St. John
13 street so projected.

14 The fourth ward shall include all that part of the said city
15 east of the Tygarts Valley river and south of Three Forks
16 creek.

17 The fifth ward shall include all of that part of said city west
18 of the Tygarts Valley river.

19 The number and boundaries of said wards may be changed
20 as hereinafter set forth.

Sec. 4. All general and special laws of the state of West
2 Virginia, governing cities and now applicable, and not incon-
3 sistent with the provisions of this act, shall apply to and govern
4 the City of Grafton. All ordinances and resolutions lawfully
5 passed and in force in the City of Grafton under its former
6 organization, and not inconsistent herewith shall remain in
7 force until altered or repealed by the council elected under
8 the provisions of this act. All rights and property heretofore
9 vested in said city are continued and preserved, and no right
10 or liability, either in favor of or against it, existing at the
11 time, and no suit or prosecution of any kind, shall be affected
12 by any such change unless otherwise provided for in this act.

Sec. 5. For said city two councilmen from each ward shall
2 be elected by the qualified voters of said ward as hereinafter

3 provided. The first regular election under this act shall be
4 held on the first Tuesday in March, one thousand nine hundred
5 and twenty-six, and said regular elections shall be held on the
6 same day in every third year thereafter.

7 The terms of office of said councilmen shall be three years
8 and until their successors are elected and qualified, and shall
9 begin on the first day of April after the election.

10 Said councilmen shall be citizens, residents, freeholders and
11 qualified voters of the respective wards from which they are
12 elected, and shall receive a salary of one dollar per year and
13 no other compensation.

Sec. 6. On the third Saturday preceding each triennial
2 election, there shall be held in each ward at a place and hour
3 to be designated by the council and proclaimed by the mayor,
4 a mass convention of all qualified voters of said ward. The
5 proclamation of said conventions shall be published in each
6 daily and weekly newspaper of general circulation published
7 in said city at least one week prior to said conventions. Said
8 convention shall by majority vote nominate not less than four
9 candidates for councilmen of said ward. The council shall
10 designate the places and hours for each of said conventions and
11 shall designate a temporary chairman to organize the same
12 and shall be the judge of all contests in respect to the nominees
13 of said conventions. In the absence of said designated chair-
14 man or his refusal to act the mass convention shall select its
15 own chairman. The chairman and secretary of said conven-
16 tions shall forthwith certify to the city clerk the nominees
17 thereof.

18 The clerk at the first election hereunder, and the city man-
19 ager at all subsequent elections, shall immediately prepare
20 ballots for the said triennial election and shall place thereon
21 the names of the said candidates for councilmen in each ward,
22 on separate ballots for each ward, placing the names of said
23 candidates in alphabetical order. Said ballots shall be printed
24 on plain, substantial white paper and shall be in form as near
25 as may be possible to the ballots used in general and primary
26 elections as provided by general law, and said election shall
27 be held, and the result thereof canvassed and declared in all
28 respects not in conflict herewith in conformity to said general
29 laws applicable to municipal elections.

Sec. 7. The city council shall at its first meeting after this
2 charter goes into effect, elect by a majority vote one of its
3 members as mayor who shall preside at all meetings of the
4 council and who shall be the executive officer of the City of
5 Grafton for the purpose of executing all contracts and other
6 writings entered into on behalf of the city and on whom writs
7 may be served in suits and other proceedings against the City
8 of Grafton. The mayor shall by his signature authenticate
9 all ordinances and resolutions passed by the council and all
10 minutes of its meetings.

11 The city council shall have power to employ and discharge
12 such persons, in addition to the positions provided for in this
13 act, as shall be necessary for the efficient and proper conduct
14 of the affairs of said city.

15 The city council shall as soon as practicable after this charter
16 goes into effect appoint by a majority vote a city manager who
17 shall hold office during the pleasure of the council, and the
18 council shall by a like vote, at any regular or special meeting
19 of the council, fill any vacancy in said office. The city manager
20 may be removed at any time from office by the affirmative vote
21 of two-thirds of all of the members of the council.

22 The city council shall have power to change the number of
23 wards in the City of Grafton and to change the lines thereof
24 from time to time.

25 The city council shall fix the salary of the city manager. The
26 salaries and compensation of all other officers and employees of
27 the City of Grafton and all charges and expenses incurred by
28 and on behalf of the city shall be approved by the council before
29 payment.

30 The city council shall appoint some competent male resident
31 of the City of Grafton as police court judge, whose term of
32 office shall be one year, and the council shall fix by ordinance
33 or resolution the salary or compensation of such police court
34 judge. Said police court judge may be removed from office
35 for cause after due hearing upon a two-thirds vote of all
36 members of the council.

Sec. 8. The city manager shall occupy an office for the
2 transaction of the public business in the building occupied by
3 the city government, which office shall be kept open for the
4 transaction of the public business on all days except Sundays
5 and legal holidays. He shall devote all of his time to the dis-

6 charge of his official duties. In addition to all other powers
7 which may be conferred upon the city manager by the city
8 council or by the laws of the state of West Virginia, he shall
9 exercise the following powers:

10 (a) Supervise, control and direct the affairs and business
11 of all of the administrative offices of the City of Grafton,
12 except the police court judge.

13 (b) Appoint and remove at will all administrative officers
14 and all employees of the city, except said police court judge.

15 (c) Have full charge and control of all of the finances of the
16 City of Grafton, and fix all salaries, excepting the salaries of
17 the city manager, the members of the city council, and the
18 police court judge; *provided*, that all salaries and compensa-
19 tions fixed by the city manager and all claims and debts against
20 the City of Grafton shall be approved by the city council
21 before such salaries and compensation become effective and
22 before such claims and debts shall be paid.

23 (d) Recommend to the council for adoption such measures
24 and resolutions as he may deem expedient.

25 (e) Act as budget commissioner and keep the city council
26 fully advised as to the financial condition and needs of the
27 city.

28 (f) Act as purchasing agent of all supplies and material
29 for all departments of the city government. All supplies and
30 materials purchased by the city for construction of any public
31 improvement shall be purchased on competitive bids. All pur-
32 chases shall be audited by the city council and payment there-
33 for made only on approval of the council.

34 (g) Supervise and control the police department, and by
35 and with the consent of the council appoint the chief of police
36 who shall in turn with the consent of the city manager appoint
37 the members of the police force.

38 Before entering upon the discharge of his duties the said
39 city manager shall enter into a bond in such sum as the council
40 shall designate, payable to the City of Grafton and conditioned
41 for the accounting for all moneys paid into the city treasury
42 and for the faithful discharge of his duties, which bond shall
43 be executed by some surety company authorized to do business
44 by the laws of this state and the premium thereon shall be paid
45 out of the city treasury.

Sec. 9. The police court judge shall perform and discharge
2 all duties and exercise all powers which shall be conferred
3 upon him by ordinance or resolution of city council, and in
4 addition he shall exercise the following powers:

5 (a) Enforce all ordinances and resolutions which shall sub-
6 ject any person or corporation to any penalty.

7 (b) See to the preservation of peace and order throughout
8 the city and the protection of property in and throughout the
9 city.

10 (c) Cause all violators of city ordinances to be apprehended
11 and to that end issue warrants upon complaint for the arrest
12 of any one charged with the violation of any ordinance of the
13 city.

14 (d) Try without a jury all offenders brought before him
15 and impose penalties of fine and imprisonment according to
16 the ordinance of the City of Grafton and the laws of the state
17 of West Virginia and the jurisdiction of the police court judge
18 shall extend one mile beyond the city limits.

19 (e) Keep a record of all warrants issued by him, and of all
20 persons arrested and brought before him, and of all trials, fines
21 or sentences imposed, or judgments entered by him, in a well
22 bound book to be known as the police court docket. An appeal
23 shall lie to the circuit court of Taylor county from all judg-
24 ments of the police court judge, wherein and in the manner
25 an appeal from the judgment of a mayor of a city is allowed
26 by law.

27 (f) Exercise all of the powers and discharge all of the
28 duties for the enforcement of the criminal or penal ordinances
29 and laws conferred or imposed upon the mayors of the cities,
30 towns or villages by this act and by the law of the state of
31 West Virginia.

32 (g) In the discharge of his duties and in the trial of cases,
33 the police court judge shall, in so far as practicable, follow
34 the rules of procedure of the courts of the state of West Vir-
35 ginia which exercise jurisdiction in criminal cases.

Sec. 10. The city manager shall from time to time desig-
2 nate such bank or banks of said city as he shall deem proper
3 and expedient as the depository or depositories of the funds of
4 said city; *provided, however*, that no money shall be deposited
5 with said bank or banks so designated until such bank or
6 banks shall have given a bond with security to be approved

7 by the said city manager and in a sum to be fixed by him
8 and conditioned that said bank or banks shall account for and
9 pay over all money received by it or them for the account of
10 said city. The city manager shall forthwith deposit or cause to
11 be deposited in said bank or banks all moneys that may come
12 into the treasury of said city and the money so deposited shall
13 be disbursed only upon orders drawn by the manager and coun-
14 tersigned by the mayor. Whenever practicable the said money
15 shall be so deposited upon interest at such rate as the said
16 manager shall be able to secure.

Sec. 11. No officer or employee of said city shall accept or
2 receive, directly or indirectly, from any person, firm or cor-
3 poration operating within the terminal limits of said city,
4 any interurban railway, street railway, gas works, water works,
5 electric light or power plant, heating plant, telegraph line or
6 exchange or other business using or operating under a public
7 franchise, any frank, free pass, free ticket or free service or
8 accept or receive directly or indirectly, from any such person,
9 firm or corporation any other service or other gratuity upon
10 terms more favorable than is granted to the public generally.
11 Any violations of this section shall be a misdemeanor, and
12 every such compact or agreement shall be void, and the pen-
13 alty for a violation of this section shall be a fine of not less
14 than twenty dollars and forfeiture of office. Such prohibition
15 of free transportation shall not apply to policemen or firemen
16 in uniform.

Sec. 12. At the end of each official year the council shall
2 cause a full and complete examination of all the books and
3 accounts of the city to be made by competent accountants, and
4 shall post conspicuously at the city offices and at the front door
5 of the court house of Taylor county the result of such examina-
6 tion and place on file for public inspection a copy thereof.

Sec. 13. The council shall have the right and power to levy
2 and collect taxes and to grant and refuse licenses; to lay off,
3 open, close, vacate or maintain public grounds, parks and pub-
4 lic places, in or near the city, and to guard and police the
5 same; to prohibit or regulate within the municipality or within
6 two miles of its corporate limits or within two miles of any
7 cemetery, public park or place, the erection or maintenance of
8 any slaughter house, poultry house or pen, pig pen, barn,
9-10 stable, or other building or thing that is unsanitary or that

11 would be a menace to persons or property or the public health
12 or safety, or which would injure private property or annoy
13 citizens of said city; to cause to be filled up, raised or drained,
14 by or at the expense of the owner, any town lot or tract of
15 land covered or subject to be covered by stagnant water; to
16 prevent the desecration of the Sabbath day; to regulate the
17 running and speed of engines and cars within said city; to
18 regulate the sale of all foods and drink products, milk and
19 fresh meats, fish and vegetables, and provide for the inspection
20 thereof; to establish, regulate and maintain baths, bathing
21 houses, drinking fountains, public toilet stations, and free
22 public band concerts, and to regulate the time and place of
23 bathing pools and streams and public waters, within the po-
24 lice jurisdiction of the city; to prevent gambling and the
25 keeping of gambling places; to regulate the running of
26 electric cars and automobiles over and across any streets
27 and alleys, and to regulate and prohibit the use of
28 hand organs and all other musical instruments of an annoy-
29 ing character; to regulate and prohibit the distribution of
30 hand bills, circulars, and other advertisements on the streets,
31 roads, alleys, public places and parks, and in private
32 yards, buildings and other structures; to acquire, main-
33 tain, control or dispose of a hospital and a public
34 library, and any property for eleemosynary purposes, or
35 any interest therein; to regulate the width of side-
36 walks and the street and the width and the care
37 of the public grounds or grass plots abutting thereon,
38 and to order the sidewalks, footways, crossways, drains
39 and gutters to be curbed, paved or re-paved and kept
40 in good order, free and clean, and to provide for
41 the removal of snow and ice therefrom and for sprink-
42 ling the same by the owners or occupants of the
43 real property next adjacent thereto, and to provide
44 and enforce punishment for obstructing, injuring or pre-
45 venting the free and proper use thereof, and to pro-
46 vide and enforce fines and penalties for throwing therein
47 or thereon any paper, glass, rubbish, decaying sub-
48 stances or other things that would make said streets,
49 sidewalks, grass plots, cross-walks, drains or gutters un-
50 sightly or unhealthy; to require the owner or occupant of
51 any property in the city to keep his premises clean and free

52 from all matters that would endanger the health of the city,
53 and to require the removal of any waste paper or waste mate-
54 rial of any kind or character upon the private property of any
55 citizen or property owner that would cause the spread of fire or
56 when the council deems the same should be removed; and to
57 require the removal or straightening of any fence, wire, pal-
58 ings or other material enclosing any lot, when in the opinion
59 of the council the same is dangerous or obstructs or encroaches
60 upon the streets, alleys or sidewalks; and in all such cases, if
61 the owner or occupant of said properties fail to do any of the
62 things in this section enumerated when required by the coun-
63 cil, after notice by the council, the council may take such action
64 as may be necessary to perform such acts and the expenses
65 thereof shall be charged to the property owner and collected
66 as taxes are collected; to regulate or prohibit the use of walls
67 or walks for signs; to regulate or prevent the distribution or
68 posting of any sign, bill or other paper that in the opinion
69 of the council or manager is indecent or immoral; to require
70 the removal or abatement of any building, business, bill boards,
71 sign, sign board, or other thing which in the opinion of the
72 council is a nuisance; to restrain, convict and punish vagrants,
73 mendicants, beggars, tramps, common prostitutes, and their
74 associates, and drunken and disorderly persons within the
75 municipality, and to provide for their arrest and manner of
76 punishment; to prevent and prohibit any tumult, riot, quar-
77 rel, angry contention or abuse of any person, assault, and
78 assault and battery, and to fix punishment therefor; to require
79 any building that, in the opinion of the council, is dangerous,
80 to be repaired, altered or removed by the owners thereof, or
81 put in safe condition, such as the council may approve, at the
82 expense of the owner or occupant, and to provide punishment
83 for failure to comply with any order of the council concerning
84 the same; to regulate the height, construction and inspection
85 of all buildings hereafter erected, the alteration and repair of
86 any buildings now or hereafter erected, to require permits to be
87 obtained of the manager therefor, and the submission of plans
88 and specifications to the manager for his approval; to regulate
89 the limits within which it shall be lawful to erect or maintain
90 any steps, porticos, bay windows, awnings, signs, columns,
91 piers, or other projection or structural ornaments of any kind
92 for the houses or buildings on any street, or alley; and shall

93 also have all further rights and powers conferred upon city
94 councils by general law as contained in said chapter forty-
95 seven of the code and otherwise.

Sec. 14. The council of the city may cause any street or
2 alley to be paved, between the sidewalks, with brick or other
3 suitable material, and a sewer to be constructed therein from
4 one of the said cross streets or alleys to another, or to
5 have such paving done without the construction of a sewer
6 constructed without such paving, under such regulations as
7 shall be fixed by ordinance, upon the lowest and best terms to
8 be obtained by advertisements for bids, or proposals therefor
9 by the council as herein provided; and two-thirds of the
10 cost of such paving shall be assessed to the owners of the
11 lots or fractional parts of lots abutting or abounding on that
12 part of the street or alley so paved in proportion to the
13 distance of the frontage owned by each. The one-fourth of
14 such two-thirds shall be paid within thirty days after the
15 completion and acceptance of the work, and the remainder in
16 three equal installments, payable respectively at such times
17 as the council may by ordinance fix at the time of letting
18 the contracts for such work. The other one-third of the
19 cost of said paving shall be borne by the city. The intersection
20 of streets, or of a street and alley paved or provided with sewer
21 under this section shall be correspondingly paved or sewered
22 at the sole expense of the city.

23 The sum or sums of money thus assessed for paving shall
24 be a lien on the lots or fractional parts of lots upon which
25 they are assessed which lien may be enforced by a suit in
26 equity in the name of the city in any court having jurisdiction
27 thereof, and the same or any installment thereof may be col-
28 lected by a suit at law before any court or any justice of the
29 peace having jurisdiction thereof.

30 Immediately upon the completion and acceptance of any
31 paving constructed by virtue of this section, the council shall
32 direct the manager to cause to be published a notice, which
33 shall make and describe the location of the street or alley upon
34 which said paving shall have been constructed; giving the
35 names of the owners of each lot abutting or abounding upon
36 such street or alley, if known, and if the name or names of the
37 owners of any lot or fractional part of a lot are unknown,
38 such lot shall be described with reasonable certainty in order

39 that the same may be identified. The number of feet that each
40 lot or fractional part of a lot abuts shall be stated, also the
41 amount assessed against each lot or fractional part of a lot.
42 Said notice shall cite all owners of lots or fractional parts of
43 lots, abutting upon the streets or alleys aforesaid to appear
44 before the council of said city at a regular meeting thereof,
45 within thirty days from the first publication thereof, and show
46 cause, if any they can, why the assessment aforesaid should not
47 become final, which notice shall be published once a week for
48 two successive weeks in one or more newspapers of general
49 circulation, published in said city. The council shall, upon
50 the request of any one or more of the owners of said lot or
51 fractional parts of lot appoint a day to hear the grievances
52 of said owner or owners and may alter or amend any assess-
53 ment made against any one or more of said owner or owners
54 for good cause to be shown. The manager shall give notice
55 to all persons claiming to be injured by said assessment, of the
56 time and place of holding said meeting, which meeting shall
57 be held within ten days after the expiration of thirty days
58 mentioned in said notice. The council may adjourn the hear-
59 ing from time to time. In case any owner or owners of abut-
60 ting property fail to complain of any grievance or injury they
61 may have suffered by reason of the assessment aforesaid, and
62 shall fail to appear for the purpose of having the same cor-
63 rected, the assessment as laid shall be final. The findings of
64 said council shall be conclusive. The rights conferred by this
65 section are cumulative and shall not be exhausted as to any
66 particular street or alley by reason of having been once exer-
67 cised.

68 But the lien upon any real estate created by virtue of this
69 section shall be void as to any purchasers of any such real
70 estate, for value and without notice, who shall have purchased
71 such real estate at any time after a period of twelve months
72 has elapsed after the paving has been accepted by the city,
73 unless an abstract of such assessment, giving the location of
74 the real estate affected, the name of the owner and the date
75 and the amount of the assessment shall have been first re-
76 corded in the office of the clerk of the county court of Taylor
77 county, in judgment lien docket.

78 And it is hereby made the duty of said county clerk to record
79 said abstracts; for the recordation of each of which said clerk
80 shall receive a fee of twenty-five cents to be paid by the city.

Sec. 15. In addition to all other taxes provided by law 2 the council shall have authority to levy and collect an annual 3 tax, for the purpose hereinafter specified, on the personal 4 property and real estate in said city, subject to taxation by 5 said city, not to exceed in any one year ten cents of every 6 hundred dollars of the assessed value thereof and the money 7 so collected shall be used for the purpose of paying its pro- 8 portion of the cost of paving or re-paving streets and alleys 9 and for constructing sewers in said city, in accordance with 10 the provisions of section fourteen of this act; and such money 11 shall in no case be used to pay for repairs of streets or alleys 12 or sewers or for any other purpose than for paving or for 13 sewers.

Sec. 16. In the construction of this act, when an officer 2 or officers is or are named therein or in any law therein 3 referred to or in any act or ordinance applicable to said city, 4 the said officer or officers shall be construed to mean the officer 5 or officers having the same functions or duties under the pro- 6 visions of this act or ordinances passed in pursuance thereof 7 or under the general law of the state, and all duties enjoined 8 upon officers not provided for in this charter shall be performed 9 by the city manager or such officer as is designated by him to 10 perform the same.

Sec. 17. All acts and parts of acts in conflict or inconsistent 2 herewith are hereby repealed.

Sec. 18. The question of the ratification or rejection of 2 this act shall be submitted to the voters of the present City 3 of Grafton at the special election called for that purpose within 4 six months of its passage and the commissioners of said city 5 shall call said election within said six months and said election 6 shall be held at all precincts in said city upon notice published 7 once a week for two weeks in a newspaper published in said 8 city and by notice posted in each of said precincts for ten days 9 preceding said election, and if a majority of the votes cast at 10 said election be for ratification of this act, this act so ratified 11 shall be in force and effect from the time stated therein. Said 12 election shall be conducted, officers appointed, returns canvassed 13 and results declared as any city election in said city is now 14 authorized by law. *Provided*, this referendum vote shall not 15 apply to any changes in the boundary lines of the City of 16 Grafton as provided in this act.

17 The ballot to be voted at said election shall be printed upon
18 plain white paper and in the following form:

19

"CITY OF GRAFTON

20

"CHARTER ELECTION

21

"Indicate how you desire to vote by an X in the square.

22

For adoption of the charter.

23

Against adoption of the charter."

CHAPTER 9

(Senate Bill No. 400—By Mr. Woods)

AN ACT to amend and re-enact section three, section eight, section twenty-one and section twenty-seven of chapter five of the acts of the legislature, regular session, one thousand nine hundred and nine, entitled: An act to incorporate the City of Keystone, McDowell county, West Virginia.

[Passed March 30, 1925: in effect from passage. Approved by the Governor.]

Sec.

3. Municipal authorities.

8.

Eligibility to office.

21.

Annual levy; capitation tax; limitation of levy; election; levy

Sec.

for payment of bonded indebtedness; validation of outstanding bonds.

27.

Powers and duties of mayor.

Be it enacted by the Legislature of West Virginia:

That section three, section eight, section twenty-one and section twenty-seven of chapter five of the acts of the legislature at its regular session one thousand nine hundred and nine, be amended and re-enacted as follows:

Section 3. The municipal authorities of said city shall be a 2 mayor, recorder and five councilmen, who shall compose the 3 common council of said city.

Sec. 8. No person shall be eligible to any elective office in 2 said city, unless he is a qualified voter thereof, nor unless he 3 has resided therein for at least one year next before his elec- 4 tion, and be a taxpayer in said city, and if a councilman, he 5 shall be a *bona fide* resident of the ward for which he is elected, 6 and the removal from the ward of a councilman from which he 7 is elected shall vacate his office.

Sec. 21. The common council shall cause to be annually 2 made up and entered upon its journal, an account and estimate

3 of all sums which ought to be paid within one year, and it shall
4 order a levy of so much as in its opinion may be necessary to
5 pay the same, not exceeding one dollar capitation tax and
6 fifty cents on every one hundred dollars valuation of prop-
6-a erty, real and personal, within said city, in any one year for the
7 current expenses for the said city, unless authorized by two-
8 thirds of the voters of said city, voting at an election to be
9 held for that purpose, and in no case shall said levy for cur-
10 rent expenses exceed one dollar on every one hundred dollars.
11 In addition to such levy for current expenses of said city, the
12 common council shall in each year order a levy of as much on
13 every one hundred dollars valuation of property, real and per-
14 sonal, within said city, as shall be necessary for the purpose of
15 paying the interest on all bonds of said city then outstanding,
16 whether heretofore issued or hereafter issued, and to provide a
17 sinking fund for the retirement of such bonds, as such bonds
18 shall become due and payable.

19 All outstanding bonds of said city heretofore issued are
20 hereby in all respects validated and confirmed.

Sec. 27. The mayor shall be the chief executive officer of
2 said city, and shall see that the orders, by-laws, ordinances
3 and resolutions of the council thereof, are faithfully executed;
4 he shall be *ex-officio* a justice and a conservator of the peace
5 within the city, and shall, within the same, have, possess and
6 may exercise all the powers and perform all the duties, whether
7 in civil or criminal proceedings, vested by law in a justice of
8 the peace; any summons, warrants, or other process issued by
9 him may be executed at any place within the county; he shall
10 have control of the police of the city and may appoint special
11 police officers whenever he deems necessary; and it shall be his
12 duty, especially, to see that the peace and good order of the
13 city are preserved, and that persons and property therein are
14 protected, and to this end, he may arrest and detain, or cause
15 the arrest and detention of all riotous and disorderly persons
16 before taking other proceedings in the case; he shall, from time
17 to time, recommend to the council such measures as he may
18 deem needful for the welfare of the city; he shall have power to
19 issue execution for all fines, penalties and costs imposed by
20 him, or he may require the immediate payment thereof, and in
21 default of such payment he may commit the party in default

22 to the jail of said city or to the jail of McDowell county until
23 the fine or penalty and costs shall be paid, to be employed dur-
24 ing the term of his imprisonment as hereinafter provided; but
25 the term of imprisonment in such cases shall not exceed thirty
26 days. He shall receive a compensation for his services, to be
27 fixed by the council, which shall not exceed twelve hundred
28 dollars per annum, and in addition thereto such fees as prop-
29 erly accrue to him in proceedings for the enforcement of ord-
30 inances, but all such fees shall be collected, when practicable,
31 and accounted for to the city, and warrants drawn covering
32 such costs when collected, payable to the mayor. The mayor
33 shall have no jurisdiction in civil cases on causes of action aris-
34 ing out of the corporate limits of the city. He shall have the
35 same power to issue attachments in civil suit as a justice of
36 his county has, though the cause of action arose out of said
37 city. But in such case he shall have no power to try the same,
38 but said attachment shall be returnable to and be heard before
39 some justice of the county. From all judgments by the mayor,
40 or in criminal cases, for the violation of ordinances, where the
41 prisoner is sentenced to imprisonment or the payment of a
42 fine of ten dollars or more, appeals shall be allowed as in crim-
43 inal cases before justices, and all laws applying to such appeals
44 from justices, shall apply to appeals from the mayor; and if
45 the appellant on the trial of such appeal be found guilty of the
46 violation of the ordinance in question whether upon the ver-
47 dict of a jury or otherwise, the court shall ascertain by its
48 judgment the fine or imprisonment to be paid, or suffered by
49 the defendant, having regard to the punishment prescribed by
50 such ordinance, and shall include in any such judgment the
51 costs incurred by the city, as well in the proceedings before
52 the mayor as those in the court.

CHAPTER 10

(Senate Bill No. 404—By Mr. Kee)

AN ACT to amend and re-enact section six of chapter two of the acts of one thousand nine hundred and twenty-one relating to the charter of the City of Bluefield.

[Passed March 30, 1925; in effect from passage. Approved by the Governor.]

Sec.

G. Elections, time of; primary: political committees; qualifications for; terms; vacancies; organization of committees; declaration

of candidates; ballots; conduct of election; who declared elected; definition of "political party"; other elections; repealing conflicting acts.

Be it enacted by the Legislature of West Virginia:

That section six of chapter two of the acts of the legislature of West Virginia, session one thousand nine hundred and twenty-one, granting a charter to the City of Bluefield, be and the same is hereby amended and re-enacted to read as follows:

Elections

Section 6. The next election for a board of directors under 2 this charter shall be held on the first Tuesday in July, one 3 thousand nine hundred and twenty-five, and succeeding elec- 4 tions shall be held every four years thereafter on the first 5 Tuesday in July, unless the first Tuesday falls on the Fourth 6 of July, when it shall be held on the day following. Such elec- 7 tions for a board of directors shall be held as provided by 8 chapter three of the code of West Virginia, insofar as the 9 same is applicable. And in the holding of such elections the 10 election officers shall be selected by the board of directors as 11 herein set forth. For the purpose of this act there shall be 12 chosen at the primary election for the nomination of candidates 13 for members of the board of directors to be held on the second 14 Tuesday of June preceding the general municipal election, as 15 hereinafter provided, a city executive committee for each po- 16 litical party, consisting of one committeeman and one commit- 17 teewoman from each ward of the city. All members of the 18 executive committee so selected for each ward shall reside 19 within the ward from which they are chosen. The term of 20 office of all committeemen and committeewomen so elected 21 shall begin immediately after such primary election, and shall 22 continue for four years thereafter and until their successors 23 are elected and qualified. Vacancies in the city executive com- 24 mittee shall be filled by the executive committee of the city, 25 and shall be for the unexpired term. As soon as possible after 26 the election of the new executive committees as herein pro- 27 vided, they shall convene in said city on the call of the chair- 28 man of corresponding and outgoing executive committees, and

29 shall proceed to select a chairman, a treasurer and a secretary,
 30 each of which officers shall for their respective committees per-
 31 form the duties that usually appertain to such offices, except
 32 that a call for the convening of such committees after the pri-
 33 mary election held on the second Tuesday of June, one thou-
 34 sand nine hundred and twenty-five, may be called by any two
 35 members of any such committees so elected for their respective
 36 committee. Any person who is eligible to hold any office may
 37 file with the city clerk not later than ten days before the pri-
 38 mary election a certificate declaring himself or herself, a can-
 39 didate for election to the office of committeeman or committee-
 40 woman, within his, or her, respective ward, which certificate
 41 shall be in the form or effect as follows:

42 I,, hereby certify that I am
 43 a candidate for the election to the office of committeeman (or
 44 committeewoman) to represent.....party from
 45ward of the City of Bluefield, West Virginia, and
 46 desire my name printed on the official ballot of said party in
 47 said ward, to be voted in the primary election, to be held on
 48 the.....day of June, 19....; that I am a legally
 49 qualified voter of the.....party of.....
 50 ward, in said city, and that my residence is No.....of
 51 street.....in the City of Bluefield in Mercer
 52 county in said state; that I am eligible to hold the said office;
 53 that I am a member of and affiliated with said political party;
 54 that I am a candidate for said office in good faith.

55
 56 Signature of Candidate.

57 Subscribed and sworn to and acknowledged before me this
 58day of....., 19....

59
 60 Signature of officer taking acknowledgment.

61 Such announcement shall be signed and acknowledged by
 62 the candidate before some officer qualified to administer oaths,
 63 who shall certify the same.

64 Immediately upon the expiration of the time of filing the
 65 announcement as candidate as aforesaid, the city clerk shall
 66 cause to be published in all of the daily newspapers of the
 67 city at once, in proper form, the names of the persons as

68 they are to appear upon the primary ballot. The candidates
 69 for the executive committees of each respective political party
 70 shall have their names printed on separate ballots for each
 71 political party, and on different colored paper as selected by
 72 the city clerk, and such ballots for such executive committees
 73 shall be printed upon plain substantial paper, and shall con-
 74 tain the names of the candidates in alphabetical order in their
 75 respective wards. The ballots shall be substantially in the
 76 following form or to the following effect, to-wit:

77 OFFICIAL PRIMARY BALLOT

78 Candidates for election for members of executive commit-
 79 tees of the.....party of the City of Bluefield, at
 80 the primary election.

81 (Place a cross in square to the left of the name of the
 82 person for whom you desire to vote.)

83 For members of executive committees of the.....
 84 party.

85 (Vote for one committeeman and one committeewoman.)

86 Designation of wards by numbers and names of candidates
 87 in their proper order in their respective wards, properly ar-
 88 ranged with square to the left of the name of each candidate.

89 Official ballot, attest:

90 Facsimile of the signature.....City Clerk.

91 Said ballot shall be printed, delivered at the polling places
 92 and voted and counted, and the returns thereof made, posted,
 93 canvassed and published in the same manner as the returns for
 94 the nomination of members of the board of directors at such
 95 primary election, except that the committeeman and commit-
 96 teewoman of each ward for each political party respectively
 97 receiving the highest number of votes in such ward shall be
 98 declared elected as the committeewoman and committeeman
 99 from such respective wards, and in the registration of voters
 100 to vote for such committeeman or committeewoman so elected
 101 at such primary election the said voters shall be registered
 102 with reference to party affiliation in the same manner as
 103 voters are required to be registered for primary elections
 104 under chapter three of the code, and the board of directors
 105 shall perform the duties required by the county court, and the
 106 city clerk shall perform the same duties as the clerk of the
 107 county court with reference to county elections so far as

108 applicable. *Provided*, that for all primary and regular elec-
109 tions said board of directors shall appoint the registrars and
110 commissioners named and designated by the executive com-
111 mittees of any political party through their respective chair-
112 men; and *provided, further*, that the executive committee of
113 their respective political parties who were constituted as such
114 committees at the time this charter went into effect shall name
115 and designate the registrars and commissioners for the pri-
116 mary election to be held on the second Tuesday of June, one
117 thousand nine hundred and twenty-five, and the board of di-
118 rectors shall appoint such registrars and commissioners so
119 named and designated. All poll clerks shall be designated and
120 appointed from the different respective political parties in
121 accordance with, and pursuant to the provisions of chapter
122 three of the code of West Virginia so far as applicable.

123 The committeeman and committeewoman in each respective
124 ward for their respective party, receiving the highest number
125 of votes respectively, shall each be declared elected as com-
126 mitteeman and committeewoman from such ward, and if in
127 such ward any two or more committeemen, or any two or more
128 committeewomen, receive the same number of votes, then the
129 city clerk shall determine by lot the committeeman or commit-
130 teewomán elected in their respective wards as aforesaid, and
131 so declare their election.

132 The words "political party" shall be as defined in chapter
133 three of the code of West Virginia.

134 The voters for each respective ward shall elect the com-
135 mitteeman and committeewoman for the respective political
136-7 parties from each ward.

138 All other elections or votes on any question by the qualified
139 voters of said city, shall be held or taken at such places under
140 the superintendency of such persons, and subject to such regu-
141 lations as are consistent with the laws of the state, and or-
142 dained by the board of directors. The board of directors shall,
143 by ordinance, provide for such regulations for the registra-
144 tion of voters as may be rendered necessary by state law and
145 by this charter.

146 All acts and parts of acts, coming within the purview of
147 this act, or inconsistent herewith, are hereby repealed.

CHAPTER 11

(Senate Bill No. 408—By Mr. Wilkin)

AN ACT to amend and re-enact the acts of the Legislature of West Virginia passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the city charter of the City of Wellsburg by adding sections forty-two, forty-three and forty-four thereto.

[Passed April 21, 1925; in effect from passage. Approved by the Governor.]

Sec.

42. Additional paving, repairing or other permanent street improvement; assessment certificates; liens against property; bids for work; cost of improvements; manner of payment; when due and payable; authority of the council.

43. Wrong assessments; corrections; enforcement of liens; notice in

Sec.

assessment proceedings; time and place of hearing.

44. Construction of additional sidewalks; notices; contracts; certificate for amount of assessment to be a lien; time for contracting work; total cost borne by abutting property owners; repeal conflicting acts.

Be it enacted by the Legislature of West Virginia:

That the acts of the Legislature of West Virginia passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the city charter of the City of Wellsburg be amended and re-enacted by adding sections forty-two, forty-three and forty-four thereto.

Section 42. In addition to the method provided for paving 2 streets by chapter eight of the acts of the legislature, one thousand 3 and nine hundred and eight, extra session, which act has been 4 adopted by the City of Wellsburg as a part of its charter and 5 also by section thirty of the charter upon petition in writing 6 of persons owning the greater amount of the frontage of lots 7 abutting upon both sides of any street, or between any two 8 cross streets or between a cross street and an alley, the council 9 shall order any block, street, avenue or alley or portion thereof 10 to be graded and paved, repaved, or otherwise permanently 11 improved, and the council may order the mayor or city clerk 12 to issue to the contractor doing the paving, or other permanent 13 improvement a certificate for each installment of the amount 14 of the assessment to be paid by the owner of any lot or fractional 15 part thereof fronting on such street, avenue or alley, 16 and the amount specified in said assessment certificate shall be 17 a lien as aforesaid in the hands of the holder thereof upon the 18 lot or part of a lot fronting on such street, avenue or alley and 19 such certificate shall draw interest from the date of said assessment 20 and the payment may be enforced in the name of the

21 holder of said certificate by proper suit in equity in any court
22 having jurisdiction to enforce such lien, the council shall fix
23 the amount of such assessment, advertise for bids and do all
24 other things in connection therewith as provided for paving
25 or permanently improving any street or alley or any portion
26 thereof in chapter eight of the acts of the legislature of West
27 Virginia of one thousand nine hundred and eight, except that
28 such assessment laid under this section shall include the whole
29 cost of such improvement, including the cost of grading and
30 paving squares at intersections of streets and of curbing, the
31 costs of which intersections shall be apportioned against the
32 several properties fronting upon the street or portion thereof
33 so improved; and such certificates shall be issued in the same
34 number of installments and payable at the same time as other
35 paving or permanent improvements are provided to be paid for,
36 and shall be a lien in the hands of the holder thereof upon the
37 particular lot against which they are assessed in the same way
38 and manner that assessments are liens under chapter eight of
39 the acts of the legislature of West Virginia of one thousand nine
40 hundred and eight, and nothing contained in this act, or in the
41 charter of the City of Wellsburg shall be construed as imposing
42 a time limit upon the enforcement by appropriate suit of any
43 lien for public improvements, heretofore or hereafter created.
44 Such certificates as may be issued pursuant to this section
45 shall contain a provision to the effect that in the event of de-
46 fault in the payment of any one of said certificates, when due,
47 and said default continued for a period of sixty days, then all
48 unpaid certificates shall become due and payable and the holder
49 of said certificates may proceed to collect all of such unpaid
50 certificates in the manner hereinbefore provided.

51 *Provided*, that no street, avenue or alley be paved or other-
52 wise permanently improved pursuant to this section except and
53 unless two-thirds of all the members elected to the council shall
54 concur in the passage of the ordinance provided therefor, and
55 the vote thereon shall be taken by ayes and noes, and duly en-
56 tered upon the record.

Correction of Assessments.

Sec. 43. In the case of the construction of any pavement,
2 sewer, sidewalk or other permanent improvement under the pro-
3 visions of this charter where an assessment has heretofore been

4 laid or may hereafter be laid for the cost thereof, which said
5 assessment is or shall be void or voidable by reason of errors,
6 irregularities or defects in the proceedings under which said
7 improvement was made, or in case such assessment shall have
8 been made against the wrong person or shall have been omitted
9 to be made in a case where the same was proper, it shall be the
10 duty of the council within two years after the completion of
11 such permanent improvement or after any court shall have de-
12 clared such assessment invalid, to cause notice to be given to
13 any person against whom the cost of said improvement might
14 properly be or have been assessed under said charter of its in-
15 tention to lay such assessment against him and fixing a time
16 and place at which he may appear and show cause against the
17 same. Said notice shall be served as provided in the said charter
18 for the giving of notices in assessment proceedings, or in any
19 other manner provided by law, including by publication where
20 the person is a non-resident of the city or can not be found.
21 At the time and place fixed for hearing under the notice afore-
22 said, or at any time thereafter, the council shall proceed to lay
23 and levy an assessment for the cost of such permanent improve-
24 ment in such manner as would have been lawful under proceed-
25 ings at the time said improvement was made, unless the person
26 so notified shall show good cause against the same, and no
27 further notice of such assessment shall be necessary. The assess-
28 ment so laid shall be a lien upon the property liable therefor
29 and may be recorded and enforced in the same manner as pro-
30 vided for other liens for permanent improvements. This section
31 shall apply to assessments made and certificates issued under
32 section of this charter as well as to other assessments and liens
33 for public improvements.

*Construction of Sidewalks on Certificates to Contractors and Spe-
cial Assessments Against Property Owners; Construction
by Lot Owners.*

Sec. 44. In addition to the method of securing the laying
2 of sidewalks set out in section thirty of this chapter, the
3 council of said city may cause any sidewalk to be constructed,
4 laid, relaid or otherwise permanently improved in the City
5 of Wellsburg in the following manner and upon the follow-
6 ing terms: Notice shall first be given the abutting property

7 owners by publication in one newspaper by giving location,
8 estimated frontage and depth, but no error in said publica-
9 tion shall in any way affect the validity of the certificate herein-
10 after provided for, or any of them. The contract for same
11 shall, after due advertisement in which council shall reserve
12 the right to reject any and all bids, be let to the lowest re-
13 sponsible bidder and upon completion and acceptance of the
14 work council shall order the mayor and city clerk to issue
15 to the contractor doing the work a certificate for the amount
16 of the assessment to be paid by the owner of any lot or frac-
17 tional part thereof fronting on such sidewalk, and the amount
18 specified in said assessment certificate shall be a lien in the
19 hands of the holder thereof upon the lot or part of a lot
20 fronting on such sidewalk and such certificate shall draw in-
21 terest from the date of said assessment, and the payment may
22 be enforced in the name of the holder of such certificate by
23 a proper suit in equity in any court having proper jurisdic-
24 tion to enforce such liens and council shall fix the amount of
25 such assessment and do all things in connection therewith nec-
26 essary as is provided for paving or improving streets and
27 alleys and such certificates shall be issued one for each abut-
28 ting lot or portion thereof payable six months from the date
29 of the completion and acceptance of the work and shall be
30 a lien in the hands of the holder thereof upon the particular
31 lot against which they are assessed in the same way and manner
32 that assessments for street paving liens under the other pro-
33 visions of the aforesaid act created and amended the char-
34 ter of the City of Wellsburg; *provided, however*, that coun-
35 cil shall not receive any bids or let any sidewalk contract be-
36 tween the first day of October and the first day of March of
37 any years. Nothing in this section shall be so construed as to
38 prevent any abutting lot owners from having his own side-
39 walk put in if done before the advertising hereinbefore men-
40 tioned and provided same is done according to the lines, grades
41 and specifications of the city engineer, for which no charge
42 shall be made. The total cost of constructing, laying, relay-
43 ing or otherwise permanently improving any sidewalk or walks
44 shall be borne by the owners of the land abutting upon said
45 sidewalk or sidewalks according to the following plan, that
46 is to say, payment is to be made according to the proportion

47 of square feet in front of any lot or portion thereof bears to 48 the whole letting.

All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 12

(House Bill No. 1—By Mr. Mathews)

AN ACT to amend and re-enact sections four, five, seven, nine, ten, eleven, fifteen, twenty-five, twenty-nine, thirty, thirty-five, forty-one, forty-four, forty-five, forty-six, fifty-two, fifty-three, fifty-seven, sixty-two, sixty-nine, seventy-five, seventy-eight, eighty-five and eighty-eight of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, by chapter five of the acts of the extraordinary session of the legislature of one thousand nine hundred and twenty, and by chapter four of the acts of the legislature of one thousand nine hundred and twenty-one, the acts of both of said years one thousand nine hundred and nineteen and one thousand nine hundred and twenty-one referred to being bound in the volumes of municipal charters of said acts; to amend and re-enact section ninety-four of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in the municipal charters of said acts, and re-enact section seven-*a* of chapter four of the acts of one thousand nine hundred and twenty-one, bound in a volume of municipal charters of such acts; and to add to said chapter one of the acts of one thousand nine hundred and fifteen as so amended, sections nine-*a*, sixty-two-*a*, eighty-eight-*b* and eighty-eight-*c*, all relating to and becoming a part of the charter of the City of Charleston."

[Passed April 22, 1925; in effect from passage. Became a law without the approval of the governor.]

- 4. Municipal authorities.
- 5. City manager and other officers.
- 7. Powers of council.
- 7-*a*. Discretionary powers regarding licenses.
- 9. Registration and precincts.
- 9-*a*. Registrars.

- Sec.
- 10. How nominations made.
- 11. Commissioners of election.
- 15. Presiding officer; clerk; president *pro tempore*.
- 25. Bonds of officers.
- 29. Not to hold two offices.

Sec.		Sec.	
30.	When mayor's office may be declared vacant.	57.	City jurisdiction.
35.	Elections; mayor's salary; duties; other officers' duties.	62.	Sewerage assessments; liens, etc.
41.	Ordinances, how passed; how amended.	32-a.	To construct sewers; definitions; assessments and taxes.
44.	Municipal Judge; powers and duties.	69.	Concurrence of two-thirds of council on improvements.
45.	Municipal Judge; qualifications.	75.	Bridges and levies therefor.
46.	Arrests.	78.	Fire department under civil service.
52.	Collection of taxes.	85.	Powers of mayor regarding police force.
53.	City collector.	88.	Relating to street paving.

Be it enacted by the Legislature of West Virginia:

That sections four, five, seven, nine, ten, eleven, fifteen, twenty-five, twenty-nine, thirty, thirty-five, forty-one, forty-four, forty-five, forty-six, fifty-two, fifty-three, fifty-seven, sixty-two, sixty-nine, seventy-five, seventy-eight, eighty-five and eighty-eight of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, by chapter five of the acts of the extraordinary session of the legislature of one thousand nine hundred and twenty and by chapter four of the acts of the Legislature of one thousand nine hundred and twenty-one, the acts of both of said years one thousand nine hundred and nineteen and one thousand nine hundred and twenty-one referred to being bound in the volume of municipal charters of said acts; that section ninety-four of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in the municipal charters of said acts; that section seven-a of chapter four of the acts of one thousand nine hundred and twenty-one, bound in a volume of municipal charters of such acts, be amended and re-enacted; and that sections nine-a, sixty-two-a, eighty-eight-b and eighty-eight-c be enacted and added to the charter of the City of Charleston, so as to read as follows:

Sec. 4. The municipal authorities of the City of Charleston shall consist of a mayor, city treasurer, municipal judge and twenty councilmen, who shall be elected by the qualified voters of such city, and such officers shall for the assessment year preceding their respective elections as hereinafter provided, have been assessed with and paid taxes in the City of Charleston upon a valuation of at least one hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices who has not been assessed

10 with and paid taxes on such amount of property shall not
11 qualify or enter upon the performance of the duties thereof, but
12 such office shall thereby become vacant and shall be filled by a
13 qualified person as provided herein for other vacancies.

Sec. 5. In addition to the municipal authorities mentioned
2 in section four of this act, the city shall have a manager, city
3 clerk, municipal court clerk, city auditor, collector, chief of
4 police, city solicitor, assistant city solicitor, chief of fire
5 department, engineer, health commissioner, building inspector,
6 lockup keeper, humane officer or officers and such number of
7 policemen as council by ordinance may direct. All the officers
8 named in this and the preceding sections shall be paid proper
9 salaries which shall be fixed by the council, except as herein
10 otherwise provided, and such salaries shall be within the limits
11 provided for by this act.

Sec. 7. The council of said city shall have, and is hereby
2 granted power to have said city surveyed, to lay out, open,
3 vacate, straighten, broaden, change grade of, grade, re-grade,
4 curb, widen, narrow, repair, pave and re-pave streets, alleys,
5 roads, squares, plots, sidewalks and gutters for public use, and
6 to alter, improve, embellish and ornament and light the same,
7 and to construct and maintain public sewers and laterals, and
8 shall, in all cases, have power and authority to assess upon
9 and collect from, the property benefited thereby, such part
10 of the expense thereof as shall be fixed by ordinance, except
11 as hereinafter provided; to have control of all streets, avenues,
12 roads, alleys and grounds for public use in said city, and to
13 regulate the use thereof and driving thereon, and to have the
14 same kept free from obstruction, pollution or litter on or over
15 them; to have the right to control all bridges within said city,
16 and the traffic thereover; to change the name of any street,
17 avenue or road within said city, and regulate and cause the
18 numbering and re-numbering of houses on any street, avenue
19 or road therein; to regulate the naming of streets, avenues and
20 public places; to regulate and determine the width of streets,
21 sidewalks, roads and alleys; to order and direct the curbing,
22 re-curbing, paving, re-paving and repairing of sidewalks and
23 footways for public use in said city to be done and kept clean
24 and in good order by the owners of adjacent property; to enter
25 into a contract with the county of Kanawha, or any internal
26 improvement company for the joint ownership of any bridge

27 by the city and such county or company, upon such terms as
28 may be prescribed in the contract, but any such bridge shall
29 be a public highway and the interest of the company, county
30 and city shall be only such proportionate part thereof as it
31 may pay for or that may be named in the contract; to prohibit
32 and punish the abuse of animals; to restrain and punish va-
33 grants, mendicants, beggars, tramps, prostitutes, drunken or
34 disorderly persons within the city, and to provide for their ar-
35 rest and manner of punishment; to prohibit and punish by fine
36 the bringing into the city by steamboats, railroads or other car-
37 riers, persons known to be paupers, dangerous or objection-
38 able characters or afflicted with contagious diseases; to control
39 and suppress disorderly houses of prostitution or ill-fame,
40 houses of assignation and gaming houses or any part thereof,
41 to punish those engaged in gaming and to suppress all gaming
42 or gambling houses, and all places where gambling or betting is
43 in any way carried on or permitted, and to punish all persons in
44 any way connected therewith; to prohibit within the city or
45 within two miles thereof, slaughter houses, soap or glue factories
46 and houses and places of like kind, and any other thing or busi-
47 ness dangerous, unwholesome, unhealthy, offensive, indecent or
48 dangerous to life, health, peace or property; to provide for the
49 entry into and the examination of all dwellings, lots, yards, en-
50 closures, buildings and structures, cars, boats and vehicles of
51 every description, and to ascertain their condition for health,
52 cleanliness or safety; to regulate the building and maintenance
53 of party walls, partition fences or lines, fire walls, fire places,
54 chimneys, boilers, smoke stacks and stove pipes; to provide
55 for and regulate the safe construction, inspection and repairs
56 of all public and private buildings, bridges, basements, cul-
57 verts, sewers, or other buildings or structures of any descrip-
58 tion; to take down and remove, or make safe and secure, any
59 and all buildings, walls, structures or super-structures at the
60 expense of the owners thereof, that are or may become dan-
61 gerous, or to require the owners or their agents to take down
62 and remove them or put them in a safe and sound condition at
63 their own expense; to regulate, restrain or prohibit the erec-
64 tion of wooden or other buildings within the city; to regulate
65 the height, construction and inspection of all new buildings
66 hereafter erected, and the alteration and repair of any build-
67 ings already erected or hereafter erected in said city, and to

68 require permits to be obtained for such buildings and struc-
69 tures, and plans and specifications thereof to be first submitted
70 to the building inspector; to regulate the limit within which
71 it shall be lawful to erect any steps, porticos, bay windows, bow
72 windows, show windows, awnings, signs, columns, piers or other
73 projection or structural ornaments of any kind for the houses
74 or buildings fronting on any street of said city; to establish
75 fire limits and to provide the kind of buildings and structures
76 that may be erected therein, and to enforce all needful rules
77 and regulations to guard against fire and danger therefrom;
78 to require, regulate and control the construction of fire escapes
79 for any building or other structures in said city, to control the
80 opening and construction of ditches, drains, sewers, cess-pools,
81 and gutters, and to deepen, widen and clear the same of stag-
82 nant water or filth, and to prevent obstruction therein, and to
83 fill, close or abolish the same and to determine at whose ex-
84 pense the same shall be done; and to build and maintain fire
85 station houses, crematories, jails, lockups, and other buildings,
86 police stations and police courts, and to regulate the manage-
87 ment thereof; to acquire, establish, lay off, appropriate, regu-
88 late, maintain and control public grounds, squares and parks,
89 hospitals, market houses, city buildings, libraries and other
90 educational or charitable institutions, either within or without
91 the city limits, and when the council determines that any real
91-a estate rights therein, or materials in or out of the
92 city is necessary to be acquired by said city for any
93 such city purpose, or for any public purpose, or is
94 necessary in the exercise of its powers herein granted, the
95 power of eminent domain is hereby conferred upon said city,
96 and it shall have the right to institute condemnation proceed-
97 ings against the owner thereof, whether said property be in
98 or out of said city, in the same manner, to the same extent, and
99 upon the same conditions as such power is conferred upon
100 public service corporations by chapter forty-two of the code of
101 West Virginia of the edition of one thousand nine hun-
102 dred and six, and is now or may be hereafter amended;
103 to purchase, lease or contract for and take care of
103-a all public buildings and structures and real estate
104 deemed proper for the use of such city; and for the protection
105 of the public to cause the removal of unsafe walls, structures
106 or buildings, and the filling of excavations; to acquire or assist

107 in acquiring land to be donated, dedicated or conveyed to, or
108 otherwise vested in, the state of West Virginia as a site for a
109 state capitol or other public buildings, and to donate, dedicate
110 and convey the same to said state or otherwise procure the title
111 to the same to be vested in said state; to prevent injury or an-
112 noyance to the business of individuals from anything danger-
113 ous, offensive or unwholesome; to abate or cause to be abated
114 all nuisances and to that end and thereabout to summon wit-
115 nesses and hear testimony; to regulate or prohibit the keep-
116 ing of gunpowder and other combustible or dangerous articles,
117 and to regulate the transportation of same through the streets,
118 alleys and public places; to regulate, restrain or prohibit the
119 use of firecrackers or other explosives or fireworks, and all
120 noises or performances which may be dangerous, indecent or
121 annoying to persons or tend to frighten horses or other ani-
122 mals; to provide and maintain proper places for the burial
123 of the dead, in or out of the city, and to regulate interments
124 therein upon such terms and conditions as to price and other-
125 wise as may be determined; to provide for shade and orna-
126 mental trees, shrubbery, grass, flowers and other ornamenta-
127 tion, and the protection of the same; to provide for the poor
128 of the city; to make suitable and proper regulations in regard
129 to the use of the streets, public places, sidewalks and alleys by
130 street cars, foot passengers, animals, vehicles, motors, auto-
131 mobiles, traction engines, railroad engines and cars, and to
132 regulate the running and operation of the same so as to pre-
133 vent obstruction thereon, encroachment thereto, injury, incon-
134 venience or annoyance to the public; and to regulate fares
135 and operation of motor vehicles used in the public transporta-
136 tion of passengers or property; to purchase or other-
136-a wise secure life, health or accident policies on the group
136-b or other convenient plan upon the members of the city police
136-c force and fire department, and as an element of compensation
136-d of such members may appropriate the moneys necessary
136-e to defray the cost thereof. Whenever in its opinion the
137 safety of the public so requires, the council may authorize or
138 require by ordinance any railroad company operating railroad
139 tracks upon or across any public street or streets of the
140 city, to construct and maintain overhead or undergrade cross-
141 ings wherever the tracks of said company are laid upon or
142 across the public streets of such city; to apportion the cost of

143 the construction and maintenance of such crossings between
144 any such railroad company and city; to prohibit prize
144-a fighting and cock and dog fighting; to license,
145 tax, regulate or prohibit theaters, moving pictures,
145-a circuses and exhibition of showmen and shows of
145-b any kind, and the exhibition of natural or artificial
145-c curiosities, carnivals, menageries and musical exhibitions and
145-d performances, and other things or business on which the state
145-e does or may exact a license tax; to organize and maintain fire
145-f companies and departments, and to provide necessary appa-
145-g tus, engines and implements for the same and to regulate all
145-h matters pertaining to the prevention and extinguishing of
145-i fires; to make proper regulations for guarding against danger
145-j and damage from fires, water or other elements; to regulate
146 and control the kind and manner of plumbing and electric
147 wiring, air-ships, ballons, wireless stations, radio stations and
148 other appliances for the protection of the health and safety of
149 said city; to levy taxes on persons, property and licenses; to li-
150 cense and tax dogs and other animals and regulate, restrain
151 and prohibit them and all other animals and fowls running at
152 large; to provide revenue for the city and appropriate the
153 same to its expenses; to adopt rules for the transaction of bus-
154 iness of its own regulation and government; to promote the
155 general welfare of the city, and to protect the persons and
156 property of citizens therein; to regulate and provide for the
157 weighing of produce and other articles sold in said city and to
158 regulate the transportation thereof and other things, through
159 the streets, alleys and public places; to have the right to grant,
160 refuse or revoke any and all licenses for the carrying on of
161 any business within said city on which the state exacts a license
162 tax; to establish and regulate markets and to prescribe the
163 time for holding the same, and what shall be sold in such mar-
164 ket, and to let stalls or apartments and regulate the same; to
165 acquire and hold property for market purposes; to regulate the
166 placing of signs, billboards, posters and advertising on or
167 over the streets, alleys, sidewalks and public grounds of said
168 city; to preserve and protect the peace, order and safety and
169 health of the city and its inhabitants, including the right to
170 regulate the sale and use of cocaine, morphine, opium and
171 poisonous or dangerous drugs; to appoint and fix the place of
172 holding city elections; to erect, own, lease, authorize or pro-

173 hibit the erection of gas works, electric light works or water
174 works, ferry boats, in or near the city, and to operate the
175 same, and to sell the product or services thereon and to do
176 any and all things necessary and incidental to the conduct of
177 such business; to build, hold, purchase, own and operate toll
178 bridges; to enter into an agreement with the county of Kan-
179 awha, whereby the council and the county court of Kanawha
180 county shall have the power and authority to provide for a
181 full time health officer in charge of all the general health
182 and sanitation activities and of the enforcement of all laws
183 and regulations relating to public health, in the city of
184 Charleston, the county of Kanawha, and to provide for neces-
185 sary assistants, nurses, clerks and other employees, and the
186 expenses of the administration thereof, and to provide for a
187 proper division of all such expenses between the city and
188 county, and make all needful rules and regulations to fully
189 carry into effect the said joint undertaking between the city
190 of Charleston and the county of Kanawha; to provide for the
191 purity of water, milk, meats and provisions offered for sale in
192 said city, and to that end provide for a system of inspecting
193 the same and making and enforcing rules for the regulation
194 of their sale, and to prohibit the sale of any unwholesome or
195 tainted milk, meats, fish, fruit, vegetables, or the sale of milk,
196 containing water or other things not constituting a part of
197 pure milk; to provide for inspecting dairies and slaughter
198 houses, whether in or outside of the city, where the milk and
199 meat therefrom are offered for sale within said city, and to
200 prohibit the sale of any article deemed unwholesome, and to
201 condemn the same or destroy or abate it as a nuisance; to
202 provide for the regulation of public processions so as to pre-
203 vent interference with public traffic, and to promote the good
204 order of the city; to prescribe and enforce ordinances and
205 rules for the purpose of protecting the health, property, lives.
206 decency, morality, cleanliness and good order of the city and
207 its inhabitants, and to protect places of divine worship in
208 and about the premises where held, and to punish violations
209 of all ordinances, if the offense under and against the same
210 shall also constitute offenses under the laws of the state of West
211 Virginia or the common law; to provide for the employment
212 and safe keeping of persons who may be committed in de-
213 fault of payment of fines, penalties or costs under this act,

214 who are otherwise unable to discharge the same, by putting
215 them to work for the benefit of the city upon the streets or
217 other places in or out of the city provided by said city, and
218 to use such means to prevent their escape while at work as
219 the council may deem expedient; and the council may fix a
220 reasonable rate per day as wages to be allowed such persons
221 until the fine and costs against him are thereby discharged; to
222 compel the attendance at public meetings of the members of
223 the council; to have and exercise such additional rights, privi-
224 leges and powers as are granted to municipalities by chapter
225 forty-seven of the code of West Virginia as amended.

226 For all such purposes, except that of taxation and for pur-
227 poses otherwise limited by this act, the council shall have juris-
228 diction, when necessary, for one mile beyond the corporation
229 within said one mile limit.

230 And the council shall have the right to establish, construct
231 and maintain public markets, landing, ferries, wharves,
231-a parking places and docks on any ground which does or
232 shall belong to said city, or which it shall acquire, by purchase
233 or otherwise, and to sell, release, repair, alter or remove any
234 public markets, landings, ferries, wharves, dikes, buildings
235 or docks which have been or shall be so constructed, and
236 to levy and collect reasonable duty on vessels and
237 other craft coming to or using said landings, ferries, wharves,
238 dikes, docks, parking places and buildings, and to pre-
239 serve and protect the peace and good order at the same, and
240 regulate the manner in which they shall be used; and to
241 have the sole right, under state laws and in the same manner
242 as now control county courts, to establish, construct, maintain,
243 regulate and control all such wharves, docks, ferries and land-
244 ings within the corporate limits of said city.

245 To carry into effect these enumerated powers and all other
246 powers conferred upon said city expressly or by implication in
247 this and other acts of the legislature, the council of said city
248 shall have the power in the manner herein prescribed, to
249 adopt and enforce all needful orders, rules and ordinances not
250 contrary to the laws and constitution of this state; and to
251 prescribe, impose and enforce reasonable fines and penalties,
251-a including imprisonment in the city lock-up, jail or station-
252 house, and to work prisoners found guilty, as the council may
253 prescribe, and market the products of such labor, and with

254 the consent of the county court of Kanawha county entered
255 of record, shall have the right to use the jail of said county
256 for any purpose necessary to the administration of its affairs.

Sec. 7-a. The council of the City of Charleston shall have
2 full discretion in the matter of granting, refusing and revoking
3 licenses for keeping hotels, eating houses and restaurants,
4 garages, taxi-cab stands, bowling alleys, pool and billiard
5 tables and like tables, and for selling soft drinks, as in the
6 case of other licenses, and shall supervise, regulate and control
7 all places licensed for said purposes, and the municipal judge
8 shall have jurisdiction when such city license and regulation
9 is sought to be evaded and may prevent such evasion, *provided*,
10 that no such license, regulation or control shall apply to any
11 fraternal, beneficiary society permitted under the state laws.
12 The council shall make no provision for the licensing of
13 automobiles or other motor vehicles, except that in the case of
14 motor vehicles used in the transportation of passengers or
15 property for hire the council may require from the owner or
16 operator of any such vehicle a bond, with sureties, and in
17 such penalty, and with such conditions as it may deem proper.
18 The council shall have power to enact and enforce proper or-
19 dinances for the purpose of carrying into effect the powers
20-27 hereby granted.

28 If any person fails or refuses to secure a license or to pay
29 any license tax due the city, or fails to obtain a permit to do
30 anything for which a permit is required by ordinance, in addi-
31 tion to all other penalties and remedies provided by the ordi-
32 nances of the city, the circuit court of Kanawha county and the
33 court of common pleas of Kanawha county, or the respective
34 judge thereof, in vacation, upon application in the name of the
35 city or of any officer of the city, shall grant an injunction,
36 inhibiting such person from continuing the business until the
37 full amount of the license tax and penalty prescribed by the
38 ordinance and due the city is paid, or until the person has
39 obtained the license or permit as required by any ordinance.

Sec. 9. The voting precincts in the several wards for all
2 city elections shall be the same as to boundaries as those fixed
3 by the county court for all state and county elections so long
4 as no precinct as so fixed by the county court embraces ter-
5-9 ritory of more than one ward in said city. So long
10 as the voting precincts in the several wards shall be the same

11 as those so fixed by the county court; then the registration of
12 voters made under the general law concerning registration of
13 voters, shall be the registration of voters, used for all city
14 regular elections, with such corrections as are herein provided
15 for, and it shall not be necessary to have a special registration
16 of voters for any special election, but the registration of voters
17 for the last preceding city regular election, with such corrections
18 as are herein provided for, shall be the proper registration for
19 such special election. The council shall elect two persons, one
20 being a member of each of the two leading political parties in
21 said city, having all the qualifications of commissioners of
22 election under chapter three of the code of West Virginia as city
23 registrars. The executive committee of each of such political
23-a parties may present to the council a writing signed by the
23-b chairman of the committee of each party requesting the ap-
23-c pointment of a qualified voter of his political party as regis-
23-d trar with his city address, and in case such writing is present-
23-e ed the council shall appoint the person so named as such
23-f registrar. They shall take the same oath as other officers of the
24 city take and shall be paid such compensation as the council
25 may fix by ordinance.

26 They shall sit in the office of the city clerk on five separate
27 days being the last four Saturdays and the last Monday pre-
28 ceding any regular election in said city and for three separate
29 days, being the last two Saturdays and the last Monday pre-
30 ceding any special election, for the purpose of registering
31 voters who shall not have been already registered in the various
32 precincts, and for issuing transfers to any voter who has moved
33 from one precinct to another, and for striking off the name of
34 any voter from the registration books when it shall be shown
35 by the affidavits of two persons that he is no longer a voter in
36 said city, and they shall strike off from such registration books
37 the names of any person known by or proved to them to be dead.
38 It shall be the duty of the city clerk to make or have made
39 copies of the registration books on file in the office of the clerk
40 of the county court of Kanawha county at least sixty days
41 before any regular city election, and such copies, with such
42 additions and changes as may be made by the city registrars,
43 shall be used for all special elections that may be held between
44 said regular elections as well as the regular elections. Notice
45 of the time and place of sittings of said city registrars shall

46 be given by the publication thereof by the city clerk in two
47 newspapers of opposite politics printed and circulated in said
48 city, once a week for six successive weeks before any general
49 election, if there is a sufficient space of time for such purpose,
50 and if not, then for such time as there may be before any
51 special or general election. Before the registrars shall register
52 the name of any person as a qualified voter they must be satis-
53 fied of his qualifications and shall have the right and power to
54 require of such persons all the things that may be required of
55 him by the registrars under the state law, and such registrars
56 shall, as to the qualifications of persons to vote be governed by
57 the state laws on such subject in existence at the time of such
58 registration.

59 The county clerk of Kanawha county shall carefully pre-
60 serve in his office the registration books of each general election
61 for all the precincts of the City of Charleston and shall de-
62 liver one copy of each thereof to the city clerk of the city of
63 Charleston for the use of the registrars of said city in the per-
64 formance of their duties as such.

Sec. 9-a. In the event that the county court of Kanawha
2 county changes the boundary lines of any voting precincts in
3 the City of Charleston, where any of said voting precincts as
4 changed include any of the territory of two or more of the
5 wards heretofore fixed by law, then the council shall hold a regu-
6 lar or special session on the first Monday in March of each
7 year in which a city regular election is to be held, and shall
7-a appoint for each voting precinct as so changed as
8 fixed by this act two competent persons or regis-
9 trars, one each from the two political parties which
10 at the last preceding regular election cast the high-
11 est number of votes in the City of Charleston, but the
12 executive committee of such political parties may present to the
13 council a writing signed by the chairman of the committee of
14 each party requesting the appointment of a qualified voter of
15 his political party as registrar with his city address for each
16 precinct in the city and the council shall appoint the person
17 named in such writing as such registrar.

18 No person shall be eligible to appointment as registrar, or in
19 any way act as such, who has been convicted of a felony, or
19-a who holds any elective or appointive office or posi-
20 tion in said city or is an employee under the laws

21 of the state of West Virginia or of the United States or
22 who is not a qualified voter in the precinct for which
23 he is appointed or who can not read and write the English
24 language. If such registrar shall fail or refuse to serve, the
25 vacancy shall be filled either by the council, or the mayor of the
26 city in vacation, in the manner hereinbefore provided for the
27 appointment of registrars, and the city clerk shall notify all
28 such persons of their appointment as registrars. Said registrars
29 shall before entering upon the discharge of their duties take an
30 oath to support the constitution of the United States, the con-
31 stitution of West Virginia, and to perform the duties of their
32 office to the best of their ability and that they are legal mem-
33 bers of the party for which they are respectively appointed.
34 The said oath shall be filed in the office of the city clerk.

35 The city clerk shall cause to be prepared suitable books and
36 blanks for the registration of the voters and such books shall
37 be so arranged as required by law for the registration of voters
38 for general elections held in the state of West Virginia and all
39 the provisions, duties and obligations of chapter three of the
40 code of West Virginia shall apply to the registration of voters
41 hereunder, except as herein otherwise set out, and the city
42 council shall perform the duties required in said chapter of the
42-a county court, and the city clerk shall perform the duties
42-b required of the county clerk.

42-c In all cases where a new registration of voters is required
43 the said registrars shall meet on the Thursday following the
44 said first Monday in March and proceed to register the names
45 of all qualified voters in their respective precincts in the man-
45-a ner required herein and in all other respects in the manner
46 provided by said chapter three of the code.

47 Said registrars shall complete said registration on or before
48 the fourth Monday in March of every such election year, and,
49 for the purpose of amending, correcting and completing said
50 registration, shall sit together at some convenient place within
51 the voting precinct for two days commencing the first Monday
52 in April following from nine o'clock A. M. to one o'clock
53 P. M. and from two o'clock P. M. to nine o'clock P. M.
54 and shall give notice of the time and place of their sitting
55 for such registration and correction by posting written or
56 printed notices of the time and place of such sitting for five
57 days prior thereto at not less than three of the most conspicu-

58 ous places in said voting precinct, one of which shall be at the
59 place of voting in said precinct. At the time of said sitting the
60 books of registration shall be open for public inspection, and
61 the said registrars, in the manner hereinbefore provided shall
62 register all qualified voters who have not theretofore been so
63 registered by them and complete and finish their registration
64 of the voters within their said precinct and make out two alpha-
65 betical lists of registered voters within said precinct entitled
66 to vote at the ensuing election as registered by them and shall
67 sign and return the same to the city clerk on or before the
68 second Monday in April. The registration books shall be sent
69 to the polling places along with the ballots, and no person who
70 is not duly registered thereon shall be allowed to vote at said
71 election.

72 The commissioners of election shall return said books to the
73 city clerk with the poll books, and the same shall be carefully
74 preserved by the city clerk in his office.

Sec. 10. Candidates to be voted for at the municipal election
2 to be held in April, one thousand nine hundred and twenty-
3 seven, and thereafter, may be nominated by convention, or
4 primary election, as may be decided by the executive commit-
5 tees of any of the parties recognized by law in said city, and
6 candidates may be nominated by petition in the manner pro-
7 vided by chapter three of the code of West Virginia. Each of
8 the political parties having the right to make a nomination
9 under the election laws of West Virginia shall give notice of
10 the manner of such nomination by publication thereof in some
11 daily newspaper printed in the City of Charleston for ten days
12 prior to the date of such convention or primary election.

Sec. 11. Whenever the county court of Kanawha county shall
2 arrange the voting precincts in the City of Charleston for state
3 and county elections, according to the lines of the city wards,
4 then such precincts with the same boundaries and the same
5 voting places as provided for such state and county elections
6 shall be the precincts for all city elections. Except as may
7 be otherwise provided, by this act, all city elections shall be
8 held by the council and the officers therefor appointed in the
9 way and manner prescribed in chapter three of the code of
10 West Virginia, but no double election boards shall be appointed
11 for any city election.

Sec. 15. The mayor shall be the presiding officer of the 2 council and be a member thereof, with the right to vote on all 3 questions the same as any other member of said council, and 4 the city clerk shall be *ex-officio* clerk of the council, and the 5 mayor and city clerk shall each perform such other duties as 6 the council may require of them. The council shall, at its 7 first meeting after each election, select one of its body as pres- 8 ident *pro tempore*, who shall, in the absence of the mayor, 9 preside as chairman of the meeting of the council, and in the 10 absence of both the mayor and president *pro tempore* at any 11 meeting of the council, some member of the council shall be 12 elected to preside over such meeting.

Sec. 25. The mayor, manager, city clerk, municipal court 2 clerk, treasurer, city solicitor, city collector, municipal judge, 3 health commissioner, chief of police and chief of fire department, 4 each shall, before entering upon the discharge of their respective 5 duties, give an official bond, conditioned for the faithful per- 6 formance of such duties as are prescribed in this act or any 7 ordinance now or hereafter passed, in amounts as follows: 8 The mayor, one thousand dollars; manager, ten thousand dol- 9 lars; city collector, ten thousand dollars; the treasurer, sixty 10 thousand dollars; the city clerk, municipal court clerk, muni- 11 cipal judge and city solicitor, three thousand dollars, respec- 12 tively; health commissioner, chief of police and chief of the 13 fire department, one thousand dollars respectively.

14 The council may require additional bond from any of said 15 appointive officers, and may likewise require bond, in whatever 16 sum they may fix, of any other appointive officer or employee. 17 All bonds of officers or employees shall, before their acceptance, 18 be approved by the council. The minutes of the meeting of 19 council shall show all matters touching the consideration or 20 approval of all bonds, and when said bonds are approved and 21 accepted, they shall be recorded by the city clerk in a well 22 bound book kept by him at his office for that purpose, which 23 book shall be open to public inspection; and the recordation 24 of such bonds as aforesaid shall be *prima facie* proof of their 25 correctness, and they, as so recorded, as well as copies thereof 26 duly attested by the city clerk under the seal of the city, shall 27 be admitted as evidence in all courts of this state. The city 28 clerk shall be the custodian of all bonds, except that given by 29 him, and as to it, the city treasurer shall be custodian. All

30 bonds, obligations or other writings taken in pursuance of any
31 provisions of this act, shall be made payable to "The City of
32 Charleston," and the respective persons, and their heirs, exe-
33 cutors, administrators and assigns bound thereby shall be sub-
34 ject to the same proceedings on said bonds, obligations and
35 other writings, for the purpose of enforcing the conditions of
36 the terms thereof, by motion or otherwise, before any court
37 of record held in and for the county of Kanawha, that col-
38 lectors of county levies and their sureties are or shall be subject
39 to on their bonds for enforcing the payment of the county
40 levies.

Sec. 29. No officer of the city shall hold two offices with
2 the city at the same time, or be employed by the city in any
3 other capacity, without first having the consent of the council.

Sec. 30. Whenever the mayor or other officer shall fail to
2 make any and all appointments under him, or required to be
3 made by him, for a period of thirty days from the time such ap-
4 pointment should have been made, his office may be declared
5 vacant by the council, and his successor appointed, in the man-
6 ner herein provided.

Sec. 35. The mayor, twenty members of council, police judge
2 and treasurer elected on the third Monday in April, one thou-
3 said nine hundred and twenty-three shall hold office until the
4 first Monday in May, one thousand nine hundred and twenty-
5 seven, and their successors shall be elected on the third Monday
6 of April, one thousand nine hundred and twenty-seven, and at
7 intervals of four years thereafter, and their terms of office shall
8 begin on the first Monday of May after their election. The
9 mayor's salary shall not be less than three thousand nor more
10 than five thousand dollars per annum, and he shall not be eli-
11 gible to hold said office for more than two terms in succession.
12 The police judge elected on the third Monday in April, one
13 thousand nine hundred and twenty-three shall continue to hold
14 office as the municipal judge until the first Monday in May, one
15 thousand nine hundred and twenty-seven.

16 The mayor shall appoint the city solicitor, an assistant city
17 solicitor, the chief of police, humane officer or officers, building
18 inspector, collector, city auditor, engineer, health commissioner,
19 lockup keeper, municipal court clerk, and the chief of the fire
20 department, and these appointments shall not require any con-
21 firmation by the council, but shall be made at the discretion of

22 the mayor, who shall, with like discretion, have the full and
23 complete power of the removal thereof. The mayor shall ap-
24-5 point the manager, by and with the advice and consent of
26-7 the council. The council shall, either at a regular or special
28-9 meeting called for that purpose, pass upon such nomination
30-1 and either confirm or reject the same, and if such nomination
32 is rejected, then the mayor shall submit to the council a further
33 nomination of some other person or persons until the nomina-
34 tion is confirmed by council, for said office of manager, but it
35 shall be the duty of the council to pass upon all nominations
36 without unreasonable delay; and in any event within two weeks
37 after the submission of the same, and the failure of members of
38 the council to pass thereon within such time shall be cause for
38-a the removal from office of such members of the council as
39 shall have refused to act thereon.

40 The council shall appoint a city clerk. The manager
41 shall appoint or employ such persons as the ordinances of
42 the city may require or the council may authorize by
43 proper resolution. All such officers shall be appointed for
44 the term of four years and until their successors are appointed
45 and qualified, unless they are removed in the way and manner
46 in this act provided.

47 It shall be the duty of the mayor to attend all meetings of
48 the council and preside over that body.

49 It shall be the duty of the mayor to see that all of the laws
50 and ordinances of the city are enforced and he shall have a gen-
51 eral oversight over the peace, health and good order of the city.

52 The duties of the city solicitor or assistant city solicitor shall
53 be to attend the sessions of council, to prosecute all suits in
54 behalf of the city and defend all suits against the city, to ad-
55 vise the council and all of the departments of the city and in
56 general to look after the interests of the city when it shall need
57 legal services. The salary of the solicitor shall be not less than

58 three thousand nor more than five thousand dollars per annum.

59 All fees of every kind collected by any officer or employee,
60 including the municipal judge when acting as a justice, shall be
61 paid to the city treasurer.

Sec. 41. No ordinance shall be passed, except by bill, and no
2 bill shall be so amended in its passage as to change its original
3 purpose. All bills must be in writing and read in full when pre-
4 sented at a regular or special meeting of council, and except in

5 case of emergency and when so authorized by a vote of four-
6 fifths of the members elected, taken by yeas and nays, no bill
7 shall be considered for final passage at the meeting at which it is
8 introduced; but at any subsequent regular or special meeting
9 bills may be taken up for consideration and final action. No bill
10 except in case of emergency evidenced by a vote of four-fifths of
11 the members of council elected shall be considered for final pas-
12 sage unless the same has been referred to a committee for report.
13 All amendments made by a committee to a bill shall be reported
14 to council and incorporated in said bill, and before final action
15 on said bill, the bill with any amendments shall be fully and dis-
16 tinctly read, after which reading, whether at the meeting at
17 which the bill is reported or a subsequent meeting, the bill may
18 be considered for final action. No bill shall become an ordi-
19 nance unless on its final passage the vote be taken, the names
20 of the members voting for and against the same be entered of
21 record in the minutes of council, and a majority of all members
22 elected recorded thereon as voting in its favor. Bills referred
22-a to a committee may be withdrawn therefrom at any
23 subsequent meeting for present consideration by an
24 affirmative vote of a majority of the members of coun-
25 cil present. No bill except general appropriation bills,
26 which may embrace the various subjects and accounts for and
27 on account of which moneys are appropriated, and bills fixing
28 the annual salaries of officers and employees of the city, and
29 bills providing for the paving or improving of streets, or con-
30 struction of sewers, shall contain more than one object and that
31 shall be expressed in the title, but if any object shall be em-
32 braced in an ordinance which is not so expressed the ordinance
33 shall be void only as to so much thereof as shall not be so ex-
34 pressed. No ordinance shall be revised or re-enacted by mere
35 reference to the title thereof, but the same shall be set forth at
36 length as if it were an original ordinance, nor shall any ordi-
37 nance be amended by providing that designated words thereof
38 be stricken out and others inserted in lieu thereof, but the ordi-
39 nance or sections amended shall be set forth in full as amended.
40 All ordinances in force at the time this act goes into effect, not
41 inconsistent herewith, shall remain in full force until altered
42 or repealed as herein provided, and all rights, actions, prescrip-
43 tions and contracts of the city not inconsistent therewith shall
44 continue to be valid as if this act had not been passed.

45 Any ordinance heretofore passed which may be void on ac-
47 count of failure of council to properly observe any provisions
48 of the charter of the City of Charleston or ordinances in force
49 at the time said ordinance was passed shall so far as it may affect
50 the validity of any paving or sewer assessments heretofore laid,
51 be in full force and effect until repealed or amended, the same as
52 if legally passed. No ordinance of the council shall take effect
53 until the expiration of five days after its final passage, unless
54 the council shall by a vote of three-fifths of its members
55 elected, taken by yeas and nays, otherwise direct. It shall
56 be the duty of the city clerk to make publication of the
57 caption or title of every ordinance within five days after
58 its passage, but failure so to do shall not affect the validity of any
59 such ordinance.

60 Resolutions and orders of council other than ordinances may
61 be considered for final passage at the meeting at which they are
62 proposed, and shall, unless otherwise provided therein, be in
63 force and effect from and after their passage.

Sec. 44. The municipal judge shall be *ex officio* a justice and
2 a conservator of the peace, and with authority to issue process
3 for all offenses committed within the police jurisdiction of the
4 City of Charleston, of which a justice of the peace has jurisdic-
5 tion under state statutes, and for all violations of any city ordi-
6 nances, and shall have charge of and preside over the municipal
7 court of such city; and may commit persons charged with fel-
8 ony or misdemeanor to jail or take bond for their appearance
9 before the grand jury of the circuit, intermediate or other
10 courts of Kanawha county; he shall keep an accurate record
11 of all his judicial proceedings in said court, showing the style of
12 each case, which record shall be indexed and numbered. It shall
13 be his duty to hold daily sessions of his said court, Sunday ex-
14 cepted. Before trying any person charged with any violation
15 of any state law or ordinance a warrant specifying the offense
16 or violation charged shall be issued as herein provided
16-a and the municipal judge shall render judgment in any
17 case as the law of the state or the ordinance of the city
18 applying thereto may require; he shall also have the power to
19 issue executions for all fines, penalties and costs imposed by him
20 and he may require immediate payment thereof, and in default
21 of such payment, may commit the party so in default to the jail
22 of the City of Charleston or of the county of Kanawha, or other

23 place of imprisonment in said city, until the fine and penalty
24 and costs shall be paid or satisfied, to be employed during the
25 term of imprisonment as hereafter provided, but for the viola-
26 tion of city ordinance the term of imprisonment in any such
27 case shall not exceed thirty days, and in all cases where a per-
28 son is sentenced to imprisonment or to the payment of a fine of
29 ten dollars or more, such person shall be allowed an appeal from
30 such decision to the intermediate court of said Kanawha county
31 upon the execution of an appeal bond, with surety deemed suf-
32 ficient by the said municipal judge in a penalty double the
33 amount of the fine and costs imposed by him, conditioned that
34 the person proposing to appeal will appear before the interme-
35 diate court of Kanawha county on the first day of the next term
36 thereof to answer for the offense wherewith he is charged and
37 not depart thence without leave of the court and satisfy all costs
38 and fines imposed against him; and in no case shall judgment
39 for a fine of less than ten dollars be given by the municipal
40 judge if the defendant, his agent or attorney object thereto.
41 Before said municipal judge shall accept any natural person as
42 surety upon any bond or recognizance under the provisions of
43 this section, such surety shall furnish a certified statement of
44 the clerk of the county court of any county in this state in which
45 such surety owns real estate, and shall also file an affidavit, the
46 form of which may be prescribed by the municipal judge, show-
47 ing the bonds and recognizances upon which he is then surety
48 and the amount of each bond or recognizance. If the amount of
49 such bond or recognizance, together with other bonds and recog-
50 nizances as shown by the affidavit aforesaid, exceeds in amount
51 the assessed value of the surety's property as shown by the cer-
52 tificate of the clerk of the county court, then such surety shall
53 be disqualified; *provided, however*, that whenever any surety is
53-a offered less than one hour before the county clerk's office is
53-b closed or after it is closed, surety shall make an
53-c affidavit that he owns real estate in Kanawha county
53-d to an assessed value above encumbrances thereon, of at
53-e least double the amount of bond required. Any
53-f person making or procuring to be made a false state-
54 ment in any such affidavit, with intent to deceive said
55 municipal judge, shall be guilty of perjury. If such ap-
56 peal be taken, the warrant of arrest, the transcript of the judg-
57 ment, the appeal bond and other papers of the case shall be

58 forthwith delivered by the said judge to the clerk of the said
59 intermediate court and the court shall proceed to try the case
60 as upon indictment or presentment and render such judgment,
61 including that of cost, as the law and the evidence may require.

62 On appeals from said municipal court the intermediate court
63 of Kanawha county shall be governed by the same principles
64 with respect to the forfeiture of bonds and recognizances, and
65 the issuance and execution of capiases and writs of *feri facias*
66 as prevail in cases in which the state is a party.

67 The expense of maintaining persons committed to the
68 jail of the county by such municipal judge shall be paid by the
69 city. The municipal judge shall account for and pay over the
70 amount of all fines collected by him weekly to the treasurer of
71 the city and shall make monthly reports thereof, and of all other
72 matters, pertaining to his office to the council of said city.

Sec. 45. The municipal judge shall be an attorney at law and
2 shall have attained the age of twenty-eight years at the date of
3 the beginning of his term of service and shall have been a
4 resident of this state for the period of five years and of the
5 city of Charleston previous to the beginning of his term of
6 service for the period of five years. He shall not appear as
7 counsel in any criminal case in any court during his term of
8 service. In the absence or inability of the municipal judge
9 to perform his duties, the municipal court clerk shall act as
10 municipal judge in his stead, and in the event that neither the
11 municipal judge nor the municipal court clerk can for any
12 cause perform such duties, then the mayor shall act as muni-
13 cipal judge.

Sec. 46. In all cases of arrest by the police of the city,
2 except in cases of arson, murder and rape, the person arrested
3 shall have the absolute right to give a reasonable and proper
4 bond for his appearance at municipal court for a trial or hear-
5 ing of his case, and the municipal judge, municipal court clerk,
6 city clerk, mayor, chief of police and the desk sergeant or person
7 in charge of police headquarters shall have the power, and it
8 shall be their duty, to accept such bond from such person so
9 arrested, and upon giving of such bond he shall be released,
10 and it shall be their further duty to permit such person arrested
11 to communicate in any reasonable way with any person or per-
12 sons with whom he may desire to have communication in
13 reference to his giving bail in order to obtain his release, and

14 each of said officers and all policemen shall render reasonable
15 aid in assisting such person arrested to communicate with any
16 person that he may desire for the purpose of securing such bail.

Sec. 52. The city taxes annually levied by the council shall
2 be collected as follows: Immediately after the annual levy
3 for city taxes is laid the council shall direct the proper officer
4 of the city to extend the same on the property books made
5 out by him, including therein the proper capitation tax; he
6 shall make out therefrom proper tax tickets in the following
7 manner: That is to say, instead of a single ticket for the whole
8 amount charged to any person, firm or corporation there shall
9 be two tickets, each for one-half of said amount; these half
10 tickets shall be severally numbered or designated "first" and
11 "second" and the same, after being examined and compared
12 by the council and found to be correct, shall be turned over
13 to the treasurer of the city on the first day of October follow-
14 ing the levy and the treasurer's receipt for the gross amount
15 thereof shall be returned, entered upon its record and the
16 treasurer charged therewith. The treasurer shall give notice
17 by publication for twenty days in two newspapers of opposite
18 politics published in said city, that said tax tickets are in his
19 hands for collection, stating the penalty for non-payment
20 thereof and the time and place when the same may be paid;
21 *provided, however*, that the taxpayers shall have the right to
22 anticipate the payment of the whole or any part of the taxes
23 assessed against them.

24 The one-half ticket designated "first" may be paid to the
25 treasurer of the city any time before the first day of Novem-
26 ber next succeeding said levy; the one-half ticket designated
27 "second" may be paid to the treasurer of the city at any time
28 before the first day of May next succeeding said levy. To all
29 the half tickets designated "first" remaining unpaid in the
30 treasurer's hands on the said first day of November succeeding
31 said levy, interest at the rate of ten per cent per annum shall
32 be added as a penalty and collected from the taxpayers. To
33 all half tickets designated "second" remaining unpaid in the
34 treasurer's hands on the first day of May succeeding said levy
35 interest at the rate of ten per cent per annum shall be added
36 as a penalty and shall be collectible from the taxpayers. *Pro-*
37 *vided, however*, that prior to May first, nineteen hundred and
38 twenty-seven, a penalty of ten per cent shall be added and col-

39 lected upon all tax tickets remaining unpaid in the treasurer's
40 hands on the first day of May and November of each year suc-
41 ceeding said levy. On said first day of November succeeding
42 said levy all such half tickets designated "first" and on said
42-a first day of May succeeding such levy all such half tickets
42-b designated "second" remaining unpaid in the treas-
43 urer's hands shall be taken up by the council and settle-
44 ment had with said treasurer on said days respectively, or
45 on the next succeeding days, respectively, if said days
46 shall fall upon Sunday, and thereupon the council shall place
47 said tickets in the hands of the city collector for collection and
48 shall take his receipt therefor; *provided, however*, that the
49 council shall have the power any year, by resolution, to extend
50 the time within which the tickets may remain in the treasurer's
51 hands and be paid to him without adding the penalty, for a
52 period named therein not exceeding, however, a total of fifteen
53 days.

54 The city collector shall have the power to collect said tickets
55 so placed in his hands, together with the penalties thereon
56 herein provided to be added thereto, and the compensa-
57 tion of such city collector for making such collection of the
58 taxes aforesaid shall be fixed by the council.

59 The city collector shall be charged with the gross amount
60 of said tax tickets so delivered to him for collection, including
61 the penalties accrued thereon so delivered, and no deduction
62 therefrom shall be allowed, unless on or before the first day
63 of August of each year he makes out and returns to the
64 council a delinquent list of taxes uncollected for such year,
65 with his oath attached thereto, stating that such list is correct
66 and just and that he has received no part of the taxes men-
67 tioned therein, and that he has used due diligence to find prop-
68 erty liable to distress for taxes, has found none, and that he
69 could not collect the same.

70 Neither the treasurer nor the city collector shall take or
71 collect anything but money for payment of taxes.

Sec. 53. The city collector shall have the power to collect
2 the city taxes placed in his hands except as otherwise provided
3 in this act, and he shall also have power to collect the city
4 claims which may be placed in his hands by the council for
5 collection, except that fines imposed by the municipal judge
6 shall not be collected by him.

Sec. 57. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or the building, leasing or repairing of school houses, or the purchase of lands for the same, or for the support of schools, or for the support of the poor of Kanawha county, outside of said corporate limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets, sewers and bridges in good order. And neither the county court of Kanawha county, nor the authorities of the district in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks, ferries, schools or school houses, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, except that the board of education in the independent school district of the City of Charleston shall have jurisdiction, supervision and control of the schools and school houses in said district; and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, sewers, alleys, wharves and bridges in its corporate limits, except that the county of Kanawha may become a joint owner and controller with the city of Charleston in a bridge or bridges across Kanawha river.

Sec. 62. Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: when said sewer is completed the engineer of said city, shall report to the council in writing, the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: the total cost of constructing and laying the sewer shall be borne by the owners of the land abutting upon the streets, alleys, rights of way or easements or portions thereof, in which the sewer is laid, according to the following plan: payment is to be made by each land owner on either side of such portion of a

17 street, alley, right of way or easement in which such sewer is
18 laid, in such proportion as such frontage of his land upon said
19 street, alley, right of way or easement bears to the total
20 frontage of all lands so abutting on such street, alley right of
21 way or easement; *provided*, that the charge laid against any
22 owner or property shall not exceed three dollars per linear
23 foot of frontage on each side of the portion of such street,
24 alley, right of way or easement in which any such sewer is
25 laid. In case of a corner lot, frontage is to be measured along
26 the longest dimension thereof abutting on such street, alley,
27 right of way or easement in which such sewer is laid. Any lot
28 having a depth of two hundred feet or more and fronting on
29 two streets, alleys, rights of way or easements, one in the front
30 and one in the rear of said lot shall be assessed on both of
31 said streets, alleys, rights of way or easements, if a sewer is
32 constructed in both such streets, alleys, rights of way or ease-
33 ments. Where a corner lot has been assessed on the end it
34 shall not be assessed on the side, and where it has been assessed
35 on the side, it shall not be assessed on the end. Thereupon
36 said council shall give like notice by publication as is required
37 in case of street paving assessments, and the same rights shall
38 exist as to the persons and property affected and the same
39 duty as to corrections by said council as are prescribed with
40 reference to paving, which report shall in like manner be
41 examined by the council, and if found to be correct, or cor-
42 rected as aforesaid, and such estimated assessments to be a
43 fair and equitable apportionment of the cost of such sewer
44 upon the basis hereinbefore described, it shall enter an order
45 upon its records, setting forth such location, depth, ownership
46 and said amount of such sewer assessments, against each,
47 respectively, calculated as aforesaid, and the entry of such
48 order shall constitute and be an assessment for such propor-
49 tion and amount so fixed therein against such respective
50 owners and lots, and if after such advertisements, notice and
51 hearing, said council shall find that such apportionment at
52 such rate is unjust or inequitable, and contrary to the intent
53 of this act, it shall ascertain, fix and assess the cost thereof
54 among and upon the abutting owners respectively, justly and
55 equitably and according to the intent hereof, and in like
56 manner, assess and enter the amount so fixed respectively
57 upon its records, and the council shall, in either event, there-
58 upon certify the same to the treasurer for collection, and

59 certify a copy of such order to the clerk of the county court
60 of Kanawha county, who shall record the same in the proper
61 trust deed book, and index the same in the name of each owner
62 of any such lot so charged with such assessment, and such
63 assessment so made shall constitute and be a lien upon said lots
64 respectively, which shall have priority over all other liens,
65 except those for taxes due the state, and shall be on a parity
66 with other taxes and assessments due the city. Said amounts
67 so assessed against the said several land owners shall be paid
68 by the parties liable therefor to the said treasurer at all times,
69 in the manner and with the attendant penalties for failure
70 to pay promptly at the time prescribed in all respects as here-
71 inbefore provided in the case of assessments for paving streets
72 and alleys in a permanent manner, and the parties liable
73 therefor shall, in the same manner, and to the same extent,
74 have the right and be entitled to anticipate any or all of such
75 installments thereon as in such case provided. The owners of,
76 or the tenants, occupants or agents in control of any lot
77 abutting on or near or adjacent to any street, avenue, alley,
78 right of way or easement in said city, in which a public sewer
79 is or may hereafter be laid and constructed, upon which lot
80 any business or residence building is or may hereafter be
81 erected, or upon which any water stands not connected with a
82 public sewer, may be required and compelled to connect any
83 such building or lot with such sewer. Notice to so connect
84 may be given to the owner, lessee, or occupant of such build-
85 ing. Each day's failure to comply with such notice and
86 connect with such sewer by such owner or owners, ten days
87 after such notice is given, shall be a misdemeanor and a
88 separate and new offense under this section, and every such
89 offense shall be punishable by fine of not less than five nor
90 more than twenty-five dollars. The expense incurred by any
91 tenant, occupant, or agent in complying with the order of
92 said council to make such sewer connection may be deducted
93 out of the accruing rents as provided for in section forty-seven
94 relating to the abatement of nuisances. Jurisdiction to hear,
95 try, determine and sentence for violation of this section is
96 vested in the municipal court of such city.

97 The liens herein and hereinbefore provided for street pav-
98 ing, macadamizing and sewerage assessments and assessments
99 for other improvements shall constitute liens upon the real

100 estate upon which they are assessed, as against creditors of
101 the owners thereof, or purchasers for value, and without
102 actual notice of such liens, only from and after the time that
103 the statements thereof certified as aforesaid, shall be filed for
104 record in the office of the clerk of the county court of Kanawha
105 county.

106 In the paving, curbing, macadamizing or otherwise improv-
107 ing streets and alleys and providing for the assessment of the
108 cost thereof under section sixty-one or section eighty-eight of
109 the charter of the City of Charleston there may be included
110 in any such assessment the cost of constructing the necessary
111 drains for the disposal of surface water.

Sec. 62-a. The council is authorized and empowered to order
2 and cause to be constructed, in said city, or part within and
3 part outside of the limits of said city, public, common, lateral,
4 branch, trunk and combined sewers or public sewer systems,
5 or both, by contract or direct by the city, for the benefit of
6 said city or any part thereof, and to purchase lands or ease-
7 ments therein or to condemn lands or easements therein in
8 the manner provided by law, for such sewers or sewer systems,
9 and when the council shall order and complete the construc-
10 tion of any such sewer or sewer system or any part thereof in
11 said city, the owners of the property abutting on such sewer
12 or abutting upon an avenue, street, alley, right of way or ease-
13 ment in which such sewer shall be constructed, or abutting on
14 any avenue, street, alley, right of way, or easement in which
15 any common sewer, part of a sewer system, is constructed
16 and laid, may be charged with all or any part of the cost
17 thereof, including the cost of such sewer or sewer system at
18 and across intersections at avenues, streets, roads and alleys ad-
19 jacent thereto. If said work is let to contract, the provisions
20 of the charter of the City of Charleston relating to street pav-
21 ing contracts shall apply.

22 A sewer system shall be deemed to include all the common
23 sewers, whether they be lateral, branch, trunk or combined
24 sewers, which serve to drain a definite drainage area as speci-
25 fied in the order of the council directing the work to be done.

26 A common sewer shall be deemed to be a sewer in which all
27 abutters have equal rights of entrance and use.

28 A lateral sewer shall be deemed to be a sewer which does
29 not receive the sewage from any other common sewer.

30 A branch sewer shall be deemed to be a sewer into which the
31 sewage from two or more lateral sewers is discharged, includ-
32 ing storm and surface water sewers.

33 A trunk sewer shall be deemed to be a sewer into which the
34 sewage from two or more branch sewers is discharged.

35 A combined sewer shall be deemed to be a sewer intended to
36 receive domestic sewage and industrial wastes.

37 When said sewer or sewer system is completed the engineer
38 of said city shall report to the council in writing, the total
39 cost of such sewer or sewer system, and a description of the lots
40 and lands as to the location, frontage, depth and ownership
41 liable for such sewer assessment, so far as the same may be
42 ascertained, together with the amount chargeable against each
43 lot and owner, calculated in the following manner: The total
44 cost of constructing and laying the sewer or sewer system, in-
45 cluding the portions thereof laid in the intersections of streets
46 and alleys, shall be borne by the owners of the land abutting
47 upon the streets, avenues, alleys, rights of way or easements or
48 portions thereof in which the sewer or some part of the sewer
49 system, is constructed and laid; payment is to be made by
50 each land owner on either side of such portion of a street,
51 alley, right of way or easement in which a common sewer is
52 laid, in the proportion that the frontage of his land upon such
53 portion of said street, alley, right of way or easement in which
54 such sewer or sewer system is laid bears to the total frontage
55 of all lands so abutting on such street, alley, right of way or
56 easement; in which the sewer or some part of the sewer system
57 is laid; *provided*, that the charge laid against any owner of
58 property shall not exceed three dollars per linear foot of front-
59 age on each side of such street, alley, right of way or ease-
60 ment in which any such sewer or part of a sewer system is
61 laid. In case of a corner lot, frontage is to be measured along
62 the longest dimension thereof abutting on such street, alley,
63 right of way or easement in which such sewer is laid, but
63-a if sewered on both sides then such corner lot is
63-b to be charged only with the side first sewered.
64 Any lot having a depth of two hundred feet or more and
65 fronting on two streets, alleys, rights of way or easements, one
66 in the front and one in the rear of said lot, shall be assessed on
67 both of said streets, alleys, rights of way or easements, if a
68 sewer is constructed on both such streets, alleys, rights of way

69 or easements. Where a corner lot has been assessed on either or
70 both ends, it shall not be assessed on the side, and where it has
71 been assessed on the side, it shall not be assessed on the end.

72 In the case of corner lots where the cost of sewerage along
73 one dimension is not assessed against the owner thereof, and
74 in the case of lots less than two hundred feet deep abutting at
75 both ends on a street, alley, right of way or easement in which
76 a sewer is laid, the cost of sewerage along the dimension or end
77 not assessed against the property owner shall in every case be
78 borne by the City of Charleston.

79 Thereupon said council shall give like notice by publication as
80 is required in case of street paving assessments, and the same
81 rights shall exist as to the persons and property affected and
82 the same duty as to corrections by said council as are prescribed
83 with reference to paving. The report of the city engineer
84 shall in like manner be examined by the council, and if found
85 to be correct or corrected as aforesaid, and such estimated
86 assessments to be a fair and equitable apportionment of the
87 cost of such sewer or sewer system upon the basis hereinbefore
88 described, it shall enter an order upon its records, setting forth
89 such location, depth, ownership and said amount of such sewer
90 assessments, against each, respectively, calculated as aforesaid,
91 and the entry of such order shall constitute and be an assess-
92 ment for such proportion and amount so fixed therein against
93 such respective owners and lots; and, if after such advertise-
94 ment, notice and hearing, said council shall find that such ap-
95 portionment at such rate is unjust or inequitable, and contrary
96 to the intent of this act, it shall ascertain, fix and assess the
97 cost thereof among and upon the abutting owners respectively,
98 justly and equitably and according to the intent hereof, and
99 in like manner, assess and enter the amount so fixed respec-
100 tively upon its records; and, the council shall, in either event,
101 thereupon certify the same to the treasurer for collection and
102 certify a copy of such order to the clerk of the county court of
103 Kanawha county, who shall record the same in the proper trust
104 deed book, and index the same in the name of each owner of
105 any such lot so charged with such assessment, and such assess-
106 ment so made shall constitute and be a lien upon said lots re-
107 spectively, which shall have priority over all other liens, ex-
108 cept those for taxes due the state, and shall be on a parity with
109 other taxes and assessments due the city. Said amounts so as-

110 sessed against the said several land owners shall be paid by
111 the parties liable therefor to the said treasurer at all times,
112 in the manner and with the attendant penalties for failure to
113 pay promptly at the time prescribed in all respects as herein-
114 before provided in the case of assessments for paving streets
115 and alleys in a permanent manner, and the parties liable there-
116 for shall, in the same manner, and to the same extent, have the
117 right and be entitled to anticipate any or all of such install-
118 ments thereon as in such case provided. The owners of, or
119 the tenants, occupants or agents in control of any lot abutting
120 on or near or adjacent to any street, avenue, alley, right of
121 way or easement in said city, in which a public sewer is or
122 may hereafter be laid and constructed, upon which lot any
123 business or resident building is or may hereafter be created,
124 or upon which any water stands not connected with any public
125 sewer, may be required and compelled to connect any such
126 building or lot with such sewer. Notice to so connect may be
127 given to the owner, lessee, or occupant of such building. Each
128 day's failure to comply with such notice and connect with
129 such sewer by such owner or owners, ten days after such notice
130 is given, shall be a misdemeanor and a separate and new of-
131 fense under this section, and every such offense shall be pun-
132 ishable by fine of not less than five nor more than twenty-five
133 dollars. The expense incurred by any tenant, occupant, or
134 agent in complying with the order of said council to make such
135 sewer connection may be deducted out of the accruing rents
136 as provided for in section forty-seven relating to the abate-
137 ment of nuisances. Jurisdiction to hear, try, determine and
138 sentence for violation of this section is vested in the municipal
139 court of such city.

140 The liens herein and hereinbefore provided for street pav-
141 ing, macadamizing and sewerage assessments and assessments
142 for other improvements shall constitute liens upon the real
143 estate upon which they are assessed, as against creditors of the
144 owners thereof, or purchasers for value, and without actual
145 notice of such liens, only from and after the time that the
146 statements thereof certified as aforesaid, shall be filed for rec-
147 ord in the office of the clerk of the county court of Kanawha
148 county.

Sec. 69. No pavement, sewer or sewer system, or other
2 public improvement the cost of all or a part of which is to

3 be especially assessed against abutting property, or against the
4 owners thereof, shall be made without the concurrence of two-
5 thirds of all the members elected to council, unless the owners
6 of a majority of the foot frontage of property to be so assessed,
7 petition in writing therefor, in which event the said council
8 shall have power upon the affirmative vote of a majority of
9 all the members elected thereto to proceed with such improve-
10 ment in the manner provided by law.

Sec. 75. The council of said city may provide for the build-
2 ing of a bridge across Elk river in place of what is known as
3 the Spring street bridge, and at the present location
4 thereof and for that purpose may, if necessary, acquire
5 additional land, and lay a levy of not to exceed
6 seven cents for the year one thousand nine hundred
7 and twenty-five, and not to exceed seven cents for the
8 year one thousand nine hundred and twenty-six, in addition
9 to all other levies for each year authorized by law, for the pur-
10 pose of constructing said bridge; and the council may provide
11 for the building of trunk and branch line sewers within the
12 city, and for that purpose may, if necessary, lay a levy of not
13 to exceed seven cents for the year one thousand nine hundred
14 and twenty-five, and not to exceed seven cents for the year one
15 thousand nine hundred and twenty-six, in addition to all other
16 levies for each year authorized by law, for the purpose of build-
17 ing main or trunk line sewers within the city; and in each
18 case, may do all things necessary and proper to carry out the
19 general purpose of this section. The levy for said bridge shall
20 be called a "special bridge levy" and the levy for said sewers
21 shall be called a "special sewer levy," and the funds derived
22 therefrom shall be used for the purposes herein specified respec-
23 tively and no other, and a separate account shall be kept of all
24 receipts and disbursements of said funds, and in case the coun-
25 cil provides for such bridge or sewers, or either of them, it is
26 authorized to let the contracts in anticipation of the levies there-
27 for and issue certificates of indebtedness representing such
levies.

Sec. 78. The members of the fire department under and by
2 virtue of the ordinances and regulations adopted in pursuance
3 of the provisions of the charter of the City of Charleston as
4 it was on January first, one thousand nine hundred and twenty-
5 five, now in office in the City of Charleston shall remain in

6 office during good behavior and shall not be removed from their
7 said offices or positions except for misconduct, or failure, in-
8 ability or incapacity to perform their duties or for the good
9 of the service, or when it shall be necessary to reduce the num-
10 ber in the department; *provided*, that the mayor may remove
11 any member of the fire department if he shall be of opinion
12 that it will be for the good of the service to remove such person
13 from his position. Any member of said department so removed,
14 may, within ten days thereafter, appeal to council from the
15 action of the Mayor. Such appeal shall be taken only by
16 such removed member filing with the city clerk his verified
17 petition setting forth good cause for reinstatement, and alleg-
18 ing reasons why such removal order was unjust. The re-
19 moved member so appealing shall carry the burden of proof
20 on such appeal, and shall not be reinstated except upon the
21 affirmative vote of a majority of all members elected to council
22 reversing such order of removal as unjustified.

23 All persons appointed to positions in the fire department,
24 except the chief thereof, shall be appointed in the manner pro-
25 vided in section seventy-seven.

Sec. 85. The mayor shall appoint such number of police-
2 men as are or may be hereafter prescribed by the city by
3 ordinance, and the mayor shall have at his discretion, the
4 absolute right and power to dismiss any policeman and ap-
5 point another in his stead. The policemen shall be under
6 the command of the chief of police, to be appointed as in this
7 act provided for, and shall perform any and all the duties
8 incident to the office of policemen under the instructions and
9 command of the chief of police, and, in addition to the usual
10 and customary duties prescribed by the laws of this state and
11 under the provisions of this charter required of them, it shall
12 specially be the duty of each police officer to report to the
13 chief of police, or some one designated by said chief of police
14 to receive such report, daily and oftener if occasion demands,
15 the condition of all streets, sewers, sidewalks, alleys, basements,
16 backyards, buildings, unimproved lots and all other things and
17 matters within the limits of said city that may come under
18 the notice of such policemen which may relate to the health
19 of the citizens thereof, the sanitary conditions, the necessity
20 of the removal of any obstructions upon any of the streets,
21 alleys or sidewalks, and it shall be the duty of the policemen

22 under their instructions to perform all the duties and exercise
23 all the powers ordinarily imposed upon or given to the officers
24 now known as health officers. It shall also be the duty of
25 each police officer to perform all the duties of humane officer
26 and to exercise all the functions, power and authority relating
27 thereto which are or may be prescribed by any law of this state
28 or ordinance of the city.

Sec. 88. In addition to the method provided for paving
2 streets, by section sixty-one of the charter of the City of
3 Charleston, the council may order any street, avenue, public
4 alley, or portion thereof, to be graded and paved, re-paved, or
5 otherwise permanently improved, and the council may order
6 the mayor and city clerk to issue a certificate for each install-
7 ment of the amount of the assessment to be paid by the owner
8 of any lot or fractional part thereof fronting on such street,
9 avenue, or alley. The amount specified in said assessment
10 certificate shall be a lien as aforesaid in the hands
11 of the holder thereof upon the lot or part of a
12 lot fronting on such street, avenue, or alley, and such
13 certificate shall draw interest from the date of said
14 assessment and the payment may be enforced in the name of
15 the holder of said certificate by proper suit in equity in any
16 court having proper jurisdiction to enforce such lien; the
17 council shall fix the amount of such assessment, advertise for
18 bids and do all other things in connection therewith as is pro-
19 vided for paving or permanently improving any street or alley
20 or any portion thereof in section sixty-one, except that such
21 assessment laid under this section shall include the whole cost
22 of such improvement, including the cost of grading and paving
23 squares at intersections of streets and curbing, the costs of
24 which intersections shall be apportioned against the several
25 properties fronting upon the street or portion thereof so im-
26 proved; and such certificates shall be issued in the same number
27 of installments and payable at the same time as other paving
28 or permanent improvements are provided to be paid for, and
29 shall be a lien in the hands of the holder thereof upon the
30 particular lot against which they are assessed in the same way
31 and manner that assessments are liens under section sixty-one
32 of said charter. And nothing contained in this act, or in the
33 charter of the City of Charleston, shall be construed as impos-
34 ing a time limit upon the enforcement by appropriate suit of

35 any lien for public improvements, heretofore or hereafter
36 created.

37 Certificates authorized by this section may be issued, sold
38 or negotiated to the contractor doing the work, or to any other
39 person if the council deem it expedient; *provided*, the city in
40 issuing such certificates shall not be held as guarantor or in any
41-42 way liable for payment thereof.

43 Certificates so issued shall contain a provision to the effect
44 that in the event of default in the payment of any one of said
45 certificates, when due, and said default continuing for a period
46 of sixty days, then all unpaid certificates shall become due and
47 payable and the holder of said certificates may proceed to
48 collect all of such unpaid certificates in the manner hereinbe-
49 fore provided. Certificates issued in pursuance of this section
50 shall be negotiable at any bank in the City of Charleston.

51 The owner of the land or lot of land assessed under this
52 section may at any time anticipate and pay such assessment
53 or certificate with accrued interest thereon.

54 *Provided*, that no street, avenue or alley shall be paved or
55 otherwise permanently improved pursuant to this section except
56 and unless two-thirds of all the members elected to the Council
57 shall concur in the passage of the ordinance providing therefor,
58 and the vote thereon shall be taken by ayes and noes, and duly
59 entered upon the record.

Sec. 88b. In addition to the method for the payment of the
2 cost of construction of sewers and sewer systems provided by
3 section sixty-two and sixty-two-a of the charter of the City of
4 Charleston, the council may order any sewer or sewer system
5 constructed and laid, in any block, street, avenue, alley or in
6 any right of way or easement, or portion thereof, and the coun-
7 cil may order the mayor and city clerk to issue
8 a certificate for each installment of the amount of
9 the assessment to be paid by the owner of any lot or fractional
10 part thereof fronting on such street, avenue, alley, right of
11 way or easement in which such sewer system is constructed
12 and laid, and the amount specified in said assessment certificate
13 shall be a lien as aforesaid in the hands of the holder thereof
14 upon the lot or part of lot fronting on such street, avenue or
15 alley, right of way or easement, and such certificate shall draw
16 interest from the date of said assessment and the payment
17 may be enforced in the name of the holder of said certificate

18 by proper suit in equity in any court having proper jurisdic-
19 tion to enforce such lien; the council shall fix the amount of
20 such assessment, advertise for bids and do all other things in
21 connection therewith as is provided in section sixty-one of
22 said charter for paving or permanently improving any street
23 or alley or any portion thereof, the costs of which shall be ap-
24 portioned against the several properties fronting upon the
25 street, avenue, alley, right of way or easement or portion
26 thereof in which the sewer or sewer system is laid according
27 to the provisions of section sixty-two or section sixty-two-a, as
28 the case may be. Such certificates shall be issued in the fol-
29 lowing number of installments:

30 Where the assessment shall not exceed fifty dollars, the assess-
31 ment and certificate issued thereon shall be in one amount,
32 due and payable in ninety days from the completion and ac-
33 ceptance of the work; if over fifty dollars and not more than
34 one hundred dollars, then such amount shall be covered by
35 only two certificates of equal amounts, payable in ninety days
36 and one year, respectively; if over one hundred dollars and
37 not more than one hundred and fifty dollars, then such amount
38 shall be covered by only three certificates of equal amounts
39 payable in ninety days, one year and two years, respectively;
40 if over one hundred and fifty dollars, and not more than two
41 hundred dollars, then such amount shall be covered by only
42 four certificates of equal amounts, payable in ninety days, one
43 year, two years and three years, respectively; and if more
44 than two hundred dollars, then in five certificates of equal
45 amounts, payable in ninety days, one year, two years, three
46 years and four years, respectively; and the term "equal
47 amounts" herein shall mean as nearly equal as practicable,
48 that is, four certificates being expressed in terms of blank
49 dollars each, and, when practical, in multiples of five, the cents
50 and odd amounts being covered by the first certificate.

51 Every such certificate shall be a lien in the hands of the
52 holder thereof upon the particular lot against which it is
53 assessed in the same way and manner that assessments are
54 liens under sections sixty-two and sixty-two-a of this act.
55 And nothing in this act, or in the charter of the city of Charles-
56 ton shall be construed as imposing a time limit upon the
57 enforcement by appropriate suit of any lien for public im-
58 provements heretofore or hereafter created.

59 Certificates authorized by this section may be issued, sold or
59-a negotiated to the contractor doing the work, or to any other
59-b person if the council deem it expedient; and shall be nego-
59-c tiable at any bank in the city of Charleston; *provided*, the city
59-d in issuing such certificates shall not be held as guarantor or in
59-e any way liable for the payment thereof. Certificates so issued
60 shall contain a provision to the effect that in the event of default
61 in the payment of any one of said certificates when due, said
62 default continuing for a period of sixty days, then all unpaid
63 certificates shall become due and payable and the holder of said
64 certificates may proceed to collect all of such unpaid certificates
65 in the manner hereinbefore provided.

66 *Provided*, that no sewer or sewer system shall be constructed
67 or laid pursuant to this section except and unless two-thirds of
68 the members elected to the council shall concur in the passage of
69 the ordinance providing therefor, and the vote thereon shall
70 be taken by ayes and noes, and duly entered upon the record.

Sec. 88c. If the abutting land on any avenue, street, road
2 or alley sought to be graded, paved, repaved or otherwise im-
3 proved, or on any avenue, street, road, alley, right-of-way or
4 easement in which a sewer or sewer system is ordered laid, under
5 any of the provisions of the charter of the city of Charleston,
6 is not sub-divided or laid off in lots by a map or deed of record,
7 the council may, for the purpose of making the assessments pro-
8 vided for in this section and other sections herein, sub-divide
9 said land into lots of such size as the council deems advisable
10 for the purpose of laying the proper assessment against such
11 land.

Sec. 94. The municipal judge, mayor, city clerk, municipal
2 court clerk, chief of police, or in the absence of the chief of
3 police from police headquarters, the captains of police and
4 lieutenants of police shall each have authority to issue warrants
5 for all offenses committed within the police jurisdiction of the
6 city of Charleston for all violations of any city ordinances.
7 Any vacancy in the office of municipal judge shall be filled by
8 appointment by the mayor until the next election.

All acts and parts of acts inconsistent with any of the pro-
visions of this act are hereby repealed.

CHAPTER 13

(House Bill No. 47—By Mr. Dye)

AN ACT to amend and re-enact sections four and five of chapter thirty of the acts of the legislature of West Virginia, one thousand nine hundred and twenty-one, known as "Williamstown charter" and bound in a separate volume designated municipal charters.

[Passed March 19, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

4. Governing body; tenure.
5. Primary elections; form of ballot; procedure.

Be it enacted by the Legislature of West Virginia:

That sections four and five of chapter thirty, acts of the legislature, one thousand nine hundred and twenty-one, known as Williamstown charter, be amended and re-enacted so as to read as follows:

Section 4. The governing body of the said city shall be a council composed of a mayor and four councilmen who shall be nominated and elected at large. The mayor and four councilmen now in office shall continue as such during the term for which they were elected. Elections shall be held in said city every two years on the Tuesday after the first Monday in January of such year and the first election under the said act as hereby amended shall be held on the Tuesday after the first Monday in January, one thousand nine hundred and twenty-six.

If any vacancy occurs in any such office, the remaining members of the said council shall appoint a person eligible thereto to fill such vacancy during the balance of the unexpired term.

At the said election to be so held on the Tuesday after the first Monday in January, one thousand nine hundred and twenty-six, there shall be elected a mayor and four councilmen. The mayor shall be elected for two years and the two councilmen receiving the highest number of votes cast at the said election shall serve for four years and the two councilmen receiving the next highest number of votes shall serve for two years. At all subsequent elections held in the said city under this act as amended there shall be elected a mayor who shall serve for two years and two councilmen who shall serve for four years. The terms of office of all elective officers hereunder shall begin on the second Monday after their election.

Sec. 5. Candidates to be voted for at all general municipal elections under the provisions of this act shall be nominated by a primary election, and no other names shall be printed upon the official ballot except those selected in the manner hereinafter prescribed. All such primary elections shall be held on the second Tuesday preceding the general municipal elections. The judges of the election shall be appointed by the council for the general municipal elections and the persons so appointed as such shall be the judges of the primary elections and the said primary elections shall be held at the same places as far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal elections.

Any person desiring to become a candidate for mayor or councilman shall, at least ten days prior to said primary election, file with the city clerk a statement of such candidacy in substantially the following form:

STATE OF WEST VIRGINIA, WOOD COUNTY, ss:

I,, being first duly sworn, say that I reside at.....street, city of Williamstown, county of Wood, state of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the.....Tuesday of....., 19....., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

Signed.....

Subscribed and sworn to (or affirmed) before me by..... on this.....day of.....19....

Signed.....-

and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street location of each of the persons so signing the said petition and the said petition shall be in substantially the following form:

PETITION ACCOMPANYING NOMINATING STATEMENT.

The undersigned, duly qualified electors of the city of Williamstown, and residing at the places set opposite our respective names hereon, do hereby request that the name of (name of

42 candidate) be placed on the ballot as candidate for nomination
 43 for (name of office) at the primary election to be held in such
 44 city on the..... one thousand nine hundred and
 45 We further state that we know him to be a qualified
 46 elector of said city and a man of good moral character, and
 47 qualified, in our judgment, for the duties of such office.

48 Names of qualified electors———Number——Street——

49 Immediately upon the expiration of the time of filing the
 50 statements and petitions for candidates, the said clerk of the
 51 municipality shall cause to be published in proper form, the
 52 names of the persons as they are to appear upon the primary
 53 ballot, which publication may be made by posting copies thereof
 54 at four of the most public places in the said city of Williams-
 55 town, including the place of meeting of the council and the may-
 56 or's office at least ten days immediately preceding the primary
 57 election, or if the council so order, by publication in the last
 58 issue of some newspaper of general circulation in said city of
 59 Williamstown immediately preceding such primary election; and
 60 the said clerk shall thereupon cause the primary ballots to be
 61 printed, authenticated with a *fac simile* of his signature. Upon
 62 the said ballot the names of the candidates for mayor, arranged
 63 alphabetically shall first be placed, with a square to the left of
 64 each name and immediately below the words "vote for one."

65 On the ballots which shall be prepared by the said clerk for
 66 the election to be held on the Tuesday after the first Monday in
 67 January, one thousand nine hundred and twenty-six, immedi-
 68 ately below the names of the candidates for mayor shall appear
 69 in alphabetical order the names of the candidates for council-
 70 men with a square at the left of each name and below the names
 71 of such candidates shall be the words, "vote for four." All bal-
 72 lots shall be printed upon plain, substantial white paper and
 73 shall be headed:

74 Candidates for nomination for mayor and councilmen of the
 75 city of Williamstown, at the primary election, but shall have
 76 no party designation or mark whatever. The ballot shall be in
 77 substantially the following form:

78 (Place a cross in the square preceding the names of the
 79 parties you favor as candidates for the respective offices.)

80 OFFICIAL PRIMARY BALLOT.

81 Candidates for nomination for mayor and councilmen of the
 82 city of Williamstown at the primary election.

83		For Mayor
84	[]	(Names of candidates)
85		(Vote for one)
85-a		For Councilmen
86	[]	(Names of candidates)
87		(Vote for four)
88		Official ballot, attest:
89		Signature
90		City Clerk.

91 The ballots which shall be prepared by the said clerk for all
 92 subsequent elections in said city under the provisions of this
 93 act as amended shall be printed upon the same kind of paper
 94 and shall be in the same form except that the words "vote for
 95 two" shall be printed below the names of the candidates for
 96 councilmen.

97 Having caused said ballots to be printed, the said city clerk
 98 shall cause to be delivered at each polling place a number of bal-
 99 lots equal to twice the number of votes cast in such polling pre-
 100 cinct at the last general election for mayor. The persons who
 101 are qualified to vote at the general municipal election shall be
 102 qualified to vote at such primary election, and challenges can
 103 be made by not more than two persons, to be appointed at the
 104 time of opening the polls by the judges of election; and the law
 105 applicable to challenges at a general municipal election shall be
 106 applicable to challenges made at such primary election. Judges
 107 of election shall, immediately upon the closing of the polls,
 108 count the ballots and ascertain the number of votes cast in such
 109 precinct for each of the candidates, and make return thereof to
 110 the city clerk without unnecessary delay. On the day following
 111 the said primary election the said clerk shall canvass said
 112 returns so received from all the polling precincts, and shall
 113 make and publish in some newspaper of general circulation in
 114 said city at least once, the result thereof or post the same as
 115 provided above for the primary election. Said canvass by the
 116 city clerk shall be publicly made. At the primary election to
 117 nominate candidates for the general municipal election to be
 118 held in said city on the Tuesday after the first Monday in Janu-
 119 ary, one thousand nine hundred and twenty-six, the two candi-
 120 dates receiving the highest number of votes for mayor shall be
 121 the candidates and the only candidates whose names shall be
 122 placed upon the ballot for mayor at the said general municipal
 123 election, and the eight candidates receiving the highest number

124 of votes for councilmen, or all such candidates, if less than eight,
125 shall be the candidates and the only candidates whose names
126 shall be placed on the ballot for councilmen at such election.

127 At all subsequent primary elections to be so held in said city
128 the two candidates receiving the highest number of votes for
129 mayor shall be the candidates and the only candidates whose
130 names shall be placed upon the ballot for mayor at the next suc-
131 ceeding general municipal election and the four candidates re-
132 ceiving the highest number of votes for councilmen, or all such
133 candidates if less than four, shall be the candidates and the only
134 candidates whose names shall be placed upon the ballot for
135 councilmen at such municipal election. In the event of the
136 death or resignation of a nominee before the election, the candi-
137 date receiving the next highest number of votes at the primary
138 shall be placed on the ticket in his stead.

139 The ballot to be used at all general municipal elections in
140 said city shall be in the same general form as for such primary
141 elections, so far as applicable, and in all elections in such city
142 the election precincts, voting places and announcing of results,
143 shall be the same as by law provided for election of county and
144 state officers in said city, so far as the same are applicable to and
145 not inconsistent with the provisions of this act.

CHAPTER 14

(House Bill No. 688—By Mr. Dye)

AN ACT to amend and re-enact chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-one, relating to the charter of the City of Williamstown.

[Passed April 20, 1925; in effect from passage. Approved by the Governor.]

Sec.
100. May issue bonds; referendum.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the acts of the legislature of West Virginia for the year one thousand nine hundred and twenty-one, regular session (bound in a separate volume entitled municipal charters), incorporating the City of Williamstown, Wood county, West Virginia, and fixing its corporate limits and prescribing and defining the powers and duties of said city, be amended and re-enacted by adding thereto a separate section designated section ninety-nine, to read as follows:

Section 99. The said city of Williamstown is hereby authorized to purchase, build and equip electric light plants, water works and distribution lines and mains, public parks, playgrounds and municipal buildings and to issue and sell the bonds of said city for that purpose, but in no event shall the aggregate indebtedness of said city, bonded, funded or otherwise, exceed five per centum of the assessed value of the property within said city; and, *provided further*, that in no event shall any bonds be issued by said city unless and until the question of the issuance thereof shall be submitted to the legal voters thereof and be authorized by a three-fifths vote in favor thereof; and, *provided, further*, that no bonds shall be issued unless provision be made for sufficient levy to pay the interest and principal thereof as the same shall become due and payable according to the tenor of the said bonds; said bonds may be serial bonds, and no bonds shall be issued for a longer period than thirty years, and the submission and all orders and ordinances in reference thereto shall be under and according to the provisions of chapter forty-seven-a of Barnes' code of West Virginia, one thousand nine hundred and twenty-three, in so far as the same may be applicable.

CHAPTER 15

(House Bill No. 59—By Miss Jones)

AN ACT to provide for the election and tenure of officers of the town of Glendale, in Marshall county.

[Passed April 1, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Tenure of officers.
2. Elections; time and place; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The present officers in the town of Glendale shall hold their offices until their successors are elected and qualified. The terms of all officers hereafter elected shall commence on the first day of February in each even year and shall be for two years, and until their successors are elected and qualified according to law.

Sec. 2. Hereafter the election of officers in such corporation 2 shall be held biennially on the first Thursday of January, at 3 such place in the town, and under such supervision, rules and 4 regulations, not inconsistent with the laws regulating district 5 elections, as the council may prescribe.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 16

(House Bill No. 71—By Mr. Tutwiler)

AN ACT to create the municipal corporation of the City of Oak Hill, in the county of Fayette, to grant a charter thereto, and to annul the charter of the Town of Oak Hill.

[Passed March 23, 1925; in effect from passage. Approved by the Governor.]

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| <p>Sec.</p> <p>1. What constitutes City of Oak Hill.</p> <p>2. Defining boundaries of municipal corporation.</p> <p>3. Who constitute municipal officers.</p> <p>4. Additional city officers.</p> <p>5. Corporate powers vested in council.</p> <p>6. Corporate powers of council, continued.</p> <p>7. Further powers of municipal authorities.</p> <p>8. Corporate powers, continued.</p> <p>9. Qualification of voters.</p> <p>10. Registration of voters; council to provide for.</p> <p>11. Elections; time for holding.</p> <p>11-a. Nominations; how made.</p> <p>12. Election of officers; when held.</p> <p>13. Office of mayor; qualifications.</p> <p>14. Councilmen and clerk; time for electing.</p> <p>15. Councilmen and clerk; qualifications.</p> <p>16. Oath of mayor.</p> <p>17. Oath of clerk, councilmen and other officers.</p> <p>18. Vacancies, mayor and other officers; how filled.</p> <p>19. Appointees to vacancies; term of office.</p> <p>20. Removal of officers; provisions for.</p> <p>21. Officers may perform other duties.</p> <p>22. Council to keep record of proceedings.</p> <p>23. Meetings of council.</p> <p>24. Council; quorum.</p> <p>25. Salaries of officers.</p> <p>26. Appointive offices.</p> <p>27. Mayor; duties of.</p> <p>28. Clerk; duties of.</p> <p>29. Auditor; duties of.</p> <p>30. Auditor; additional duties.</p> <p>31. City attorney; duties of.</p> <p>32. Police judge; duties of.</p> <p>33. Ordinances; style of.</p> | <p>Sec.</p> <p>34. Ordinances; how presented and considered; contents.</p> <p>35. Ordinances; codification of.</p> <p>36. Franchises; how granted; provisions.</p> <p>37. Budget; how prepared and expended; levy for.</p> <p>38. City licenses; bond for; on what imposed; amount; jurisdiction.</p> <p>39. Powers of city and council.</p> <p>40. Taxes; how collected; when due; discounts; penalties.</p> <p>41. Assessment of goods, chattels, etc.; collection of.</p> <p>42. Lien on real estate for taxes; how enforced.</p> <p>43. Lien on real estate, continued.</p> <p>44. Money; how appropriated.</p> <p>45. Sewers, paving and curbing; assessments; penalties.</p> <p>46. Paving; provisions for; assessments; penalties.</p> <p>47. Sewers; provisions for; assessments; penalties.</p> <p>48. Paving and sewer assessments; when liens.</p> <p>49. Assessments; when certified to clerk of county court.</p> <p>50. Municipal corporation may borrow money; purposes for which used.</p> <p>51. Bonds of city; how bonded; for what purpose.</p> <p>52. Buildings for city use; regulations for.</p> <p>53. Health regulations; council to enforce.</p> <p>54. Habit forming and poisonous drugs; council to regulate sales; penalties for violations.</p> <p>55. Health commissioner; appointment; term; board of public health; provisions for.</p> <p>56. Police department; provisions for.</p> <p>57. Fire department; provisions for.</p> <p>58. Effect of charter.</p> <p>59. Effect of charter, continued.</p> |
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Be it enacted by the Legislature of West Virginia:

ARTICLE I.

The City of Oak Hill

Section 1. That the inhabitants of so much of Fayette county as are within the boundaries prescribed by article two of this act, and their successors, shall constitute, be and remain a municipal corporation by the name of "The City of Oak Hill."

ARTICLE II.

Corporate Limits

Sec. 2. The corporate limits of the City of Oak Hill shall be as follows: Beginning at a stake on the northeast side of Giles, Fayette and Kanahwa turnpike, near its junction with the Meadow Fork road; thence north sixty-two degrees forty-five minutes east one thousand one hundred and fourteen feet to a stake in line of Jones and Gardner, thence on Jones north fifty-four degrees west nine hundred and seven feet to a stake and three small hickories, with dogwood and chestnut pointers near Gardner's corner; thence on Jones north fifty degrees east one thousand and sixty-eight feet to a stake in line of the old Deviese land with chestnut oak and white oak pointers; thence north fifty-two degrees west four hundred and three feet to a black oak, corner to Clark; thence with Clark north sixty-seven degrees east two hundred and forty-five feet to a white oak, thence north twenty-four degrees forty-five minutes west forty feet corner to school house lot; thence with and passing school house and church lots north forty-nine degrees forty-five minutes east nine hundred and seventy-nine feet to a poplar and black oak on the north side of Arbuckle road corner to J. D. Woods and others; thence south eighty-seven degrees east four hundred and sixty-one feet to a white oak on north side of Arbuckle road; thence north sixty-six degrees east two hundred and eighty-nine feet to the corner of old Frazier mill foundation, on the north side of Arbuckle road; thence north fifteen degrees west one hundred and fifty-two feet, corner to C. Mankin and in line of J. S. Lewis; thence with and through C. Mankin, north seventy degrees east eight hundred feet to a stake in Mankin's field about thirty feet from edge of the woods; thence due north three hundred and forty-two feet to a stake by the corner of a plank fence; thence north thirty-two

31 degrees west seven hundred and eighty-two feet, crossing Ar-
32 buckle creek at six hundred and fifty feet to a stake fifteen feet
33 from south side of the Giles, Fayette and Kanawha turnpike;
34 thence north thirty-nine degrees forty-five minutes east seven
35 hundred and eighty-eight feet to a stake in a field near the
36 edge of the woods; thence north seventy-nine degrees forty-five
37 minutes west one thousand six hundred and eighty-nine feet
38 crossing Giles, Fayette and Kanawha turnpike at three hundred
39 feet, crossing Arbuckle creek at one thousand six hundred and
40 fifty feet to a stake in the edge of Wood's field; thence north
41 sixty-one degrees west four hundred and eighty-three feet to a
42 stake in Arbuckle creek at a distance of sixteen feet, from Dun-
43 can, Ryner, Richards and others corner; thence north twenty-
44 four degrees forty-five minutes east sixteen feet to Duncan,
45 Ryner and Richards corner; thence with Duncan and Ryner
46 north fifty-six degrees west two thousand eight hundred and
47 thirty-five feet to a stake, corner to Bowyer; thence leaving
48 Ryner and with Bowyer south twenty-two degrees thirty min-
49 utes west one thousand one hundred and eighty-five feet to a
50 stake in road, corner to Bowyer, thence leaving Bowyer and with
51 the road south sixty-two degrees thirty minutes east two hun-
52 dred and sixty feet to a stake in said road and corner to Mc-
53 Lean; thence leaving the road and with McLean south thirty-
54 six degrees west eight hundred and twenty feet to a stake corner
55 to McLean and Hill; thence with Hill south fifty-four degrees
56 east two hundred and eighty-two feet to a stake, south thirty-
57 seven degrees forty-five minutes west two hundred and seventy-
58 five feet to a stone corner to Hill and Wooldridge; thence leav-
59 ing Hill south forty-six degrees west ninety-one feet to a stake,
60 thence south fifty-nine degrees west one thousand one hundred
61 and thirty-eight feet crossing a branch at one hundred and
62 eight feet, crossing the Loop creek road at one thousand and
63 eighty feet to a stake in Col. J. W. Davis' line, with small chest-
64 nut pointer; thence south three hundredths degrees west eight
65 hundred and seventy-six feet, crossing the Loop creek road at six
66 hundred and fifty feet to a white oak on the south side of said
67 road, corner to Duncan, Collins, Davis and others; thence with
68 the south side of the Loop creek road south sixty-three degrees
69 east eight hundred and thirteen feet to a stake, corner to J. Blake
70 and Collins; thence with Blake and Collins, south ten degrees
71 west five hundred and fifty feet to a stake; thence south twelve

72 degrees east eight hundred and twenty-five feet to a stake in a
73 deep hollow in line of Gipson; thence up the hollow with Gipson
74 south forty-five degrees east three hundred and fifty feet to a
75 stake; thence south thirty-eight degrees east two hundred feet
76 to a stake corner to Logan; thence with Logan south four hun-
77 dredths degree west three hundred and forty-six feet to a stake,
78 corner to same; thence south seventy-three degrees west nine
79 hundred feet to a stake in Jones' field on northwest hillside;
80 thence through Jones south forty-eight degrees west six hun-
81 dred and thirty-seven feet to a stake in line of Jones and Har-
82 vey, with poplar pointer, on north side; thence south fourteen
83 degrees west seven hundred and seventy-five feet to a stake
84 on an east hillside, dogwood and chestnut pointer; thence south
85 fifteen degrees east four hundred feet, crossing the White Oak
86 road at two hundred and forty feet to a hickory by a branch,
87 corner to Jones and Harvey; thence south ten degrees west four
88 hundred and sixty-two feet to a gum on the side of the hill and
89 in line of Jones and Harvey; thence south seventy-six degrees
90 east eight hundred and forty-two feet to a stake on the top of
91 ridge in Jones' field; thence north eighty-three degrees east one
92 thousand four hundred and seventy feet, crossing two deep
93 hollows, to a stake on point of ridge, in Jones' field; thence
94 north seventeen degrees east five hundred and forty-two feet to
95 a stake by the side of a fence in Jones' field; thence north sixty-
96 one degrees east one thousand four hundred and eighty-seven
97 feet to the beginning, containing six hundred and sixty-one
98 acres.

ARTICLE III.

Municipal Authorities

Sec. 3. The municipal authorities of the City of Oak Hill
2 shall be the mayor, clerk and seven councilmen, who shall con-
3 stitute the council.

ARTICLE IV.

Officers

Sec. 4. In addition to the municipal authorities mentioned
2 in article three of this act, the said City of Oak Hill shall have
3 a treasurer who may be sergeant, and auditor who may be re-
4 corder, chief of police, building inspector, who may be one of
5 the council, a police judge, who shall be the mayor, and the

6 council may appoint a health commissioner, city attorney and
7 such other offices, officers and agents as the council may from
8 time to time create or employ.

ARTICLE V.

Corporate Powers

Sec. 5. All the corporate powers of said city shall be exer-
2 cised by the said council or under its authority except as other-
3 wise provided herein.

Sec. 6. The mayor or councilmen, when elected and quali-
2 fied as hereinafter provided, shall have possession and exercise
3 corporate powers as a body politic by the name of "The City
4 of Oak Hill," and shall have perpetual succession and a commo-
5 seal, and by the name may sue and be sued, plead and be im-
6 pleaded, and may purchase and hold or sell real estate and per-
7 sonal property necessary to enable it to discharge its corporate
8 powers, and to assess upon and collect from the property bene-
9 fited thereby for the welfare of said corporation, such taxes as
10 are authorized by law.

Sec. 7. The municipal authorities of said city, acting under
2 the powers and in the manner herein specified, shall have and
3 are hereby granted the power to have said city re-surveyed; to
4 open, lay off, vacate, close, broaden, widen, keep in repair
5 streets and alleys; to curb and pave streets, sidewalks and gut-
6 ters for public use, and to alter, improve, repair and light the
7 same; to construct and maintain public sewers and laterals,
8 and shall in all cases have power to assess upon and collect
9 from the property benefited thereby such part of the expense
10 thereof as shall be fixed by ordinance, except as hereinafter
11 provided; to have control and regulation of all streets and
12 avenues, roads and alleys for public use in said city, and to
13 have the same kept in good order, free from obstruction on
14 or over them; to have the right to control all bridges within
15 said city and traffic passing over them; to regulate and deter-
16 mine the width of streets, sidewalks, roads and alleys; to order
17 and direct the curbing and paving of sidewalks and footways
18 for public use in said city, to be done and kept in good order
19 by the owners of adjacent property; to control the construc-
20 tion and repairing of all houses, bridges, culverts, sewers and
21 sidewalks, and to prescribe and enforce all regulations affect-
22 ing the erection, repair and removal of all buildings and struc-

23 trues, and to require permits to be obtained for such buildings,
24 plans and specifications thereof to be first submitted to the
25 building inspector or committee, and to prescribe and enforce
26 regulations controlling the erection of such buildings, and to
27 secure the safety and health of the public; to control and regu-
28 late traffic of all vehicles, railways and aeroplanes in and about
29 the city; to control the opening and construction of ditches,
30 drains, sewers, cess-pools and gutters, to deepen, widen and
31 clear the same of unsanitary conditions; and to determine at
32 whose expense the same shall be done; to build and maintain
33 station houses, police stations and police courts, and to regulate
34 the management thereof; to purchase, lay off, appropriate and
35 control public roads, aero landings, public squares and parks,
36 either within or without the city limits as hereinafter defined,
37 and when the council determines that any real estate is neces-
38 sary to be acquired by the said city for any such purpose or
39 for the lawful exercise of other powers conferred by this
40 charter, the power of eminent domain is hereby conferred
41 upon said city, and it shall have the right to institute con-
42 demnation proceedings against the owner thereof in the same
43 manner and to the same extent and under the same conditions
44 as such power is conferred upon public service corporations by
45 chapter forty-eight of the Barnes' code of West Virginia of
46 the edition of one thousand nine hundred and eighteen; to
47 provide, contract for and take care of all public buildings and
48 structures being proper for the use of said city; to provide
49 for and regulate the building of all houses or other structures,
50 with regard to the health, safety and moral welfare of its citi-
51 zens; to cause the removal of unsafe walls or buildings; to
52 compel owners of property to fence in or wall their property
53 for the protection of the public safety; to prevent the injury
54 and annoyance to the business of individuals from anything
55 dangerous, offensive, unwholesome or unsanitary; to abate or
56 cause to be abated all nuisances; to regulate the keeping of
57 gun powder and all other combustibles; to provide and main-
58 tain proper places for the burial of the dead; to regulate in-
59 terment therein upon such terms and conditions as to price
60 and otherwise as may be determined; to provide for shade and
61 ornamental trees and the protection or removal of same; to
62 provide for the draining of lots by proper drains and ditches;
63 to make proper regulation regarding danger and damage from

64 fire; to provide for the poor of the city; to organize and main-
65 tain fire companies and provide the necessary apparatus; to
66 levy taxes on persons, property and licenses; to provide reve-
67 nue for the city and appropriate the same to its expenses; to
68 provide for the valuation of property as often as it may be
69 deemed proper and for the assessment of taxable persons and
70 property; to adopt rules for the transaction of business and
71 for the government and welfare of this corporate body; to
72 promote the general welfare of the city and protect the person
73 and property of citizens therein; to adopt rules for the trans-
74 action of business and for the government and regulation of
75 its corporate body; to appoint such officers as they may deem
76 proper and require and take from them bond with such se-
77 curity and in such penalty as may be determined, conditioned
78 for the faithful discharge of their duty; to regulate and pro-
79 vide for the weighing of produce and other articles sold in
80 said city; to regulate the transportation thereof through the
81 streets; to inspect and regulate weights and measures; to es-
82 tablish and regulate markets, to prescribe the time for holding
83 the same and what shall be sold only in such market, and to
84 acquire and hold property for market purpose if deemed
85 proper; to regulate the placing of signs, bill boards, posters
86 and advertising and other obstructions in, or over the streets,
87 alleys and sidewalks of said city, to preserve and protect the
88 peace, order and health of the city and its inhabitants; to
89 appoint and fix places for holding city elections; to erect,
90 own, lease, regulate, authorize or prohibit the erection of water
91 works, gas works, electric light systems in, or near the city,
92 and to operate the same and sell the products thereof and do
93 all things necessary and incidental to the conduct of such
94 business; to provide for and preserve the purity of the water
95 of the city; to prescribe and enforce ordinances for the pur-
96 pose of protecting the health, decency, morality and order of
97 the city and its inhabitants, and to punish violations of such
98 ordinances, even if the offenses under and against such ordi-
99 nances shall also constitute offenses under the laws of the state
100 of West Virginia or the common laws; to have and exercise
101 all the rights, privileges and powers provided by chapter
102 forty-seven of the Barnes code of West Virginia of the edition
103 of one thousand nine hundred and eighteen, and amendments
104 thereof not inconsistent with this act, and shall retain, keep
105 and succeed to all rights, privileges, property, interest, claims

106 and demands heretofore acquired by, vested in or transferred
107 to the City of Oak Hill, or heretofore to the corporation of
108 Oak Hill.

Sec. 8. To carry into effect these enumerated powers and all
2 other powers conferred upon said city, expressly or by implica-
3 tion in this and other acts of the legislature, the municipal
4 authorities of said city shall have power in the manner hereto-
5 for prescribed to adopt and enforce all needful orders, by-laws,
6 resolutions and ordinances not contrary to the laws and consti-
7 tution of this state, and to prescribe, impose and enforce reason-
8 able fines and penalties, including imprisonment; *provided*, that
9 the fine and imprisonment imposed shall in no case exceed the
10 maximum provided by the laws of the state of West Virginia
11 for the same violation or offense, where the same is punishable
12 thereby.

ARTICLE VI.

Qualification of Voters

Sec. 9. Every person who may have resided within the terri-
2 tory of said city for six months next preceding an election held
3 therein, and who is a qualified voter under the laws and consti-
4 tution of this state, and none others, shall be entitled to vote
5 at any election held in said city. But no person shall be deemed
6 a resident of said city by reason of being a student of any school
7 or college therein for any temporary purpose.

ARTICLE VII.

Elections

Sec. 10. The council may by ordinance provide such regula-
2 tions for the registration of voters as the state laws provide.

Sec. 11. The first election under this act shall be held on the
2 second Tuesday in May in the year one thousand nine hundred
3 and twenty-five; and the second election on the second Tuesday
4 in May in the year one thousand nine hundred and twenty-seven,
5 and on the same day each two years thereafter, which said elec-
6 tions shall be termed and called general city election. Such
7 first election and all subsequent elections shall be held in such
8 manner as is, or shall be prescribed by law for the holding of
9 state elections and the council shall, for the first election held
10 under this act, and at least ten days before said first election
11 under this act, designate the voting places and the names of
12 the commissioners, clerks and challengers to hold the said elec-

13 tions. Special elections for any purpose must be authorized by
14 the council and called by the mayor. Notices of all special
15 elections must be given by publication in at least one news-
16 paper of general circulation published in the City of Oak
17 Hill, at least thirty days before the date fixed for all such
18 special elections, and by posting notices in such manner as the
19 council may deem necessary. The council shall sit on the fifth
20 day, Sundays excepted, after every election as a board of can-
21 vassers, each member of the council having one vote; and as
22 such board of canvassers they shall canvass, ascertain, publish
23 and declare the result of any election held; and the circuit court
24 of Fayette county shall have power to control proceedings of
25 said board of canvassers by mandamus and prohibition. The
26 said board shall keep in a separate book, marked for that pur-
27 pose, a record of the proceedings, and shall take down and
28 record any evidence, motion, or paper filed, or offered by any
29 candidate, which book and record shall be open to the public
30 and shall be kept in the custody of the clerk.

Sec. 11-a. The nomination of all candidates for offices to be
2 filled by the electors of the City of Oak Hill at the elections
3 herein provided for shall be made by convention, which conven-
4 tion shall meet and shall certify to the city clerk at least twenty
5 days before the day set for the election, as provided in the char-
6 ter, a list of all such candidates for office so nominated and to
7 be voted for at said election. The convention shall further
8 adopt a name for the ticket so nominated by them and a suitable
9 emblem or device by which the same shall be known and desig-
10 nated, and certify the name and device together with the nomi-
11 nations. The nominations so certified, together with the name
12 and device of the party shall be duly recorded by the city clerk
13 and properly printed on the ballots to be cast at the said elec-
14 tion. The printing of the ballots and the manner and conduct
15 of the election shall be governed in all respects when applicable
16 by the general laws of the state of West Virginia relating to the
17 holding, conduct and ascertainment of the result of elections
18 except as herein otherwise provided by this charter.

ARTICLE VIII.

Election of Officers

Sec. 12. On the second Tuesday in May, one thousand nine
2 hundred and twenty-five, and on the same day every two years
3 thereafter, there shall be elected by the qualified voters of the

4 city, a mayor, who shall hold office from the first day of June
5 succeeding in the year in which he is elected for a term of two
6 years and until his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor
2 except he be assessed with and own at least five hundred dollars
3 worth of real or personal property in said city, and is a citizen
4 entitled to vote at the election at which he is elected, and no
5 person shall be elected to such office or retain or hold the same,
6 who shall be or become an officer or employee of any person,
7 firm or corporation holding any franchise or contract under or
8 with said city.

Sec. 14. On the second Tuesday in May, one thousand nine
2 hundred and twenty-five and each two years thereafter, there
3 shall be elected by the qualified voters of the city seven council-
4 men, to hold office from the first day of June, one thousand nine
5 hundred and twenty-five until the first day of June, one thou-
6 sand nine hundred and twenty-seven or until their successors
7 are elected and qualified. Beginning with the first election held
8 under this act, which shall be on the second Tuesday in May,
9 one thousand nine hundred and twenty-five, and every two
10 years thereafter there shall be elected a clerk by the qualified
11 voters of the city, to hold office for the term of two years, and
12 so on every two years thereafter. The officers of the city elected
13 under the old charter and at the election held in the year one
14 thousand nine hundred and twenty-five shall hold over until
15 their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of councilman
2 or clerk except he be assessed with and own at least
3 hundred dollars worth of real or personal property, and be a
4 citizen entitled to vote at the election at which he is elected.

ARTICLE IX.

Oath of Mayor and Other Officers

Sec. 16. The mayor, before taking his seat or performing any
2 of the duties of said office, shall take and subscribe an oath or
3 affirmation that he possesses the qualifications prescribed by this
4 act to hold such office, and is not subject to any of the disquali-
5 fications prescribed therein, and that he will support the consti-
6 tution of the United States and the constitution of this state,
7 and honestly discharge the duties of his office to the best of his
8 skill and judgment, which oath shall be written out and signed
9 and filed and preserved among the records and books of the city.

Sec. 17. The clerk, councilmen and all other officers elected
2 or appointed under this act shall take and subscribe an oath of
3 affirmation in the time, manner, form and effect, prescribed for
4 the mayor.

ARTICLE X.

Vacancies Occurring

Sec. 18. If a vacancy should occur in the office of mayor, the
2 council shall, as soon as practicable, fill the vacancy by the
3 appointment of some qualified person. If any vacancy occurs
4 in any other office, whether elective or appointive, the council
5 shall fill the same by the appointment of some qualified person
6 subject to all regulations as required for the original appoint-
7 ment or election.

Sec. 19. All persons appointed to fill vacancies in the elective
2 offices shall hold office until the next city election, and all vacan-
3 cies in appointive offices shall be filled for the unexpired term.

Sec. 20. The council shall have and is hereby granted the
2 power and authority to remove from office any officer, whether
3 elective or appointive, for cause or upon written charges pre-
4 ferred by any responsible citizen to the council; but to remove
5 from office under this provision, at least five of the members of
6 the council must be present and at least five must concur in
7 such removal, and the officer against whom the charges are pre-
8 ferred shall be served with a reasonable notice of the same,
9 together with the time of hearing thereon, and a copy of such
10 charges showing the nature thereof, and shall have the right to
11 be represented before the council in person and by attorney,
12 and the right to require all witnesses to be sworn and testify
13 under oath before the council and to have the testimony taken
14 down.

ARTICLE XI.

Officers May Perform Other Duties

Sec. 21. Any member of the council, the mayor, clerk, treas-
2 urer, or any other elective or appointive officer shall, during
3 the time for which he was elected or appointed, be eligible for
4 appointment to any office under the city; *provided*, such em-
5 ployment is authorized by the council, by resolution for such ap-
6 pointment; but in no case shall the time of service be for a
7 longer period than said council is selected to serve under this
8 act.

ARTICLE XII.

Records

Sec. 22. The council shall keep a record or journal of all its
2 proceedings, which shall, at all times, be open to the inspection
3 of the taxpayers of the city, and be a public record, and the
4 ayes and noes of the members shall be taken on any question, at
5 the request of any member, and shall be taken down and entered
6 on the record or journal.

ARTICLE XIII.

Meetings of Council

Sec. 23. The council shall hold regular meetings on the first
2 Monday of each month of the year, and such special meetings
3 as the business to be transacted may require, at such time, place
4 or places in the city as the council shall, from time to time, or-
5 dain or appoint; and the council shall have the power by proper
6 ordinance or resolution, entered of record, to vest in any officer
7 of the city or any member or number of members of their body,
8 authority to call such special meetings and in like manner to
9 prescribe the mode in and by which said meetings shall be
10 called. All questions put, except as to such matters, as herein
11 otherwise provided, shall be decided by a majority of all the
12 members elected. No business shall be transacted at any special
13 meeting of the council unless specifically mentioned in the call
14 for such meeting, which call shall be posted at least twenty-four
15 hours prior to said meeting on the front door of the city hall.

ARTICLE XIV.

Quorum

Sec. 24. The majority of the whole number of members
2 elected or appointed to the council shall constitute a quorum
3 to transact business, but a smaller number may adjourn from
4 time to time and may compel attendance of absent members in
5 such manner and under such penalties as either body may by
6 rules provide.

ARTICLE XV.

Salaries

Sec. 25. The mayor, clerk, regular and other officers, em-
2 ployees and appointees, shall receive for their official services
3 such salaries as the council shall, from time to time, by ordi-

4 nance fix and establish; but the salaries of the officials of said
5 city shall not be increased or diminished during the term for
6 which such officers were elected or appointed; *provided*, that
7 the salaries of all officers elected or appointed for any term
8 shall be fixed not later than thirty days preceding any election.

ARTICLE XVI.

Appointive Officers

Sec. 26. The council shall by a majority vote of its members
2 fill all appointive offices under the city administration.

ARTICLE XVII.

Duties of the Mayor

Sec. 27. The mayor shall be chief executive officer of the city
2 and shall preside at all meetings of the council and shall have a
3 vote in case of tie; he shall have charge and control of the police
4 except as herein otherwise provided; he shall see that the laws
5 and ordinances of the city are enforced, and shall keep and pre-
6 serve a docket of all his proceedings in the trial of civil and
7 criminal cases in like manner and with like effect as provided by
8 law in the case of a justice of the peace; he shall see that the
9 peace and good order of the city are preserved and that persons
10 and property therein are protected, and to this end he may
11 cause the arrest and detention of riotous and disorderly per-
12 sons, and shall perform such other duties and services as the
13 council may ordain in addition to the duties prescribed in this
14 act and not inconsistent herewith; the clerk, except as herein
15 otherwise provided, shall perform the duties of the mayor
16 whenever and so long as the mayor is from any cause not able
17 to perform his official duties, and he shall, in the absence of the
18 mayor, perform any and all the duties of the mayor except he
19 shall not preside over the council. In the absence of the mayor
20 at a meeting of the council, the council shall select one of its
21 own members to preside over its meetings, who shall have a vote
22 as a councilman. If the mayor and clerk are both absent from
23 the city, or otherwise disabled from performing the duties of
24 the mayor, the council may elect a mayor *pro tempore*. The
25 mayor shall have the power at any time to appoint special po-
26 licemen, who shall be sworn in without confirmation of the
27 council.

ARTICLE XVIII.

Duties of the Clerk

Sec. 28. It shall be the duty of the recorder to keep a properly indexed journal of the proceedings of the council and board of health, and have charge of and preserve the records of the city; he shall, whenever required by the mayor, attend the police court and attend to all the duties as clerk of the police court of the city. In the absence of the mayor or police judge, he shall exercise the functions of police judge; he shall perform all other duties required of him by order or by ordinance of the council; as clerk he shall receive compensation for his service to be fixed by the council, which shall not be increased or diminished during his term of office. He may further be required by the council to perform the duties of auditor of said city as hereinafter provided, and receive additional compensation therefor to be fixed by the said council.

ARTICLE XIX.

Duties of the Auditor

Sec. 29. The auditor shall be the city accountant and auditing officer of the city and it shall be his duty to see that the accounts of said city are kept in a detailed and systematic manner, under the proper classification so as to show the bonded and other indebtedness of said city, and the amounts and claims due the same, as well from taxes, levies and assessments as from other sources.

Sec. 30. In addition to the other duties of the auditor, it shall be his duty, on or before the first day of August in each year, to make a copy from the real and personal property books of the assessor of Fayette county, West Virginia, or property shown to be liable to taxation within the limits of the City of Oak Hill, together with all proper transfers noted thereon, and to certify such copies under his hand as a true and correct copy thereof, and to deliver the same to the council and to assist the council in revising and correcting said lists and in preparing the annual estimate of expenses to be certified to the council as a basis for the annual levy. After such levy is made in each year, it shall be the duty of the auditor to extend said levy upon said real estate and personal property books for said city and to prepare proper tax tickets therefrom against all owners of real estate and personal property subject to taxation in said city.

16 He shall turn the said tax bills over to the treasurer or sergeant,
17 who shall collect said taxes when due and payable, and the treas-
18 urer shall certify to the payment of same as made. In addition
19 to the above duties of the auditor, he shall perform such other
20 duties as the council shall prescribe.

ARTICLE XX.

Duties of City Attorney

Sec. 31. The council may appoint a city attorney by a ma-
2 jority vote of its members, who shall be the legal adviser of the
3 city and all its officers in all matters arising and in which legal
4 proceedings may be taken; he shall prosecute all the suits, ac-
5 tions and proceedings instituted on behalf of said city and shall
6 defend all suits and actions against said city, and when re-
7 quested to do so in writing, shall give his written opinion to the
8 mayor, council or any committee thereof upon such questions
9 as may be referred to him affecting the city's interest; he shall
10 perform such other duties as may be required, and for such
11 services shall receive such compensation as may be agreed on
12 between him and the city council.

ARTICLE XXI.

Duties of Police Judge

Sec. 32. The mayor or police judge shall be *ex-officio* a jus-
2 tice and conservator of the peace within the city and he shall,
3 within the same, have, possess and exercise all the powers and
4 perform all the duties vested by law in a justice of the peace,
5 except that he shall have no jurisdiction in civil causes of action
6 arising out of the corporate limits of the city. He shall have
7 the same power to issue attachments in civil actions as a justice
8 of his county has, though the cause of action arose out of the
9 city limits, but in such case he shall have no power to try the
10 same but must have such attachment returnable and heard be-
11 fore some justice of the county. Any warrant or other process
12 issued by him may be executed within the same territorial limits
13 as that of a justice of the county. He shall have power to issue
14 executions for all fines, costs and penalties imposed by him, or
15 he may require the immediate payment thereof, and in default
16 of such payment he may commit the party in default to the jail
17 of the city, until the fine, penalty or costs shall be paid, but the
18 term of imprisonment in such cases shall not exceed sixty days.

19 But such mayor or police judge shall not receive any money
20 belonging to the state, or any individual, unless he shall give
21 bond and security as required of a justice of the peace under
22 the laws of the state of West Virginia; and all provisions under
23 the laws of the state of West Virginia relating to moneys re-
24 ceived by justices shall apply as to like moneys received by the
25 mayor or police judge.

ARTICLE XXII.

Ordinance; General Provisions

Sec. 33. The style of ordinances of the city shall be: "Be it
2 enacted and ordained by the council of the City of Oak Hill,"
3 but the ordinances now in force shall remain in effect until
4 amended or repealed, except where they are in conflict or incon-
5 sistent with this act.

Sec. 34. All ordinances shall be presented in writing and no
2 ordinance shall be so amended in its passage as to change the
3 general purpose. No ordinance shall be considered for final
4 passage at the meeting at which it was introduced unless the
5 same shall have been reported on by a committee, but reference
6 to a committee may be dispensed with by an affirmative vote of
7 two-thirds of the council as elected and shall then, upon its
8 passage, become forthwith effective. No ordinance shall con-
9 tain more than one subject, which shall be clearly expressed in
10 its title; nor shall any ordinance be passed by the council unless
11 a majority of all the members elected to the council shall concur
12 therein by ayes and nays when the question is put upon its
13 passage.

Sec. 35. All ordinances passed by the council shall be spread
2 upon the minutes and at the next regular meeting such minutes
3 shall be read in open council and the mayor shall sign said
4 minutes when found correct or corrected, in the presence of the
5 council. The council shall provide a well-bound book, in which
6 shall be copied all the ordinances in the order in which they are
7 passed, which ordinances so copied shall be compared with the
8 originals by the mayor and shall be signed by him when found
9 correct. Such book shall be indexed so as to show in brief form
10 the substance of the ordinances. All copies thereof certified as
11 hereinafter provided, shall be received by all the courts and jus-
12 tices in this state as evidence; but the council may adopt by
13 ordinance, properly designating and describing it, a code of

14 laws and ordinances, which when adopted, shall be published
15 in a newspaper of general circulation in said city, or poste
16 and printed in book form, or it may be adopted as a whole after
17 it is printed, and the said code shall be and become the laws
18 and ordinances of the said city, and shall be received as such
19 by all the courts in this state, and the printed volumes pub-
20 lished under order of the council shall be so received as evidence
21 of what is printed therein till errors or omissions be affirma-
22 tively shown therein.

ARTICLE XXIII.

Franchises

Sec. 36. All franchises granting the right of occupancy of
2 any portion of the streets, alleys, sidewalks or other public
3 property of the city for work of public utility and service shall
4 be granted by the council, but no such franchise shall hereafter
5 be granted except under the following restrictions and condi-
6 tions:

7 No franchise shall be granted, except at the time of granting
8 it bond be made to the city providing that the grantee shall in-
9 demnify the city against all damages caused by construction,
10 maintenance or operation of such works. All reasonable addi-
11 tional provisions and conditions may be made for the protec-
12 tion of the public from unnecessary damage or inconvenience
13 by reason of the construction, maintenance or operation thereof.

14 No grant of a franchise for the extension, of, or in addition
15 to, any line of work or public service through, over or under
16 any additional street or territory of the city shall be made for
17 a period extending beyond the time limit for the expiration of
18 the franchise, if the principal work is one granted before this
19 act goes into effect and not limited as to time. Any franchise
20 granted for an extension or addition thereto shall nevertheless
21 be made, subject to the provisions hereof, including the time
22 limit of not exceeding fifty years.

23 The council shall, in all franchises hereafter granted, embod-
24 therein a plainly expressed condition, when the franchise is to
25 be for work useful chiefly to the citizens of the city, that at the
26 expiration of the franchise the grantee shall, if required by
27 the council, sell to the city the plant at what it is then worth.

28 If the city or the owner of the plant cannot agree upon its
29 value, then its value shall be ascertained by an impartial arbi-

30 tration, one arbitrator to be selected by the city, one by such
31 owner of the plant, these two to select a third, and the decision
32 of any two to be binding upon both parties.

ARTICLE XXIV.

Estimate of Expenses and Levy

Sec. 37. A finance committee shall be appointed from the
2 council members, by the mayor, which, together with the mayor
3 shall constitute a finance committee which shall on or before the
4 first day of August in each year, prepare and submit to the
5 council a budget or estimate of the amount of money necessary
6 and advisable to be expended by the city for the current year
7 next ensuing and to be provided for by the tax levy as herein
8 provided for such current year, in which estimate the finance
9 committee shall ascertain and present a detailed and itemized
10 account or estimate of the money necessary to pay interest on
11 the bonded indebtedness of the city, the amount required for
12 the several sinking funds, for the reduction of the principal
13 thereof, the amount to be expended severally for the streets,
14 alleys, curbing, water works, police department, fire department,
15 street paving, sewers, salaries, parks, real and personal prop-
16 erty, contingent expenses and other proper municipal expendi-
17 tures and expenses, together with an itemized statement of the
18 estimated receipts, other than that to be derived from the an-
19 nual levy, and after receiving such estimates, and before mak-
20 ing the levy the council shall apportion the rate thereof (in-
21 cluding estimated receipts for licenses and all other sources),
22 among the several funds to ascertain and provide for, which
23 said apportionment when adopted, shall be spread upon the
24 records of the council.

25 Upon the estimate of such expenses, the council shall there-
26 upon, by ordinance, lay a levy for the ensuing tax year of a
27 sum not to exceed seventy-five cents on each one hundred dol-
28 lars assessed valuation of all taxable property exclusive of any
29 levy or levies for bond purposes, real and personal, subject to
30 taxation in said city, as well as a capitation tax not to exceed
31 two dollars upon every male inhabitant of said city over the age
32 of twenty-one years who is subject to the capitation tax under
33 the laws of the state of West Virginia, and said council is
34 authorized to levy to such maximum of seventy-five cents on
35 each one hundred dollars of valuation, and such bond levies as

36 may be legally authorized and laid notwithstanding any general
37 laws now in force, or which may be enacted, restricting the
38 powers of municipal corporations to levy taxes.

39 The council of the City of Oak Hill shall meet on the second
40 Tuesday in August of each year for the purpose of making up
41 and certifying the estimate of expense and levy herein provided
42 for, at which session the said council shall ascertain the amounts
43 herein provided, which estimate shall be published and posted
44 as provided by the general laws of the state of West Virginia.
45 The council shall again meet on the fourth Tuesday in August
46 of each year for the transaction of such business as may prop-
47 erly come before them, including the laying of such levies as
48 may be necessary upon all of the taxable property within the
49 City of Oak Hill subject to taxation in accordance with the esti-
50 mate and shall certify the same in the manner provided by law.

Sec. 38. Whenever anything, for which a state license is re-
2 quired, is to be done within said city, the municipal authorities
3 as herein provided, may require a city license to be had for
4 doing the same, and may, in any case, require from any person
5 licensed a bond with sureties; and in such penalty and with
6 such conditions as may be proper, for the protection of the pub-
7 lie health, safety or morals, and the council may on notice re-
8 voke such license at any time, if the conditions of said bond be
9 broken, or for good cause.

10 The municipal authorities may impose a license and assess
11 a tax thereon on all vehicles operated in said city for hire oper-
12 ated wholly in the city, all dogs kept within the corporate limits
13 all insurance, bonding, casualty and guarantee companies, auc-
14 tioneers, book agents, bowling alleys, billiard saloons, bagatelle
15 saloons, bond, note and loan associations, building and loan asso-
16 ciations, capitation taxes, commission merchants, common carri-
17 ers, circuses, menageries, theatres, drays, taxi stands, cabs,
18 hacks, etc., eating houses, express companies, hitting and strik-
19 ing machines, hobby horses, junk dealers, real estate agents, in-
20 surance agents, livery and feed stables, omnibuses, peddlers,
21 pawn brokers, stock brokers, slot machines, social clubs, street
22 venders, tobacco, snuff cigars, etc., theatrical shows, transient
23 merchants, telegraph and telephone companies, electric light
24 companies, gas companies, water companies, and other business,
25 property, profession or occupation; bicycle, automobiles, butch-
26 ers and venders of meats, vegetables and other things sold on the
27 streets of the city, or upon any other article, property, business,

28 occupation, trade or profession for which the state now requires
29 or may hereafter require a license, but the taxes upon such
30 city license shall in no case exceed the license tax imposed by
31 the state thereon. The municipal officers and authorities may
32 prescribe, impose and enforce reasonable fines and imprison-
32-a ment, under the order of the police judge of said city, or the
33 person lawfully exercising his function, upon any person carry-
34 ing or attempting to carry on any business for which the said
35 license is required, without first obtaining a city license therefor,
36 and paying the city license tax assessed thereon. All licenses
37 provided for in this section shall be paid to the sergeant or
38 treasurer. For the purposes of enforcing the provisions of this
39 section the city shall have police jurisdiction for two miles be-
40 yond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make
2 all regulations and pass all ordinances necessary and proper
3 concerning the granting and revoking of all licenses. The city
4 shall have the power to prohibit by ordinance and to punish
5 persons abusing animals; to restrain and punish vagrants, men-
6 dicants, beggars, tramps, prostitutes and drunken and disor-
7 derly persons within the corporate limits; to provide for their
8 arrest and manner of punishment; to prohibit and punish rail-
9 roads bringing in paupers or persons or animals afflicted with
10 dangerous diseases; to control and suppress bawdy houses.
11 houses of assignation and gambling houses and to punish gam-
12 ing; to prohibit slaughter houses within the prescribed limits
13 and soap or glue factories of any kind; to restrain and pro-
14 hibit the use of fire crackers, fireworks or other explosives, and
15 all dangers or unseemly noises which tend to annoy persons or
16 frighten horses or other animals; to make regulations guarding
17 against fire; to regulate the use of streets and alleys for street
18 cars, railroads, railroad engines, traction engines, automobiles,
19 trucks, tractors and vehicles of all sorts, and regulate the run-
20 ning and operation of the same within the city limits; to regu-
21 late and prevent injury, inconvenience or annoyance to the
22 public; to prohibit cock fighting and dog and prize fighting;
23 to regulate and control the kind and manner of plumbing and
24 electric wiring, etc., for the safety and health of the public, to
25 regulate, restrain and prohibit all animals and fowls running
26 at large; to establish and regulate markets; to regulate signs
27 and billboards, posters and advertisements on or over streets;
28 to regulate the sale and use of cocaine, morphine, opium and

29 poisonous drugs; to provide for purity of water, milk, meat,
30 etc., sold in the city limits; to fix and change charges and prices
31 for service or the articles of persons or companies operating
32 public service plants, or other public institutions or utilities; to
33 regulate public service corporations; to provide for inspection
34 of dairies, slaughter houses and other places of like nature; to
35 protect places of divine worship; to have abated and removed
36 all nuisances; to regulate the construction of all water closets,
37 privies, cess-pools, pens, sinks, yards, stables and other places
38 where offensive substances may accumulate; to regulate and
39 prescribe punishment for all violations against the public peace
40 and welfare.

ARTICLE XXV.

Taxes; How Collected

Sec. 40. The city taxes annually levied by said council shall
2 be collected as follows: Immediately after the annual levy
3 for city taxes is laid, the auditor shall extend the name on the
4 property books made out by him, including thereon, the proper
5 capitation taxes. He shall make out proper tax tickets in the
6 following manner, that is to say: there shall be a single ticket
7 for the whole amount charged to any person, firm or corpora-
8 tion, and after the tickets have been examined and compared
9 and found to be correct by the council, they shall be turned over
10 to the sergeant or treasurer by the first day of October following
11 the levy. The sergeant or treasurer shall receipt for the gross
12 amount, said receipt to be returned and entered upon the rec-
13 ords and the sergeant charged therewith; the sergeant shall then
14 give notice by publication in a newspaper of general circula-
15 tion in the city, and posting for at least ten days, stating that
16 the tax tickets are in his hands for collection, the penalty for
17 the non-payment thereof, and the time and place where the
18 same may be paid; *provided, however*, that a tax payer shall
19 have the right to anticipate the payment of the whole or any
20 part of the taxes as assessed. Immediately upon the payment
21 of said taxes or any part thereof, the said amount shall be de-
22 posited by the sergeant or treasurer in one of the city deposi-
23 tories to the credit of the City of Oak Hill, and the sum so de-
24 posited shall be reported to the council at its first meeting after
25 deposit is made. All taxes shall be due and payable within
26 thirty days after the expiration of the notice posted and pub-
27 lished by the sergeant as hereinbefore set forth, and in case the

28 same are not paid within said time, he may distrain and se¹¹
29 therefor, in like manner as the officer collecting the state taxes
30 may distrain therefor, and he shall have in all other respects
31 the same power to enforce the payment and collection thereof.
32 On all tickets remaining uncollected in the hands of the sergeant
33 fifty days after the date of the expiration of the notice posted
34 and published by him a penalty of five per cent shall be added
35 and collectible, together with six per cent interest until paid.

36 The council may by ordinance allow a discount for prompt
37 payment of taxes. The sergeant shall have the power to collect
38 said taxes so placed in his hands together with the penalty and
39 interest thereon, heretofore provided to be added thereto. The
40 sergeant shall be charged with the gross amount of said tax
41 tickets so delivered to him for collection, and no deductions
42 therefrom shall be allowed unless on or before the first day of
43 July of each year he makes out and returns to the council a de-
44 linquent list of taxes uncollected for the year previous with his
45 oath attached thereto, stating that such delinquent list is cor-
46 rect and just, that he has received no part of the taxes men-
47 tioned thereon and that he has used due diligence to find prop-
48 erty to distress for said taxes and has found none, and that the
49 same are uncollectible. Penalties and interest, provided for in
50 this section, to be added to such taxes, shall not be deemed or
51 considered any part of the limitation in this act hereinbefore
52 prescribed, restricting the annual city levy for general municipi-
53 pal purposes to seventy-five cents on each one hundred dollars
54 valuation. The sergeant shall not take or collect anything but
55 money and the legally issued and authorized drafts or vouchers
56 of the city for the payment of taxes. The sergeant shall per-
57 form such other duties as the council may require, and receive
58 such compensation as shall be fixed by the council.

Sec. 41. All goods and chattels belonging to a person, firm
2 or corporation or estate, assessed with any city taxes, whether
3 the same be a capitation tax, tax upon real or personal prop-
4 erty or an assessment for paving or other improvements, shall
5 be liable for said taxes and may be distrained therefor in whoso-
6 ever possession they may be found, and the sergeant shall have
7 the same power to collect said taxes or assessments from any
8 person owing debts to or having in his possession any estate
9 belonging to a person assessed with any tax or assessment of

10 any kind, that the sheriff has to collect state taxes or enforce
11 the collection thereof.

Sec. 42. There shall be a lien upon all real estate within
2 said city for the city taxes assessed thereon including such
3 penalties and interest added thereto for non-payment thereof
4 as are prescribed by this act, from the first day of January in
5 the year in which said taxes are assessed. Said liens may be
6 enforced in any court of record in Fayette county by appro-
7 priate suit; *provided*, such suit be entered within five years
8 from the time said liens attached as herein provided, and such
9 suit may either be by and in the name of the city of Oak Hill as
10 plaintiff, or said city may intervene by petition in any suit
11 pending to sell or enforce liens against real estate which is
12 subject to such liens for said taxes. The liens herein created
13 shall have priority over all other liens except those for taxes due
14 the state and county.

Sec. 43. Said liens for city taxes and attendant penalties,
2 as well as for improvement assessments, may also be enforced
3 by the certifying of the same to the clerk of the county court
4 of Fayette county and the auditor of the state of West Virginia
5 in the manner provided by the state law, and the same may
6 be certified by the state auditor and sold for taxes, interest
7 and penalties and commissions thereon, in the same manner, at
8 the same time and by the same officer as real estate sold for
9 taxes, interest, damages, costs and commissions due the state
10 and county thereon, which officer shall account therefor on
11 settlement with the council and pay the same over to the treas-
12 urer.

ARTICLE XXVI.

Money; How Appropriated.

Sec. 44. No money shall be appropriated and no debts
2 shall be contracted and no contracts authorized by the city,
3 except by an ordinance passed by the council as specified
4 herein, and no such ordinances shall be passed except where the
5 funds to meet the same shall have first been provided by levy
6 duly made in accordance with this act and its provisions. No
7 contract shall be entered into involving or anticipating further
8 levies, unless all the questions connected with the same shall
9 have been first submitted to the people at an election held for

10 that purpose and shall have received three-fifths of all the votes
11 cast at such election, and no indebtedness or contractual lia-
12 bilities shall be incurred to become due and payable from the
13 current levies, in excess of the amount thereof.

ARTICLE XXVII.

Sewers, Paving and Curbing

Sec. 45. The council shall have the power to establish the
2 width of any sidewalk along any street, alley or public square
3 or portion thereof, and any owner of ground fronting on such
4 street, alley or public square shall, in such manner as the council
5 shall reasonably prescribe, pave and curb the sidewalk adjacent
6 to such property. In case of a failure or refusal of the owner to
7 pave or curb the same after reasonable notice, the council may
8 cause the same to be properly curbed and paved by the city, and
9 levy and collect from such owner the whole cost of such curbing
10 and paving adjacent to such property, with a penalty of five per
11 centum added thereto, together with six per centum interest
12 until paid; and in like manner to require the owner of any prop-
13 erty adjacent to any paved sidewalk heretofore or hereafter con-
14 structed, to keep the same in repair, and in default of doing
15 so to cause the same to be repaired, and levy and collect the cost
16 from said owner or owners with a penalty of five per centum
17 added thereto together with six per centum interest per annum
18 until paid. In all cases of such assessment, whether for the orig-
19 inal or for the repairing of sidewalks, payment thereof, including
20 penalties and interest, shall be made to the sergeant within sixty
21 days after the completion of the work, who shall have the power
22 to collect the same from the owner or owners of any such prop-
23 erty by distress and sale, in the same manner in which taxes
24 levied for the benefit of the city are authorized to be collected,
25 and in addition, there shall be a lien upon such real estate,
26 which lien shall be perfected in the same manner as other paving
27 liens and may be enforced by appropriate suit in any court of
28 record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to
2 cause any street or alley in said city, or portion thereof, to
3 be paved in a permanent manner, it shall order the work done
4 in the following manner and upon the following terms: The
5 contract for such paving shall, after due advertising, in which

6 the council shall reserve the right to reject any and all bids,
7 be let, if let, to the lowest responsible bidder. The contractor
8 shall look only to the city for the payment for the work and
9 in no sense to the abutting land owner. The total cost of grad-
10 ing and paving any such street or alley (except when the
11 streets are occupied by street car tracks, for the distance be-
12 tween the rails and for two additional feet outside of each rail,
13 which portion shall be borne and paid by the company owning
14 and operating such railway and track) shall be borne by the
15 owners of the land abutting upon said street, alley or portion
16 thereof, subject to the following plans, that is to say: payment
17-18 is to be made by all the land owners on either side of such
19 street or block so paved, in such portion, of the total cost, less
20 the portion, if any, chargeable to such street railway company,
21 as the frontage in feet of his land bears to the total frontage
22 so abutting on such street, alley or portion thereof so paved
23 as aforesaid. The cost of such paving chargeable to the abut-
24 ting property is not to include any portion of the amount paid
25 for paving of any squares at intersection of streets, which
26 shall in all cases be borne and paid by the city. When the
27 paving of any street or alley or portion thereof shall have
28 been let to contract and the work done as hereinbefore pro-
29 vided, it shall be the duty of the city engineer to cause the sev-
30 eral frontages abutting thereon to be measured, to calculate
31 the assessment upon each and every land owner so abutting,
32 and to certify the same to the council showing the proper amount
33 to be determined as provided in the foregoing plan. It shall
34 be the duty of the council to examine and compare such as-
35 sessments, amounts and names so certified to it. Thereupon
36 the council shall give notice by publication for two successive
37 weeks in some newspaper published in said city that an assess-
38 ment, under this act, is about to be laid against abutting prop-
39 erty for paving done on said streets or alleys, describing the
40 location of such paving. Any owner or owners of abutting
41 property shall have the right to appear before the said council
42 within three weeks from the first publication thereof, and
43 move such council to correct any apportionment or assessment
44 improperly made; which corrections the said council shall have
45 the power to make. If found to be correct, or when rectified,
46 the council shall cause the same to be entered, together with

47 the description as to the location, frontage, depth and owner-
48 ship of the land, so far as the same may be ascertained, upon
49 its records, and to enter in its record that such owners and
50 lots be assessed and chargeable with the amount so ascertained
51 to be borne by them respectively. When so approved, certified
52 and entered of record, the same shall be and constitute an as-
53 sessment against said owners and lots for such respective
54 amounts. It shall be the duty of the council to immediately
55 certify such assessment to the sergeant for collection as here-
56 inbefore provided. A copy of such order shall be certified by
57 order to the clerk of the county court of Fayette county, who
58 shall be required to record and index the same in the proper
59 deed book in the name of each person against whose property
60 assessments appear therein. The amount so assessed against
61 any land owner, as aforesaid, shall be paid in seven payments,
62 as follows, that is to say: One-fourth of said amount shall be
63 paid to the sergeant when said work is completed, certified and
64 entered of record as aforesaid, and the other three-fourths shall
65 be paid in equal semi-annual payments with six per cent inter-
66 est thereon until paid, the first of which shall be due and pay-
67 able six months from date first payment is due, and so on, every
68 six months until the full amount of assessment, with penalties
69 and interest is paid, the purpose being to require the payment
70 regularly until the entire amount is paid. *Provided, however,*
71 that the abutting land owner so liable for any costs of such pay-
72 ing shall have the right at any time after the same is certified as
73 aforesaid to the sergeant for correction, to anticipate the pay-
74 ment of either installment. To each of said installments, of
75 assessments remaining unpaid in the sergeant's hands at the
76 time specified for such payment, a penalty of four per cent
77 shall be added and the payment thereof enforced, in all re-
78 spects as hereinbefore provided for the collection of any other
79 taxes due the city, and such shall be a lien upon the property
80 liable therefor, the same as for other taxes, and the lien may
81 be enforced in the same manner as provided for other taxes;
82 *provided, however,* that in default of the payment of any in-
83 stallment of such assessment, together with interest and pen-
84 alty thereon accrued, then the whole of said assessment, with
85 interest and penalty to the date of such default, shall become
86 due and payable and enforceable in the manner herein provid-

87 ed. The liens hereinbefore provided for shall have priority over
88 all other liens except those due the state and county for taxes,
89 and shall be on a parity with other taxes and assessments due
90 the city. Upon the payment of any assessment to the sergeant
91 he shall deliver to the party paying the same a release of the
92 lien therefor, which may be recorded in the office of the clerk
93 of the county court as other releases for liens. Should such
94 assessment not be in the hands of the sergeant, if the same
95 shall have been shown to the satisfaction of the council to have
96 been paid in full to any officer entitled to receive the same as
97 designated by it, the council may direct the sergeant to execute
98 a release of such liens, which release may in like manner be
99 recorded.

ARTICLE XXVIII.

Sewers

Sec. 47. Whenever the council shall order the construction
2 of any public sewer in said city the owners of the property
3 abutting upon any street in which said sewer shall be construct-
4 ed, shall be charged with and liable for sewerage assessments
5 as follows: When said sewer is completed the city engineer
6 shall report to the council in writing the total cost of such
7 sewerage, with a description of the lot and land, as to the lo-
8 cation, frontage, depth and ownership, liable for such sewerage
9 assessment, so far as the same may be ascertained, together with
10 the amounts chargeable against each lot and owner, estimated
11 on the basis of cost, frontage measures on said sewer being con-
12 sidered, and thereupon said council shall give notice by pub-
13 lication in a newspaper of general circulation, published in
14 said city, as is required in the case of street paving assessment,
15 and the same right shall exist as to the persons and property
16 affected, and the same duty as to correction by the council as
17 are prescribed with reference to paving, which report shall, in
18 like manner, be examined by the council, and if found to be
19 correct, or corrected as aforesaid, and such estimated assess-
20 ments to be a fair and equitable apportionment of the costs of
21 said sewer, it shall enter an order upon its records setting
22 forth such location, depth, ownership and said amount of said
23 sewer assessments against each property respectively, calculated
24 as aforesaid, and the entry of such order shall constitute and
25 be an assessment for such proportion and amount so fixed

26 therein, against such respective owners and lots. If after such
27 advertisement, notice and hearing said council shall find that
28 such apportionment at such rate is unjust or inequitable, it
29 shall ascertain, fix and assess the cost thereof among and upon
30 the abutting owners respectively fairly and equitably and in
31 like manner assess and enter the amount so fixed, respectively,
32 upon its records, and the council shall in either event there-
33 upon certify the same to the sergeant for correction, and certi-
34 fy a copy of such order to the clerk of the county court of
35 Fayette county, who shall record the same in the proper deed
36 book, and index the same in the name of the owner of any such
37 lot so charged with such assessment. Such assessment so made
38 shall constitute and be a lien upon said lots respectively, which
39 shall have priority over all other liens except those for taxes
40 due the state and county, and shall be on a parity with other
41 taxes and assessments due the city. Said amounts so assessed
42 against said several land owners shall be paid by the parties
43 liable therefor to the said sergeant at the time, in the manner
44 and with the attendant penalties and interest, for failure to pay
45 promptly at the time prescribed, in all respects as hereinbe-
46 fore provided in the case of assessment for paving of streets
47 and alleys in a permanent manner; and the parties liable
48 therefor in the same manner and to the same extent shall have
49 the right and be entitled to anticipate any or all such install-
50 ments. The owner or owners of any lot abutting upon any
51 street or alley in said city, on which a public sewer is or may
52 hereafter be laid and constructed upon which any business or
53 residence building is or may hereafter be erected, not other-
54 wise connected to the public sewer, may be required and com-
55 pelled by council to connect any such property with such sewer.
56 Notice to so connect may be given by the council to the owner,
57 lessee or occupant of such property. Each day's failure to
58 comply with such notice and to connect with such sewer by
59 such owner or owners, after ten days have elapsed after such
60 notice has been given, shall be a misdemeanor and a separate
61 offense and a new offense under this section, and each offense
62 shall be punishable by a fine or not less than five nor more than
63 twenty-five dollars. Jurisdiction to hear, try and determine
64 and sentence for violation of this section is vested in the police
65 court of said city. If said owner or owners fail to comply with

66 the notice to make such sewer connection, then the council may
67 by ordinance order the work to be done at the expense of the
68 city and the costs thereof be certified to the clerk of the county
69 court, and the same shall constitute a lien upon said property,
70 with the same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for
2 street paving and sewerage assessments shall constitute liens
3 upon real estate upon which they are assessed, as against cred-
4 itors of or purchasers for value from the owners thereof and
5 without notice of such lien, only from and after the time that
6 the statement thereof, certified as aforesaid shall be filed for
7 record in the office of the clerk of the county court of Fayette
8 county.

Sec. 49. When the whole or any portion of the improve-
2 ments authorized by this act pass through or by a market
3 space, park, cemetery, structure for the fire department, water
4 works, school building, infirmary, market house, work house,
5 hospital, house of refuge, bridge, gas works, public prison, court
6 house, church, educational or eleemosynary institution or any
7 other public structure, public ground within said city, and
8 belonging to said city, or to the county, state or any church,
9 association or eleemosynary institution, the council may au-
10 thorize the assessment to be certified to the clerk of the county
11 court of Fayette county and the same shall thereupon be re-
12 corded by said clerk in the proper deed book and shall there-
13 upon become a lien against said property and collectible as
14 other assessments are collected against individuals under this
15 act. It shall be the duty of these persons having charge of the
16 fiscal affairs of any such property or institutoon to make the
17 proper arrangements for meeting such assessments, when due
18 and payable.

Sec. 50. The city of Oak Hill, by ordinance of the council,
2 may borrow money in an amount equal to the amount of said
3 liens herein acquired, for the purpose of paying any contract
4 for paving or sewerage under this act, and may assign said
5 liens as security for such loan or loans; but in no event shall
6 the money so borrowed be expended for any other purpose than
7 in the payment of the indebtedness owing by the city for such
8 work; that is, liens for the street paving can only be used by
9 the city in borrowing money to pay for street paving, and liens

10 for sewerage can only be used by the city in borrowing money to
11 pay for sewerage.

ARTICLE XXIX.

Bonded Indebtedness

Sec. 51. The council of said city shall have the right to
2 bond the said city for the purpose of paving the streets and
3 alleys of said city and for constructing water works or repair-
4 ing the same, and for construction of a sewerage system or
5 lighting system and repairing the same, and for the purpose of
6 providing hose and other appliances for extinguishing fires,
7 and for any and all public improvements whenever the council
8 thereof shall deem such improvement necessary, and to re-
9 fund outstanding bonds at a lower rate of interest, and to
10 issue new bonds for the purpose of increasing the length of
11 time on any such indebtedness; but the aggregate indebtedness
12 of said city shall for all purposes not exceed five per centum
13 on the assessed valuation of the taxable property therein, based
14 on the valuation of the last assessment next preceding the date
15 of the incurring of such indebtedness; and the said council
16 shall by taxation provide a fund for the payment of the in-
17 terest on any and all indebtedness incurred in the manner
18 aforesaid within the period of thirty-four years. Such bonds
19 shall not be sold for less than par nor exchanged for the evi-
20 dence of indebtedness of said city except dollar for dollar. A
21 record of all the proceedings had hereunder shall be kept by
22 the council.

ARTICLE XXX.

Buildings for City Use, Etc.

Sec. 52. The council shall have the authority to erect, buy,
2 sell and lease all buildings necessary to the use of the city
3 government, or any of its departments and lawful purposes,
4 and to provide for and regulate the same; to establish and main-
5 tain public hospitals and receive donations, gifts or bequests
6 for the same, in trust or otherwise.

ARTICLE XXXI.

Health

Sec. 53. The council shall have the authority to ordain and
2 enforce such regulations within said city as shall be necessary

3 or proper to preserve the health of the inhabitants of said city
4 and to secure them from disease; to require and compel the
5 abatement of and removal of all nuisances within said city at
6 the expense of the person or persons causing the same, or of
7 the owner or owners of the ground whereon the same shall be;
8 to prevent or regulate slaughter houses within the said city;
9 or the exercise of any unhealthy or offensive business, trade or
10 employment therein; to prevent the keeping of any stale meats,
11 fish, vegetables or other matter or depositing the same or dirt,
12 rubbish or offal, upon any lot, street, alley or square within
13 said city or upon the banks of any streams within the limits
14 thereof.

Sec. 54. The council shall have the power by ordinance to
2 regulate the sale of cocaine, morphine, opium and poisonous
3 drugs within said city, and to prescribe punishment, including
4 fine and imprisonment, for the violation of any such ordinance,
5 and to provide that one or more convictions for violations of
6 same shall operate as a revocation of the license of any drug-
7 gist or pharmacist holding a license under said city.

Sec. 55. The council shall, in the month of June, one thou-
2 sand nine hundred and twenty-five, and in said month of every
3 year thereafter, appoint a suitable person, who shall be a prac-
4 ticing physician, as health commissioner, whose term of office
5 shall be for two years and until his successor is appointed and
6 qualified. The members of the council, mayor and health com-
7 missioner shall comprise the board of health of said city. The
8 board of health shall have the power to abate all nuisances
9 within said city, and it shall do and perform all such other
10 duties and exercise such other powers as may be required of
11 or conferred upon it by legal ordinances of said city. The coun-
12 cil of said city shall provide by ordinances the way and method
13 of trying and abating such nuisances, and shall prescribe all
14 penalties that may be proper and necessary for such purpose.
15 The board of health shall have the power to summon witnesses,
16 hear testimony and to do any and all other things necessary
17 and proper in the performance of such duties under this act
18 and under the general laws of the state, in such cases made and
19 provided.

ARTICLE XXXII.

Police Department.

Sec. 56. The mayor shall nominate a chief of police and 2 such number of policemen as may be authorized by ordinance, 3 from time to time, said nominations to be subject to confirm- 4 ation by the council. Council shall prescribe by ordinance 5 such mental and physical examinations for applicants for ap- 6 pointment to the police force as it shall deem proper. Police- 7 men, when nominated and confirmed by the council shall hold 8 office during the will of the council. The term of chief of 9 police shall be for one year. No person shall serve or exercise 10 any of the duties of a police officer until he shall have been con- 11 firmed as such by the affirmative vote of a majority of all the 12 members elected to the council, unless he has been appointed a 13 special officer as hereinbefore provided for. Policemen may 14 be removed and discharged at any time by the mayor for good 15 cause, in which even he shall report such suspension, together 16 with the reason therefor to the council at its next meeting. The 17 council shall consider such suspension and may veto such sus- 18 pension and may reinstate such policemen or confirm the 19 suspension for such period as they may fix. *Provided*, that the 20 council shall have the power to suspend without pay the chief of 21 police or any policeman against whom charges are preferred.

ARTICLE XXXIII.

Fire Department

Sec. 57. The fire department shall be under the supervision 2 and subject to the rules and regulations prescribed by the 3 council.

ARTICLE XXXIV.

Effect of Charter

Sec. 58. All Officers of the city of Oak Hill heretofore 2 elected by vote of the people shall remain in and hold their 3 offices and discharge the duties thereof until the first day of 4 June, one thousand nine hundred and twenty-five and there- 5 after until their successors have been elected and qualified. 6 All valid ordinances and regulations passed and adopted 7 by the council on or before the fifteenth day of January, one 8 thousand nine hundred and twenty-five, and consistent with

9 this act, shall be and remain in full force, unless and until re-
10 pealed, and the council now in office shall continue to exercise
11 its powers as such until their successors are elected and qual-
12 ified.

Sec. 59. The city of Oak Hill shall have succession to all
2 of the municipal property, rights, claims, demands, actions and
3 assets of the town of Oak Hill and shall be subject to all of the
4 indebtedness and liabilities now existing against the said town.

All acts in conflict or inconsistent with this act are to the
extent of any such conflict hereby repealed.

CHAPTER 17

(House Bill No. 82—By Mr. Cullen)

AN ACT to incorporate the City of Kimball, in McDowell county.

[Passed March 30, 1925; in effect from passage. Approved by the Governor.]

Sec.	1. What constitutes "City of Kimball."	22. Record of minutes and ordinances.
2.	Defining boundaries of municipal corporation.	23. Reading minutes.
3.	Wards.	24. Who shall vote in council.
4.	What constitutes municipal authorities.	25. Meetings of the council.
5.	Exercise of corporate powers.	26. To whom money of city paid.
6.	Subordinate officers.	27. Duties and powers of council.
7.	Election of officers; eligibility to offices.	27-a. Further Duties and powers of council.
8.	Election of officers; when held; terms of office.	28. Licenses.
9.	Council to fix election precincts.	29. Mayor's docket.
10.	Who are voters.	30. Levy.
11.	General elections.	31. Lien for taxes.
12.	Tie votes; how decided.	32. Distress for taxes.
13.	Contested elections.	33. Other remedies.
14.	Vacancies in offices; how filled.	34. Power to condemn.
15.	Additional officers; appointment of; duties and compensation.	35. Sidewalks.
16.	Bonds.	36. Street paving.
17.	Oath of officers.	37. Sewers; council to order construction of.
18.	Ineligibility or failure to qualify.	38. Sewers; powers of council to regulate.
19.	Powers and duties of mayor.	39. Bonds; additional levy.
20.	Powers and duties of recorder.	40. Publication of notices.
21.	Quorum.	41. General provisions.
		42. Existing ordinances.
		43. Repeal of inconsistent ordinances and acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of McDowell
2 county, in the state of West Virginia, included in the boundaries
3 described in section two of this act, be and they are hereby made
4 a municipal corporation by the name of "City of Kimball," by
5 which name they shall have perpetual succession and a com-
6 mon seal, and by which name they may sue and be sued, plead
7 and be impleaded, contract and be contracted with, and pur-

8 chase or otherwise acquire and hold real estate and personal
9 property needed in the discharge of the functions of govern-
10 ment conferred by this charter.

Boundaries

Sec. 2. Beginning at an oak tree on the ridge north of the
2 Norfolk and Western railroad tracks and east of the school
3 house; thence north seventy degrees east eight hundred and
4 thirty-four and five-tenths feet to a stake eight feet from a cliff;
5 thence north eighteen degrees thirty-seven minutes east six hun-
6 dred and eighty-five feet to a stake; thence north fifty degrees
7 thirty minutes west three hundred and sixty-four feet to the top
8 of a cliff; thence north forty-nine degrees west forty feet to the
9 top of a cliff, summit; thence north twenty-seven degrees forty-
10 nine minutes west six hundred and fourteen feet to a point on a
11 cliff; thence north sixty-eight degrees thirty-four minutes west
12 sixty-three feet to a point on a cliff; thence north forty-six de-
13 grees forty-nine minutes west four hundred and twenty-nine feet
14 to a stake one and five-tenths feet from a beech tree; thence north
15 sixty-two degrees fifty-four minutes west four hundred and
16 fifty-one feet to a stake; thence south sixty-three degrees thirty-
17 seven minutes west five hundred and fifty-three feet to a point
18 in a root; thence south thirty degrees one minute west one
19 hundred and eighty-eight feet to a point in a rock on the north
20 edge of Elkhorn creek; thence south fifty-nine degrees nineteen
21 minutes west three hundred and eighty-six feet to a stake:
22 thence south sixty-six degrees forty-one minutes west, crossing
23 Laurel creek two hundred and sixty-one feet to center of King
24 Coal & Coke Company's track; thence south sixty-two degrees
25 eight minutes west three hundred and forty feet to a stake, one
26 and five-tenths feet from twin black gums; thence south fifty-
27 one degrees thirty-seven minutes west four hundred and thir-
28 teen feet to a stake; thence south thirty degrees six minutes
29 west four hundred and thirty-two feet to a stake; thence south
30 eighteen degrees fifty-eight minutes west three hundred and sev-
31 enty-one feet to a stake; thence south forty-four minutes west
32 four hundred and forty-two feet to a point in a locust knot:
33 thence south one degree fifty-two minutes east three hundred
34 and thirty-nine feet to a point six and five-tenths feet from
35 twin hemlocks; thence south sixty-one degrees twenty-five min-
36 utes east one thousand seven hundred and fifty-one feet down
37 mountain, crossing Elkhorn creek, and also Norfolk and West-

38 ern railroad track, four and two-tenths feet from a hickory;
39 thence south forty-eight degrees fifty-six minutes east one hun-
40 dred and eighty-one feet to a stake; thence north thirty-two
41 degrees forty minutes east one thousand five hundred and sev-
42 enty-eight feet, crossing Elkhorn creek and Norfolk and Western
43 railroad tracks to the beginning.

Wards

Sec 3. The territory included in the said city shall be divided
2 into three wards, and the wards shall be as follows:

3

Ward No. 1

4 Beginning at the eastern corporate limit of the center of Coe
5 street; thence in a southerly direction in line with the corporate
6 limits of the town of Kimball to a stake in the Tidewater lease;
7 thence in a westerly direction following the corporate line to
8 the west bank of Elkhorn creek; thence following the line of
9 the west bank of Elkhorn creek to a point where the second
10 Norfolk and Western railway bridge crosses Elkhorn creek,
11 crossing said bridge to the east limit of the railroad right-of-
12 way; thence crossing said creek in line with the railroad right-
13 of-way and following said right-of-way to a point where an
14 alley intersects the right-of-way between Ellwood and Lavina
15 streets; thence in a southerly direction with the center of the
16 alley, crossing Jefferson street to the intersection of an alley
17 lying parallel to and between Jefferson and Coe streets; thence
18 in a northeasterly direction with the center of said alley to the in-
19 tersection of Washington street; thence in an easterly direction
20 with the center of Washington avenue to the intersection of Coe
21 and McDowell streets; thence in line with the center of Coe
22 street in an easterly direction to the place of beginning.

23

Ward No. 2

24 Beginning at a point at the eastern termination of Coe street,
25 following the division line described between ward number one
26 and ward number two to the east bank of Elkhorn creek at the
27 railroad bridge described in ward number one; thence in line
28 with the east bank of said creek to a stake describing the cor-
29 porate limits of the town of Kimball at Rock House creek;
30 thence in a southerly direction following the line of the city
31 limits to the eastern termination of Coe street, being the point
32 of beginning.

33

Ward No. 3

34 Beginning at a point on the west bank of Elkhorn creek near
35 the Norfolk and Western railroad station, following the line of
36 the corporate limits of the town of Kimball, going in a westerly
37 direction to a point in the Norfolk and Western right-of-way
38 west of the tunnel; thence in line with the corporate limits,
39 crossing Elkhorn creek at a point near the state highway; thence
40 in a northeasterly direction up and with Elkhorn creek to the
41 mouth of Rock House creek; thence with the division line of
42 ward number two to the intersection of the division line of ward
43 number one; thence in a southerly direction with the division
44 line of ward number one to the point of beginning.

Municipal Authorities

Sec. 4. The municipal authorities of said city shall consist
2 of a mayor, to be elected by the voters of the whole city, a re-
3 corder, to be elected by the voters of the whole city, two coun-
4 cilmen-at-large, to be elected by the voters of the whole city,
5 and one councilman from each of the three wards, to be elected
6 by the voters of the whole city, who together shall form a com-
7 mon council, and who shall receive such compensation as the
8 council shall from time to time determine, which compensation
9 shall not be increased or diminished during their term of office,
10 and as to the five councilmen, in no event shall said compensa-
11 tion exceed fifty dollars each per year.

Exercise of Corporate Powers

Sec. 5. All the corporate powers and functions pertaining to
2 said city shall be exercised by its common council, or under
3 its authority, in the corporate name of the city, unless other-
4 wise provided by state law or municipal ordinances.

Subordinate Offices

Sec. 6. The common council shall, if it deem best, make the
2 recorder *ex-officio* chief of police, collector and treasurer of said
3 city, or either *ex-officio* chief of police, collector or treasurer,
4 or it shall appoint a superintendent of streets, a chief of police,
5 a city attorney, an assessor, a collector, a treasurer and all other
6 officers whose duties may be established by an ordinance of the
7 council, and such officers shall hold their respective offices to
8 which they are appointed during the pleasure of the council and

9 until their successors are appointed and qualified. These several
10 offices, or any two or more of them, may be held by the same
11 person, and such officers shall receive such compensation as the
12 council may prescribe by ordinance, and the same shall not be
13 increased or diminished during the term for which the appoint-
14 ment was made.

Election of Officers

Sec. 7. No person shall be eligible to the office of mayor, re-
2 corder or councilman, unless at the time of his election he is
3 legally entitled to vote in the city election for member of the
4 common council, and was for the preceding year assessed with
5 taxes upon property within the said city of the assessed valu-
6 ation of two hundred dollars, and shall actually have paid the
7 taxes so assessed. And no person shall be eligible to any subor-
8 dinate office under said city who is not at the time of his elec-
9 tion or appointment entitled to vote for member of the common
10 council.

Election of Officers

Sec. 8. On the second Tuesday in July, one thousand nine hun-
2 dred and twenty-five, and every two years thereafter on the
3 second Tuesday in July, there shall be elected by the qualified
4 voters of said city, a mayor, a recorder and five councilmen:
5 (two councilmen-at-large and one councilman from each of the
6 wards). The term of office of said mayor, recorder and coun-
7 cilmen elected on the second Tuesday in July, one thousand nine
8 hundred and twenty-five, shall commence on the first day of
9 August next after their election and end on the thirty-first day
10 of July, one thousand nine hundred and twenty-seven, or when
11 their successors shall be elected and qualified. The term of of-
12 fice of the mayor, recorder and councilmen thereafter elected
13 shall begin on the first day of August after their election and
14 be for two years, ending on the thirty-first day of July.

Sec. 9. The council of the town of Kimball as constituted
2 when this acts goes into effect shall fix an election precinct in
3 each of the wards of said City of Kimball or one precinct for
4 the voters of the whole city, and the common council thereafter
5 may either fix a precinct in each of the wards of said city or
6 one precinct for the voters of the whole city as the common
7 council may deem most proper.

Who Are Voters

Sec. 10. Every person residing in said city shall be entitled 2 to vote for all officers elected under this act, but no person who 3 is a minor or of unsound mind or a pauper, or who is under 4 conviction of treason, felony or bribery in an election, or who 5 has not been a resident of this state for one year and of said 6 city for six months, and is not a *bona fide* resident of the ward 7 in which he offers to vote, shall be permitted to vote therein.

General Elections

Sec. 11. All elections shall be held, conducted and the results 2 thereof ascertained, certified, returned and determined, under 3 the constitution and general laws of the state governing municipal elections, and shall conform as nearly as practicable to such.

Tie Votes—How Decided

Sec. 12. Whenever two or more persons shall receive an equal 2 number of votes for mayor, recorder, or councilman, such tie 3 shall be decided by the council in existence at the time the election is held. 4

Contested Elections

Sec. 13. All contested elections shall be heard and determined 2 by the common council and the contest shall be made 3 and conducted in the same manner as provided for in contests 4 for county and district officers, and the common council in 5 such cases shall, as nearly as practicable, conform with like 6 proceedings of the county court in such cases.

Vacancy in Office

Sec. 14. If any vacancy is caused in the office of mayor, 2 recorder or councilman, either by death, resignation, removal 3 from office, or removal from the city or ward, the common 4 council shall fill such vacancy by appointment until the next 5 general election.

Appointment of Additional Officers and Defining Their Duties and Fixing Compensation of Such Officers

Sec. 15. The council shall also have authority to provide by 2 ordinance for the appointment of such other officers as shall 3 be necessary and proper to carry into full force and authority 4 the power, capacity, jurisdiction and duties of said city which

5 are or shall be vested therein, or in the council, or in the
6 mayor or any other officer or body of officers thereof, and to
7 grant to the officers so appointed the power necessary or
8 proper for the purposes above mentioned. The council by
9 ordinance shall define the duties of all officers so appointed
10 or elected as aforesaid, and allow them reasonable compensa-
11 tion, which shall be payable as the council shall provide, which
12 compensation shall not be increased or diminished during their
13 term of office, and shall require and take from all of them
14 whose duty it shall be to receive its funds, assets or property,
15 or have charge of same, such bonds, obligations or other writ-
16 ing as they shall deem necessary or proper to insure the faith-
17 ful performance of their several duties. The council shall
18 have power and authority to remove from office any officer
19 elected by the voters of said city for drunkenness, incompe-
20 tency, misconduct or neglect of duty, or any non-feasance, mis-
21 feasance, or malfeasance in office, upon written charges pre-
22 ferred by a member of council or by any responsible citizen
23 of said city; but only after reasonable notice to such officer,
24 and hearing of the charges preferred; and no such officer shall
25 be removed except by a two-thirds vote of all the members of
26 the council. Any officer appointed by the council may be re-
27 moved by it at its pleasure. The chief of police shall have all
28 power, rights, and privileges within the corporate limits of
29 said city in regard to the arrest of persons, the collection of
30 claims and the execution and return of process, that can be
31 legally exercised by a constable of a district within this state;
32 and may without having any warrant or other process there-
33 for arrest any person who commits any offense against the
34 laws of this state or infraction of the ordinances of said city.
35 in his presence. He shall be *ex-officio* the keeper of the city jail
36 and have charge of the city prisoners confined therein, and
37 may confine any person arrested by him in the city jail until
38 such time as the charges against such person can be inquired
39 into by the mayor. Any person fined by the mayor for infrac-
40 tion of any of the ordinances of the city may pay such fine to
41 either the mayor or chief of police; and the said chief of police
42 and his sureties shall be liable to all fines, penalties and for-
43 feitures that a constable of a district is liable to for any fail-
44 ure or dereliction in his said office, to be recovered in the same
45 manner and in the same courts that the said fines, penalties

46 and forfeitures are now recovered against a district constable. It shall be the duty of the collector to collect the city taxes, licenses, levies, assessments and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes, and he shall in all other respects have the same powers as the sheriffs to enforce the payment and collection thereof.

Bonds

Sec. 16. All bonds, obligations or other writings taken in pursuance of any provision of this act or under the provisions of any ordinance of said city, shall be made payable to the City of Kimball, and the obligors therein and their heirs, executors, administrators and assigns, bound thereby, shall be subject to the same proceedings on such bonds, obligations or writings for enforcing the provisions and penalties thereof, by motion or otherwise, before any court of record or justice of the peace having jurisdiction thereof, held or acting in or for said McDowell county or any district thereof or elsewhere, that the sheriff or collector of said county and his sureties are or shall be subject to on his bond taken for the performance of his duties in the payment of the county levies.

Oath of Officers

Sec. 17. The mayor, recorder and councilmen and all other officers provided for in this act shall each, before entering upon the duties of his office, and within twenty days after his election or appointment, take the oath or affirmation prescribed by law for all officers in this state, and make oath or affirmation that he will truly, faithfully and impartially, to the best of his ability, discharge the duties of his office so long as he continues therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken or before the mayor or recorder of said city, but in any event a copy of said oath shall be filed with the recorder.

Ineligibility or Failure to Qualify

Sec. 18. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to

3 qualify as herein required, the council shall declare his said
4 office vacant, and proceed to fill the vacancy as required by
5 this act.

Powers and Duties of the Mayor

Sec. 19. The mayor shall be the chief executive officer of the
2 city, and shall take care that the orders, by-laws, ordinances,
3 acts and resolutions of the council thereof are faithfully exe-
4 cuted. He shall be *ex-officio* a justice and conservator of the
5 peace within the city, and shall within the same, have, possess
6 and exercise all the powers and perform all the duties vested
7 by law in a justice of the peace, except, he shall have no juris-
8 tion in civil cases or causes of action arising out of the corpo-
9 rate limits of the city, unless the defendant resides or is found
10 therein and process therein served upon him. He shall have
11 the same power to issue attachments in a civil suit as a justice
12 of his county has, but in such case he shall have no power to
13 try the same, but such attachment shall be made returnable
14 and heard before a justice of the peace of his county. He shall
15 have control of the police of the city and may appoint special
16 officers whenever he deems it necessary, and may suspend any
17 police officer until the next regular meeting of the council. And
18 it shall be his duty especially to see that the peace and good
19 order of the city are preserved, and that persons and prop-
20 erty therein are protected, and to this end he may arrest or
21 cause the arrest and detention of all violators of the laws of
22 this state and ordinances of the city, before issuing his warrant
23 therefor, if the offense is committed in his presence. Any
24 act committed inside the corporate limits of the City of Kim-
25 ball and made a misdemeanor under the laws of the state shall
26 be an offense against the laws of said city, and the mayor,
27 in addition to the other powers herein granted, may try, con-
28 vict and punish therefor; and in the absence of any specific
29 ordinance relating thereto, may inflict the same penalties and
30 collect the same fines for the benefit of said city as are pre-
31 scribed by state laws for the same offense.

32 He shall have power to issue executions for all fines, penal-
33 ties and costs imposed by him, and may include in such costs
34 any expense necessarily incurred by the city for the support
35 of the offender while in the custody of the officers of the city,
36 or he may require the immediate payment of such fine and

37 costs and in default of such payment he may commit the party
38 in default to the jail of the county of McDowell or other place
39 of imprisonment used by said corporation, if there be one, until
40 the fine or peralty and the costs be paid; but the term of im-
41 prisonment in such cases shall not exceed thirty days. And in
42 all cases when a person is sentenced to imprisonment or to the
43 payment of a fine of ten dollars or more (and in no case shall
44 a judgment for a fine be for less than ten dollars if the defend-
45 ant, his agent or attorney object to a less fine being imposed),
46 such person shall be allowed an appeal from such decision to
47 the circuit court of the county of McDowell upon the execu-
48 tion of an appeal bond with security deemed sufficient by the
49 mayor in a penalty sufficient to cover said fine and costs before
50 the mayor, and the costs in the circuit court in case said judg-
51 ment be affirmed, with condition that the person proposing
52 to appeal will perform and satisfy any judgment which may
53 be rendered against him by the circuit court on such appeal.
54 If such appeal be taken the warrant of arrest (if any), a
55 transcript of the judgment, the appeal bond and other papers
56 in the case, shall be forthwith delivered by the mayor to the
57 clerk of the said court, and the court shall proceed to try the
58 case as upon indictment or presentment, and render such judg-
59 ment, including costs, as the law and the evidence may require.
60 The mayor shall from time to time recommend to the council
61 such measures as he may deem needful for the welfare of the
62 city. The expense of maintaining any person committed to the
63 jail of the county by him, except it be to answer to an indict-
64 ment, shall be paid by the city and taxed as costs against the
65 defendant. The mayor before acting shall execute bond with
66 good security in a penalty of not less than one thousand dol-
67 lars, or in such additional penalty as the council may require,
68 subject to the approval of the council, with the same conditions
69 as required in bonds executed by a justice of the peace in chap-
70 ter fifty of the code; and all the provisions of the said chapter
71 relating to money received by a justice shall apply to like
72 moneys received by the mayor.

Powers and Duties of Recorder

Sec. 20. The city recorder shall keep an accurate record of
2 the proceedings of the council, and have charge of and preserve
3 the records of the city, and in case of the absence from the city

4 or in case of the sickness or inability of the mayor to act, or
5 during any vacancy in the office of mayor, he shall perform
6 such duties of the mayor as pertained to him as chief executive
7 of the city, and be vested with all powers necessary for the
8 performance of such duties, but shall not be vested with any
9 of the authority of the mayor pertaining to civil suits. He
10 shall be a conservator of the peace within the city.

Quorum

Sec. 21. A majority of the whole number of the members
2 constituting the common council shall be necessary for the
3 transaction of business, but a smaller number may adjourn
4 from time to time and may compel the attendance of the absent
5 members in such a manner and under such penalties as it may
6 by rules provide.

Record of Minutes and Ordinances

Sec. 22. The council shall cause to be kept by the recorder
2 in a well bound book to be called the minute book, an accurate
3 record of all its proceedings, ordinances, acts, orders, and
4 resolutions, and in another to be called ordinance book, accu-
5 rate copies of all general ordinances adopted by the council;
6 both of which shall be accurately indexed and open to the in-
7 spection of any one required to pay taxes in the city, or who
8 may be otherwise interested thereiu. All the oaths and bonds
9 of officers in the town, and all papers of the council shall be
10 endorsed, filed and accurately kept by the recorder. The bonds
11 of officers shall be recorded in a well bound book to be called
12 record of bonds. The recorder shall perform such other duties
13 as by ordinance of the council may be prescribed. The tran-
14 script of ordinances, acts, orders and resolutions certified by
15 the recorder under seal of the city shall be deemed *prima facie*
16 correct when sought to be used in any court or before any
17 justice.

Reading of Minutes

Sec. 23. At each meeting of the council the proceedings of
2 the last meeting shall be read and corrected, if erroneous, and
3 signed by the presiding officer for the time being. Upon the
4 call of any member the ayes and noes on any question shall be
5 taken, and recorded by the recorder in the minute book. The
6 call of the members for such vote shall be made alphabetically.

Who Shall Vote in Council

Sec. 24. The mayor and recorder shall have votes as members
2 of the council, and in case of a tie the presiding officer for the
3 time being shall have the deciding vote, but in no case shall
4 the presiding officer vote twice on the same proposition.

Meetings of the Council

Sec. 25. The regular meetings of the council shall be held
2 at such times and in such place in the city as they shall from
3 time to time ordain and appoint; and it shall be lawful for the
4 council by ordinance to vest in any officer of the city, or in
5 any member or number of members of their own body, the
6 authority to call special meetings and prescribe the mode in
7 which notice of such meetings shall be given.

To Whom Money of the City Paid

Sec. 26. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him
3 except as the same shall have been appropriated by the council
4 and upon an order signed by the mayor and recorder, and not
5 otherwise, except at the expiration of his term of office upon
6 the order of the council signed by the mayor and recorder, he
7 shall pay to his successor all the money remaining in his hands.

Duties and Powers of Council

Sec. 27. The council of said city shall have full power and
2 authority therein to lay off, vacate, close, open, alter, grade,
3 curb, pave, and keep in good repair, the roads and streets,
4 alleys, pavements, sidewalks, crosswalks, drains, sewers, and
5 gutters therein, for the use of the citizens or the public and to
6 improve and light the same, and keep them free from obstruc-
7 tions of every kind; to regulate the width and kind of pave-
8 ments and sidewalks, footways, drains, and gutters, and cause
9 the same to be kept in good order, free and clean by the owners
10 and occupants of the real property next adjacent thereto; to
11 establish and regulate markets, prescribe the time for holding
12 the same, provide suitable and convenient bulidings therefor,
13 and prevent the forestalling of said markets; to regulate the
14 sale of all food and drink products, milk, fresh meats, fish,
15 and vegetables, and provide for the inspection of the same; to
16 prevent injury or annoyance to the public or to individuals

17 from anything dangerous, offensive or unwholesome; to pro-
18 hibit or regulate slaughter houses within the city limits, or
19 the exercise of any unhealthy or offensive business, trade or
20 employment; to regulate or prohibit the erection of mainten-
21 ance, in what council may deem an improper locality within the
22 municipality, of any blacksmith shop, livery stable, cow house,
23 cattle pen, poultry house, pig pen, privy, bill board, sign boards,
24 gas or other engines, or the use of walls or walks for signs; to
25 regulate or prohibit the distribution of hand bills, circulars
26 and other advertisements of like kinds on the streets, roads,
27 alleys and public places, or in private yards, buildings or other
28 structures without first having procured the consent of the
29 owner or occupier thereof; to abate all nuisances within the
30 city limits or to compel the abatement or removal thereof at
31 the expense of the person causing the same, or by, or at the
32 expense of the owner or occupant of the ground on which said
33 nuisance is placed or found; to cause to be filled up, raised or
34 drained, by, or at the expense of the owner, any town lot or
35 tract of land covered or subject to be covered by stagnant
36 water; to prevent horses, hogs, cattle, sheep or other animals,
37 and fowls of all kinds from going or being at large in such
38 city, and as one means of prevention to provide for impound-
39 ing or fining such animals and fowls at the expense of the
40 owner thereof, and upon the failure of the owner to reclaim,
41 for the sale thereof; to regulate or prohibit street carnivals or
42 street fairs, or street parades, advertising exhibitions or other
43 exhibitions thereon, or the exhibition of material or artificial
44 curiosities; to regulate or prohibit the use of hand organs
45 or other musical instruments of any annoying character
46 or other music of itinerant performers in the streets,
47 roads, parks or public places of the municipality; to
48 license, regulate or prohibit auctioneering; to protect
49 places of divine worship and to preserve order in and
50 about the premises when and where such worship is
51 held, and to prevent the desecration of the Sabbath day; to
52 regulate the sale and keeping of gunpowder and other inflam-
53 able or dangerous substances; and to provide for the regular
54 building of houses, or other structures, and to provide for the
55 kind of material to be used in the construction thereof, and
56 for making and maintaining of division fences by the owners of
57 adjoining property; to grant franchises in accordance with the

58 provisions of general laws relating to municipal corporations;
59 to provide against danger or damage by fire, and to organize,
60 equip and govern fire companies and hose companies as provided
61 by general law; to restrain all felons and persons guilty of of-
62 fenses against the state or the United States and to deliver
63 them over to the authority or court having jurisdiction of the
64 offense whereof such person is accused; to establish a city board
65 of health and invest it with the necessary power to attain its
66 object; to quarantine against contagious and infectious dis-
67 eases; to provide in or near the corporate limits of the munici-
68 pality a cemetery or other place for the burial of the dead, and
69 to regulate interments therein, and to guard and police the
70 same, and to provide for the cremation and incineration of dead
71 human bodies when from the nature of the malady or pesti-
72 lence from which death ensued, the municipal board of health
73 may direct; to arrest, convict and punish for assault and bat-
74 tery, drunkenness, profane swearing, lewd and lascivious con-
75 duct or other representation, adultery, and fornication, and lar-
76 ceny, where the amount stolen is less than twenty dollars; to
77 arrest, restrain and punish vagrants, beggars, tramps, common
78 prostitutes and their associates; to arrest, convict and punish
79 any person for keeping a house of ill-fame or for leasing or let-
80 ting to another person any house, or other building for the pur-
81 pose of being used or kept as a house of ill-fame, or knowingly
82 permitting any house owned by him, or under his control, to be
83 kept or used as a house of ill-fame, or loafing, boarding, or loiter-
84 ing in a house of ill-fame or frequenting same.

Sec. 27-a. To arrest, convict, and punish any person for im-
2 porting, printing, selling or distributing any book or other thing
3 containing obscene language; to arrest, convict and punish
4 any person for cruelty, unnecessarily or needlessly beating, tor-
5 turing, mutilating, killing, overloading or overdriving, or wil-
6 fully depriving of necessary sustenance, any horse or other
7 domestic animal; to arrest, convict and punish any person for
8 gambling or keeping gaming tables, commonly called A. B. C.
9 or E. O. table or faro bank or keno table, or table of like kind,
10 under any denomination, whether the game or table be played
11 with cards, dice or otherwise, or shall be a partner, or concerned
12 in interest, in keeping or exhibiting such table or bank, or keep-
13 ing or maintaining any slot machine, gaming device, gaming
14 house or place, or betting or gambling for money or anything

15 of value; to arrest, convict and punish any person for unlaw-
16 fully carrying about his person any revolver or other pistol,
17 dirk, bowie knife, razor, slungshot, billy, metallic or other false
18 knuckles, or any other dangerous or deadly weapon of like kind
19 or character; to prohibit anything against good morals and
20 common decency and to fix punishment therefor; to prevent the
21 illegal manufacture, sale, storage and keeping in possession
22 of intoxicating drinks, mixtures and preparations; to regu-
23 late the hanging of doors and the construction of stairways, ele-
24 vators and fire escapes in theatres, churches, school buildings,
25 factories, and other places where many persons are received at
26 one time, and to require the construction of fire escapes in such
27 buildings; to protect the persons of those residing or being in
28 the city; to appoint when necessary or advisable, a police force,
29 permanent or temporary, to assist the chief of police in the dis-
30 charge of his duties, who when appointed shall have the same
31 power and authority in and about the arrest of offenders as the
32 chief of police; to build or purchase, or lease a suitable place of
33 imprisonment within said city for the safe keeping or punish-
34 ment of persons charged with or convicted of a violation of
35 the ordinances of the city, or they may adopt the county jail of
36 McDowell county for that purpose; to purchase, lease or con-
37 struct buildings to be occupied by the fire department and city
38 officers and for public meetings; to purchase or condemn real
39 estate on which to erect public buildings or for carrying on any
40 of the functions authorized by this charter; to prevent injury
41 to any gas works, or any light or water works, or the pollution
42 of any gas or water used or intended to be used by the public
43 or any individual; to provide for and regulate the weighing
44 of hay and coal kept for sale within said city, and to establish
45 rates and charges for the weighing thereof; to create com-
46 mittees by ordinance and delegate such authority thereto as
47 may be deemed necessary or advisable; to provide for the an-
48 nual assessment of the taxable property therein and for the
49 revenue, for the city, for municipal purposes, and to appropri-
50 ate such revenue to its expenses; and generally to have power
51 to take such measures as are deemed necessary or advisable to
52 protect persons and property, public and private, within the
53 city, to preserve peace, quiet and good order therein and to
54 promote the health, safety, comfort and well being of the in-
55 habitants thereof and to this end may arrest, convict and pun-

56 ish any person for the commission of any act inside the corpo-
57 rate limits of the city which is made a misdemeanor under the
58 laws of the state, whether herein specifically mentioned or not.
59 The council shall have authority to pass all ordinances not re-
60 pugniant to the constitution and laws of the United States, or
61 of this state, which shall be necessary or proper to carry into
62 effect all the orders, by-laws, ordinances, rules and regulations
63 of the said council and all power and authority which is or shall
64 be granted to or vested in the said city or in the council, or in
65 any officer or body of officers of said city, and to enforce any
66 and all of their ordinances by reasonable fines and penalties and
67 by imprisoning the offender or offenders, and upon failure to
68 pay any fine or penalty imposed may compel the offender to
69 labor without compensation at and upon any of the public works
70 or improvements undertaken or to be undertaken by said city, or
71 to labor at any work, which the said council may lawfully em-
72 ploy labor upon, at such a reasonable rate per diem as the
73 council may fix, until any fine or fines and costs imposed upon
74 any such offender by said city, having been fully paid and dis-
75 charged, after deducting reasonable charges for support while
76 in the custody of the officers of the city.

Licenses

Sec. 28. In addition to the powers above enumerated the said
2 city council shall have the exclusive power and authority to re-
3 quire and grant licenses or anything to be done, carried on or
4 exhibited within said city, for which a state license is now or
5 may hereafter be required, for the keeping of hacks, carriages,
6 carts, wagons, drays and every description of wheeled vehicles
7 for hire within said city, or carrying passengers for hire in
8 any such vehicle; to license hawkers and peddlers within said
9 city, and the keeping of dogs and other animals within said city,
10 and to subject the same to such regulations as the interest of the
11 city may require. Upon all such licenses the council shall have
12 the power to levy and collect a reasonable tax for the use of the
13 city. The council may provide for the killing of all dogs, the
14 keeping of which is not so licensed.

15 The council shall prescribe by ordinance the manner in which
16 licenses of all kinds shall be applied for and granted, and shall
17 require the payment of the tax thereon to be made to the col-
18 lector or treasurer before delivery to the person applying
19 therefor.

20 All licenses, except for the keeping of dogs, shall be for such
21 as the council may determine, but no license shall extend beyond
22 the thirtieth day of June next after the beginning of the period
23 for which the same was granted.

24 Nothing in this section contained shall be construed to author-
25 ize the council of the City of Kimball to grant a license to any
26 person to carry about his person any revolver or other pistol,
27 dirk, bowie knife, slungshot, razor, billy, metallic or other false
28 knuckles, or any other dangerous or deadly weapon of like kind
29 or character.

Mayor's Docket

Sec. 29. A well bound book, to be denominated the mayor's
2 docket, shall be kept in the office of the mayor in which shall
3 be noted each case brought before or tried by him, together
4 with the proceedings therein, including a statement of the com-
5 plaint, the warrant or summons, the return, the fact of appear-
6 ance, or non-appearance, the defense, the hearing, the judg-
7 ment, the costs, and in case the judgment be one of conviction
8 the action taken to enforce the same. The record of each case
9 shall be signed by the mayor and the original papers thereof,
10 if no appeal be taken, shall be kept together and preserved in
11 his office.

12 The mayor shall be entitled to receive such fees as are paid
13 to a justice of the peace for similar services but the mayor shall
14 not be paid such fees unless they are collected from the defend-
15 ant, and in all of such cases the chief of police shall be entitled
16 to receive such fees as are paid to a constable for similar serv-
17 ices, but the chief of police shall not be paid such fees unless
18 they are collected from the defendant.

Levy

Sec. 30. The council shall cause to be made up annually, and
2 spread upon its minute book, an accurate estimate of all sums
3 which are or may become lawfully chargeable against the city,
4 and which ought to be paid within one year, and it shall order
5 at a meeting to be held by it in the month of August of each
6 year, as provided by law, a levy of so much as will, in its judg-
7 ment be necessary to pay the same; such levy shall be upon all
8 real estate and personal property otherwise subject to state and
9 county taxes, and an annual capitation tax of one dollar upon
10 each male inhabitant of said city who has attained the age of

11 twenty-one years; *provided*, that such levy shall not exceed the
12 sum of fifty cents upon each hundred dollars of the ascertained
13 value of the real and personal property.

Lien for Taxes

Sec. 31. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penal-
3 ties assessed to, or imposed upon the owners thereof, by the
4 authorities of said city from the time the same are so assessed
5 or imposed, which shall have the priority over all other liens,
6 except the lien for taxes due the state, county and district; and
7 which may be enforced by the council in the same manner pro-
8 vided by law for the enforcement of the lien for county taxes.
9 If any real estate within said city be returned delinquent for
10 the non-payment of the delinquent taxes thereon, a copy of
11 such delinquent list may be certified by the council to the
12 auditor, and the same may be sold for the city taxes, interest
13 and commission thereon, in the same manner, at the same time
14 and by the same officer as real estate is sold for the non-payment
15 of state taxes.

Distress for Taxes

Sec. 32. If any person against whom, or upon whose prop-
2 erty any taxes shall be lawfully assessed for the benefit of said
3 city shall not wholly pay such tax on or before the first day of
4 January after the same shall have become due, it shall be lawful
5 for the officer authorized to collect such tax to take reasonable
6 distress of any personal property in said city, belonging to said
7 delinquent, in which he or she shall have any right or interest,
8 and sell such property, right, or interest at public auction in
9 said city, having given ten days' notice of the time and place
10 of sale, by advertisement posted in some public place in said
11 city, and published or posted in such other manner as may be
12 prescribed by ordinance of said city, if council shall by ordi-
13 nance require any other or more ample advertisement, and out
14 of the proceeds of such sale after defraying all expenses, to pay
15 said city the said tax, or as much thereof as shall be delinquent,
16 and return the remainder, if any, to the owner of the property
17 so levied and sold.

Other Remedies

Sec. 33. In addition to all other means for the collection
2 thereof, all taxes, as well as all other demands due to the said

3 city, may be recovered by any appropriate suit or proceeding
4 in the name of the city before any justice of McDowell county,
5 if the amount be within his jurisdiction, or in the circuit court
6 of said county if the amount be within the jurisdiction of said
7 court, and any judgment so obtained may be enforced as other
8 judgment liens are enforced.

Power to Condemn

Sec. 34. The council shall have the right to institute pro-
2 ceedings, in the name of the city, for the condemnation of real
3 estate for streets, alleys, avenues, sewers, drains, market
4 grounds, city prison, or other work or purpose of public utility;
5 such proceedings shall conform to the provisions of chapter
6 forty-two of the code of West Virginia, and costs thereof shall
7 be borne by the city, except that in contests involving a hearing
8 in the circuit court, costs shall be recovered by the prevailing
9 party.

Sidewalks

Sec. 35. After having caused a proper grade to be established
2 at the expense of said city, the council may require sidewalks,
3 footways, or sidewalk and gutter combined, on the streets, ave-
4 nues or alleys of the said city to be paved with concrete, brick,
5 stone, or other suitable material as the council may determine,
6 under direction of the street commissioner, by the owners re-
7 spectively of the lots, or the fractional parts of lots, facing or
8 abutting on such sidewalk or footway, and if the owner of any
9 such sidewalk or footway, or of the real property next adjacent
10 thereto shall fail or refuse to pave the same in manner or
11 within the time required by the council, it shall be the duty of
12 the council to cause the same to be done at the expense of the
13 city, and to assess the amount of such expense upon such
14 owner, and the clerk shall notify the owner of said lot the
15 amount of such assessment, giving said owner notice of the
16 time the council will hear and determine any objection which
17 may be made to such assessment, and the council shall proceed
18 to hear such objections, if any, and if in the opinion of the
19 council such assessment should be made, such fact, with the
20 amount of the same shall be recorded in the minute book of
21 the council, and if the said assessment be not paid within thirty
22 days from the date of such hearing the clerk shall cause a memo-
23 randum showing the name of the owner of said lot, a descrip-

24 tion of the lot, and the amount of such assessment, to be filed
25 in the office of the clerk of the county court of McDowell county,
26 which shall be entered of record in the judgment lien docket in
27 his office, and the same shall constitute a lien on such property,
28 which may be enforced by a suit in equity in the name of the
29 city, in the circuit court of McDowell county, as other liens
30 against real estate are enforced, and upon the payment of said
31 assessment the clerk shall issue to the person entitled thereto a
32 release of said lien; *provided, however,* that reasonable notice
33 shall first be given to said owners that they are required to con-
34 struct such sidewalks or footways, and in case the owner is a
35 non-resident of the state, the notice aforesaid may be given by
36 publication for four successive weeks in a newspaper published
37 in McDowell county. The provisions of this section shall also
38 be applicable to needed repairs to any of the pavements of the
39 city, and to the substitution of new pavements for any which
40 may have been heretofore, or which may be hereafter laid and
41 completed, and which may be deemed insufficient.

Street Paving

Sec. 36. The council shall have the authority to provide that
2 any street, avenue or alley or any portion thereof, between the
3 curbstones, shall be macadamized, or paved with bricks, cobble-
4 stones, or other suitable material, upon the lowest and best terms
5 obtainable, after advertisement for four weeks in one or more
6 newspapers in McDowell county, for bids and proposals for the
7 work; and two-thirds of the cost of such macadamizing or pav-
8 ing, from curb to curb of such street, avenue, or alley, shall be
9 assessed to the owners of lots, fronting or abutting on such
10 street, avenue, or alley, that is to say: The property owners on
11 each side of said street, avenue, or alley to be assessed one-third
12 of the cost of said improvement, to each property owner a
13 sum proportionate to the distance, or extent in feet by him
14 owned, and one-third of the sum so assessed shall be paid by
15 each property owner to the city within thirty days after the
16 completion of the work, and the remainder in two equal install-
17 ments in six and twelve months thereafter, with interest thereon
18 at the rate of six per centum per annum, or at such other times
19 as the council may prescribe. The remaining one-third of such
20 expense, as well as the expense of macadamizing or paving at the
21 intersection of streets, avenues and alleys, shall be defrayed by

22 the city. The council shall cause a notice to be published for
23 one week in a newspaper in McDowell county, showing the own-
24 ers of the property and the number of feet fronting on said
25 improvements, as well as the time and the place where the said
26 council will proceed to fix said assessments as above provided,
27 and giving notice to any person having an interest in said prop-
28 erty to appear and show cause, if any they can, why such as-
29 sessment should not be made; and the council may, in making
30 said assessments, consider the petition of any person or cor-
31 poration relative to the inequality of said assessment, and may
32 equalize and adjust the same. The assessment to be made to
33 any owner of real estate shall constitute a lien on such estate;
34 and like proceedings may be had and taken to enforce such lien,
35 or to recover from such owner the amount of such assessment, or
36 any installment thereof, as those provided for in the preceding
37 section providing for the laying of sidewalks. The council of
38 said city may cause an additional annual levy of fifteen cents
39 on the hundred dollars of the ascertained value of all the real
40 and personal property within said city, or subject to taxation,
41 for the purpose only of defraying the expenses of paving the
42 streets, avenues and alleys of said city as herein provided; such
43 levy shall be made at the time the general levy is laid, and shall
44 be collected in like manner, but a separate account shall be kept
45 of the receipts and expenditures of such fund.

Sewers

Sec. 37. The council of the City of Kimball may order a sewer
2 or sewers to be constructed in or through any street or alley in
3 the city, under such regulations as may be prescribed by ordi-
4 nance either by the city itself, or upon the lowest and best terms
5 to be obtained by advertisement for bids therefor by the council.
6 The cost of the construction of any such sewer or sewers to be
7 paid by the city.

Sec. 38. The common council shall have the authority to
2 regulate by ordinance the manner and time in which connections
3 are to be made with the sewers of the said city by the owners of
4 property herein, and shall have the authority to compel the own-
5 ers of any property abutting upon a street or alley, in which
6 there is a sewer, to connect their pipes therewith under the regu-
7 lations prescribed by the common council, and may charge such
8 person or persons a reasonable amount therefor, to be fixed by

9 the common council by ordinance; and in case of failure of the
10 owner of any such property to so connect his sewer pipe with
11 any such sewer when required, the council may provide by ordi-
12 nance such fines and penalties as in its discretion may be neces-
13 sary to effect a compliance with its regulations. The amount
14 fixed by the council for the connection with such sewer shall be
15 paid into the city treasury to the credit of the fund to be used
16 for sewers, and shall be used for no other purpose.

Bonds—Additional Levy

Sec. 39. The municipal authorities of said city shall have
2 the power and authority to issue and make sale of the bonds of
3 said city and to apply the proceeds thereof to the payment for
4 any general improvement therein, or to any debt or obligation
5 of the said city as provided in chapter forty-seven of the code
6 of West Virginia or any amendment thereof, or may submit
7 to the voters of said city the question of making an additional
8 levy for any improvement in said city, and if three-fifths of the
9 votes cast at such election on such question be in favor of such
10 additional levy the said council may levy the same. Said mu-
11 nicipal authorities also shall have the power and authority to
12 issue and make sale of the bonds of said city and to apply the
13 proceeds thereof to the purchase or erection of a gas works,
14 electric light and power plant, or water works, or all of such
15 works and plants, for the use of said city, or to any other im-
16 provement for the use of said city, as provided in chapter forty-
17 seven-a of the code of West Virginia.

Sec. 40. Wherever in this act or whenever it is necessary ac-
2 cording to law to carry out any of the provisions of this act,
3 any notice is required to be published or any publication re-
4 quired to be made in any newspaper, such notice may be pub-
5 lished or such publication made in a newspaper in McDowell
6 county of general circulation in said city.

General Provisions

Sec. 41. All the general laws of the state of West Virginia
2 pertaining to municipal corporations, so far as they are not in
3 conflict with the provisions of this act, shall apply to the City
4 of Kimball, and the said City of Kimball shall succeed to all the
5 rights, powers and responsibilities and be vested with the title
6 to all property of the town of Kimball as they exist the day pre-
7 ceding the day on which this act takes effect, and shall enjoy

8 such rights, exercise such powers, and discharge such responsi-
 9 bilities in the same manner as the same should have been en-
 10 joyed, exercised and discharged if this act had not passed.

Existing Ordinances

Sec. 42. All the ordinances, by-laws, resolutions and rules
 2 of the town of Kimball in force on the day preceding the pas-
 3 sage of this act, which are not inconsistent therewith, shall
 4 be and remain in full force over the whole of said City of Kim-
 5 ball as established by this act until the same are amended
 6 or repealed by the common council of said city, and the of-
 7 ficers in office, in the town of Kimball, at the time this act takes
 8 effect, shall remain in office until their successors under this
 9 act are elected and qualified, as hereinbefore provided; and
 10 after this act takes effect shall have jurisdiction over all the
 11 territory embraced in the boundary specified in this act, and
 12 shall perform all the duties of such respective officers under
 13 this act; but nothing in this act shall be construed or held to
 14 in any way affect or impair any of the bonds, obligations or
 15 indebtedness of the town of Kimball issued or contracted prior
 16 to the time this act takes effect, but on the contrary the said
 17 City of Kimball shall be liable for all the bonds, obligations
 18 and indebtedness of the town of Kimball as though the same
 19 had been created in the name of the City of Kimball.

Repeal of Inconsistent Ordinances and Acts

Sec. 43. All ordinances of the town of Kimball as they ex-
 2 ist at the time of the passage of this act, which are inconsistent
 3 herewith, are hereby abrogated, and all acts and parts of acts
 4 inconsistent with any of the provisions of this act are hereby
 5 repealed.

CHAPTER 18

(House Bill No. 83--By Mr. Bird)

AN ACT to amend and re-enact section twenty-one of chapter
 seventy-two of the acts of the legislature of one thousand nine
 hundred and twenty-three, relating to the charter of the City
 of Princeton, in the county of Mercer.

[Passed March 17, 1925; in effect from passage. Approved by the Governor.]

Sec.
 21. Recorder; powers and duties;
 compensation. Duties of treas-
 urer.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter seventy-two of the acts of the legislature of one thousand nine hundred and twenty-three, relating to the charter of the City of Princeton, be amended and re-enacted so as to read as follows:

Section 21. The recorder shall keep an accurate record of all
2 the proceedings of the council, and shall have charge of and
3 preserve the records of the city. In case of the absence of the
4 mayor from the city, or his inability from any cause to act, or
5 during any vacancy in the office of mayor, the recorder shall
6 perform such duties of mayor as pertain to the office of mayor,
7 and to that end, in addition to the other powers herein con-
8 ferred upon him, the recorder is hereby vested with all the pow-
9 ers necessary for the performance of the duties of the mayor,
10 while acting as such. The recorder shall be *ex-officio* assessor
11 of said city, and shall perform such duties as are imposed by
12 law. He shall be paid a salary of four hundred dollars per
13 year, payable in equal monthly installments, for his services
14 as such recorder and assessor, to be paid out of the city treas-
15 ury. He shall be *ex-officio* justice of the peace within the said
16 city and shall, within the same, have, possess and exercise all
17 the powers and perform all the duties vested by law in a justice
18 of the peace, except he shall have no jurisdiction in civil causes
19 of action arising out of the corporate limits of the city, unless
20 the defendant resides or is found therein and process therein
21 served upon him. He shall have the same power to issue at-
22 tachments in civil suits as a justice of the peace of his county;
23 but, in such case, he shall have no power to try the same, but
24 such attachments shall be made returnable and heard before a
25 justice of the peace of his county. Any warrant issued by him,
26 or other process, may be executed at any place in said county.
27 He shall have power to issue his warrant for the arrest and ap-
28 prehension of all persons violating the ordinances of the city,
29 and shall have power to try the same and impose upon such
30 violators of the ordinances of said city such fines and penalties
31-36 as are prescribed by the ordinances thereof. He shall have
37 the power to issue executions for all fines, penalties and costs
38 imposed by him, or he may require the immediate payment
39 thereof, and in default of such payment, he may commit the
40 party in default to the jail of said county, or other place of

41 imprisonment used by such corporation, if there be one,
42 until the fine or penalty and the costs be paid; but the
43 imprisonment in such cases shall not exceed thirty days.
44 And in all cases where a person is sentenced to imprisonment
45 or to the payment of a fine of ten dollars or more (and in no
46 case shall a judgment for a fine be for less than ten dollars
47 if the defendant, his agent or attorney objects to a less fine
48 being imposed), such person shall be allowed an appeal from
49 such decision to the criminal court of the county of Mercer,
50 upon the execution of an appeal bond with security deemed
51 sufficient by said recorder to cover the fine and costs, and the
52 cost in the criminal court in case said judgment be affirmed,
53 with condition that the person proposing to appeal will perform
54 and satisfy any judgment which may be rendered against him
55 by the criminal court on such appeal.

56 If such appeal be taken, the warrant of arrest, if any, a tran-
57 script of the judgment, the appeal bond and other papers in the
58 case shall be forthwith delivered by the said recorder to the
59 clerk of said court, and the said court shall proceed to try the
60 case as upon an indictment or presentment and render such
61 judgment, including costs, as the law and evidence may require.
62 The expense of maintaining any person committed to jail as
63 hereinbefore set forth by the recorder, except it be to answer
64 an indictment, shall be paid by the city and taxed as costs
65 against the defendant. He shall have the right to charge and
66 collect the same fees which a justice of the peace is authorized
67 to charge and collect for similar acts in cases tried before him.
68 The recorder shall also be *ex-officio* treasurer of the said city,
69 and as such shall perform all the duties of this act imposed
70 upon the treasurer of the said city and be vested with all the
71 powers herein vested in and imposed upon the treasurer of the
72 said city. It shall be the duty of the treasurer to collect the
73 city taxes, licenses, levies, assessments, and other such city
74 claims as are placed in his hands for collection by the council,
75 and he may distrain and sell therefor in like manner as a
76 sheriff may distrain and sell for state taxes; and he shall, in
77 all other respects, have the same powers as a sheriff to enforce
78 the payment and collection thereof.

CHAPTER 19

(House Bill No. 139—By Mr. Turley)

AN ACT to amend and re-enact section two of chapter twelve of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters) relating to the charter of the City of Logan, and making a change in the corporate boundary of said City of Logan.

[Passed March 24, 1925; in effect from passage. Approved by the Governor.]

Sec.

2. Defining corporate boundaries.

Be it enacted by the Legislature of West Virginia:

That section two of chapter twelve of the acts of the legislature of one thousand nine hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 2. The corporate boundaries of the City of Logan shall hereafter be as follows:

3 Beginning at a stake in the center line of the Guyan Valley
4 railroad at the Bill Ellis hollow; thence north seventeen degrees
5 thirty-three minutes east eight hundred and fifty-four and sixty-
6 five hundredths feet to a dead sugar tree in the Bill Ellis hol-
7 low; thence north twenty-nine degrees thirty-nine minutes west
8 seven thousand and nineteen feet to a stake in the center line of
9 the Guyan Valley railroad at the mouth of Varney branch;
10 thence north seventy-eight degrees twenty-nine minutes west
11 five hundred and twenty-eight and seven hundredths feet cross-
12 ing Guyandotte river to a stake at high water mark and on to
13 the lower edge of the county road; thence with the high water
14 mark of said river to the mouth of Island creek, a distance of
15 about one-half mile; thence with the right hand side of
16 said creek (as you ascend the same), to the right of way of the
17 county road at the county bridge across Island creek; thence
18 crossing Island creek to a line parallel with said bridge to the
19 right of way of the county road and thence with the right of way
20 of the county road to Guyandotte river and crossing Guyandotte
21 river on a line parallel with the county bridge across said river
22 to high water mark on the left hand side of said river (as you
23 ascend the same), on the lower side of the public road or street;
24 and thence with said high water mark to the upper line of the
25 street or public road at the point where the county bridge
26 crosses Guyandotte river; and thence re-crossing Guyandotte

27 river on a line parallel with the line of the county bridge across
 28 Guyandotte river to high water mark on the right hand side of
 29 said river (as you ascend the same); thence with the said high
 30 water mark to a point where the property line of the Fairfield
 31 land company intersects the same; thence with the property line
 32 of the said Fairfield land company along the mountain in rear
 33 of Midelburg addition until said line again intersects with the
 34 high water mark of Guyandotte river; thence with the said high
 35 water mark to a point opposite the Bill Ellis hollow; and thence
 36 crossing Guyandotte river at the mouth of the Bill Ellis hollow
 37 and running up the bank to the center of the railroad right of
 38 way, the place of beginning.

39 For all purposes, except taxation, herein enumerated or im-
 40 plied, the city authorities shall have jurisdiction for one mile
 41 beyond the city limits.

CHAPTER 20

(House Bill No. 229—By Mrs. Davis (by request))

AN ACT to amend and re-enact article two, section two of chapter three of municipal charters of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen, entitled "An act to create the municipal corporation of the City of Montgomery, in the County of Fayette, to grant a charter thereto and to annul the charter of the Town of Montgomery"

[Passed April 18, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 2. Corporate limits: property owned by government excluded; election to make effective proposed part lying in Kanawha county;</p>	<p>ascertaining lawful voters; duties of Kanawha county court with reference to registration and election; commissioners of election; when act effective.</p>
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Be it enacted by the Legislature of West Virginia:

That article two, section two of chapter three of the municipal charters of the acts of the legislature of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

ARTICLE II.

Corporate Limits

Section 2. The corporate limits of the City of Montgomery, 2 to be in the counties of Fayette and Kanawha, the county and 3 district lines remaining unchanged, shall be as follows:

4 Beginning at a stake at low water mark of the Great Kanawha
5 river at Ellwood branch; thence with the meanders of the said
6 Kanawha river north forty-three degrees forty-six minutes west
7 two hundred and twenty-five feet, north fifty-six degrees sixteen
8 minutes west four hundred and fifty feet, north fifty-seven de-
9 grees west six hundred and fifteen feet, north sixty-three de-
10 grees eleven minutes west five hundred and twenty-nine feet,
11 north fifty-one degrees forty-eight minutes west six hundred
12 and ninety feet, north fifty-three degrees three minutes
13 west three hundred and seventy-seven feet, north sixty-two de-
14 grees west two hundred and ninety-six feet, north seventy-four
15 degrees seven minutes west two hundred feet, north eighty-five
16 degrees forty-four minutes west three hundred and thirty-eight
17 feet, south eighty-two degrees fifty-seven minutes west eight
18 hundred and seven feet, south eighty-one degrees thirty-six min-
19 utes west four hundred and eighty-seven feet, south seventy-
20 two degrees west six hundred and thirty-six feet to a large
21 sycamore stump at the river's edge; thence down and with the
22 said Kanawha river south seventy-six degrees twenty minutes
23 west seven hundred and twenty feet, south seventy-five degrees
24 thirty minutes west one thousand and sixty-five feet to the
25 mouth of Morris creek; thence up said creek south six degrees
26 twelve minutes east five hundred and seventy-five feet, south
27 thirty-eight degrees, thirty-four minutes east three hundred and
28 forty-one feet, south twenty-three degrees two minutes east
29 three hundred and thirteen feet, south twenty-six degrees nine
30 minutes east three hundred and forty-three feet, south four de-
31 grees forty-nine minutes east six hundred and five feet to a
32 stake in said creek; thence crossing creek north thirty-nine de-
33 grees fifty-two minutes east one thousand and sixty-eight feet to
34 a stone; thence south eighty-three degrees east five thousand two
35 hundred and fifty-six feet to a stone; thence north forty-six
36 degrees twenty-nine minutes east five hundred and ninety-five
36-a feet to a stake at the edge of said Kanawha river thence down
37 said river north twenty-four degrees one minute west four hun-
38 dred and twenty-five feet to the beginning, containing two hun-
39 dred and sixty acres.

40 There is, however, to be excluded from the above limits three
41 acres owned by the United States government located at or near
42 the mouth of Morris creek, thereby leaving two hundred and
43 fifty-seven acres, of which said two hundred and fifty-seven

44 acres two hundred and three acres is located in Fayette county,
45 West Virginia, and fifty-four acres is located in Kanawha
46 county, West Virginia.

47 This act shall not become effective as to that portion of the
48 above described area which lies within the county of Kan-
49 awha, unless it shall be ratified by a majority of the voters
50 who were on the first day of April, one thousand nine hundred
51 and twenty-five, resident upon and legal voters under section
52 nineteen of chapter forty-seven of the code of West Virginia,
53 within the municipal corporation of Union Mines and resident
54 upon the fifty-four acres above described as located in Kan-
55 awha county, West Virginia, for the purpose of ascertaining
56 the will of such legal voters hereon an election upon and within
57 the said Kanawha county territory included in the above de-
58 scription shall be held on the twenty-sixth day of May, one
59 thousand nine hundred and twenty-five, at such place within
60 said Kanawha county territory as shall be designated by the
61 present acting municipal authorities of the town of Union Mines,
62 at which election the ballot to be voted shall bear the following
63 lines:

64 For ratification of annexation act.

65 Against ratification of annexation act.

66 There shall be a square in front of each of said lines, and
67 the persons voting shall by a cross or mark in the square op-
68 posite one of the said lines express their will.

69 For the purpose of ascertaining the voters lawfully entitled
70 to vote at such election, two registrars shall be appointed within
71 fifteen days after the passage of this act, one by the municipal au-
72 thorities of said town of Union Mines and one by the municipal
73 authorities of the present City of Montgomery, who after taking
74 the oath of registrars as required, by law, shall make a careful
75 and correct registration of all persons who were on said first
76 day of April, one thousand nine hundred and twenty-five, legal
77 voters under the said section of chapter forty-seven resident
78 upon that portion of the territory described in this act which is
79 located within the said county of Kanawha. After completing
80 the said list, the said registrars shall sit for one day at a time
81 and place to be fixed and advertised by them by posting for five

82 days written notice thereof at ten public places in said territory
83 for the purpose of correcting the said registration by placing
84 thereon the name of any such legal voter whose name shall
85 have been omitted from the original list, and of striking there-
86 from the name of any person placed on said list through mistake,
87 and who shall be shown not to be entitled to vote at said elec-
88 tion, but no name shall be stricken from said list except after
89 notice to such person. Said registration shall, after completion
90 be submitted to the county court of Kanawha county, which
91 shall sit and review the same as provided by law for other
92 registrations of voters and then deliver them to the commis-
93 sioners of said election, together with the ballots for said elec-
94 tion, which shall be provided by said Kanawha county, in the
95 manner provided by law for general elections, as aforesaid, the
96 result thereof ascertained and certified to the municipal authori-
97 ties of the present Town of Union Mines, by three commis-
98 sioners of election, one of whom shall be chosen by the council
99 of each of said municipal corporations, and the third commis-
100 sioner selected by the two so chosen; and if said two commis-
101 sioners shall be unable to agree upon a third, then the county
102 court of Kanawha county, West Virginia, is hereby authorized
103 and directed to appoint such third commissioner upon the ap-
104 plication of said two commissioners so chosen by the said muni-
105 cipal authorities or upon other showing that they are unable to
106 agree upon a third commissioner. The three commissioners so
107 chosen shall select two clerks to aid them in holding the said
108 election, all of whom shall take the oath prescribed by law,
109 and which election shall in all other respects be held pursu-
110 ant to the laws of the state of West Virginia governing general
111 elections.

112 If at said election as so held and returned a majority of the
113 legal votes cast shall be for ratification, then this act shall
114 thereupon become effective as to the entire territory herein
115 above set out, but if a majority of said votes shall not be so
116 cast, this act shall be null and void as to that portion of said
117 territory which lies within the county of Kanawha and state
118 of West Virginia.

CHAPTER 21

(House Bill No. 248—By Mr. Federer)

AN ACT to amend and re-enact sections four, five, six, thirteen, fourteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight, twenty-nine and thirty-three of chapter fifteen, municipal charters, acts of legislature of West Virginia, one thousand nine hundred and twenty-one being the charter of the City of Morgantown.

[Passed April 22, 1925; In effect from passage. Became a law without the approval of the Governor.]

Sec.		Sec.	
4.	Municipal authorities.	22.	Assessments.
5.	Exercise of corporate powers.	24-a.	Sidewalks, street paving, etc.
6.	Appointive officers; powers and duties.	26.	Garbage removal and disposal.
13.	Elections; registration; oath and bond of officers.	28.	Maintenance of bridges.
19.	Enforcement of powers.	29-a.	Street maintenance, sewer, etc.
20.	Annual estimate of expenditures.	31-a.	Inconsistent acts repealed; invalidity of portion not to invalidate any other portion of act.
21.	Annual levy.		

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, thirteen, fourteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight, twenty-nine and thirty-three, of chapter fifteen, municipal charters, acts of legislature of West Virginia, one thousand nine hundred and twenty-one, be amended and re-enacted so as to read respectively as follows:

Municipal Authorities

Section 4. The municipal authorities of said city shall consist of not less than ten councilmen, which shall constitute the common council of said city. The word "council" in this act shall be construed as synonymous with common council. All councilmen shall serve for a term of two years and until their successors are elected and have qualified, unless sooner removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No member of council who is, directly or indirectly, a holder or owner of any bond or stock of any corporation, owning or interested in a municipal franchise, privilege or easement in or from such city; or be an officer, agent, trustee, servant or employee of such corporation shall vote on, or participate in any discussion of any proposition in which such company is directly or indirectly interested. If any member of council shall violate this provision, he shall be guilty of a misdemeanor and upon conviction thereof,

17 be confined in the county jail not more than thirty days, or be
18 fined not more than one hundred dollars.

19 Any officer of the city who shall become or be directly or
20 indirectly interested in any contract or in the profits to be
21 derived therefrom with the municipality shall forfeit his office;
22 and in addition thereto, any such contract shall be void and
23 unenforcible against the city; and the acceptance by any officer
24 of any interest in such contract or any gift or gratuity from
25 any person, firm or corporation dealing with the city shall
26 disqualify the person for a period of five years from date of
27 such forfeiture from holding any office or employment in the
28 government of the City of Morgantown; and in addition, such
29 person shall be subject to criminal prosecution under any ordi-
30 nance of the city or laws of the state of West Virginia.

31 The council shall appoint, within ten days after their elec-
32 tion, one of their number as their chairman or presiding officer,
33 who shall be known officially as mayor of the city and recog-
34 nized as such for ceremonial purpose and for the purpose of
35 being served with civil processes against the city and for the
36 performance of all duties imposed upon him; by this charter.
37 A majority vote of all councilmen elected shall be necessary
38 for the election of such mayor. The mayor shall hold his office
39 as such at the pleasure of the council.

Exercise of Corporate Powers

Sec. 5. (a) All corporate powers and functions pertaining
2 to the said city shall be exercised by its common council or
3 under its authority, in the corporate, name of the city, unless
4 otherwise provided herein by state law or by municipal ordi-
5 nance.

6 (b) The common council shall have the authority to pass
7 all ordinances not in conflict with the constitution and laws of
8 the United States, or of this state which shall be necessary and
9 proper to carry into full effect any power, authority, capacity
10 or jurisdiction, which is or shall be granted to, or vested in,
11 the said city, or in the council or any officer of said city; and
12 provide for the enforcement of any or all of their ordinances
13 by reasonable fines and penalties, or by imprisoning the of-
14 fender or offenders violating such ordinances, and by com-
15 pelling them to labor, without compensation, at any of the
16 public works or improvements, undertaken or to be undertaken

17 by said city, or by any or all of the said modes; *provided, how-*
18 *ever,* that no person shall be imprisoned or compelled to labor,
19 as aforesaid, more than thirty days, or fined more than one
20 hundred dollars for any offense.

Subordinate Officers

Sec. 6. (a) The council shall appoint the following officers
2 of the city, to-wit: a city manager, who shall be the administra-
3 tive head of the municipal government and who shall be respon-
4 sible for the efficient administration of all departments; a clerk,
5 who shall be known as the city clerk, who shall keep all records
6 of the meetings of the city council, all of the financial and other
7 records of the city, and shall act as clerk of the police court and
8 perform such other duties as may be required by this charter
9 or the council or the judge of the police court. The city manager
10 shall be appointed for an indefinite period. He shall receive such
11 compensation as council may determine. He shall be removable
12 by the majority vote of the whole membership of council: If
13 removed at any time after six months he may demand written
14 charges and a public hearing on the same before the council
15 prior to the date on which his final removal shall take effect,
16 but during such hearing the council may suspend him from
17 office. During the absence or disability of the city manager
18 the council shall designate some properly qualified person to
19 perform the duties of the office. All other appointees of coun-
20 cil shall hold office at the pleasure of council and shall receive
21 such compensation as council may determine, and may at any
22 time be removed from their respective offices by the council.

23 (b) The duties and powers of the city manager shall be:

24 (1) To see that the laws and ordinances are enforced.

25 (2) To appoint all officers of the city, except members of
26 the city council and such officers as council is hereby authorized
27 to elect and employ, or cause to be employed, all employees of
28 the city; the officers by him appointed and such employees as
29 he shall appoint or cause to be appointed to continue in their
30 offices or employment during his pleasure or that of his suc-
31 cessor as such city manager; but all appointees or employees
32 shall be upon merit and fitness alone;

33 (3) To exercise supervision and control over all depart-
34 ments and divisions created herein or that hereafter may be

35 created by the council, except the council and other officers by
36 it appointed.

37 (4) To attend all meetings of council with the right to take
38 part in discussion, but having no vote;

39 (5) To recommend to the council for adoption such meas-
40 ures as he may deem necessary or expedient;

41 (6) To keep council fully advised as to the financial con-
42 ditions and needs of the city;

43 (7) To approve for payment all vouchers prepared by the
44 city clerk, when the expenditure has been authorized by council
45 by proper appropriation, and the payment is otherwise proper
46 to be made.

47 (8) To supervise the conduct and performance of the duties
48 of other officers and employees of the city, except the members
49 of the city council, reporting to such council any failure of
50 performances of duty by any of the other appointees of such
51 council, and enforcing the proper performance of their duties
52 by the officers appointed by him and by the city council, to the
53 end that the city's business shall be efficiently and economically
54 transacted; and

55 (9) The city manager shall act as purchasing agent and
56 purchase all supplies and materials for all departments of the
57 city government, and make sale of all property of the city not
58 needed or suitable for the public use (when and after such sale
59 has been authorized by the city council) in such manner as the
60 council may direct; *provided, however*, he shall not make any
61 contract involving an expenditure in excess of five hundred
62 dollars without first obtaining assent of council so to do, which
63 said assent shall be made a matter of record and properly en-
64 tered upon the journal or minute book by the city clerk; he shall
65 submit to contractors for competitive bids, on forms approved
66 by council all proposals for construction work to be done for or
67 by the city and all improvements to be made for or by the city;
68 all supplies to be used by the city and all materials purchased by
69 the city for construction of any public improvements or for
70 any other city purpose, shall be done, performed, made and
71 purchased on competitive bids. All proposals for such shall
72 be upon precise specifications, and notice of the requirements
73 of the city shall be given to dealers in supplies and materials
74 of the kind required who by reason of location are best able to
75 furnish same at lower prices. All bids and offers shall be filed

76 and preserved in the office of the city clerk. In purchasing
77 limited quantities of materials or supplies, or in case of an
78 emergency the city manager may purchase or contract the ex-
79 penditure in a sum not exceeding five hundred dollars without
80 the assent of council or the delay necessary to secure competi-
81 tive bids or offers to supply same. Council shall have the
82 power and right to reject any or all bids or estimates for con-
83 struction or improvements and may cause such work to be
84 done, or improvements to be made otherwise than upon com-
85 petitive bids, when in their opinion such bids are excessive.

86 (10) To perform such other duties as may be prescribed by
87 this charter or be required of him by ordinance or resolution
88 of the council. The city manager shall devote his whole work-
89 ing time to the performance of the duties of his office, and
90 while occupying such office shall not engage, directly or indi-
91 rectly, or be actively interested in any business other than the
92 performance of his duty concerning the affairs of the City of
93 Morgantown.

94 (11) The city manager shall have authority to appoint
95 such officers (the appointment of whom is not vested in the
96 council) as council may from time to time deem necessary or
97 proper to carry into full effect any authority, power, capacity
98 or jurisdiction, which is or shall be vested in the City of Mor-
99 gantown, or in the council thereof, or in such city manager;
100 to grant, in writing, to the officers so appointed the power
101 necessary or proper for the purposes above mentioned; to
102 define their duties in writing, to allow them reasonable com-
103 pensation (said compensation to be approved by council), and
104 to require and take from them such bonds, obligations or
105 other writings as shall be necessary or proper to insure the
106 proper performance of their several duties.

107 All bonds, obligations or other writings taken in pursuance
108 of this section, as well as other bonds given to the City of
109 Morgantown, shall be made payable to such city, and the
110 respective persons or corporations, their heirs, executors, ad-
111 ministrators and successors bound thereby, shall be subject
112 to the same proceedings on the said bonds, obligations or other
113 writings for enforcing the conditions and terms thereof, by
114 motion or otherwise, before any court of record whose sessions
115 are or shall be held in the City of Morgantown, as collectors
116 of the county levies and their securities are or shall be sub-

117 ject to on their bonds for enforcing the payment of such
118 levies.

119 (c) The duties and power of the city clerk shall be:

120 (1) To keep all records of the city, including the records
121 of the meetings of the city council.

122 (2) To act as auditor and to keep all records of the finances
123 of the city.

124 (3) To keep all other records pertaining to the city and
125 to all departments thereof, including the records pertaining
126 to the office of city manager and the other departments of
127 said city.

128 (4) To act as clerk of the police court and to perform
129 duties required in connection therewith by the provisions of
130 this charter, ordinances of council, or under direction of the
131 police judge himself.

132 (5) To act as treasurer of said city by collecting all funds
133 due it and depositing the same in such bank as shall be named
134 as city depository by council, but he shall pay out no money
135 except upon vouchers approved for payment by endorsement
136 by the city manager.

137 (6) To make up the assessment rolls for the city, utilizing
138 therefor the facts and data available from all sources includ-
139 ing the board of appraisers hereinafter provided for, assess-
140 ment rolls and records of the county assessor; and having made
141 up the assessment rolls of the city, he shall prepare the tax
142 ticket or receipts and collect the same from the tax payers
143 in accordance with paragraph eight of this section hereof.

144 (7) The city clerk shall report to and be under the direc-
145 tion of the city manager, but the city manager shall not have
146 the right or power to remove him from office.

147 (8) The city clerk in person or by deputy shall have
148 charge of the collection of the city taxes and shall account to
149 the city for the same; he shall have the same power and author-
150 ity in making such collections of city taxes as is by law vested
151 in a sheriff in making collections of state and county taxes,
152 and shall he act by deputy in so collecting said city taxes, his
153 deputies shall have and exercise all the powers of their prin-
154 cipal in so doing.

Sec. 13. (a) The regular annual election in said city shall
2 be held on the first Thursday after the first day of January in

3 each year at which there shall be elected an equal number of
4 councilmen from each ward, as provided in said chapter fifteen,
5 municipal charters, acts of legislature of West Virginia, one
6 thousand nine hundred and twenty-one. The election shall be
7 held, conducted and the results thereof ascertained, certified,
8 returned and finally determined, under an ordinance of the
9 common council of such city, which shall not be inconsistent
10 with the general statutes of the state governing municipal
11 elections, and shall conform as nearly as practicable to such
12 statutes. Whenever two or more persons receive an equal
13 number of votes for the same office, if such number be the high-
14 est cast for such office, the persons under whom the supervision
15 of the election is held shall decide by lot which of them shall
16 be returned elected, and shall make their return accordingly.
17 All contested elections shall be heard and decided by the com-
18 mon council.

19 (b) All other elections or votes on any question by the
20 qualified voters of said city, shall be held or taken at such place
21 and under the superintendency of such persons and subject to
22 such regulations as are by the council ordained and consistent
23 with the laws of the state.

24 (c) The council shall by ordinance provide for the adoption
25 and use by the city, in all city elections, of the regular registra-
26 tion of voters prepared by the registrars duly appointed by the
27 county court of Monongalia county (the registration hereby
28 intended to be adopted and used, being the one which would
29 be used in a general or state-wide primary election held in said
30 county and state on the same day such city election is to be
31 held), and any person who shall become a resident of the city,
32 after such registration has been prepared and filed by the
33 county authorities in the manner provided by law, and who shall
34 establish his or her right to vote in such city election, may regis-
35 ter with city clerk at any time, except on a Sunday or legal
36 holiday, until the third day before the day on which such elec-
37 tion is to be held, and his or her name shall be entered on such
38 registration list by said city clerk, and the city clerk shall have
39 the same powers in regard to the transfer of voters, from one
40 precinct to another in said city, as are now vested in the county
41 clerk of Monongalia county, for the transfer of voters from one
42 precinct to another in said county.

43 (d) In all city elections for councilmen the names of the
44 candidates for council in each ward shall be arranged and placed
45 alphabetically upon the ballots without party designation or
46 symbol, whether such candidates are nominated by political
47 parties or by petition, or such other methods as are now pro-
48 vided by law.

49 (e) In all city elections hereinafter held in said city, the
50 council shall provide by ordinance for the opening of the polls
51 at seven o'clock in the morning and the closing of same at
52 seven o'clock in the evening.

Sec. 14. (a) No person except citizens entitled to vote in
2 said city shall be elected to any municipal office. The city
3 manager shall be chosen by the council solely on the basis of his
4 executive and administrative qualifications. The choice shall
5 not be limited to inhabitants of the city or state.

6 Every city officer before he enters upon the duties of his
7 office shall make, before someone authorized by law to administer
8 oaths, and file with the city clerk, an oath or affirmation to
9 support the constitution of the United States, and of the state
10 of West Virginia, and to perform faithfully, honestly and im-
11 partially the duties of his office, to the best of his skill and
12 judgment.

13 (b) Such officers and employees of the city as the council
14 may determine by ordinance, shall, respectively, furnish and
15 file their bonds with the city clerk for approval by council as
16 to form and security, in such penalties, respectively, and with
17 such conditions as are fixed by such ordinance, with such cor-
18 porate or other surety or securities hereinbefore mentioned,
19 payable to the city. The furnishing of such bond shall be
20 necessary qualifications of such officers or employees. The
21 bonds of all appointive officers required to give bond shall also
22 be approved as to form by the city solicitor. No officer or
23 employee of the city of whom a bond is required shall enter into
24 the discharge of his official duties or of the duties which he is
25 employed to discharge, until his bond has been duly filed and
26 approved.

Enforcement of Powers

Sec 19. To carry into effect these enumerated powers, and
2 all other powers conferred upon such city, or its council, by this
3 act or by any other future act of the legislature of this state,

4 the council shall have power to make and pass all needful
5 orders, by-laws, ordinances, resolutions, rules and regulations,
6 not contrary to the constitution and laws of this state, and to
7 prescribe, impose and exact reasonable fines, penalties and
8 imprisonments in the county jail or other place of imprison-
9 ment in said corporation, if there be one; no terms of imprison-
10 ment, however, to exceed thirty days or fine the sum of one
11 hundred dollars, for a violation thereof. Such fines, penalties
12 and imprisonments shall be recovered and enforced under the
13 judgment of the judge of the police court of said city, or the
14 person lawfully exercising his functions.

Annual Estimate of Expenditures

Sec. 20. The council shall cause to be annually made up
2 and entered upon its journal not later than the first day of
3 July in each year, an accurate estimate of all sums that are,
4 or may become, chargeable to such city, and which ought to
5 be paid, within one year; and it shall in the month of August,
6 thereafter, revise and correct said estimate and order a levy
7 of so much as may in its opinion be necessary to pay the same,
8 the correction and adoption of said estimate to be made and said
9 levy laid in the manner and at the time provided by chapter
10 one hundred and twenty-six of the acts of the legislature of
11 West Virginia, for the year one thousand nine hundred and
12 nineteen, and any and all acts amendatory thereof, and as
13 otherwise provided by law.

Annual Levy

Sec. 21. The levy so ordered shall be upon all dogs in the
2 city, and upon all real and personal property therein subject to
3 state and county taxes, and such levy shall be upon the basis
4 of the valuation of such properties as has been fixed for state
5 and county purposes; *provided, however,* that the aggregate of
6 such levy when so laid for all city purposes, shall not in any
7 one year exceed the rate of one dollar on every one hundred
8 dollars of valuation.

City Assessments

Sec. 22. The city clerk, acting in the capacity of assessor as
2 provided by section six of said chapter fifteen, municipal
3 charters, acts of legislature of West Virginia, one thousand

4 hundred and twenty-one, shall, as soon as possible after the
5 board of review and equalization for Monongalia county has
6 completed its work of reviewing and equalizing the assessments
7 made by the assessor of said county, and which assessment, after
8 being approved by said board in the manner provided by law,
9 is hereby adopted for all city purposes, procure from said
10 assessor a certified copy of the land books of said county embrac-
11 ing all the real estate in the City of Morgantown, and also the
12 personal property books embracing all the personal property
13 in said city, for the current year, as prepared by him and
14 approved as aforesaid; and it is hereby made the duty of the
15 assessor of said county to furnish such certified copies of said
16 land and personal books to the said city clerk, upon the payment
17 of the fair and reasonable expense of copying same, which shall
18 be paid out of the city treasury on the presentation of a proper
19 bill therefor; and when said land and personal property books
20 shall be delivered to said city clerk he shall extend the levies
21 thereon and cause the tax tickets to be prepared as provided
22 by section six hereof.

Sidewalks, Street Paving, Etc.

Sec. 24. (a) The council may by ordinance, within said city
2 lay out and cause to be opened any streets, walks, alleys,
3 market grounds and public squares, or extend or widen the
4 same, first having obtained title to the ground necessary for
5 the purpose; may grade any street, walk, alley, market ground
6 or public square which is or shall be established within said
7 city; and may pave or otherwise improve the same, and cause
8 them to be kept open in good repair, and generally ordain and
9 enforce such regulations respecting the same, or any of them,
10 as shall be proper for the health, interest or convenience of
11 the inhabitants of said city.

12 (b) The council may cause to be taken or damaged for
13 the use of the city, for streets, alleys, markets, bridges, public
14 squares, parks, playgrounds and other municipal purposes
15 including occupation by sewer, water pipes, gas pipes, heating
16 pipes, compressed air pipes and electric or other subways, any
17 private property within the city (and where such use is to
18 secure or improve the water supply, or for park, playground,
19 sanitary or cemetery purposes) outside the limits of the city,
20 but no such property shall be taken or damaged without just

21 compensation. The compensation, if it cannot be determined
22 by agreement with the owner of the property so taken or
23 damaged, shall be ascertained in such manner as is or may be
24 prescribed by general law for the condemnation of land for
25 public purposes.

26 (c) Council shall have full power and authority to make and
27 provide, by ordinance, laws, rules and regulations for the
28 establishing or changing of the grades of any sidewalk, footway
29 or gutter in said city; to grade, re-grade, curb, re-curb, pave
30 and re-pave any such sidewalk, footway or gutter and keep the
31 same clean, in such manner and time as the council shall pro-
32 vide by ordinances; and to assess the amount of such expense
33 upon such real property or the owner thereof; *provided, how-*
34 *ever*, that such cost shall be levied but once against the same
35 property so far as it pertains to the change of grade.

36 (d) The council shall have full power and authority to
37 make and provide by ordinance for the establishment of a
38 method to be followed in all street grading, paving and re-pav-
39 ing from time to time with any suitable material therefor,
40 depending upon the character of traffic and the grade and
41 other conditions upon any particular street, and such ordinance
42 shall provide for the assessment of the entire cost of such
43 grading, re-grading, paving and re-paving (except as pro-
44 vided for in paragraph four of this section) to the owners
45 of lots or the fractional part of lots abutting on that part of
46 the streets or alleys so paved, in proportion to the distance
47 such lot or fractional part of lot abuts on such street or alley
48 so graded, re-graded, paved or re-paved, subject, however, to
49 the following provisions:

50 (1) That when any part of said street or alley so paved
51 or about to be paved is occupied or used by any public service
52 or public utility company, the council shall provide for assess-
53 ing such portion of the total cost of such grading, re-grading,
54 paving or re-paving, as may be provided for in the respective
55 franchise, for the distance such street is so occupied by such
56 public service or public utility company, including the inter-
57 sections of cross streets and alleys, and shall provide for
58 assessing the remainder of the cost of such grading, re-grading,
59 paving or re-paving, including such cross streets, alleys, etc.,
60 to the abutting property owners on both sides of such street,

61 in proportion to their frontage thereon, taking the entire dis-
62 tance such street is traversed by such service or public utility
63 company as the basis of such assessment.

64 (2) Council shall by ordinance provide for the collection
65 of such assessments, which at the option of the owner or
66 owners may be paid either in cash or yearly installments of
67 not exceeding ten years, such installments shall be evidenced
68 by the issuance of interest-bearing certificates of assessment
69 payable in from one to ten years, and said certificates of assess-
70 ment when so issued shall become a lien upon the property
71 for which the assessment has been levied, and such lien shall
72 have priority over all other liens of whatsoever nature, except
73 the lien for taxes. Said certificates of assessment shall bear
74 interest at a rate not exceeding the legal rate of six per centum
75 per annum to the date of issuance until paid, and shall be
76 and are hereby made exempt from all taxation by the state of
77 West Virginia or any of its agencies. Council may, at their
78 option, and at any time after the issuance of said certificates
79 of assessment, offer them for sale either in part or as a whole,
80 and shall apply the proceeds of such sale exclusively to the
81 liquidation of the specific debt for which they were issued;
82 *provided, however,* that council shall have no power or author-
83 ity to sell or offer for sale such certificates of assessment for
84 less than the par value thereof plus the accrued interest at the
85 date of sale. Any property owner shall have the right on
86 ninety days' notice to pay in whole or in part at any time
87 before maturity any or all certificates of assessment standing
88 as a lien against his property and shall not be liable for inter-
89 est thereon or on such part so paid after payment.

90 (3) Nothing herein contained, however, shall authorize
91 and empower council to cause the owner or occupant of any
92 lot or any parcel of ground abutting on such street or alley
93 to pay for or be assessed with the cost of such grading or re-
94 grading, paving or re-paving, within fifteen years after such
95 street or alley has been once graded and paved or re-paved
96 with concrete or other permanent base, at the cost and expense
97 of the property owners abutting thereon.

98 (4) Council shall provide for all necessary grading at the
99 city's expense upon any street or alley ordered by it to be
100 graded and paved for the first time, in order to equalize the

101 cost of paving in the first instance and re-paving those streets
102 and alleys heretofore graded and paved at the city's expense.

103 (5) Nothing herein contained, however, shall prevent the
104 council from including the grading of any street or alley, or
105 part thereof, and the paving of the cross streets or cross alleys
106 and the assessment of the entire cost thereof against the prop-
107 erty owners adjacent thereto in proportion to their frontage
108 upon both sides of such street, whenever the owner of a ma-
109 jority of the frntage abutting upon both sides of said street
110 shall petition council so to do, and for the purpose of this
111 section the distance to be paved as a unit shall not be limited
112 to one city block between cross streets, but shall be for the
113 entire distance petitioned to be paved.

114 (6) Immediately upon the completion and acceptance of
115 any such pavings, the council shall direct the city clerk to
116 cause to be published a notice which shall name and describe
117 the location of the portion of the street or alley upon which
118 said paving shall have been constructed; give the name or
119 names of the owners of each lot abutting or bounding upon
120 such portion of the street or alley, if known, and if the name
121 or names of the owner of any lot or fractional part of a lot
122 are unknown, such lot shall be described with reasonable cer-
123 trainty in order that the same may be identified; and the
124 number of feet that each lot or fractional part of a lot abuts
125 upon such paved portion, as well as the amount assessed against
126 each lot or fractional part of a lot for the cost of the paving.
127 Said notice shall cite all owners of lots or fractional parts of
128 lots abutting upon the portion of the street or alley which has
129 been paved, to appear before the council at a regular meeting
130 thereof, within thirty days from the first publication of the
131 notice, and show cause, if they can, why the assessment afore-
132 said should not become final, which notice shall be published
133 once a week for two successive weeks in one or more newspapers
133 of general circulation published in said city. The council shall
134 upon the request of any one or more of the owners of said
135 lots or fractional parts of lots, appoint a day to hear the
136 grievances of said owner or owners, and may alter or amend
137 any assessment made against any one or more of said owners
138 for good cause shown. The city clerk shall give notice to all
139 persons claiming to be injured by said assessment, of the
140 time and place of holding the meeting of the council to hear

141 such grievances, which meetings shall be held within ten days
142 after the clerk shall have given the last mentioned notice.
143 The council may adjourn the hearing from time to time. In
144 case any owner or owners of abutting property fail within
145 thirty days to complain to the council of any grievance or
146 injury they may have suffered by reason of the assessment
147 aforesaid, or to appear before the council for the purpose of
148 having the same corrected on the day appointed by council for
149 the hearing of such grievances as have been complained of, the
150 assessment as laid shall be final. The findings of such council
151 shall be subject to correction by the circuit court of Monon-
152 gahelia county upon appeal, which must be taken and per-
153 fected within thirty days from the findings and be heard and
154 determined by such court without delay, having precedence of
155 other cases on the court's docket. The rights conferred by
156 this section are cumulative and shall not be exhausted as to
157 any particular street or alley by reason of having been once
158 exercised.

159 When the amount of any such assessment shall be so de-
160 termined, the city clerk shall thereupon certify the amount
161 of such assessment with a description of the property charge-
162 able therewith, and the name of the owner thereof, to the
163 clerk of the county court of Monongalia county, who shall
164 record the same in the trust deed books of said clerk's office,
165 and the record thereof in such book shall constitute notice to
166 all persons of the existence of such paving assessment; and
167 such assessment shall be and constitute from and after the
168 date of such recordation the first lien against such property,
169 subject only to state, county and municipal taxes; and such
170 assessment when due, if not paid, shall be certified by the city
171 clerk to the auditor of the state of West Virginia and proceeded
172 with for collection thereof as is now provided or may herein-
173 after be provided for the collection of taxes.

174 (7) All money appropriated for the paving, repaving or
175 maintenance of streets or alleys shall be used for such purposes
176 only, and the proceeds derived from all such paving and
177 maintenance assessments shall be placed in special funds, and
178 shall be applied to the city's liabilities on that particular
179 improvement.

180 (8) In any case, however, where any street or alley in said
181 city shall be paved by the state, county or district, thereby

182 making it unnecessary for the city to pave the same under any
183 of the provisions of this section, the city shall have the power
184 to assess a special maintenance assessment against the prop-
185 erties abutting on so much of said street or alley so paved
186 to be applied to the maintenance of all streets and alleys of
187 the city, and the amount of which shall be the approximate
188 cost of the said paving based upon the frontage of each par-
189 ticular property abutting thereon.

190 (e) The council may by ordinance establish the width of
191 any sidewalk along any street, alley or part thereof, at a
192 width of not less than four feet and require the owner or
193 owners of any ground fronting on such sidewalks abutting on
194 their property to pave or re-pave the same; and in case of
195 the failure or refusal of such owners so to do, the city may
196 cause same to be properly paved, or re-paved at the expense
197 of such owner or owners; and the council shall have power,
198 by ordinance, in like manner, to require the owner or owners
199 of property abutting on any paved sidewalk, whether hereto-
200 fore or hereafter constructed, to keep such sidewalk in repair,
201 and in default of his or their so doing, to cause the same to
202 be repaired and assess the cost thereof upon such owner or
203 owners. It shall be lawful for the officer authorized by council
204 to collect any such tax or assessment for the cost of such paving
205 or repaving to collect the same from the owner or owners of
206 such grounds in the same manner as provided by law in the
207 collection of city taxes; *provided, however*, that such cost shall
208 be levied but once against the same property so far as it per-
209 tains to the change of grade.

210 (f) An all cases where the city is compelled to construct
211 or lay sidewalks under this section, it shall include a commis-
212 sion of not exceeding twenty per cent, for the time of its
213 employees in supervising such construction, laying the assess-
214 ment, and collecting the same over and above the actual cost
215 to it of such assessment.

Garbage Removal and Disposal

Sec. 26. Council shall provide by ordinance for the sys-
2 tematic collection, removal and disposal of all garbage of every
3 kind and character under the control, management and at the
4 expense of the city, and for such rules and regulations as shall
5 by it be deemed necessary, advisable or expedient in the col-
6 lection, removal and disposal of the same; and should the ex-

7 pense thereof be found to be excessive for the revenue of the
8 city, the council shall have the power to provide by ordinance
9 for the laying of a special levy for that purpose sufficient to
10 provide funds therefor.

11 But council may, by appropriate ordinance, fairly submit
12 the question of garbage collection and removal at public expense
13 to a referendum to the people and should the result of such
14 referendum show a majority vote opposed to such collection
15 and disposal at public expense then council shall suspend the
16 operation of this section and should the result of such referen-
17 dum show a majority vote in favor of such collection and dis-
18 posal at public expense, then council shall provide for the
19 collection of all garbage thereafter.

*Exemption from District Poor and Road Levies; Construction and
Maintenance of Bridges*

Sec. 28. The city shall support its own poor and shall con-
2 struct and maintain its own roads and streets; and by reason
3 thereof shall not be required to pay any district poor levies
4 for the support of the poor outside of the city limits, or for
5 any district road taxes for the construction and maintenance
6 of roads outside of the city limits; but the county court shall
7 remain chargeable for the construction and maintenance of
8 bridges within the city and the location of such bridges when
9 once established shall not be changed or re-located by said
10 county court without the consent of council.

Street Maintenance, Sewers, etc.

Sec. 29. (a) It shall be unlawful for any person, firm or cor-
2 poration to subject any of the streets of the City of Morgan-
3 town to a use which will destroy, impair or injure the use of
4 such street, or streets, for ordinary travel in ordinary modes.
5 The council shall carry this provision into effect by appropri-
6 ate ordinance or ordinances.

7 (b) Council shall have full power and authority to desig-
8 nate by ordinance certain of the streets and alleys of the city
9 as routes for the transportation and haulage of commodities
10 and to calssify such commodities and specify the streets and
11 alleys over which certain classes shall be hauled and trans-
12 ported, and otherwise to regulate the traffic of the city in
13 such manner as in its judgment will protect the streets and
14 alleys of the city and promote the public interest.

15 (c) Council shall have full power and authority to pro-
16 vide by ordinance for the construction, maintenance and repair
17 of all streets and alleys in said city; and to provide rules and
18 regulations for the laying of water and gas lines and street
19 car tracks thereon; and for the construction of sewer pipes and
20 sewer systems thereon; and to provide rules and regulations for
21 the manner in which said pipes and tracks shall be laid and
22 re-laid in such streets and alleys, and to provide for the future
23 needs of such pipes and their connection, and such street car
24 tracks, and excavations therefor, and to provide rules and
25 regulations for excavations in such streets or alleys under the
26 supervision of such city officials as council may by ordinance
27 provide, and the council shall have full power and authority
28 to provide by ordinance for the laying of gas, water and sewer
29 pipes, and street car tracks in any such street or alley, and to
30 provide that no such street or alley or part thereof, after
31 being paved, shall be opened, excavated, or in any manner
32 interfered with, except upon such conditions and terms as
33 council may by ordinance prescribe, and council shall have
34 full power and authority to provide by ordinance for the re-
35 laying and re-location of such pipes and their connections, and
36 such street car tracks prior to the paving or re-paving of
37 any such street or alley.

38 (d) Council shall provide by ordinance for the require-
39 ment upon all public utilities or public service corporations
40 to place or renew all pipes, conduits or other underground
41 appliances, including all connections therewith to the curb
42 upon any street to be paved sufficient to provide for the reason-
43 able anticipated requirements of such company or companies
44 for the probable life of such paving and notice to that effect
45 shall be given by the city council a sufficient time in advance
46 of the commencement of such paving, not to exceed ninety
47 days, to enable such public service corporation or utilities
48 corporation fully to comply therewith, and upon their failure
49 so to do, such public utility corporation or public service cor-
50 poration shall thereafter be deprived of any rights under its
51 franchises from the city or otherwise of disturbing such pav-
52 ing to install such improvements to its plant, and council may
53 at the expiration of the time fixed in said notice, proceed with
54 its paving and not before.

55 (e) And before any streets of said city shall hereafter be
56 paved, and as preliminary to the paving thereof, council shall
57 provide reasonable adequate sewers, both main and lateral,
58 and including the connections to the property line of said
59-60 street.

61 (f) The council may by ordinance prohibit the disturb-
62 ance of any streets or alleys of the city, including the side-
63 walks or public grounds of said city caused by digging therein
64 for the benefit of any private person, firm or corporation
65 other than the city itself, except by city employees under city
66 supervision at the expense of such private person, firm or
67 corporation, or under the superintendence and control of the
68 city itself; and may charge a service fee to cover the perma-
69 nent injury to such streets, alleys, sidewalks or public grounds
70 impossible to repair, and the council shall by ordinance require
71 the enforcement of these provisions, including the duty of
72 making repeated repairs as often as the defects so caused shall
73 reappear.

74 (g) Council shall have full power and authority to provide
75 by ordinance for the issue and sale of bonds for the purposes
76 set forth in chapters forty-seven and forty-seven-a of the code
77 of West Virginia and any and all amendments thereof, in the
78 amount of five per centum of the valuation of all assessable
79 property lying within the limits of said city, which value
80 shall be ascertained by the last assessment made by the city,
81 in the manner hereinbefore provided, of all the taxable prop-
82 erty therein next prior to the issuing of such bonds; and
83 council shall have full power and authority to provide by
84 ordinance for the collection of a direct annual tax sufficient
85 to pay annually, the interest on such bonded indebtedness and
86 the principal thereof, within not exceeding thirty-four years
87 from the date of the issuing of said bonds; *provided, however,*
88 that no bonds may be issued for street paving purposes other
89 than paving street intersections or financing the grading, re-
90 grading, paving or repaving of streets or alleys ordered or
91 petitioned to be paved under ordinance providing for the
92 assessment of the cost thereof to the owners of lots or fractional
93 parts of lots abutting thereon as provided in section 24 of
94 said chapter fifteen, municipal charters, acts of the legislature
95 of West Virginia, one thousand nine hundred and twenty-one;
96 and further, that no bonds shall be issued until all questions

97 connected therewith shall have been first submitted to the
98 qualified voters of the said city and shall have received three-
99 fifths of all the votes cast for and against the same, and other-
100 wise in accordance with the provisions and requirements of
101 said chapter forty-seven-a of the code of West Virginia and
102 any and all amendments thereof.

Repeal of Certain Acts

Sec. 34-a. All acts and parts of acts which are in conflict
2 and inconsistent with this act, are hereby repealed and de-
3 clared inoperative insofar only as they are in conflict or incon-
4 sistent with this act.

5 (b) The invalidity of any portion of this act shall not affect
6 the validity of any other portion thereof which can be given
7 effect without the invalid part.

CHAPTER 22

(House Bill No. 264—By Mr. Cullen)

AN ACT to amend and re-enact section two of article two and section thirty of article nineteen and adding to article ten section twenty-a, of chapter four of the acts of one thousand nine hundred and nineteen, incorporating the municipal corporation of the City of Welch in the county of McDowell and state of West Virginia, relative to the boundaries of said city, powers of the mayor, and the levy to be made.

[Passed January 24, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.
2. Corporate limits.
20-a. Powers of mayor.
30. Taxation.

Be it enacted by the Legislature of West Virginia:

That section two of article two and section thirty of article nineteen of chapter four of the acts of the legislature, one thousand nine hundred and nineteen, incorporating the municipal corporation of the City of Welch in the county of McDowell and state of West Virginia, be amended and re-enacted, and section twenty-a be added to article ten of said chapter, to read as follows:

ARTICLE II

Corporate Limits

Section 2. The corporate limits of the city of Welch shall
2 be as follows, that is to say: Beginning at a set iron near
3 the mouth of Big branch of Elkhorn fork of Tug river;
4 thence south twenty-eight degrees nineteen minutes east one
5 thousand one hundred and seventy feet to a set iron on east
6 side of Big branch; thence south fifty degrees forty minutes
7 west six thousand nine hundred and fifty-five feet to a stake;
8 thence south forty-eight degrees forty-four minutes east two
9 hundred and thirty-six feet to a set rail; thence south sixty-
10 seven degrees twenty-two minutes east one thousand seven
11 hundred and twenty-one feet to a set rail; thence south forty-
12 eight degrees twenty-eight minutes west three hundred and
13 forty-seven feet to a set rail; thence south twenty-nine degrees
14 twenty-six minutes west five hundred and seventy-three feet to
15 a tack in the root of a large beech tree on the north bank of Tug
16 river; thence down Tug river the following courses and dis-
17 tances; north seventy degrees forty-seven minutes west five
18 hundred and eight and five-tenths feet; north eighty-four
19 degrees sixteen minutes west four hundred and eighty-two and
20 five-tenths feet; north fifty-four degrees forty minutes west
21 two hundred and ninety and five-tenths feet; north forty-nine
22 degrees thirty-eight minutes west three hundred and twenty-
23 two feet; north sixty-six degrees thirty-one minutes west two
24 hundred and forty-six feet; north seventy degrees two minutes
25 west four hundred and fourteen and five-tenths feet; thence
26 leaving Tug river south thirty degrees west seven hundred and
27 twenty-five feet to a stake on a spur; thence north fifty-four
28 degrees thirty minutes west two thousand four hundred and
29 fifty feet to a stake near Little Indian creek; thence north
30 four degrees thirty minutes east seven thousand nine hundred
31 and fifty feet to a stake in a line of the present corporation
32 limits; thence with same south seventy-seven degrees west
33 eight hundred feet to a poplar, spruce pine and double beech
34 on the bank of Cub branch; thence north sixty-four degrees
35 thirty minutes west six hundred feet to the top of a spur
36 where a white oak is called for; thence north twenty-two de-
37 grees east seven hundred feet to a stake on the north bank
38 of Tug river; thence north eighty-four degrees east six hun-
39 dred and fifty feet to a stake in a line of said corporate

40 limits; thence leaving said line and running up a spur north
41 twenty-eight degrees five minutes east four hundred feet;
42 north seventy-three degrees six minutes east one hundred sev-
43 enty-eight and six-tenths feet, north seventy-eight degrees east
44 three hundred thirty-three and seven-tenths feet; north forty-
45 seven degrees thirty minutes east ninety-two feet; north
46 forty-nine degrees east ninety-seven feet; north sixty-
47 two degrees thirty minutes east four hundred and ninety-
48 seven feet; north forty-six degrees east two hundred twenty-
49 four and six-tenths feet; north thirty-seven degrees east
50 ninety-six and six-tenths feet; north seventy-six degrees east one
51 hundred thirty-four and five-tenths feet; south eighty-eight
52 degrees east one hundred and seventy-six feet; south thirty
53 degrees east three hundred eighty-three and one-tenth feet;
54 south fifty-seven degrees east eighty-one and two-tenths feet;
55 north eighty-nine degrees east two hundred and sixty-three
56 feet; north eighty-eight degrees thirty minutes east two hun-
57 dred and ninety-eight feet to a stake on top of the ridge
58 between Tug river and Brown's creek; thence leaving the
59 top of said spur and ridge, south seventy-four degrees thirteen
60 minutes east two thousand five hundred thirty-three and six-
61 tenths feet to a stake near the mouth of Graveyard hollow of
62 Brown's creek and about twenty feet north of the county road;
63 thence south fifty-three degrees forty-three minutes east three
64 thousand four hundred and forty-nine feet, crossing Brown's
65 creek and ridge between Brown's creek and Elkhorn to a
66 point of intersection between this line and the Pollard line;
67 thence south two degrees thirty-four minutes west one thousand
68 three hundred and fifteen feet crossing the main line of the
69 Norfolk and Western railway and Elkhorn fork of Tug river,
70 to the beginning, containing one thousand four hundred and
71 sixty-two acres.

ARTICLE X

The Mayor

Sec. 20-a. Any act committed inside the corporate limits
2 of the city of Welch and made a misdemeanor under the
3 laws of the state of West Virginia shall be an offense against
4 the laws of said city, and the mayor, in addition to the other
5 powers herein granted, may try, convict and punish therefor,
6 and in the absence of any specific ordinance relating thereto,

7 may inflict the same penalties and collect the same fines for
8 the benefit of said city as are prescribed by state laws for the
9 same offense.

ARTICLE XIX

Taxation

Sec. 30. The council shall be governed in all re-
2 spects in laying the annual levy or any additional or
3 special levy by chapter nine of the acts of the extraordinary
4 session of the legislature of West Virginia of one thou-
5 sand nine hundred and eight and by chapter eighty-
6 five of the acts of the session of the legislature of one thousand
7 nine hundred and fifteen as the same is amendatory of cer-
8 tain sections of the said chapter nine of the said acts of
9 one thousand nine hundred and eight, except that they
10 may include a poll tax of not exceeding one dollar each
11 year upon each able-bodied man therein, who is above the
12 age of twenty-one years and not over fifty years of age, which
13 poll tax shall be used exclusively for opening, improving
14 and maintaining roads, streets and alleys of the city,
15 and shall designate the same as the "street taxes"; and
16 the said council may also impose such license tax upon
17 dogs and other animals as they may deem proper, and
18 collect the same from the owners of such animals as
19 other taxes are collected, and prescribe such rules, regu-
20 lations and penalties governing the payment of such tax
21 on animals as they may deem reasonable. And the gen-
22 eral annual levy upon the taxable property within the
23 corporate limits of said city shall not exceed the sum of
24 seventy-five cents upon each one hundred dollars valua-
25 tion. But in addition to said levies above mentioned, and
26 in addition to any levies provided by the general law,
27 with which these are not meant to conflict, the council
28 of said city is empowered to and shall lay a special annual
29 levy not to exceed ten cents on each one hundred dol-
30 lars valuation of the property in said city for the pur-
31 pose of creating a sinking fund with which to pay off the
32 principal of the present outstanding bonded indebtedness of
33 said city when the same becomes due and for the purpose of
34 paying annually, when due, the interest coupons of the said
35 present outstanding bonded indebtedness of the said city,
36 which said special levy shall be continued annually by the

37 council for as many years as may be necessary to pay off
 38 said present outstanding bonded indebtedness and the interest
 39 coupons that may become due thereon, but no longer. Also, in
 40 addition to the above, the said council, beginning with the
 41 year one thousand nine hundred and twenty-five, is empowered
 42 to and shall lay a special annual levy not to exceed five cents on
 43 each one hundred dollars valuation of the property in the
 44 said city for the purpose of paying off any outstanding orders
 45 issued against the treasury of said city prior to July the first,
 46 one thousand nine hundred and twenty-four, and for the pur-
 47 pose of paying off any debts contracted prior to said date,
 48 or any judgment taken against the said city prior to said date.
 49 And both of the aforesaid special levies, when collected, shall
 50 be used for no other purpose than for the aforesaid purposes
 51 for which they shall be laid as aforesaid.

CHAPTER 23

(House Bill No. 305—By Mr. Deuley)

AN ACT to amend and re-enact the acts of the legislature of West Virginia, known as chapter five of the acts of one thousand nine hundred and fifteen entitled "The City of Follansbee" and to re-enact and amend the amendment to said chapter five of the acts of the legislature of one thousand nine hundred and fifteen as amended and re-enacted by the acts of the legislature of one thousand nine hundred and twenty-one, chapter nine; and to amend and re-enact sections eight and twelve-*a* of the charter of the City of Follansbee.

[Passed March 24, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

8. Officers.

12-*a*. Mode of voting; form of ballot.

23-*b*. City manager; power and duties.

Sec.

28-*a*. Referendum.

48-*b*. Former ordinances abrogated.

Be it enacted by the Legislature of West Virginia:

That sections eight, twelve-*a*, twenty-three-*b*, forty-eight-*a* and forty-eight-*b* of the charter of the City of Follansbee be amended and re-enacted to read as follows:

Officers

Section 8. The officers of the said city shall be a mayor, six
 2 councilmen, city attorney, city clerk, chief of police, city col-

3 lector and treasurer and a city manager. The mayor and three
4 of said councilmen (the three other councilmen of said city
5 holding over until the next election as provided by the charter
6 of the City of Follansbee) city attorney, city clerk and chief of
7 police shall be elected on the Tuesday after the third Monday in
8 March, one thousand nine hundred and twenty-seven, and every
9 two years thereafter, by the qualified voters of the said city, who
10 shall hold their respective offices for two years, and until their
11 successors shall be duly elected and qualified.

12 The city manager, collector and treasurer shall be appointed
13 by the council, and the said offices of city manager and city
14 collector and treasurer may be at the option of said city council
15 held by the same person or may be held by separate appoint-
16 ments as the said city council may deem best; and no person
17 shall be elected to any office or retain and hold the same who
18 shall be or become an officer or employee of any person, firm
19 or corporation holding any franchise or contract under or with
20 said city, and the said council of said city shall fix the compen-
21 sation of all elective and appointive officials and employees of
22 said city.

Mode of Voting

Sec. 12-a. Candidates to be voted for at all general municipal
2 elections at which a mayor, city attorney, city clerk, chief of
3 police and councilmen from each ward are to be elected under the
4 provisions of this act, shall be nominated by a primary election
5 (the said mayor, city attorney, city clerk, chief of police shall
6 be nominated and elected at large and the said councilmen
7 shall be nominated and elected from their respective wards),
8 and no other names shall be printed upon the general ballot,
9 except those selected in the manner hereinafter prescribed.

10 The primary election for such nomination shall be held on
11 the first Tuesday in March preceding the general municipal
12 election. The judges of election shall be appointed by council
13 for the general municipal election, who shall be the judges of the
14 primary election, but said election officers shall have first been
15 recommended by a majority vote of all candidates at least ten
16 days preceding the said primary election and all primary and
17 general elections shall be held at the same place, so far as pos-
18 sible, and the polls shall be opened and closed at the same hours.

19 Any person desiring to become a candidate for mayor, city

20 attorney, city clerk, chief of police or councilman, shall, at least
21 ten days prior to said primary election, file with the city clerk
22 (now recorder) a statement of such candidacy, in substantially
23 the following form:

24 STATE OF WEST VIRGINIA, BROOKE COUNTY, SS:

25 I, being first duly sworn
26 say that I reside at street, City of
27 Follansbee, county of Brooke, state of West Virginia; that I
28 am a qualified voter therein; that I am a candidate for nomina-
29 tion to the office of (mayor, city attorney, city clerk, chief of
30 police or councilman from first, second or third ward) to be
31 voted upon at the primary election to be held on the.....
32 Tuesday of....., 19....., and I hereby
33 request that my name be printed upon the official primary ballot
34 for nomination by such primary election for such office.

35 Signed

36 Subscribed and sworn to (or affirmed) before me by.....
37 on this
38 day of....., 19.....

39 Signed

40 and shall at the same time file therewith the petition of at least
41 ten qualified voters requesting such candidacy. Each petition
42 shall be verified by one or more persons as to the qualifications
43 and residence, with street number, of each person so signing
44 the said petition, and the said petition shall be in substantially
45 the following form:

46 PETITION ACCOMPANYING NOMINATING STATEMENT

47 The undersigned, duly qualified electors of the City of Fol-
48 lansbee, and residing at the places set opposite our respective
49 names hereon, do hereby request that the name of (name candi-
50 date) be placed on the ballot as a candidate for nomination for
51 (name of office) at the primary election to be held in said city
52 on theTuesday of.....
53 19..... We further state that we know him to be a qualified
54 elector of said city, and a man of good moral character, and
55 qualified, in our judgment, for the duties of such office.

56 Names of Qualified Electors. Number. Street.

57 Immediately upon the expiration of the time of filing the
58 statements and petitions for candidates, the said city clerk (now
59 recorder) shall cause the primary ballot to be printed, authen-
60 ticated with a *fac simile* of his signature. Upon the said ballot

61 the names of the candidates for mayor, arranged alphabetically,
 62 shall first be placed, with a square at the left of each name,
 63 immediately below the words "vote for one." Following these
 64 names, likewise arranged in alphabetical order, shall appear the
 65 names of the candidates for city attorney, city clerk and chief
 66 of police, with a square at the left for each name, and below the
 67 names of such candidates shall appear the words "vote for one;"
 68 following, likewise arranged, shall appear the names of the
 69 candidates for councilmen in each ward, with a square at the
 70 left of each name, and below the name of such candidates shall
 71 appear the words "vote for one or two," according to the num-
 72 ber of councilmen to be elected in said ward.

73 The ballots shall be printed upon plain, substantial white
 74 paper, and shall be headed:

75 "Candidates for Nomination for Mayor, City Attorney, City
 76 Clerk, Chief of Police and Councilmen for the
 77 Ward of the City of Follansbee, at the Primary Election," but
 78 shall have no party designation or mark whatever. The ballots
 79 shall be in substantially the following form:

80 (Place a cross in the square preceding the names of the
 81 parties you favor as candidates for the respective offices.)

82 OFFICIAL PRIMARY BALLOT.

83 Candidates for nomination for mayor, city attorney, city
 84 clerk, chief of police and councilman for the
 85 ward of the City of Follansbee, at the primary election.

86 For Mayor
 87 Name of candidates
 88 (Vote for one)
 89 For City Attorney
 90 Name of candidates
 91 (Vote for one)
 92 For Chief of Police
 93 Name of candidates
 94 (Vote for one)
 95 For Councilman
 96 Name of candidates
 97 (Vote for one or two as the case may be)

98 Official ballot attest:
 99 Signed.....City Clerk.

100 Judges of election shall, immediately upon the closing of the
 101 polls, count the ballots, and ascertain the number of votes cast

102 in such precinct for each candidate, and make return thereof
103 to the city clerk before nine o'clock A. M. of the following day.
104 On the day following said primary election the council shall
105 canvass said returns so received from all the polling precincts,
106 and shall make and publish in all the newspapers of said city
107 at least once, the result thereof. Said canvass shall be pub-
108 licly made.

109 The two candidates receiving the highest number of votes
110 for mayor, city attorney, city clerk, chief of police, shall be the
111 candidates and the only candidates whose names shall be
112 placed upon the ballot for the said offices at the next
113 succeeding general election, and at the first election
114 to be held under this charter, the four candidates
115 receiving the highest number of votes for councilmen in each
116 ward, shall be the candidates and the only candidates whose
117 names shall be placed upon the ballot for councilmen at said
118 first election, and at all other general elections at which said
119 officers shall be elected, the two candidates receiving the highest
120 number of votes for councilmen in each ward, shall be the
121 candidates and the only candidates whose names shall be placed
122 upon the ballot for councilmen at such municipal election,
123 unless there should be two members of council to elect from
124 any of said wards, then the four candidates receiving the highest
125 number of votes shall be placed upon the ballot for councilmen
126 at such election. In the event of the death or resignation of a
127 nominee before the election, the candidate receiving the next
128 highest number of votes at the primary shall be placed on the
129 ticket in his stead.

130 The ballot at such general municipal election shall be in the
131 same general form as for such primary election, so far as
132 applicable, and all elections in said city, of whatsoever kind,
133 held under this act, shall be conducted, returned and the result
134 thereof ascertained and declared in the manner prescribed by
135 the laws of the state relating to elections, in so far as they are
136 not in conflict or inconsistent with the provisions of this act.

City Manager

Sec. 23-b. The city manager shall have general supervision
2 over the streets, alleys, sidewalks, drains and sewers of said city
3 and of the construction of any streets, alleys, sidewalks, drains
4 and sewers, and of making changes in the ones existing; and

5 shall see that the streets are properly lighted, pursuant to con-
6 tract. It shall be his duty to investigate all applications for
7 new streets, alleys, sidewalks, drains and sewers, and report the
8 same to the council with his recommendation in regard thereto.
9 He shall have general supervision of the construction of all
10 streets, alleys, sidewalks, drains and sewers and the planting of
11 trees and other improvements which may from time to time
12 be made in any public street or alley, and to this end, may by
13 and with the consent of the council, appoint such assistants as
14 are necessary in the faithful performance of his duties herein
15 conferred.

16 It shall likewise be his duty to report to the council every
17 obstruction found in any of the streets, alleys, sidewalks, drains
18 or sewers, in said city, and on such report the mayor shall
19 instruct the chief of police to summons the offender to show
20 cause why the same should not be removed at the expense of the
21 offender, and why a fine should not be imposed upon such an
22 offender for violation of such ordinance of said city in regard
23 thereto.

24 It shall likewise be the duty of said city manager to supervise
25 and protect all the buildings and other properties belonging to
26 said city and provide for the public heating, cleaning and light-
27 ing of said city building and look after the same, and he shall
28 have supervision of all the tangible property of said city and all
29 the appliances used by the fire department of said city, and he
30 shall see to it that the same are properly taken care of and kept
31 in proper condition for use.

32 He shall also supervise the granting of building permits, and
33 see that all buildings erected in said City of Follansbee are
34 erected and constructed in accordance with the ordinances of
35 said city.

36 He shall also employ such unskilled labor as may be necessary,
37 fix their wages, with the consent of the common council of said
38 city, and have authority to terminate their employment at any
39 time.

40 He shall also perform such other duties as may properly
41 devolve upon him under this charter or be required of him by
42 ordinances or resolutions of the common council of said city.

Sec. 48-a. This act shall not become effective unless the same
2 is adopted by a majority of the voters in said city as hereinafter
3 provided for within six months after the passage of this act.

4 Upon the passage of this act it shall be the duty of the council
 5 of the City of Follansbee as the same exists at that time, to set
 6 a time for an election. The question of the adoption of this
 7 amendment to the charter shall be referred to the legal voters
 8 of Follansbee, and thereupon the mayor of said city shall issue
 9 a proclamation setting the date of such election and the object
 10 of such election, and further stating that a copy of said amend-
 11 ment to the charter is on file in the office of the city clerk and
 12 open to the inspection of all persons interested, but it shall not
 13 be necessary for said proclamation to be therein contained a
 14 copy of this act. Such proclamation shall be published in some
 15 newspaper of general circulation in said city, at least once a
 16 week for two successive weeks before the election.

17 It shall be the duty of the council of said city to appoint the
 18 election commissioners and clerks to conduct said election, to
 19 provide ballots, poll books and other things for the proper
 20 conduct of said election; and said election shall be conducted
 21 at such place as shall be provided by the mayor in his proclama-
 22 tion and according to the rules and regulations for elections
 23 now in force in said City of Follansbee.

24 The ballots used in said election shall be printed in substan-
 25 tially the following form:

26 "Election by the voters of the City of Follansbee in the
 27 county of Brooke and state of West Virginia, on the.....
 28day of, 1925, on
 29 the question of adopting or rejecting the amendment to the
 30 charter of Follansbee, as enacted by the Legislature of West
 31 Virginia at the regular session, one thousand nine hundred and
 32 twenty-five thereof.

33 For the adoption of said amendment to the
 34 charter []
 35 Against the adoption of said amendment to the
 36 charter []

37 On the day after the said election it shall be the duty of said
 38 council of said city, to canvass the returns of said election and
 39 ascertain and declare the result thereof. If a majority of the
 40 votes so cast at said election are for the adoption of the amend-
 41 ment to the charter, a certificate thereof shall be published and
 42 entered in the minute book of said council and publication
 43 thereof be made in the next succeeding issue of such newspaper

44 in which the said proclamation of the mayor calling said elec-
45 tion was published.

46 Sec. 48-b. All ordinances of the City of Follansbee, as they
47 exist at the time of the passage of this act, which are inconsistent
48 therewith, are hereby abrogated, and all acts and parts of acts
49 inconsistent with any of the provisions of this act are hereby
50 repealed.

CHAPTER 24

(House Bill No. 315—By Mr. Morris)

AN ACT to amend chapter eight of the acts of the legislature of one thousand nine hundred and fifteen, regular session, municipal charters, incorporating the City of Pennsboro, by adding thereto section nineteen-a relating to permanent improvements in said city, and the issuing of bonds to pay for the same.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the Governor.]

<p>Sec. 19-a. Bond of city; powers and duties of council: for what purpose; when and how issued; engineer's</p>	<p>report; election for; notice of election; holding election; pro- visions for; registered or coupon bonds.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter eight of the acts of the legislature of West Virginia, of the year one thousand nine hundred and fifteen, regular session, municipal charters, be amended by adding thereto section nineteen-a, which section shall read as follows:

Section 19-a. The council of said city shall have the right
2 and power to bond the said city for the purpose of paving the
3 streets and alleys thereof, or for the construction of sewers,
4 including a general sewerage system, or for other permanent
5 improvements, or for the purpose of taking up, paying off, or
6 refunding any already outstanding city bonds, or items of
7 indebtedness, whenever the said council may deem the same
8 necessary; but the aggregate indebtedness of said city for all
9 purposes shall never at any time exceed five per centum of
10 the assessed valuation of the taxable property therein, accord-
11 ing to the last assessment next preceding said date; *provided*,
12 that no debt shall be contracted, or bonds issued hereunder,
13 except in the manner provided herein.

14 (a) No debt shall be contracted or bonds issued under this
15 act until all questions connected therewith shall have been

16 first submitted to a vote of the qualified voters of said city,
17 and shall have received three-fifths of all the votes cast for
18 and against the same. The council of said city may, (and
19 when requested so to do by a petition in writing, praying that
20 bonds be issued and stating the purpose and amount thereof,
21 signed by the legal voters of said city equal to twenty per
22 cent of the votes cast for mayor at the last preceding election),
23 shall enter of record an order reciting the necessity for con-
24 tracting the debt and the issuing of bonds in connection there-
25 with, or, if a petition has been filed as provided herein, that
26 such petition has been filed, and reciting generally the nature
27 of the contemplated improvements and appointing a compe-
28 tent engineer and vesting in him power and authority to
29 make up plans, specifications, profiles and estimates of the pro-
30 posed improvements, and if the same relate to the paving of
31 streets and alleys, showing the proposed grade of the same
32 after completion with reference to the abutting property, file
33 the same with the clerk of said city. Upon the filing of his
34 report by said engineer, the council of said city may, or if a
35 petition has been filed as provided herein, shall, by ordinance
36 entered of record direct that an election be held for the pur-
37 pose of submitting to the voters of said city all questions
38 connected with the contracting of said debt and the issuing
39 of such bonds. Such ordinance shall state: (1) a summary
40 of the engineer's report, setting forth the approximate extent
41 and the estimated cost of the proposed improvement, and the
42 kind or class of work to be done thereon; (2) purpose or pur-
43 poses for which proceeds of bonds are to be expended; (3)
44 valuation of the taxable property in the city as shown by the
45 last assessment thereof for state, county and city purposes;
46 (4) indebtedness, bonded or otherwise; (5) amount of proposed
47 bond issue; (6) maximum term of bonds and series; (7) maxi-
48 mum rate of interest; (8) date of election; (9) if a special
49 election, names of commissioners for holding same; (10) that
50 said council is authorized to lay a sufficient levy annually to
51 provide funds for the payment of the interest upon the bonds
52 and the principal at maturity, and the approximate rate of
53 levy necessary for this purpose; and (11) any other provisions
54 which do not violate any positive provisions of the law, or
55 transgress some principal of public policy.

56 (b) Such ordinance may specify more than one purpose for
57 which bonds are to be issued; *provided*, that the amount of
58 the proceeds of the issue to be used for each purpose shall also
59 be specified therein.

60 (c) Elections for the purpose of voting upon the question
61 of issuing such bonds may be held at any general, primary, or
62 special election, which the said council, in the ordinance sub-
63 mitting the same to vote may designate, except, that when a
64 petition is filed asking that bonds be issued as herein provided,
65 said council, if it be not designated in the petition that the
66 election shall be held at a general or primary election, shall
67 order a special election to be held within sixty days from the
68 filing of the engineer's report as provided in this act.

69 (d) Notice of all bond elections hereunder shall be given,
70 by the publication of the ordinance provided for herein at
71 least once each week for four successive weeks prior to the
72 date of the election in two newspapers of different politics, if
73 there be such published in said city. If there be only one news-
74 paper published therein, such notice shall be published as
75 aforesaid therein. If no newspaper be published therein, then
76 in some newspaper published in the county of Ritchie, of this
77 state. Notice shall also be given by posting printed copies of
78 such ordinance at the front door of the meeting place of said
79 council, and at each voting place in said city, at least ten days
80 before the election.

81 (e) When such elections are held in connection with any
82 general or primary elections no registration of the voters of
83 said city other than that made by the county court shall be
84 had; but if such elections are not held in connection with any
85 general or primary elections, but are special elections, then
86 for amending and correcting the registration of voters for
87 such special elections as provided by the general registration
88 law, the council of said city shall do and perform all things
89 thereby imposed upon county courts.

90 (f) All elections held hereunder shall be at the voting pre-
91 cincts established for the election of municipal officers.

92 (g) For the purpose of holding such elections the clerk of
93 said city, under the supervision and direction of the council
94 thereof, shall procure and furnish to the election commissioners
95 at each voting precinct the tickets, poll books, tally sheets,

96 and other things necessary for conducting the election, and
97 perform all duties imposed by law upon clerks of the circuit
98 courts in relation to general elections.

99 (h) The commissioners appointed to hold such elections may
100 appoint two clerks to assist in the holding of such elections,
101 and which clerks shall perform the same duties as clerks
102 of general elections, and all the provisions of the general
103 election laws of this state concerning general, primary or
104 special elections, when not in conflict with any of the provisions
105 of this act, shall apply to bond elections hereunder, insofar as
106 practicable.

107 (i) The ballots to be used at elections hereunder shall be
108 in substantially the following form:

109 "Shall the City of Pennsboro, a municipal corporation,
110 incur debt and issue bonds to the amount of.....dollars,
111 to run not more than.....years from the date thereof,
112 with interest not exceeding the rate of.....per centum
113 per annum, for the purpose of....., and levy taxes
114 sufficient to pay the interest on and the principal of said
115 bonds.

116 Yes.

117 No.

118 Notice to Voters: To vote in favor of the proposition
119 submitted on this ballot place an X mark in the square
120 after the word 'Yes,' and to vote against it place a similar
121 mark after the word 'No.' "

122 (j) The council of said city shall canvass the returns and
123 declare the result of said elections at the same time and in
124 the same manner provided by law with reference to the elec-
125 tion of municipal officers, and as is required of county courts
126 for general elections.

127 (k) If three-fifths of all the votes cast for and against the
128 same shall be in favor of the proposition to incur debt and
129 issue negotiable bonds, the council of said city shall by resolu-
130 tion duly passed and entered of record authorize the issuance
131 of such bonds in an amount not exceeding the amount stated
132 in the proposition; fix the date thereof; set forth the denomi-
133 nations in which they shall be issued, which denominations

134 shall be one hundred dollars or multiples thereof; to deter-
135 mine the rate of interest which the bonds shall bear, which
136 shall be within the maximum rate stated in the proposition
137 submitted to vote and payable semi-annually, and shall in
138 no case exceed six per centum per annum; prescribe the
139 medium with which the bonds shall be payable; require that
140 the bonds shall be made payable at the office of the treasurer
141 of the state of West Virginia, and at such other place or
142 places as said council may appoint; provide for a sufficient
143 levy to pay the semi-annual interest on the bonds and the
144 principal at maturity; fix the times within the maximum
145 period as contained in the proposition submitted to vote when
146 the bonds become payable, which shall not exceed thirty-four
147 years from the date thereof; and prescribe a form for executing
148 the bonds authorized.

149 (l) Said bonds shall be made payable in annual install-
150 ments, beginning not more than two years after the date
151 thereof, and the amount payable in each year may be so fixed
152 that when the annual interest is added to the principal amount
153 to be paid the total amount payable in each year, in which
154 part of the principal is payable, shall be as nearly equal as
155 practicable. It shall be an immaterial variance if the dif-
156 ference between the largest and smallest amounts of prin-
157 cipal and interest payable annually during the term of the
158 bonds shall not exceed three per centum of the total authorized
159 issue. Or, said bonds may be payable in annual install-
160 ments beginning not more than two years after the date
161 thereof, each installments being as nearly equal in amount
162 as may be practicable.

163 (m) The resolution authorizing the bonds provided for in
164 the last preceding paragraph may direct that they shall con-
165 tain the following recital:

166 "It is certified that this bond is authorized by and is issued
167 in conformity with the requirements of the constitution and
168 statutes of the state of West Virginia."

169 Such recital shall be deemed an authorized declaration by
170 the council of said city and to import that there is constitu-
171 tional and statutory authority for incurring the debts and
172 issuing the bonds; that all proceedings therefor are regular;
173 that all the acts, conditions and things required to exist,

174 happen and be performed precedent to and in the issuance
175 of the bonds, have existed, happened and been performed,
176 in due time, form and manner as required by law; that
177 the amount of the bond and the issue of which it forms a
178 part, together with all other indebtedness, does not exceed any
179 limit, or limits, prescribed by the statute, or statutes, of
180 this state; and that all questions connected with incurring
181 the debt and issuing the bonds have been first submitted to
182 the vote of the people and have received three-fifths of all
183 the votes cast for and against the same at an election regu-
184 larly called and held for the purpose, after notice published
185 and posted in the manner required by this act. If any bond
186 be issued containing the said recital, it shall be conclusively
187 presumed that said recital construed according to the im-
188 port hereby declared, is true, and neither the said city nor
189 any taxpayer thereof shall be permitted to question the
190 validity or legality of the obligation in any court, or in any
191 action or proceeding.

192 (n) Bonds issued hereunder may be either registered or
193 coupon bonds. Coupon bonds may be registered as to prin-
194 cipal in the holder's name on the books of the clerk of said
195 city, the registration being noted upon the bonds by such
196 clerk, after which no transfer shall be valid unless made on
197 such clerk's books by the registered holder, and similarly
198 noted on the bond. Bonds registered as to principal may
199 be discharged from registration by being transferred to bearer,
200 after which they shall be transferable by delivery, but may
201 be again registered as to principal as before. The registra-
202 tion of the bonds as to principal shall not restrain the negoti-
203 ability of the coupons by delivery merely.

204 (o) All bonds issued hereunder shall be signed by the
205 mayor of said city and signed by the clerk, recorder or secre-
206 tary thereof, and the seal of said city shall be affixed thereto.
207 Interest coupons shall be signed by the *fac-simile* signatures
208 of such officers. The delivery of any bonds or coupons so
209 executed at any time thereafter shall be valid, although be-
210 fore the date of delivery the persons, or any of them, sign-
211 ing such bonds or coupons shall have ceased to hold office.

212 (p) It shall be the duty of the council of said city to
213 impose and collect annually, in excess of all other taxes, a tax

214 on all property subject to taxation within the corporate
215 limits of said city under the constitution and laws of this
216 state, sufficient in amount to pay semi-annually interest on
217 such debts and the principal thereof falling due in each year,
218 such tax to be levied and collected by the same officer, at the
219 same time and in the same manner as the general city taxes
220 are collected.

221 (g) The council of said city shall sell all bonds issued pur-
222 suant to this act and collect the proceeds, and which pro-
223 ceeds shall be deposited with its treasurer. Whenever any
224 such bonds are to be sold, the said council before offering
225 them to the public shall offer them in writing to the secre-
226 tary of state, which shall be held to be an offer to sell such
227 bonds at their par value to each of the governmental agencies
228 of the state authorized by law to purchase such bonds. If,
229 after such offer is made, the council of said city shall be
230 notified in writing that none of such agencies of the state
231 has elected to purchase such bonds, or after ten days have
232 elapsed after such offer of sale has been made without an
233 acceptance by any such agencies of the state, then the council
234 of said city shall advertise said bonds for sale, on sealed
235 bids, which advertisement shall be published at least once
236 a week for three weeks, the first publication to be made at
237 least twenty-one days preceding the date fixed for the recep-
238 tion of bids, in a newspaper published in said city, or if
239 there be none published therein, in a newspaper published
240 in the county of Ritchie of this state, and also posted in three
241 public places in said city at least twenty-one days before the
242 date fixed for the reception of bids, and at the option of
243 the council of said city said bonds may be advertised for
244 sale for alike period of time in a financial paper published
245 in the city of New York, or the city of Chicago, or in any
246 newspaper of general circulation published in any city of
247 the state of West Virginia having a population of not less
248 than twenty thousand inhabitants, according to the last
249 federal census. The council of said city may reject any and
250 all bids. If the bonds be not sold pursuant to such adver-
251 tisement they may be sold by the council of said city at private
252 sale within sixty days after the date advertised for the
253 reception of bids, but no private sale shall be made at a price

254 less than the highest bid which shall have been received. If
255 not sold, said bonds shall be re-advertised in the manner herein
256 provided. In no event shall such bonds be sold for less than
257 their par value.

258 (r) The profits, if any, accruing upon any such bonds
259 offered to the secretary of state under the provisions of this
260 act, and purchased by the state sinking fund commission and
261 sold by said commission at a premium, shall be credited to
262 the sinking fund of said city for the payment of said bonds
263 and interest thereon .

264 (s) The proceeds derived from the sale of such bonds shall
265 be used only for the purpose or purposes for which the same
266 were issued, as set out in the ordinance submitting the ques-
267 tion to vote, but the purchasers of such bonds shall not be
268 obliged to see to the application of the proceeds thereof.

269 (t) This act shall, without reference to any other act of
270 the legislature, be full authority for issuance and sale of
271 the bonds hereby authorized; and no ordinance, order, resolu-
272 tion or proceeding in respect to the issuance thereof here-
273 under shall be necessary, except such as are required by this
274 act. No publication of any order, ordinance, resolution or
275 proceeding relating to the issuance of such bonds shall be
276 necessary, except such as is required by this act. Any pub-
277 lication prescribed hereby may be made in any newspaper
278 conforming to the terms of this act, without regard to designa-
279 tion thereof.

280 (u) All bonds issued hereunder shall have all the qualifica-
281 tions of negotiable paper under the law merchant and shall
282 not be invalid for any irregularity or defect in the proceed-
283 ings for the issuance thereof, and shall be incontestable
284 in the hands of *bona fide* purchasers or holders thereof for
285 value.

286 (v) The council of said city shall, as soon as practicable
287 after the result of the election authorizing the issuance of
288 bonds as provided herein shall have been officially ascer-
289 tained, transmit to the attorney general a duly certified copy
290 of all the orders, ordinances, proclamations, notices, adver-
291 tisements, affidavits, resolutions and records of all the pro-
292 ceedings connected with or pertaining to such bond issue.
293 and any other matters relating thereto which the attorney

294 general may require. And all the provisions of section
 295 twenty-four of chapter fourteen of the acts of the legislature
 296 of one thousand nine hundred and twenty-three, relating to
 297 the approval or disapproval of the attorney general of bonds
 298 in general shall apply to and govern the issuing of bonds
 299 under and by virtue of this act.

300 (w) All other acts or parts of acts, whether general or
 301 special, insofar as the provisions thereof are inconsistent with
 302 the provisions of this act, are hereby repealed; *provided*,
 303 *however*, that nothing contained in this act shall affect or in
 304 any wise impair or abridge the powers conferred upon the
 305 said City of Pennsboro under section nineteen of chapter eight
 306 of the acts of one thousand nine hundred and fifteen, regular
 307 session, (municipal charters,) but the powers hereby conferred
 308 upon said city shall be in addition to the powers conferred
 309 upon it by said section nineteen of chapter eight of the acts
 310 aforesaid.

CHAPTER 25

(House Bill No. 347—By Mr. Dorsey)

AN ACT to amend and re-enact section twenty-one of chapter six
 of the acts of the legislature of West Virginia of one thousand
 nine hundred and seven.

[Passed March 31, 1925; in effect 90 days from passage. Approved by the
 Governor.]

Sec. 21. Levy on real and personal prop- | erty and dogs; rate of tax; pur-
 pose of.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter six, of the acts of the legis-
 lature of West Virginia of one thousand nine hundred and seven,
 relating to the charter of the City of Parsons, be amended and re-
 enacted so as to read as follows:

Annual Levy.

Section 21. The levy so ordered shall be upon all dogs in
 2 the said city, and upon all real and personal property therein
 3 subject to state taxes upon the basis of the valuation of such
 4 property as fixed for state purposes; but no taxes so levied
 5 upon property shall exceed the rate of fifty cents on every

6 one hundred dollars of the valuation thereof in any one year
 7 for current purposes... and five cents for a special fire protection
 8 fund, said fire protection fund, or so much thereof as may be
 9 levied and collected to be kept separate from all other funds
 10 and used for fire fighting equipment only, and to be levied,

CHAPTER 26

(House Bill No. 15—By Mr. Armstrong)

AN ACT relating to the board of park commissioners of the City of Huntington.

[Passed January 26, 1925; in effect from passage. Approved by the Governor.]

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|------|--|---|
| Sec. | | park commissioners. |
| 1. | Park district defined. | 6. Meetings; organizations; secretary, bond of. |
| 2. | Board of park commissioners, a body corporate; title and management vested in. | 7. President, powers and duties. |
| 2-a. | Definitions of terms. | 8. Secretary, duties and compensation. |
| 3. | Commissioners, election and tenure of. | 9. Meetings; quorum. |
| 4. | Commissioners, oath of, by whom administered; vacancies, how filled. | 10. Board of park commissioners, powers and duties. |
| 5. | Governor to appoint first board of | 11. Same; powers, continued. |
| | | 12. Same; title passed to. |
| | | 13. Same; assets and liabilities transferred to. |

Be it enacted by the Legislature of West Virginia:

Section 1. The City of Huntington in the counties of Cabell
 2 and Wayne shall constitute an independent park district to be
 3 known as the park district of Huntington.

Sec. 2. The board of park commissioners of Hunting-
 2 ton shall be a body corporate and as such may purchase, hold,
 3 sell, or convey real or personal property, may receive any gift,
 4 grant, donation or devise; may sue and be sued, or contract
 5 and be contracted with, and do other corporate acts; it shall
 6 have the management of and be vested with the title to all
 7 real and personal property acquired for the use of or useful
 8 in the maintenance or enjoyment of parks, parkways, play-
 9 grounds, athletic fields, swimming pools, cemeteries and boule-
 10 vards within the district and shall manage and dispose of the
 11 same as in its opinion will best serve the purpose of this act.

12 *Provided, however,* that nothing herein contained shall be
 13 construed as limiting the board of park commissioners from
 14 going beyond its territorial limits in the state of West Vir-
 15 ginia, to lease, purchase or acquire any real estate for public
 16 grounds, parks, parkways, cemeteries, athletic fields or boule-
 17 vards.

Sec. 2-a The words 'park commission' as herein used, unless
2 the context indicates to the contrary, shall be construed to
3 mean the board of park commissioners of the City of Hunt-
4 ton; the words 'board of education', unless the context indi-
5 cates to the contrary, shall be construed to mean the board of
6 education of the independent school district of the City of Hunt-
7 ington; and the words, 'municipal authorities' of the City of
8 Huntington shall be construed to mean the governing body of
9 the City of Huntington as it is constituted at the time of the
10 passage of this act, and as it may from time to time be changed
11 by proper legislative action.

Sec. 3. There shall be nominated and elected by the voters
2 of said district in the general election for state officers, on the
3 first Tuesday after the first Monday in November, one thousand
4 nine hundred and twenty-six, and in the manner prescribed by
5 the general law for the nomination and election of district offi-
6 cers, six commissioners, and every two years thereafter, two
7 commissioners, whose term of office shall commence on the
8 first day of January following their election, and which shall
9 be for six years and until their successors are elected and
10 qualified, except that two of the commissioners elected in one
11 thousand nine hundred and twenty-six shall serve only two
12 years and two others for only four years, the ballots designating
13 the term of each member, and, *provided*, that not more than one-
14 half of said board shall be members of the same political party.
14-a The said commissioners shall constitute a board of park com-
15 missioners of the City of Huntington. They shall receive no
16 compensation for their services.

Sec. 4. Before entering upon their duties as park commis-
2 sioners each of said commissioners shall be required to qualify
3 by taking and subscribing to the following oath of office:

4 "I,, do solemnly swear (or affirm)
5 that I will faithfully perform the duties as a member of the
6 board of park commissioners of the City of Huntington during
7 the term for which I was elected, to the best of my ability
8 according to law, so help me God."

9 The secretary of the board of park commissioners, or any
10 other person authorized to administer an oath, is authorized
11 to administer said oath, a copy of which shall be kept upon the
12 the files in the office of the board. Any vacancy which may
13 occur in the office of park commissioner, by death, resignation,

14 refusal to serve, or otherwise, shall be filled by the board of
15 park commissioners at its first regular meeting thereafter, by
16 appointment of a suitable person, who is a member of the same
17 political party as the member whose death, resignation, refusal
18 to serve or otherwise shall have caused the vacancy, and the
19 person so appointed shall hold office until the next election for
20 park commissioners, when a commissioner shall be elected
21 for the unexpired term.

Sec. 5. Immediately upon the passage of this act, the gov-
2 ernor shall appoint six persons, not more than three of
3 whom shall be members of the same political party, who are
4 citizens and voters in the City of Huntington, as park com-
5 missioners of said city, to hold office from the date of their
6 respective appointments to the election and qualification of the
7 park commissioners as provided for in section three, of this
8 act.

Sec. 6. The first meeting of the board of park commission-
2 ers in one thousand nine hundred and twenty-five shall be held
3 as soon after the governor shall have made his appointments as
4 convenient, at a time and place to be designated by the mayor of
5 the City of Huntington, and bi-annually thereafter the first
6 meeting shall be held on the first Wednesday after the first
7 Tuesday in January, at such time and place as the board
8 may have designated. At its first meeting and bi-annually there-
9 after, the board shall elect one of its number president, and
10 also shall elect a secretary. Before entering upon the duties
11 of his office, the secretary shall enter into a bond with a surety
12 company, or at least two good personal securities to be ap-
13 proved by the board, conditioned for the faithful performance
14 of his duties, the bond to be payable to the board of park com-
15 missioners of the City of Huntington, in such penal sum as
16 the board determines, which bond shall be filed with the board
17 for safe keeping.

Sec. 7. The president shall perform such duties as ordinar-
2 ily devolve upon the presiding officer of a deliberative body,
3 except he shall have a vote upon each and every question, as
4 every other commissioner, but he shall have but one vote on each
5 question. In his absence the board may choose a president
6 *pro tempore* from among its number.

Sec. 8. The secretary shall record in a book to be provided
2 for that purpose, a record of the official acts and proceedings

3 of the board, which shall be a public record open to the in-
4 spection of all persons interested therein. He shall preserve
5 in his office all papers containing evidence of title, contracts
6 and obligations; and in general shall record and keep on file in
7 his office all such papers or documents as may be required by
8 any of the provisions of this act or by the board of park com-
9 missioners. For this service, he may receive such compensa-
10 tion as the board may allow. In his absence the board may
11 appoint a secretary *pro tempore*.

Sec. 9. The board of park commissioners shall hold stated
2 meetings at such times and places as it may appoint, not less
3 than four members being required to constitute a quorum for
4 the transaction of business. Special meetings may be called
5 by the president, or at the request of two members, by the
6 secretary; the concurrence of four members of the board
7 shall be required to decide all questions involving the expendi-
8 ture of money.

Sec. 10. The board of park commissioners shall have and
2 is hereby given power to acquire land for a system of parks,
3 parkways, playgrounds, athletic fields, stadiums, swimming
4 pools, cemeteries, boulevards and streets, necessary to connect
5 up such system, and if the land necessary for such purposes
6 can not be acquired by purchase, the power of eminent do-
7 main is hereby conferred upon the said board, and it shall
8 institute condemnation proceedings against the owners thereof
9 under the provisions of chapter forty-two of Barnes' West Vir-
10 ginia code, one thousand nine hundred and twenty-three edition.
11 The term system of parks, parkways, playgrounds, athletic
12 fields, boulevards and streets as used herein shall embrace any
13 body of land of whatever shape or area, designated ultimately
14 to be used for parks, parkways, playgrounds, athletic fields,
15 boulevards, or streets, necessary to connect parks, and the board
16 of commissioners shall agree, with the municipal authorities of
17 the City of Huntington, upon what parts of the streets are
18 necessary for and are to be used as a part of the system of parks
19 and boulevards.

20 The board of park commissioners shall have and is hereby
21 given the necessary authority to control all parks, parkways,
22 playgrounds, athletic fields, swimming pools, stadiums, ceme-
23 teries, boulevards and streets, used as a part of the park sys-
24 tem, within its district; and by proper ordinances to regulate

25 the use thereof and driving thereon; to have the same kept
26 in good order and free from obstruction; to restrain and pun-
27 ish vagrants, mendicants, beggars, tramps, prostitutes or dis-
28 orderly persons on parks, parkways, playgrounds, athletic
29 fields, swimming pools, stadiums, cemeteries, boulevards and
30 streets, used as a part of the park system, but persons arrested
31 under such ordinances shall be tried by the police judge of
32 the City of Huntington, who is hereby given jurisdiction of all
33 warrants issued under any such ordinances; to construct and
34 improve and repair parks, boulevards, or streets, part of the
35 park system, parkways, athletic fields, swimming pools, stad-
36 iums, cemeteries, roads, bridges, culverts and sewers on any
37 grounds controlled by said board; to acquire, lease, appropriate,
38 and control lands either within or without the city limits
39 as they now exist, or such limits as may hereafter be enlarged;
40 to make contracts with the board of education, the municipal
41 authorities of the City of Huntington, the state authorities,
42 jointly or separately for the purpose of the construction and
43 erection of a stadium to be used jointly by the school board,
44 Marshall college students and the public, under such terms
45 and conditions as the said parties may deem best; to enter
46 into contract with any internal improvement company for the
47 joint ownership of any bridge, to be built by the board of park
48 commissioners, and such company, but such bridge shall be
49 a public highway, and the interest of the internal improvement
50 company therein shall be only such a proportionate part there-
51 of which it may pay for; to cause any boulevard, road, street
52 or alley which is a part of the park system to be graded or
53 curbed or surfaced with stone, concrete or other suitable mater-
54 ials or paved or re-paved between curbs with suitable materials
55 or to be graded, surfaced, re-surfaced, curbed and re-curbed
56 and paved or re-paved as aforesaid, or to be macadamized or
57 otherwise permanently improved or repaired in the same manner
58 and to the same extent as similar power is conferred upon the
59 board of commissioners of the City of Huntington, by sections
60 sixty-seven, sixty-eight, sixty-nine and seventy of chapter two
61 of the acts of the legislature of one thousand nine hundred and
62 nineteen; to order and cause to be constructed in any boulevard,
63 street, alley or road which is a part of the park system, a
64 public sewer, either main or lateral, in the same manner in

65 which the board of commissioners of the said City of Hunting-
66 ton is authorized by section seventy-one of chapter two of the
67 acts of the legislature of one thousand nine hundred and nine-
68 teen; and the liens created under the aforementioned sections
69 are to be released and are subject to all of the provisions of sec-
70 tion seventy-two of chapter two of the acts of one thousand nine
71 hundred and nineteen; to provide by contract with the municipi-
72 pal authorities of the City of Huntington for the joint construc-
73 tion of sewers, main or lateral, through parks, parkways, ceme-
74 teries, playgrounds, athletic fields boulevards, roads, streets or
75 alleys which are part of the park system of the City of Hunting-
76 ton, to be paid for out of joint funds; to provide for the con-
77 struction and maintenance of a stadium and swimming pools
78 and to provide the necessary equipment for the use and enjoy-
79 ment of the parks and playgrounds.

Sec. 11. For the purpose mentioned in the foregoing section,
2 the board of park commissioners is here given the power to and
3 is required annually to levy a tax on the property taxable in
4 the said district, not to exceed in any one year, the rate of six
5 cents on each one hundred dollars valuation thereof, according
6 to the latest assessments of the same for state and county pur-
7 poses. The levy to be made at the time and in the manner as
8 provided by sections five, six and eight, of chapter twenty-eight-a,
9 of Barnes' West Virginia code, one thousand nine hundred
10 twenty-three edition, insofar as the same are applicable, and the
11 board of park commissioners is hereby given expressly all the
12 powers and is subject to all of the limitations of sections nine,
13 ten, eleven, twelve and thirteen of said chapter twenty-eight-a,
14 except that after the board of park commissioners shall have
15 made the levy, it shall certify to the treasurer of the City of
16 Huntington, the amount of the said levy, and the said city
17 treasurer shall thereupon extend the levy upon the tax tickets,
18 and all levies made by the said board of park commissioners
19 shall be collected and held by the city treasurer who is here
20 made treasurer of the board of park commissioners, and who
21 is required to deposit all park funds received or collected by
22 him in a special deposit to his credit as treasurer of the board
23 of park commissioners, and to pay out such money upon vouch-
24 ers drawn upon the order of the board of park commissioners
25 on the city treasurer, which orders are to be signed by the

26 president of the board of park commissioners, and counter-
27 signed by its secretary.

28 *Provided, further:* That inasmuch as the City of Hunting-
29 ton annually pays to the county assessor, certain fees for mak-
30 ing out for its use copies of the land and personal property
31 books, the board of park commissioners shall hereafter contribute
32 to the payment of this amount, such a proportional part thereof
33 as the amount of the levy made by the said board of park com-
34 missioners bears to the amount of the levy made by the City
35 of Huntington.

Sec. 12. Upon the passage of this act, the title to all parks,
2 parkways, play-grounds, athletic-fields, cemeteries and boulevards
3 which is vested in the City of Huntington, but under
4 the provision of this act, pass to the jurisdiction of the board
5 of park commissioners, shall be vested in the board of park
6 commissioners of the said city and held as herein set out.

7 *But provided always:* That there may be no confusion of
8 the streets which are parts of the park boulevard system, and
9 what are boulevards. The board of commissioners of the City
10 of Huntington shall, within four weeks after the passage of
11 this act, adopt an ordinance setting out what parks, parkways,
12 play-grounds, athletic fields, cemeteries, boulevards and streets,
13 which are part of the boulevard system are embraced in said
14 system, and upon the passage of said ordinance, the jurisdiction
15 of all parks, parkways, play-grounds, cemeteries, athletic fields,
16 boulevards and streets mentioned therein shall pass to the con-
17 trol of the board of park commissioners.

17-a The board of park commissioners shall have and maintain its
18 offices in the city hall of the said City of Huntington.

Sec. 13. Immediately after the first meeting of the board of
2 park commissioners as herein provided, the municipal authori-
3 ties of the City of Huntington shall transfer to the said board,
4 all sums in the treasury of the City of Huntington remaining
5 to the credit of the park and cemetery funds, and shall at the
6 same time turn over to the said board of park commissioners
7 any unpaid accounts against the said funds, and any unex-
8 ecuted contracts in relation thereto, and the said board shall
9 assume said accounts and carry out such unexecuted contracts.

CHAPTER 27

(House Bill No. 370—By Mr. Armstrong)

AN ACT to amend chapter eleven of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters) as amended by section two of chapter seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-three, relating to the corporate limits of the City of Huntington.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

Sec.
2. Corporate limits; inconsistent acts
repealed.

Be it enacted by the Legislature of West Virginia:

That section two of chapter seventy-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-three be amended and re-enacted to read as follows:

Section 2. The corporate limits of the City of Huntington 2 shall be as follows, to wit:

3 Beginning at a stake at low water mark of the Ohio river,
4 southerly side thereof, about a mile above the mouth of the
5 Guyandotte river, in the west side of the Peck farm; thence
6 southerly with the west line of the Peck farm to the top of the
7 river hill; thence leaving the corporation line as heretofore
8 established, and continuing southerly with the west line of the
9 Peck farm and with the property lines in a general southerly
10 direction to the south line of the Chesapeake and Ohio railway
11 company right of way; thence westerly and with the south
12 line of the right of way of the Chesapeake and Ohio railway
13 company to the top of the bank on the west side of Pats'
14 branch, being a point in the corporation line as heretofore
15 established; thence continuing with said corporation line as
16 heretofore established, southwesterly with the west bank of said
17 Pat's branch to the northeast side of the state road No. 3 on
18 the east side of the Guyandotte river; thence southeasterly with
19 the northeast line of said state road No. 3 to the east line of the
19-a International Nickel Company property, and thence with the
19-b east line of said company and in a northerly direction, to the
19-c south line of the right of way of the Chesapeake and Ohio
19-d Railway Company, and thence easterly with said south line
19-e of the right of way of said railway company to a point where

19-*f* said line intersects with the west line of Fifth Street, as shown
19-*g* upon Plat No. 1 of Altizer Place, and thence with the
19-*h* west line of said Fifth Street to a point in said
20 line where said state road No. 3 turns southward to cross the
21 Guyandotte river; thence continuing with the west line of said
22 state road, and across said river, to a point where said west line
23 intersects with the north line of the Norway avenue-Russel creek
24 road; thence westerly with the north line of said Norway avenue-
25 Russell creek road to its intersection with the southeastly cor-
26 poration line of the City of Huntington, as heretofore consti-
27 tuted by chapter one hundred and fifty of the acts of the legis-
28 lature of one thousand nine hundred and one; thence south and
29 then westerly with said corporation line to the Huntington-
30 Hamlin pike; thence in a straight line and westerly direction
31 to a point on the west side of the McCoy (Eighth street) road
32 two feet northeast of the northeasterly corner of the F. L. Wey-
33 mouth land; thence westerly across the McCoy road to the north-
34 easterly corner of the F. L. Weymouth land; thence following
35 the northeasterly line of the F. L. Weymouth land and the
36 northerly line of the land of F. L. and F. A. Weymouth to the
37 intersection of the present corporation line at the left fork of
38 Hisey creek; thence westerly with the northerly bank of the
39 said left fork to its intersection with the right fork; thence
40 westerly with the northerly bank of Hisey Fork of Four Pole
41 creek to where said old corporation line crosses said Hisey Fork;
42 thence in a northerly direction by said line, as heretofore con-
43 stituted by chapter one hundred and fifty of the acts of the
44 legislature of one thousand nine hundred and one, to the north-
45 erly branch of Four Pole creek; thence in a westerly direction
46 and down Four Pole creek with the northerly bank thereof to
47 the intersection of said creek with Hisey Fork of said creek;
48 thence with the northerly bank of Four Pole creek westerly and
49 down the same to the intersection of said creek with the southerly
50 line of the right of way of the Chesapeake and Ohio railway
51 company; thence continuing westerly with the said southerly
52 line of the right of way of said railway company to its intersec-
53 tion with the division line between Wayne and Cabell counties;
54 thence continuing with the southerly line of the right of way of
55 said railway company to the point of its intersection with the
56 easterly corporation line of the town of Ceredo in Wayne county;
57 thence in a northerly direction with said easterly corporation

58 line of the town of Ceredo to the low water mark of the southerly
 59 side of the Ohio river; thence easterly with said low water mark
 60 of the Ohio river to the point of beginning. *Provided*, that the
 61 territory embraced relating to that part of the boundary line
 62 in Wayne county shall always remain in Wayne county.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 28

(House Bill No. 466—By Mr. Schon)

AN ACT to amend and re-enact sections sixty-seven and sixty-eight of chapter seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-three, amending the charter of the city of Huntington, concerning paving and sewer certificates.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 67. Paving assessments and certificates; form of. 68. Sewer system authorized; assess-</p>		<p>ments and certificates; publication; inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That sections sixty-seven and sixty-eight of chapter seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-three, amending the charter of the City of Huntington, be amended and re-enacted to read as follows:

Section 67. The board of commissioners may contract for
 2 such paving (including grading and curbing), or other said
 3 improvements, to be done as aforesaid, and may acquire or
 4 take land for street and park purposes, as aforesaid, and
 5 may, if the board so elect, stipulate that the costs thereof, in
 6 whole or in part, shall be paid in installments by the abut-
 7 ting property owners, as provided in (a) and (c) of section
 8 sixty-five, or specially benefitted property owners, as pro-
 9 vided in (g) of said section, in five equal or nearly equal in-
 10 stallments, (making four in terms of dollars only and when
 11 practicable in multiples of ten, the cents and odd amounts to
 12 be covered by the first installment), except as hereinafter pro-
 13 vided in this section, to be evidenced by a certificate issued
 14 therefor against each separate lot or tract of land, setting out
 15 the total amount of such assessment against the same, payable

16 in five installments except as hereinafter provided, as fol-
17 lows: The first in thirty days after date of certificate, the
18 second on the first day of May of the year following the
19 year in which the certificate is issued, and the remaining
20 three on the first day of May of the three following years
21 respectively. The date of certificate in case of permanent
22 improvement of streets or other roadways shall be the day on
23 which the city received said work from the contractor, and
24 it shall bear interest at the rate not to exceed six per cent
25 per annum, payable on the due date of each principal install-
26 ment, which certificate is to be signed in person by the mayor
27 and clerk, or other person or persons designated of record by
28 the board. Said certificate shall bear coupons designated
29 "principal installment coupons," representing the respective
30 amounts of the installments to be paid under the same, and
31 which coupons shall be due and payable on the dates pro-
32 vided for the payment of the installments in this section, and
33 said certificate shall also bear interest coupons representing
34 the interest to be paid on said assessment, and which said
35 interest coupons shall be due and payable at the same time
36 the principal installment coupons are due and payable. Upon
37 the due date of any principal installment coupons excepting
38 the first, the accrued interest on so much of said assess-
39 ment as remains unpaid, shall be due and payable and shall be
40 represented by interest coupons as herein above set out. The
41 interest on the first principal installment coupon shall be paid
42 when the said principal installment coupon is paid. Both the
43 principal installment and interest coupons shall be signed by
44 the mayor and clerk, or other person or persons designated,
45 of record by the board, either in person or by stamp, bear-
46 ing a *fac simile* of the written name of the person signing, or
47 lithographed in *fac simile* on said principal installment and
48 interest coupons. The certificates herein provided for may
49 be sold either to the contractor doing the paving or other im-
50 provements, or to any other person, and which shall cover the
51 entire cost of such work provided for in the ordinance or
52 resolution, including the cost of acquiring or taking land for
53 street or park purposes, the cost of surveys, notices and other
54 things pertaining thereto; *provided*, when the entire amount
55 to be assessed against any lot or piece of ground under the

.

56 provisions of this section does not exceed fifty dollars, then
57 such amount shall be covered by only one set of said coupons,
58 payable thirty days after date of issue of certificate; if over
59 fifty and not more than one hundred dollars, then such
60 amount shall be covered by only two principal installment
61 and interest coupons payable in thirty days after date of
62 certificate and on the first day of May of the year succeeding
63 the year in which the certificate was issued, respectively; if
64 over one hundred and not more than one hundred and fifty
65 dollars, then such amount shall be covered by only three prin-
66 cipal installment and interest coupons, payable in thirty
67 days from date of certificate and on the first day of May of
68 the year succeeding the year in which the certificate was is-
69 sued, and on the first day of May in one year thereafter, re-
70 spectively; if over one hundred and fifty dollars and not more
71 than two hundred dollars, then such amount shall be covered
72 by only four principal installment and interest coupons pay-
73 able in thirty days after date of certificate and on the first
74 day of May of the year succeeding the year in which the
75 certificate was issued, and on the first day of May in one and
76 two years thereafter, respectively; if more than two hundred
77 dollars, then such amount shall be covered by five principal
78 installment and interest coupons payable in thirty days after
79 date of certificate and on the first day of May of the year
80 succeeding the year in which the certificate was issued, and
81 on the first day of May in one, two and three years thereafter,
82-83 respectively; *provided, further*, the city in negotiating and
84 selling such certificates shall not be held as guarantor or in
85 any way liable for payment thereof, except upon the direct
86 action of the board of the commissioners as expressed by reso-
87 lution of record. And the certificate and coupons covering the
88 amount of the assessment and interest shall be paid by the
89 owner of the land, lot or fractional part thereof, so assessed
90 for the cost of said improvement on such avenue, street, road
91 or alley so paved or improved, or land acquired or taken, as
92 aforesaid. The amount specified in said assessment certificates
93 shall be a lien in the hands of the holder thereof upon the
94 lands, lots or parts thereof so assessed, and shall also be a debt
95 against the owner of such real estate, and said amount shall
96 draw interest from the date of said certificates, payable on

97 the due date of each principal installment coupon; and the
98 payment of the debt may be enforced as provided by law
99 for the collection of other debts or such lien may be enforced
100 in the name of the holder of such certificate in manner pro-
101 vided by law for the enforcement of other liens against real
102 estate and accrued interest shall be a lien the same as amount
103 set out in assessment certificate.

104 After a contract has been made by a board to pave or
105 otherwise permanently improve any public road, avenue, street
106 or alley in said city under this act, and the paving or other
107 permanent improvement, or stipulated part thereof, has been
108 completed, or the cost of acquiring or taking land as aforesaid,
109 has been ascertained, the board shall assess the amount each
110 lot shall bear and shall make a written report, stating the
111 number of lots, and the blocks or tracts of land, when not
112 laid off into lots, the names of the owners of such lots of land
113 when known, and the amount assessed thereon; and when
114 the said board approves said report, or modifies it and then
115 approves it, a copy of said report, so adopted by the board,
116 when certified to by the city clerk of said city shall be re-
117 corded in the clerk's office of the county court of Cabell
118 county, in a trust deed book and shall be a continuing tax lien
119 upon the lot or ground against which the assessment is made
120 until the certificates as aforesaid are paid, except as otherwise
121 provided in this act, and the clerk shall index the same in
122 the name of each lot or land owner mentioned therein; *pro-*
123 *vided*, any property owner shall have the right to pay the
124 whole amount of any such assessment against his property
125 as soon as the same shall have been ascertained, but before
126 the day on which the city enters such assessments of record
127 after the two weeks' notice provided in section seventy-four
128 of chapter eleven of the acts of the legislature of the state of
129 West Virginia of one thousand nine hundred and twenty-one
130 (municipal charters); and such payment shall be made to the
131 city clerk, who shall give proper receipt therefor, and such as-
132 sessment, so paid, shall not be included in the report to be re-
133 corded in the office of the county clerk as set out in this sec-
134 tion; and the amount so paid to the clerk shall forthwith be
135 paid to the contractor or other person entitled thereto, which
136 shall operate as full discharge of the amount of such indebted-

137 ness of such property owner. The certificates and principal
138 installment and interest coupons herein provided for may be
139 made in the following form or to the same effect:

140 No..... \$......

141 THE STATE OF WEST VIRGINIA
142 (State Coat of Arms)
143 CITY OF HUNTINGTON
144 PAVING ASSESSMENT CERTIFICATE

145 This certifies that as the
146 owner of a lot, piece or parcel of real estate, situate in the
147 city of Huntington, West Virginia, known and designated as
148 Lot No. in Block No....., has been duly
149 assessed the sum of dollars, with
150 interest from this date at the rate of six per centum per
151 annum, payable on the due date of each principal installment
152 coupon, as hereinafter set out, which assessment has been
153 made to pay the cost of the public improvement hereinafter
154 recited.

155 This certificate is one of a series issued pursuant to the
156 provisions of the charter of the city of Huntington, West
157 Virginia, and the laws of the state of West Virginia, to pay
158 the cost of grading, curbing and paving,
159 from to in
160 the city of Huntington, West Virginia.

161 The charter of the city of Huntington, West Virginia, re-
162 quires assessments for such improvements to be made payable
163 in installments as follows:

164 (a) If not more than fifty dollars in one installment
165 due in thirty days after date of certificate.

166 (b) If more than fifty dollars and not more than one hun-
167 dred dollars in two installments due in thirty days, and on
168 the first day of May of the year succeeding the year in which
169 the certificate was issued.

170 (c) If more than one hundred dollars and not more than
171 one hundred and fifty dollars, in three installments, due in
172 thirty days, and on the first day of May of the year succeeding
173 the year in which the certificate was issued, and on the first
174 day of May one year thereafter.

175 (d) If more than one hundred and fifty dollars and not
176 more than two hundred dollars, in four installments, due in

177 thirty days, and on the first day of May of the year succeeding
178 the year in which the certificate was issued, and on the first
179 day of May in one and two years thereafter, respectively.

180 (e) And if more than two hundred dollars, in five install-
181 ments due in thirty days, and on the first day of May of the
182 year succeeding the year in which the certificate was issued,
183 and on the first day of May in one, two and three years there-
184 after, respectively.

185 Said assessments to draw interest at the rate of six per centum
186 per annum, payable on the due date of each principal install-
187 ment.

188 Installments of this certificate, therefore, are evidenced by
189 principal installment coupons here-
190 unto attached, which show the amounts of such installments,
191 the due date thereof, and are signed by the mayor and the
192 clerk of the city of Huntington, West Virginia.

193 The interest on this certificate and the installments thereof
194 are evidenced by interest coupons hereunto attached, which
195 show the amount of such interest, the due date thereof, and
196 are signed by the mayor and clerk of the city of Hunting-
197 ton, West Virginia.

198 Upon the due date of any principal installment coupon,
199 excepting the first, the accrued interest on so much of said
200 assessment as remains unpaid, shall be due and payable in
201 accordance with, and as evidenced by interest coupons hereto
202 attached. The interest on the first principal installment
203 coupon shall be paid when the said principal installment
204 coupon is paid.

205 The said several principal installment and interest coupons
206 respectively, are payable at the office of the treasurer of the
207 city of Huntington.

208 The amount of the assessment represented by this certi-
209 ficate and principal installment coupons attached has been
210 duly levied, equalized and confirmed, and along with accrued
211 interest is a lien upon the real estate herein mentioned, and
212 is also a debt against the owner of said real estate and the
213 holder or bearer of this certificate may enforce the debt evi-
214 denced thereby, as provided by law.

215 It is hereby certified and recited that all the acts, conditions
216 and things required to be done precedent to and in the let-

217 ting of the contract for said improvement, the equalization
 218 and making of said assessment, and the issuing of this certi-
 219 ficate, have been done and performed in regular and due
 220 manner and form, as required by the charter of the city of
 221 Huntington, West Virginia, and the constitution and laws
 222 of the state of West Virginia.

223 In testimony whereof, the city of Huntington, a muni-
 224 cipal corporation created and existing under the laws of the
 225 state of West Virginia, has caused this certificate to be signed
 226 by its mayor and clerk and the prinicipal installment and
 227 interest coupons, respectively, hereunto attached, to be signed
 228 by its mayor and clerk this day of
 229 19.....

230
 231 Clerk. Mayor.

232 No. PRINCIPAL INSTALLMENT \$.....
 233 COUPON

234 On the day of, 19.....,
 235 there will be due and payable to the bearer hereof, from
 236 the sum of
 237 dollars, being the
 238 installment on certificate No. of the City of
 239 Huntington, West Virginia, for the curbing, grading and
 240 paving of from
 241 to

242
 243 Clerk. Mayor.

244 No..... INTEREST COUPON \$.....

245 On the day of 19.....,
 246 there will be due and payable to the bearer hereof, from
 247 the sum of
 248 dollars, representing interest at six per
 249 centum from to
 250 of certificate No.
 251 on installment No..... of the City of Huntington,
 252 West Virginia, for curbing, grading and paving of.....
 253 from to

254
 255
 256 Clerk. Mayor.

Sec. 68. The board of commissioners of said city is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of the said city, a public sewer or sewers, either main or lateral or both, by contract or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein, or to condemn land or easement therein in the manner provided in this act, for such sewer; and when the board shall order and complete the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon or abutting upon an avenue, street, road or alley in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provisions of (i) section sixty-five, shall apply.

When said sewer is completed in any one block, or between two designated points, the board of commissioners shall cause a report to be made in writing setting out the total cost of such sewer and a description of the lots or lands as to location, frontage and ownership liable therefor, including the cost of acquiring or taking land or easement therein for such purpose and cost of surveys, notices, etc., therefor, together with the amount chargeable against each lot or piece of land and the owner thereof. If any lot fronts on two streets, or on a street and road, or on a street (or road) and alley in which a sewer is constructed, it may be assessed on both said streets, or street and road or street (or road) and alley. Said board shall enter an order upon its records setting forth the location and owner of each lot or piece of land, and the amounts of said sewer assessments there against, calculated in the same way as provided for street paving in (c) of section sixty-five herein. The city clerk shall file a certified copy of said order with the clerk of the county court of Cabell county, who shall record the same in the proper trust deed book, and index the same in the name of each owner, and any lot or land thus charged with said assessment. The

41 entry of such order shall constitute and be an assessment for
42 such proportionate amounts so fixed therein against respective
43 lots and land and the owners thereof; and said board shall
44 thereupon certify the same to the treasurer for collection;
45 and for the purpose of facilitating the collection of such as-
46 sessments against the properties as hereinbefore set out, the
47 board of commissioners may issue assessment certificates, with
48 principal installment and interest coupons attached thereto,
49 in form and manner provided for street improvement cer-
50 tificates and coupons in section sixty-seven, to be delivered
51 to and charged against the city treasurer who shall collect
52 the same, and as such coupons and certificates are paid he
53 shall deliver the cancelled coupons and certificates to the
54 party paying the same; *provided*, the board of commissioners,
55 if they so elect, may after passage and publication of ordin-
56 ance or resolution and final action thereon by the citizens
57 board, as provided in (g) of section sixty-five, order and
58 cause the construction of any such sewer, and may acquire
59 or take land or easement therein, either in or outside said
60 city, or both, for said sewer purposes, and assess all or any
61 part of the cost thereof upon and against the abutting, ad-
62 jacent, contiguous and other lots of land specially benefitted
63 by the construction of such sewer, as provided in (g) of sec-
64 tion sixty-five, and said assessments along with accrued inter-
65 est thereon shall be a lien upon such lots or land, and a debt
66 against the owners thereof for the amount so charged against
67 them respectively, which debt may be collected as provided
68 by law for the collection of other debts of like kind, and which
69 lien may be enforced in the same manner as provided for the
70 enforcement of paving liens in this act; and the city shall
71 have exclusive ownership and control of that part of any
72 such sewer constructed outside of said city, unless otherwise
73 provided by some ordinance of the city.

74 The amounts so assessed against said abutting lots or land,
75 or lots or lands specially benefitted, and which shall be a
76 lien there against, shall be collected in the manner provided
77 in this act for the collection of paving liens. Said assess-
78 ments shall be divided into five installments, each for one-
79 fifth of the amount thereof, as near as practicable (making
80 four in terms of dollars only, and when practicable, in mul-

81 tipples of ten, the cents and odd amounts to be covered by the
82 first installment), the first due and payable in thirty days,
83 the second on the first day of May of the year succeeding the
84 year in which said certificates are issued, and a like amount on
85 the first day of May for each succeeding year thereafter from
86 the time of receiving said sewer (except as hereinafter provid-
87 ed in this section), all bearing interest at the rate of six per
88 centum per annum from such date, interest payable on the due
89 date of each principal installment and the board of commis-
90 sioners may issue sewer certificates, and principal installment
91 and interest coupons thereon as of such date, as provided in sec-
92 tion sixty-seven of this act for street improvement assessments,
93 as further evidence of said indebtedness and lien therefor, and
94 said certificates may be sold or negotiated, at not less than par
95 and without any kind of discount to the contractors doing such
96 work, or other person, if the board deem it expedient; *provided*,
97 the city, in negotiating and selling such certificates, shall not be
98 held as guarantor or in any way liable for payment thereof
99 except upon the direct action of the board of commissioners
100 as expressed by resolution of record. But the owner of the
101 land or lot so assessed may, at any time, anticipate and pay
102 such assessment or certificate with accrued interest thereon
103 until the day on which the next undue assessment shall be-
104 come due. And if such assessment shall not exceed fifty
105 dollars, then such amount shall be covered by only one set
106 of said coupons, payable thirty days after date of its issue
107 of certificate; if over fifty dollars and not more than one
108 hundred dollars, then such amount shall be covered by only
109 two principal installment and interest coupons payable in
110 thirty days and on the first day of May of the year succeed-
111 ing the year in which the certificate was issued, respectively;
112 if over one hundred dollars and not more than one hundred
113 and fifty dollars, then such amount shall be covered by only
114 three principal installment and interest coupons, payable in
115 thirty days from date, and on the first day of May of the
116 year succeeding the year in which the certificate was issued,
117 and on the first day of May one year thereafter, respectively;
118 if over one hundred and fifty dollars and not more than two
119 hundred dollars, then such amount shall be covered by only
120 four principal installment and interest coupons payable in

121 thirty days, and on the first day of May of the year suc-
122 ceeding the year in which the certificate was issued, and on
123 the first day of May in one and two years thereafter, re-
124 spectively; if more than two hundred dollars, then such
125 amount shall be covered by five principal installment and
126 interest coupons payable in thirty days, and on the first day
127 of May of the year succeeding the year in which the certificate
128 was issued, and on the first day of May in one, two and three
129 years thereafter, respectively; and the term "equal amounts"
130 herein shall mean as nearly equal as practicable, that is, four
131 installments being expressed in terms of dollars only, and,
132 when practical, in multiples of ten, the cents and odd amounts
133 being covered by the first installment.

134 All assessments along with accrued interest thereon made
135 under this section shall constitute and be a lien upon said
136 lots or lands, respectively, which shall have priority over all
137 other liens except for state, county and municipal taxes.

137-a The certificates and principal installment and interest
138 coupons provided for in this section may be made and issued
139 in form or to the same effect as provided for certificates and
140 principal and interest coupons for street improvements in sec-
141 tion sixty-seven.

142 If two newspapers of opposite politics are not published in
143 the city at the time of the passage of any of the ordinances
144 or resolutions provided in this act to be published, then the
145 same may be published in one newspaper of general circula-
146 tion in the city, as provided by this act, and if the publication
147 of the ordinance cannot be procured in any newspaper in
148 said city at reasonable rates, then the same may be posted
149 for the period provided in this act for publication, at the
150 south front door of the city hall, and such posting shall be
151 equivalent to publication as herein provided.

152 All certificates, principal installment and interest coupons
153 provided for in this act or chapter eleven (municipal charters),
154 of the acts of the legislature of the state of West Virginia, of
155 one thousand nine hundred and twenty-one shall be made pay-
156 able at the office of the treasurer of the city of Huntington.

157 *Provided*, that wherein said chapter or this act, in rela-
158 tion to tax liens and assessment liens, and reports or orders
159 of the municipal authorities are required to be filed by the

160 city clerk in the office of a county court clerk, if the real
 161 estate sought to be encumbered by such lien is situated wholly
 162 within Cabell county, such report or order shall be filed in the
 163 office of the county clerk of Cabell county; but if wholly sit-
 164 uated in Wayne county, then such report or order shall be
 165 filed in the office of the county clerk of Wayne county; and if
 166 the real estate, the subject matter of the report or order is
 167 situated in both counties then such report or order shall be
 168 filed in the office of the county court of both Wayne and Cabell
 169 counties.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 29

(House Bill No. 379—By Mr. Mathews)

AN ACT to amend and re-enact sections sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, eighty-five and eighty-six of chapter seven of the acts of the legislature of one thousand nine hundred and twenty-one bound in a volume of "municipal charters" of such acts and known as the "Charter of the City of Dunbar," all relating to and becoming a part of the charter of the City of Dunbar.

[Passed April 23, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.
 67. Sewer assessments.
 62-a. Council empowered to construct sewers; definitions; liens for taxes.
 69. Improvements authorized by vote

Sec. of two-thirds of council.
 88. Paving regulations.
 88-b. Liens for sewers.
 88-c. Council may sub-divide land for assessment purposes.

Be it enacted by the Legislature of West Virginia:

That sections sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, eighty-five and eighty-six of chapter seven of the acts of the legislature of one thousand nine hundred and twenty-one, bound in the volume of "municipal charters" of such acts known as the "Charter of the City of Dunbar" be amended, re-enacted and added to the charter of the City of Dunbar so as to read as follows:

Section 62. Whenever the council shall order the construction of any public sewer in said city, the owners of the prop-

3 erty abutting upon any street in which such sewer shall be con-
4 structed, shall be charged with and liable for sewerage assess-
5 ments as follows: When said sewer is completed the engineer
6 of said city shall report to the council in writing, the total cost
7 of such sewer, and a description of the lots and lands as to lo-
8 cation, frontage, depth and ownership liable for such sewer
9 assessment, so far as the same may be ascertained, together
10 with the amount chargeable against each lot and owner, cal-
11 culated in the following manner: The total cost of construct-
12 ing and laying the sewer shall be borne by the owners of the
13 land abutting upon the streets, alleys, rights of way or ease-
14 ments or portions thereof, in which the sewer is laid, accord-
15 ing to the following plan: Payment is to be made by each
16 land owner on either side of such portion of a street, alley,
17 right of way or easement in which such sewer is laid, in such
18 proportions as such frontage of his land upon said street, alley,
19 right of way or easement bears to the total frontage of all lands
20 so abutting on such streets, alleys, rights of way or easements in
21 which said sewer is laid; *provided*, that the charge laid against
22 any owner or property shall not exceed two dollars per linear
23 foot of frontage on each side of the portion of such street,
24 alley, right of way or easement in which any such sewer is
25 laid. In case of a corner lot, frontage is to be measured along
26 the longest dimension thereof abutting on such street, alley,
27 right of way or easement in which such sewer is laid. Any lot
28 having a depth of two hundred feet or more and fronting on
29 two streets, alleys, rights of way or easements, one in the front
30 and one in the rear of said lot shall be assessed on both of said
31 streets, alleys, rights of way or easements, if a sewer is con-
32 structed in both such streets, alleys, rights of way or ease-
33 ments. Where a corner lot has been assessed on the end it
34 shall not be assessed on the side, and where it has been
35 assessed on the side, it shall not be assessed on the end. There-
36 upon said council shall give like notice by publication as is
37 required in case of street paving assessments, and the same
38 rights shall exist as to the persons and property affected and
39 the same duty as to corrections by said council as are pre-
40 scribed with reference to paving, which report shall in like
41 manner be examined by the council, and if found to be correct,
42 or corrected as aforesaid, and such estimated assessments to be
43 a fair and equitable apportionment of the cost of such sewer

44 upon the basis hereinbefore described, it shall enter an order
45 upon the records, setting forth such location, depth, owner-
46 ship and said amount of such sewer assessments, against each
47 respectively, calculated as aforesaid, and the entry of such
48 order shall constitute and be an assessment for such propor-
49 tion and amount so fixed therein against such respective own-
50 ers and lots, and if after such advertisements, notice and hear-
51 ing, said council shall find that such apportionment at such
52 rate is unjust or inequitable, and contrary to the intent of this
53 act, it shall ascertain, fix and assess the cost thereof among
54 and upon the abutting owners respectively, justly and equita-
55 bly and according to the intent hereof, and in like manner,
56 assess and enter the amount so fixed respectively upon its
57 records, and the council shall, in either event, thereupon cer-
58 tify the same to the treasurer for collection, and certify a
59 copy of such order to the clerk of the county court of Kana-
60 wha county, who shall record the same in the proper trust
61 deed book, and index the same in the name of each owner of
62 any such lot so charged with such assessment, and such assess-
63 ment so made shall constitute and be a lien upon said lots re-
64 spectively, which shall have priority over all other liens, except
65 those for taxes due the state, and shall be on a parity with
66 other taxes and assessments due the city, or other person for
67 that improvement. Said amounts so assessed against the said
68 several land owners shall be paid by the parties liable therefor
69 to the said treasurer at all times, in the manner and with the
70 attendant penalties for failure to pay promptly at the time
71 prescribed in all respects as hereinbefore provided in the case
72 of assessments for paving streets and alleys in a permanent
73 manner, and the parties liable therefor shall, in the same
74 manner, and to the same extent, have the right and be entitled
75 to anticipate any or all of such installments thereon as in such
76 case provided. The owners of, or tenants, occupants, or
77 agents in control of any lot abutting on or near or adjacent to
78 any street, avenue, alley, right of way or easement in said city,
79 in which a public sewer is or may hereafter be laid and con-
80 structed, upon which lot any business or residence building is
81 or may hereafter be erected, or upon which any water stands
82 not connected with a public sewer, may be required and com-
83 pelled to connect any such building or lot with such sewer.

84 Notice to so connect may be given to the owner, lessee, or occu-
85 pant of such building. Each day's failure to comply with
86 such notice and connect with such sewer by such owner or
87 owners, ten days after such notice is given, shall be a misde-
88 meanor and a separate and new offense under this section,
89 and every such offense shall be punishable by fine of not less
90 than five nor more than twenty-five dollars. The expense
91 incurred by any tenant, occupant, or agent in complying with
92 the order of said council to make such sewer connection may
93 be deducted out of the accruing rents as provided for in sec-
94 tion forty-seven relating to the abatement of nuisances. Juris-
95 diction to hear, try, determine and sentence for violation of
96 this section is vested in the police court of such city.

97 The liens herein and hereinbefore provided for street pav-
98 ing, macadamizing and sewerage assessments and assessments
99 for other improvements shall constitute liens upon the real
100 estate upon which they are assessed as against creditors of the
101 owners thereof, or purchasers for value, and without actual
102 notice of such liens, only from and after the date that the con-
103 tract is made for such work and shall have priority over all
104 liens placed on said real estate after said contract is made by
105 the city for said work.

106 In the paving, curbing, macadamizing or otherwise improv-
107 ing streets and alleys and providing for the assessment of the
108 cost thereof under section sixty-one or section eighty-eight of
109 the charter of the City of Dunbar there may be included in
110 any such assessment the cost of constructing the necessary
111 drains for the disposal of surface water.

Sec. 62-a. The council is authorized and empowered to
2 order and cause to be constructed, in said city, or part within
3 and part outside of the limits of said city, public, common,
4 lateral, branch, trunk and combined sewers or public sewer
5 systems, or both, by contract or direct by the city, for the
6 benefit of said city or any part thereof, and to purchase
7 lands or easements therein or to condemn lands or easements
8 therein in the manner provided by law, for such sewers or
9 sewer systems, and when the council shall order and com-
10 plete the construction of any such sewer or sewer system
11 or any part thereof in said city, the owners of the property
12 abutting on such sewer or abutting upon an avenue, street,

13 alley, right of way or easement in which such sewer shall
14 be constructed, or abutting on any avenue, street, alley, right
15 of way, or easement in which any common sewer, part of
16 a sewer system, is constructed and laid, may be charged
17 with all or any part of the cost thereof, including the cost
18 of such sewer or sewer system at and across intersections
19 at avenues, streets, roads and alleys adjacent thereto. If
20 said work is let to contract, the provisions of the charter of
21 the city of Dunbar relating to street paving contracts shall
22 apply.

23 A sewer system shall be deemed to include all the common
24 sewers, whether they be lateral, branch, trunk or combined
25 sewers, and the outlet therefor, which serve to drain a definite
26 drainage area as specified in the order of the council direct-
27 ing the work to be done.

28 A common sewer shall be deemed to be a sewer in which
29 all abutments have equal rights of entrance and use.

30 A lateral sewer shall be deemed to be a sewer which does
31 not receive the sewage from any other common sewer.

32 A branch sewer shall be deemed to be a sewer into which
33 the sewage from two or more lateral sewers is discharged,
34 including storm and surface water sewers.

35 A trunk sewer shall be deemed to be a sewer into which
36 the sewage from two or more branch sewers is discharged.

37 A combined sewer shall be deemed to be a sewer intended
38 to receive domestic sewage and industrial wastes.

39 When said sewer or sewer system is completed the engineer
40 of said city shall report to the council in writing, the total
41 cost of such sewer or sewer system, and a description of the
42 lots and lands as to the location, frontage, depth and owner-
43 ship liable for such sewer assessment, so far as the same may
44 be ascertained, together with the amount chargeable against
45 each lot and owner, calculated in the following manner:
46 The total cost of constructing and laying the sewer or sewer
47 system, including the portions thereof laid in the intersec-
48 tions of streets and alleys, shall be borne by the owners of
49 the land abutting upon the streets, avenues, alleys, rights of
50 way or easements or portions thereof in which the sewer or
51 some part of the sewer system is constructed and laid; pay-
52 ment is to be made by each land owner on either side of
53 such portion of a street, alley, right of way or easement in

54 which a common sewer is laid, in the proportion that the
55 frontage of his land upon such portion of said street, alley,
56 right of way or easement in which such sewer or sewer
57 system is laid bears to the total frontage of all lands so
58 abutting on such street, alley, right of way or easement in
59 which the sewer or some part of the sewer system is laid;
60 *provided*, that the charge laid against any such owner of
61 property shall not exceed two dollars per linear foot of
62 frontage on each side of such street, alley, right of way or
63 easement in which any such sewer or part of a sewer system
64 is laid. In case of a corner lot, frontage is to be measured
65 along the longest dimension thereof abutting on such streets,
66 alleys, rights of way or easements in which such sewer is
67 laid, if sewerd on the long side only, but if sewerd on
68 both sides then such corner lot is to be charged only with
69 the side first sewerd. Any lot having a depth of two hun-
70 dred feet or more and fronting on two streets, alleys, rights
71 of way or easements, one in the front and one in the rear
72 of said lot, shall be assessed on both of said streets, alleys,
73 rights of way or easements. Where a corner lot has been
74 assessed on either or both ends, it shall not be assessed on
75 the side, and where it has been assessed on the side, it shall
76 not be assessed on the end.

77 In the case of corner lots where the cost of sewerd along
78 one dimension is not assessed against the owner thereof, in
79 the case of lots less than two hundred feet deep abutting
80 at both ends on a street, alley, right of way or easement in
81 which a sewer is laid, the cost of sewerd along the dimen-
82 sion or end not assessed against the property owner shall in
83 every case be borne by the city of Dunbar.

84. Thereupon said council shall give like notice by publi-
85 cation as is required in case of street paving assessments,
86 and the same rights shall exist as to the persons and prop-
87 erty affected and the same duty as to corrections by said
88 council as are prescribed with reference to paving. The
89 report of the city engineer shall in like manner be examined
90 by the council, and if found to be correct or corrected as
91 aforesaid and such estimated assessments to be a fair and
92 equitable apportionment of the cost of such sewer or sewer
93 system upon the basis hereinbefore described, it shall enter
94 an order upon its records, setting forth such location, depth,

95 ownership and said amount of such sewer assessments,
96 against each, respectively, calculated as aforesaid, and the
97 entry of such order shall constitute and be an assessment
98 for such proportion and amount so fixed therein against
99 such respective owners and lots; and, if after such advertise-
100 ment, notice and hearing, said council shall find that such
101 apportionment at such rate is unjust or inequitable, and
102 contrary to the intent of this act, it shall ascertain, fix and
103 assess the cost thereof among and upon the abutting owners,
104 respectively, justly and equitably and according to the intent
105 thereof, and in like manner, assess and enter the amount
106 so fixed, respectively, upon its records; and, the council
107 shall, in either event, thereupon certify the same to the
108 treasurer for collection and certify a copy of such order to
109 the clerk of the county court of Kanawha county, who
110 shall record the same in the proper trust deed book, and
111 index the same in the name of each owner of any such lot
112 so charged with such assessment, and such assessment so
113 made shall constitute and be a lien upon said lots, respect-
114 ively, which shall have priority over all other liens, except
115 those for taxes due the state, and shall be on a parity with
116 other taxes and assessments due the city. Said amounts so
117 assessed against the said several land owners shall be paid
118 by the parties liable therefor to the said treasurer at all
119 times, in the manner and with the attendant penalties for
120 failure to pay promptly at the time prescribed in all respects
121 as hereinbefore provided in the case of assessments for paving
122 streets and alleys in a permanent manner, and the parties
123 liable therefor shall, in the same manner, and to the same
124 extent, having the right and be entitled to anticipate any
125 or all of such installments thereon as in such case provided.
126 The owners of, or the tenants, occupants or agents in control
127 of any lot abutting on or near or adjacent to any street,
128 avenue, alley, right of way or easement in said city, in
129 which a public sewer is or may hereafter be laid and con-
130 structed, upon which lot any business or residence building
131 is or may hereafter be erected, or upon which any water
132 stands not connected with any public sewer, may be required
133 and compelled to connect any such building or lot with such
134 sewer. Notice to so connect may be given to the owner,
135 lessee, or occupant of such building. Each day's failure to

136 comply with such notice and connect with such sewer by
137 such owner or owners, ten days after such notice is given,
138 shall be a misdemeanor and a separate and new offense under
139 this section, and every such offense shall be punishable by
140 a fine of not less than five nor more than twenty-five dollars.
141 The expense incurred by any tenant, occupant, or agent in
142 complying with the order of said council to make such sewer
143 connection may be deducted out of the accruing rents as pro-
144 vided for in section forty-seven relating to the abatement
145 of nuisances. Jurisdiction to hear, try, determine and sen-
146 tence for violation of this section is vested in the municipal
147 court of such city.

148 The liens herein and hereinbefore provided for street
149 paving, macadamizing and sewerage assessments and assess-
150 ments for other improvements shall constitute liens upon the
151 real estate upon which they are assessed, as against creditors
152 of the owners thereof, or purchasers for value, and without
153 actual notice of such liens, only from and after the date the
154 contract is made for such work, and shall have priority over
155 all liens placed on said property after said contract is made
156 by the city for said work.

Sec. 69. No public improvement, the cost or part of the cost
2 of which is to be especially assessed on the owners of property,
3 shall be made without the concurrence of two-thirds of all of the
4 members of council present unless the owners of a majority of
5 the foot frontage to be assessed petition in writing therefor, in
6 which event the said council shall be authorized upon the affirm-
7 ative vote of a majority thereof to proceed with the improve-
8 ment in the manner provided for.

Sec. 88. In addition to the method provided for paving
2 streets, by section sixty-one of the charter of the city of Dun-
3 bar, the council may order any street, avenue, public alley, or
4 portion thereof, to be graded and paved, re-paved, or otherwise
5 permanently improved, and the council may order the mayor
6 and city clerk to issue a certificate for each installment of the
7 amount of the assessment to be paid by the owner of any lot or
8 fractional part thereof fronting on such street, avenue or alley.
9 The amount specified in said assessment certificate shall be the
10 personal debt of the property owner and a lien as aforesaid in
11 the hands of the holder thereof upon the lot or part of a lot
12 fronting on such street, avenue, or alley, and such certificate

13 shall draw interest from the date of said assessment and the
14 payment may be enforced in the name of the holder of said
15 certificate by proper suit in equity in any court having proper
16 jurisdiction to enforce such lien; the council shall fix the amount
17 of such assessment, advertise for bids and do all other things in
18 connection therewith as is provided for paving or permanently
19 improving any street or alley or any portion thereof in section
20 sixty-one, except that such assessment laid under this section
21 shall include the whole cost of such improvement, including the
22-23 cost of grading and paving squares at intersections of streets
24 and curbing, the costs of which intersections shall be appor-
25 tioned against the several properties fronting upon the street
26 or portion thereof so improved; and such certificates shall be
27 issued in the same number of installments and payable at the
28 same time as other paving or permanent improvements are pro-
29 vided to be paid for, and shall be a lien in the hands of the
30 holder thereof upon the particular lot against which they are
31 assessed in the same way and manner that assessments are
32 liens under section sixty-one of said charter. And nothing con-
33 tained in this act, or in the charter of the city of Dunbar shall
34 be construed as imposing a time limit upon the enforcement by
35 appropriate suit of any lien for public improvements, heretofore
36 or hereafter created.

37 Certificates authorized by this section may be issued, sold
38 or negotiated to the contractor doing the work, or to any other
39 person if the council deem it expedient; *provided*, the city in
40 issuing such certificates shall not be held as guarantor or in any
41 way liable for payment thereof, except upon the direct action
42 of the council expressed by resolution of record before sale.

43 Certificates so issued shall contain a provision to the effect
44 that in the event of default in the payment of any one of said
45 certificates, when due, and said default continuing for a period
46 of sixty days, then all unpaid certificates shall become due and
47 payable and the holder of said certificates may proceed to col-
48 lect all of such unpaid certificates in the manner hereinbefore
49 provided. Certificates issued in pursuance of this section shall
50 be negotiable at any bank in the city of Dunbar.

51 The owner of the land or lot of land assessed under this
52 section may at any time anticipate and pay such assessment of
53 certificate with accrued interest thereon; *provided*, that no
54 street, avenue or alley shall be paved or otherwise permanently

55 improved pursuant to this section except and unless two-thirds
56 of all the members of council present shall concur in the pas-
57 sage of the ordinance providing therefor, and the vote thereon
58 shall be taken by ayes and noes, and duly entered upon the
59 record.

Sec. 88-b. In addition to the method for the payment of
2 the cost of construction of sewers and sewer systems provided
3 by section sixty-two and sixty-two-a of the charter of the city
4 of Dunbar, the council may order any sewer or sewer system
5 constructed and laid, in any block, street, avenue, alley or in
6 any right of way or easement, or portion thereof, and the coun-
7 cil may order the mayor and city clerk to issue a certificate for
8 each installment of the amount of the assessment to be paid
9 by the owner of any lot or fractional part thereof fronting
10 on such streets, avenues, alleys, rights of ways or easements
11 in which such sewer system is constructed and laid, and the
12 amount specified in said assessment certificates shall be a lien
13 as aforesaid in the hands of the holder thereof upon the lot
14 or part of lot fronting on such street, avenue or alley, right of
15 way or easement, and such certificate shall draw interest
16 from the date of said assessment and the payment may be en-
17 forced in the name of the holder of said certificate by proper
18 suit in equity in any court having proper jurisdiction to en-
19 force such lien; the council shall fix the amount of such as-
20 sessment, advertise for bids and do all other things in connec-
21 tion therewith as is provided in section sixty-one of said charter
22 for paving or permanently improving any street or alley or any
23 portion thereof, the costs of which shall be apportioned against
24 the several properties fronting upon the street, avenue, alley,
25 right of way or easement or portion thereof in which the sewer
26 or sewer system is laid according to the provisions of section
27 sixty-two or section sixty-two-a, as the case may be. Such
28 certificates shall be issued in the following number of install-
29 ments:

30 Where the assessment shall not exceed fifty dollars the as-
31 sessment and certificates issued thereon shall be in five equal
32 amounts or installments, due and payable on the first day of
33 May succeeding after completion and acceptance of said work,
34 and one on the first day of May of each year thereafter for
35 the next four succeeding years. If more than fifty dollars, the
36 assessment and certificates issued thereon shall be in ten equal

37 amounts or installments, the first of which will be due on the
38 first day of May next after the completion and acceptance of
39 said work, and one on the first day of May of each year there-
40 after for the next nine years; and the term "equal amounts"
41 herein shall mean as nearly equal as practicable, that is, four
42 certificates being expressed in terms of blank dollars each, and,
43 when practical, in multiples of five, the cents and odd amounts
44 being covered by the first certificate.

45 Every such certificate shall be a lien in the hands of the
46 holder thereof upon the particular lot against which it is as-
47 sessed in the same way and manner that assessments are liens
48 under sections sixty-two and sixty-two-a of this act. And
49 nothing in this act, or in the charter of the city of Dunbar shall
50 be construed as imposing a time limit upon the enforcement by
51 appropriate suit of any lien for public improvements hereto-
52 fore or hereafter created.

53 Certificates authorized by this section may be issued, sold
54 or negotiated to the contractor during the work, or to any other
55 person if the council deem it expedient; *provided*, the city in
56 issuing such certificates shall not be held as guarantor or in
57 any way liable for the payment thereof, except upon the direct
58 action of the council, expressed by resolution of record before
59 sale. Certificates so issued shall contain a provision to the
60 effect that in the event of default in the payment of any one
61 of said certificates, when due, said default continuing for a
62 period of sixty days, then all unpaid certificates shall become
63 due and payable and the holder of said certificates may proceed
64 to collect all of such unpaid certificates in the manner herein-
65 before provided; *provided*, that no sewer or sewer system shall
66 be constructed or laid pursuant to this section except and un-
67 less two-thirds of the members elected to the council shall con-
68 cur in the passage of the ordinance providing therefor, and
69 the vote thereon shall be taken by ayes and noes, and duly
70 entered upon the record.

Sec. 88-c. If the abutting land on any avenue, street, road
2 or alley sought to be graded, paved, re-paved or otherwise im-
3 proved, or on any avenue, street, road, alley, right-of-way or
4 easement in which a sewer or sewer system is ordered laid,
5 under any of the provisions of the charter of the city of Dunbar,
6 is not sub-divided or laid off in lots by a map or deed of record,
7 the council may, for the purpose of making the assessments pro-

8 vided for in this section and other sections herein, sub-divide
9 said land into lots of such size as the council deem advisable for
10 the purpose of laying the proper assessment against such land.

CHAPTER 30

(House Bill No. 409—By Mr. Brewster, by request)

AN ACT to amend and re-enact section thirty-six-*a* and section thirty-eight of chapter ninety of the acts of the legislature of the year one thousand nine hundred and thirteen by amending said sections of the charter of the City of Weston, in the county of Lewis, relating to tax levies, and relating to liens for taxes and liens for other municipal assessments, fines and penalties.

[Passed March 20, 1925; in effect from passage. Approved by the Governor.]

Sec.
36-*a*. Tax levies.
38. Liens for taxes.

Be it enacted by the Legislature of West Virginia:

That section thirty-six-*a* and section thirty-eight of chapter ninety of the acts of the legislature of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Section 36-*a*. The council shall cause to be made annually
2 and spread upon its minute book an accurate estimate of all
3 sums which are or may become lawfully chargeable against the
4 city and which ought to be paid within one year; and it shall
5 order a levy of so much as will in its judgment be necessary to
6 pay the same. Such levy shall be upon all tithables and upon
7 all real and personal property therein subject to the state and
8 county taxes, including a poll tax of not more than one dollar
9 upon each male resident of said corporation over twenty-one
10 years of age; *provided*, that such levy shall not exceed one dollar
11 on each tithable and fifty cents on every one hundred dollars of
12 the ascertained value of such property. At least once in each
13 year the council shall cause to be made up and published in one
14 or more newspapers of the city a statement of the revenue re-
15 ceived from the different sources, and of the expenditures upon
16 the different accounts, for the preceding year or portion of year,
17 as the case may be.

Sec. 38. There shall be a lien on all real estate within said city
2 for the city taxes assessed thereon from the day fixed by law for

3 the commencement of the assessment of such taxes in each year
 4 and the interest upon such taxes at the rate of six per centum
 5 per annum from the first day of January next after such assess-
 6 ment until payment, which may be enforced by the council in
 7 the same manner now provided by law for the enforcement of the
 8 lien for state or county taxes, or in such other manner as the
 9 council may by ordinance prescribe.

10 There shall also be a lien on all real estate within said city
 11 for all other assessment, fines and penalties assessed to or im-
 12 posed upon the owners thereof by the authorities of said city
 13 from the time the same are so assessed or imposed, which lien
 14 shall be priority over all other liens except the lien for taxes, and
 15 such lien may be enforced by the council by suit in equity in the
 16 corporate name of said city, or in the same manner now pre-
 17 scribed by law for the enforcement of the lien for state or
 18 county taxes, or in such other manner as the council may by or-
 19 dinance prescribe. If any real estate within said city be returned
 20 delinquent for the non-payment of the city taxes thereon, a copy
 21 of such delinquent list may be certified by the council to the
 22 auditor, and the same may be sold for the taxes, interest and
 23 commissions thereon in the same manner, at the same time and
 24 by the same officer as real estate is sold for the non-payment of
 25 state taxes.

CHAPTER 31

(House Bill No. 439—By Mr. Bartlett)

AN ACT to amend chapter ten of the acts of the legislature of West Virginia, of one thousand nine hundred and fifteen (municipal charters), and chapter twenty-two of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen (municipal charters) in relation to the charter of the City of Fairmont, by repealing certain sections, amending certain other sections, and by amending and re-enacting certain other sections of said chapters and adding to said charter certain new sections, as hereinafter set out.

[Passed April 23, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec. 4. Municipal authorities; corporate powers. 5-a. Powers and duties board of directors; promoting general health and welfare; board of adjust-	Sec. ment, powers and duties. 6. Election board of directors. 7. Vacancies; how filled. 8. Qualifications. 14. When office vacated.
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Sec.	Sec.
19-b. Municipal primary; form of ballot; proceedings.	114. Liens for taxes; duties of city clerk.
20. Election results and contested elections.	115-a. Paving powers.
29. Salaries.	116. Paving bonds.
30. Same.	117. Contracts for paving; certificate of assessment.
66. Who is mayor <i>ex-officio</i> .	118. Authority to issue and sell bonds for payment of other bonds.
80. Departments of city government.	119. Release of Lien.
80-a. Heads of departments; duties.	120. May levy to pay bonds
101. Department of highways; powers and duties.	121. Description of lands abutting on improvements.
109-a. Superintendent of water; powers and duty.	122. Notice of assessment.
111. Require connection with sewer.	144. By-laws and ordinances.
112. Curbs, walks; trees.	144-a. Referendum.
113. Revolving fund for improvements.	

Be it enacted by the Legislature of West Virginia:

That sections thirty, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and twenty, one hundred and twenty-one, one hundred and twenty-two and one hundred and forty-four of article one of chapter ten (municipal charters) of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen be amended and re-enacted as hereinbelow set out, and,

That sections four, six, seven, eight, fourteen, nineteen-b, twenty-nine, sixty-six, eighty, eighty-a, one hundred and one, one hundred and nine-a, one hundred and twelve-a, one hundred and fifteen-a, and one hundred and eighteen of article one of chapter twenty-two (Municipal Charters) of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen be amended and re-enacted as hereinbelow set out, and,

That sections nineteen-c, nineteen-d, nineteen-e, nineteen-f, nineteen-g, nineteen-h, nineteen-i, nineteen-j, sixty-seven and one hundred and twelve-a of article one of said chapter twenty-two be repealed, and

That new sections, to be known as sections five-a, and one hundred and nineteen, respectively, be added to the charter, as hereinbelow set out, and,

All pertaining to the charter of the City of Fairmont and all so as to read as follows:

Section 4. The municipal authorities of the City of Fairmont, 2 shall be four directors who shall constitute a board of directors 3 and shall be known as the "board of directors of the City of 4 Fairmont." All the corporate powers of said city shall be 5 vested in, and exercised by, the board of directors or under its 6 authority, except as otherwise provided in this act. After the

7 expiration of the terms of the present directors of said city,
8 said board of directors shall consist of three members.

Sec. 5-a. (1) For the purpose of promoting health,
2 safety, morals, or the general welfare, public convenience or
3 prosperity of the community, the board of directors of the
4 City of Fairmont is hereby empowered in the exercise of the
5 police power to regulate and restrict the height, number of
6 stories and size of buildings and other structures, the per-
7 centage of lot that may be occupied, the size of yards, courts
8 and other open spaces, the density of population, and the loca-
9 tion and use of buildings, structures and land for trade, in-
10 dustry, residence or other purposes.

11 (2) For any or all of said purposes the board of directors
12 may divide the municipality into districts of such number,
13 shape and area as may be deemed best suited to carry out the
14 purposes of this section; and within such districts it may
15 regulate and restrict the erection, construction, reconstruc-
16 tion, alteration, repair, or use of buildings, structures, or land.
17 All such regulations shall be uniform for each class or kind of
18 buildings throughout each district, but the regulations in one
19 district may differ from those in other districts.

20 (3) Such regulations shall be made in accordance with a
21 comprehensive plan and designed to lessen congestion in the
22 streets; to secure safety from fire, panic and other dangers; to
23 promote health and the general welfare, public convenience
24 and prosperity; to provide adequate light and air, to prevent
25 overcrowding of land; to avoid undue concentration of popu-
26 lation; to facilitate the adequate provision of transportation,
27 water, sewerage, schools, parks and other public requirements.
28 such regulations shall be made with reasonable consideration,
29 among other things, as to the character of the district and its
30 peculiar suitability for particular uses, and with a view to con-
31 serving the value of buildings and encouraging the most ap-
32 propriate use of land throughout the City of Fairmont.

33 (4) The board of directors of the City of Fairmont shall
34 provide for the manner in which such regulations and restric-
35 tions and the boundaries of such districts shall be determined,
36 established and enforced, and from time to time amended,
37 supplemented or changed. However, no such regulation, re-
38 striction or boundary shall become effective until after a pub-
39 lic hearing in relation thereto, at which parties in interest and
40 citizens shall have an opportunity to be heard. At least fifteen

41 days' notice of the time and place of such hearing shall be
42 published in a paper of general circulation in such munici-
43 pality.

44 (5) Such regulations, restrictions and boundaries may from
45 time to time be amended, supplemented, changed, modified or
46 repealed. In case, however, of a protest against such change
47 signed by the owners of twenty per cent or more either of the
48 area of the lots included in such proposed change, or of those
49 immediately adjacent in the rear thereof extending one hun-
50 dred feet therefrom, or of those directly opposite thereto, ex-
51 tending one hundred feet from the street frontage of such
52 opposite lots, such amendment shall not become effective except
53 by the favorable vote of a majority of all the members of
54 the board of directors of the City of Fairmont. The provisions
55 of the previous sub-section relative to public hearings and
56 official notice shall apply equally to all changes or amendments.

57 (6) In order to avail itself of the powers conferred by this
58 act, the board of directors may appoint a commission consist-
59 ing of freeholders of the City of Fairmont to be known as the
60 zoning commission to recommend the boundaries of the vari-
61 ous original districts and appropriate regulations to be en-
62 forced therein. Such commission shall make preliminary re-
63 port and hold public hearings thereon before submitting its
64 final report; and the board of directors of the City of Fair-
65 mont shall not hold its public hearings or take action until it
66 has received the final report of such zoning commission.

67 (7) The board of directors may provide for the appoint-
68 ment of a board of adjustment, and in the regulations and re-
69 strictions adopted pursuant to the authority of this sub-section
70 may provide that the said board of adjustment may, in appro-
71 priate cases and subject to appropriate conditions and safe-
72 guards, make special exceptions to the terms of the ordinance,
73 in harmony with its general purpose and intent and in accord-
74 ance with general or specific rules therein contained.

75 The board of adjustment shall consist of five members, each
76 to be appointed for a term of three years and removable for
77 cause by the appointing authority upon written charges and
78 after public hearing. Vacancies shall be filled for the unex-
79 pired term of any members whose term becomes vacant.

80 The board of adjustment shall adopt rules in accordance
81 with the provisions of any ordinance adopted pursuant to this
82 section. Meetings of the board of adjustment shall be held at

83 the call of the chairman and at such other times as it may de-
84 termine. Such chairman, or in his absence the acting chair-
85 man, may administer oaths and compel the attendance of wit-
86 nesses. All meetings of the board of adjustment shall be open
87 to the public. The board of adjustment shall keep minutes of
88 its proceedings, showing the vote of each member upon each
89 question, or if absent or failing to vote indicating such fact,
90 and shall keep records of its examinations and other official
91 actions, all of which shall be immediately filed in the office of
92 the board of adjustment and shall be a public record.

93 Appeals to the board of adjustment may be taken by any
94 person aggrieved or by any officer, department, board, or bu-
95 reau of the city affected by any decision of the administrative
96 officer. Such appeal shall be taken within a reasonable time,
97 as provided by the rules of the board of adjustment by filing
98 with the officer from whom the appeal is taken and with the
99 board of adjustment a notice of appeal specifying the grounds
100 thereof. The officer from whom the appeal is taken shall forth-
101 with transmit to the board of adjustment all the papers consti-
102 tuting the record upon which the action appealed from was
103 taken.

104 An appeal stays all proceedings in furtherance of the action
105 appealed from, unless the officer from whom the appeal is
106 taken certifies to the board of adjustment after the notice of
107 appeal shall have been filed with him that by reason of facts
108 stated in the certificate a stay would, in his opinion, cause im-
109 minent peril to life or property. In such case proceedings
110 shall not be stayed otherwise than by a restraining order which
111 may be granted by the board of adjustment or by a court of
112 record on application on notice to the officer from whom the
113 appeal is taken and on due cause shown.

114 The board of adjustment shall fix a reasonable time for the
115 hearing of the appeal, give public notice thereof, as well as due
116 notice to the parties in interest, and decide the same within a
117 reasonable time. Upon the hearing any party may appear in
118 person or by agent or by attorney.

119 The board of adjustment shall have the following powers:

120 (a) To hear and decide appeals where it is alleged there is
121 error in any order, requirement, decision, or determination
122 made by an administrative official in the enforcement of this
123 section or of any ordinance adopted pursuant thereto.

124 (b) To hear and decide special exceptions to the terms of
125 the ordinance upon which such board is required to pass under
126 such ordinance.

127 (c) To authorize upon appeal in specific cases such vari-
128 ance from the terms of the ordinance as will not be contrary to
129 the public interest, where, owing to special conditions, a literal
130 enforcement of the provisions of the ordinance will result in
131 unnecessary hardship, and so that the spirit of the ordinance
132 shall be observed and substantial justice done.

133 In exercising the above-mentioned powers such board may,
134 in conformity with the provisions of this section, reverse or af-
135 firm, wholly or partly, or modify the order, requirement,
136 decision, or determination appealed from and may make such
137 order, requirement, decision or determination as ought to be
138 made, and to that end shall have all the powers of the officer
139 from whom the appeal is taken.

140 The concurring vote of four members of the board of ad-
141 justment shall be necessary to reverse any order, requirement,
142 decision, or determination of any such administrative official,
143 or to decide in favor of the applicant or any matter upon
144 which it is required to pass under any such ordinance, or to
145 effect any variation in such ordinance.

146 Any person or persons, jointly or severally, aggrieved by
147 any decision of the board of adjustment, or any taxpayer, or
148 any officer, department, board or bureau of the municipality,
149 may present to a circuit court of the county or any county in
150 which the municipality is situated a petition, duly verified,
151 setting forth that such decision is illegal, in whole or in part,
152 specifying the grounds of the illegality. Such petition shall
153 be presented to the court within thirty days after the filing of
154 the decision in the office of the board of adjustment.

155 Upon the presentation of such petition the court may allow
156 a writ of *certiorari* directed to the board of adjustment to re-
157 view such decision of the board of adjustment and shall pre-
158 scribe therein the time within which a return thereto must be
159 made and served upon the realtor's attorney, which shall not
160 be less than ten days and which time may be extended by the
161 court. The allowance of the writ shall not stay proceedings
162 upon the decision appealed from, but the court may, on appli-
163 cation, on notice to the board of adjustment and on due cause
164 shown, grant a restraining order.

165 The board of adjustment shall not be required to return the
166 original papers acted upon by it, but it shall be sufficient to
167 return certified or sworn copies thereof or of such portions
168 thereof as may be called for by such writ. The return shall
169 concisely set forth such other facts as may be pertinent and
170 material to show the grounds of the decision appealed from
171 and shall be verified.

172 If, upon the hearing, it shall appear to the court that testi-
173 mony is necessary for the proper disposition of the matter it
174 may take evidence or appoint a referee to take such evidence
175 as it may direct and report the same to the court with his
176 findings of fact and conclusions of law, which shall constitute
177 a part of the proceedings upon which the determination of the
178 court shall be made. The court may reverse or affirm, wholly
179 or partly, or may modify the decision brought up for review.

180 Costs shall not be allowed against the board unless it shall
181 appear to the court that it acted in bad faith, or with malice
182 in making the decision appealed from.

183 All issues in any proceeding under this section shall have
184 preference over all other civil actions and proceedings.

185 (8) In case any building or structure is erected, con-
186 structed, reconstructed, altered, repaired, converted, or main-
187 tained, or any building, structure, or land is used in violation
188 of this article or of any ordinance or other regulation made
189 under authority conferred hereby, the proper local authorities
190 of the municipality, in addition to other remedies, may insti-
191 tute any appropriate action or proceedings to prevent such
192 unlawful erection, construction, reconstruction, alteration, re-
193 pair, conversion, maintenance, or use, to restrain, correct, or
194 abate such violation, to prevent the occupancy of said building,
195 structure or land, or to prevent any illegal act, conduct, busi-
196 ness, or use in or about such premises.

197 (9) The board of directors of the City of Fairmont may, by
198 ordinance, prescribe reasonable criminal penalties for the vio-
199 lation of regulations and restrictions imposed pursuant to this
200 section.

201 (10) Wherever the regulations made under authority of
202 this section require a greater width or size of yards, courts or
203 other open spaces, or require a lower height of building or less
204 number of stories, or require a greater percentage of lot to be
205 left unoccupied, or impose other high standards than are re-

206 quired in any other statute or local ordinance or regulation,
207 the provisions of the regulation made under authority of this
208 section shall govern. Wherever the provisions of any other
209 statute or local ordinance or regulation require a greater width
210 or size of yards, courts, or other open spaces, or require a
211 lower height of building or less number of stories, or require a
212 greater percentage of lot to be left unoccupied, or impose other
213 higher standards than are required by the regulations made
214 under authority of this section, the provisions of such statute
215 or local ordinance or regulation shall govern.

216 (11) The board of directors may include in the annual
217 budget of the City of Fairmont such amount of money as it
218 deems proper to carry into effect the objects of this section, to
219 provide for the proper expenses of the zoning commission and
220 the board of adjustment, if and when appointed, as well as for
221 other objects contemplated under this section.

Sec. 6. The first general municipal election for said city held
2 hereunder shall be held on the second Tuesday of June, one
3 thousand nine hundred and twenty-seven, and on the same day
4 in every fourth year thereafter, at which there shall be elected
5 by the qualified voters of the whole city, three directors, con-
6 stituting said board of directors; and all members of the board
7 of directors shall be elected at large for a term of four years,
8 beginning on the first day of July following the election. The
9 present board of directors, consisting of four members, shall
10 continue in office until the election and qualification of their
11 successors.

Sec. 7. Vacancies in the board of directors shall be filled by a
2 special primary followed by a special election, as provided for
3 the nomination and election of members of the board of direc-
4 tors in the first instance. Such primary and special election to
5 be held as soon as practical, *provided*, if there remain less than
6 a period of six months of the term of office vacated, the city
7 attorney shall fill the unexpired term, with full authority of
8 member of the board of directors and of the respective depart-
9 ment and receive the compensation provided therefor, and in
10 other cases, pending the filling of the vacancy, as aforesaid, the
11 city attorney shall so act.

Sec. 8. Members of the board of directors shall be residents
2 of the city having the qualifications of electors therein and shall
3 be free holders, owning real estate in said city. No member of
4 the board of directors of said city shall hold any other elective

5 office, or have any other employment, which will interfere with
6 the duties of his office as member of the board of directors, dur-
7 ing his term of office; nor shall any member of the board of
8 directors or employee of the city be interested in the profits or
9 emoluments of any contract, job work or services for the munici-
10 pality. A member of the board of directors who shall cease to
11 possess any of the qualifications herein required shall forthwith
12 forfeit his office, and any such contract in which any member
13 of the board of directors or any employee of the city is or may
14 become interested shall be void.

Sec. 14. If any person elected as a member of the board of
2 directors fail to qualify as herein provided within thirty days
3 after his said election, or shall after having been qualified,
4 resign his office, or move from the city, his office shall be vacated,
5 or if a vacancy in his office occur from any other cause, except
6 by recall election, the provisions of section seven shall apply.

Municipal Primary

Sec. 19-b. Candidates to be voted for at general municipal
2 elections at which members of the board of directors are to be
3 elected under the provisions of this charter (but not at special
4 recall elections), shall be nominated by a primary election, and
5 no other names shall be printed upon the ballots used at the
6 general election except those selected in the manner hereinafter
7 prescribed. The primary election for such nominations shall be
8 held on the second Tuesday of April preceding the general mu-
9 nicipal election. The judges, challengers and clerks of any pri-
10 mary or general municipal election shall be selected by the board
11 of directors in the manner provided for the selection of such
12 election officers by chapter three of the code of West Virginia,
13 except that the duties therein provided to be performed by the
14 county court shall be performed by the board of directors, and
15 the duties therein provided to be performed by the county
16 executive committee or county chairmen of the dominant
17 political parties shall be performed by the city executive com-
18 mittee or city chairmen of such dominant political parties, and
19 except that such election officers shall be appointed by the
20 board of directors at least ten days before any such election,
21 and except further that the duties to be performed by the
21a clerks of the circuit or county court shall be performed by the
21b city clerk.

22

Nominating Petitions

23 The name of any person desiring to become a candidate for
24 board of directors shall be printed upon the primary ballots, if
25 ten days prior to said primary election there be filed with the
26 city clerk a petition requesting such privilege, signed by at
27 least twenty-five and not more than fifty qualified voters of
28 said city. Each petition shall be verified by the affidavit of
29 one or more credible persons as to the qualifications and resi-
30 dence of each of the persons so signing the said petition. Said
31 petition shall specify the particular department of the board
32 of directors for which petitioners propose the candidate,
33 whether director of law and public welfare, or director of
34 finance or director of public highways. Said petition shall be
35 in form or effect as follows:

36 The undersigned, duly qualified electors of the City of Fair-
37 mont and residing at the place set opposite our respective
38 names hereto, do hereby request that the name of (name of
39 candidate) be placed on the ballots as a candidate for nomi-
40 nation for (name of office) at the primary election to be held
41 in such city on the second Tuesday in April, 19..... We
42 further state that we know him to be a qualified elector of said
43 city and a man of good moral character, and qualified, in our
44 judgment, for the duties of such office.

45 Names of qualified voters.....Number.....
46 Street.

47 Any person whose name has been submitted for candidacy
48 by any such petition shall file his acceptance of such candi-
49 dacy with the city clerk not later than seven days before the
50 day of the primary election, and in the absence of such ac-
51 ceptance the name of the candidate shall not appear on the
52 ballots. Immediately upon the expiration of the time of
53 filing the petitions for and acceptance of the candidates, the
54 city clerk shall cause to be published in all the daily news-
55 papers of the city once, in proper form, and under appropri-
56 ate captions for the several departments the names of the
57 persons as they are to appear upon the primary ballots; and
58 the said clerk shall thereupon cause the primary ballot to be
59 printed, authenticated with a *fac simile* of his signature. No
60 candidate shall circulate his own petition for nomination, and
61 the name of any such candidate circulating his own name for
62 nomination shall be omitted from the primary ballot.

63 The ballots shall be printed upon plain, substantial white
 64 paper, without party mark or designation, and shall contain
 65 the names of the candidates in alphabetical order, under the
 66 appropriate caption for the several offices. The ballots shall
 67 be substantially in the following form or to the following
 68 effect, to-wit:

69 *Official Primary Ballot*

70 Candidates for nomination for board of directors of the
 71 City of Fairmont at the primary election.

72 (Place a cross in the square to the left of the name of the
 73 person for whom you desire to vote.)

74 For member of the board of directors, for the office of direc-
 75 tor of the department of law and public welfare.

76 (Names of Candidates)

77 (Vote for one only for the office of director of law and public
 78 welfare.)

79 For member of the board of directors for the office of direc-
 80 tor of the department of finance.

81 (Names of Candidates)

82 (Vote for one only for the office of director of finance.)

83 For member of the board of directors for the office of direc-
 84 tor of the department of public highways.

85 (Names of Candidates)

86 (Vote for one only for the office of director of public high-
 87 ways.)

88 Official ballot, attest:

89 *Fac simile* of the signature.....City Clerk.

90 *Proceedings of Elections*

91 Having caused said ballot to be printed the said city clerk
 92 shall cause to be delivered at each polling place a number of
 93 said ballots equal to at least twice the number of votes cast in
 94 such polling precinct at the last general municipal election.
 95 The persons who are qualified to vote at the general election
 96 shall be qualified to vote at such primary election, and
 97 the law applicable to challenges at a general mu-
 98-100 nicipal election shall be applicable to challenges
 101 made at such primary election. The commissioners of election
 102 in each precinct shall, immediately upon the closing of the
 103 polls, count the ballots and ascertain the number of votes cast
 104 in their precinct for each of the candidates, and make return

105-106 thereof on proper blanks, properly sealed, to the city clerk
107 within six hours of the closing of the polls, and post duplicate
108 return blanks on the outside of the voting place. On the day
109 following the said primary election, the board of directors
110 shall canvass said returns so received from the polling pre-
111 cincts, and shall make and publish in all the newspapers of
112 said city, at least once, the result thereof. Said canvass by
113 the board of directors shall be publicly made. The two candi-
114 dates receiving the highest number of votes for board of direc-
115 tors for each department, shall be the candidates whose names
116 shall be placed upon the ballots at the next ensuing general
117 municipal election. In the event of the death or resignation
118 of a nominee before the election, the name of the candidate
119 receiving the next highest number of votes at the primary,
120 shall be placed on the ticket in his stead.

121 When more than two persons shall have an equal number
122 of votes for the same nomination and more than the other can-
123 didates for the same office, so that there is no choice at the pri-
124 mary, the city clerk shall place two names (or more if there be
125 three or more so tied) of those voted on at the primary, and
126 tied as aforesaid, on the ballot for the next ensuing regular
127 election, and whenever in any other case no choice of candi-
128 date is made at a primary by reason of a tie vote, such clerk
129 shall place the names of all so tied on the ballots for the next
130 ensuing regular election.

131 The ballot at such general municipal election shall be in the
132 same general form as for such primary election, so far as prac-
133 ticable.

134 The necessary and legitimate expenses of the holding of any
135 such primary, as well as of any regular or special municipal
136 election in said city for ballot, stationery, forms, ballot boxes,
137 booths, voting places, judges and clerks, and notices of the elec-
138 tion, shall be paid by the city. At every such primary election
139 and at every other municipal election in said city, regular or
140 special, the polls shall be opeh at seven o'clock, A. M. and close
141 at seven o'clock, P. M.

Sec. 20. The candidate receiving the greatest number of
2 votes for director of the department of law and public welfare,
3 the candidate receiving the greatest number of votes for direc-
4 tor of the department of finance, and the candidate receiving the
5 greatest number of votes for director of the department of

6 public highways shall be declared elected as a member of the
7 board of directors and as the director of the respective depart-
8 ment. If two or more candidates receive an equal number of
9 votes for such offices, the canvassing board, before whom the
10 said election returns shall have been canvassed, shall decide
11 between them and if a majority of said canvassing board cannot
12 agree, then the matter shall be decided by lot.

13 All contested elections shall be heard and determined by the
14 board of directors, and the contests shall be made and heard
15 and conducted in the manner and as provided for such contests
16 for county and district offices; and the board of directors
17 shall conduct its proceedings in such cases as nearly as prac-
18 ticable in conformity with the proceedings of the county court
19 in such cases.

Sec. 29. The salaries of all appointive officers shall be fixed
2 by the board of directors and paid monthly or semi-monthly as
3 the services shall have been rendered.

Sec. 30. The board of directors shall by resolution fix the
2 salaries of all appointive officers.

Sec. 66. The person elected as director of the department of
2 law and public welfare shall be *ex officio* the mayor of the city.

Sec. 80. In order to better dispense the business of the city
2 and assign more in detail the members of the board of directors,
3 the government of said city is hereby divided into three de-
4 partments, to-wit:

5 (a) The department of law and public welfare, under which
6 shall be included the departments of fire, police, law, health
7 and charity and kindred subjects. The director of this depart-
8 ment shall be styled the director of law and public welfare.

9 (b) The department of finance, under which shall be in-
10 cluded all finances of the city, water rents and taxation and
11 kindred subjects. The director of this department shall be
12 styled the director of finance.

13 (c) The department of public highways, under which shall
14 be included the streets, alleys, storm sewers, sanitary sewers,
15 surface drainage, wharves, bridges, public buildings and
16 grounds and kindred subjects. The director of this depart-
17 ment shall be styled the director of public highways.

18 (d) The department of water, under which shall be included
19 the city's water system. The director of this department shall
20 be styled the director of water. The present incumbent of this

21 office or his successor shall continue as the director of water
22 until the expiration of his term and until the provision for
23 three directors instead of four directors shall become effective
24 and thereafter the office of director of water shall be abolished;
25 it shall then be the duty of the board of directors to appoint
26 some qualified person to perform all the duties at the present
27 time devolving on the director of water, saving and excepting
28 only the duties of member of the board of directors. Such per-
29 son so appointed by the board of directors shall hold his office
30 at the pleasure of the board of directors and he shall be styled
31 superintendent of water and he and his department shall be
32 classified under the department of finance.

Sec. 80-*a*. The directors of the several departments shall have
2 the immediate care and supervision of their respective depart-
3 ments, subject to the control of the board of directors. The
4 business and the labors incident thereto of each of the depart-
5 ments shall be that which properly falls within the scope of the
6 particular department, but, which, in detail, may be fixed from
7 time to time by the board of directors. The head of each de-
8 partment shall see to the performance of all the business coming
9 within his department or which may be referred thereto or to
10 any officer thereunder, from time to time.

Sec. 101. Subject to the supervision and control of the board
2 in all matters the director of public highways shall manage and
3 have charge of the construction, improvement, repair and main-
4 tenance of streets, alleys, sidewalks, lanes, bridges, viaducts and
5 all other public highways; of storm sewers, surface drainage,
6 ditches, culverts, canals, streams and water courses; of boule-
7 vards, squares and other public places and ground belonging to
8 the city or dedicated to the public use, and of sanitary sewers.
9 He shall manage market houses and shall have charge of the
10 making and preservation of all surface maps, plans, drawings
11 and estimates for such public works; the cleaning, sprinkling
12 and lighting of streets and public places; the collection and dis-
13 posal of waste; the preservation of contracts, papers, plans,
14 tools and appliances belonging to the city and pertaining to this
15 department.

Sec. 109-*a*. Subject to the general supervision and control
2 of the board of directors, and the special supervision and con-
3 trol of the director of finance, the superintendent of water shall
4 manage and have charge of the construction, improvement,
5 repair, maintenance, and operation of the water system owned

6 and controlled by said city; he shall have charge of the water
7 works; he shall preserve all contracts, papers, maps, plans,
8 tools and appliances belonging to the city and pertaining to
9 the water system. He shall perform such other duties and be
10 charged with such other responsibilities as the board of direc-
11 tors may from time to time determine. He shall be paid such
12 salary as the board of directors may fix. The present director
13 of water shall continue as director of water until a superinten-
14 dent of water shall be appointed by the board of three direc-
15 tors, to constitute the board of directors, as herein provided,
16 after the expiration of the term of office of the present board
17 of directors of four members.

Sec. 111. The board of directors may require all owners,
2 tenants and occupants of improved property which may be
3 located upon or near any street or alley along which may ex-
4 tend any sewer or system of sewerage, which the said city may
5 construct, own or control, to connect with such sewer or system
6 of sewerage, all privies, water closets, cess-pools, drains or sinks
7 located upon their respective properties or premises so that
8 their contents may be made to empty into such sewer or system
9 of sewerage.

Sec. 112. The board of directors is authorized and empow-
2 ered to cause to be put down a suitable curb of brick, stone or
3 other materials along and for the footways and sidewalks of
4 the avenues, streets, roads or alleys of said city, and to order
5 and cause the laying or relaying or repair of sidewalks and
6 gutters of such material and widths as the board may deter-
7 mine; and the planting or replanting of and caring for shade
8 trees along said avenues, streets and roads at such points and
9 in such manner as the board may determine; and to require
10 the owners or occupiers of the land or lots or parts of lots
11 facing upon said avenues, streets, roads, or alleys to keep such
12 sidewalks clean and in good repair, and to grade the plot of
13 ground on either side of the sidewalks between the street curb
14 and the property line and keep the same sodded with grass and
15 free of weeds and obstructions, and otherwise in good condi-
16 tion and repair. The owners or occupiers of the land or lots
17 abutting upon such avenues, streets, roads or alleys shall not
18 lay any sidewalks, curb or gutter, or plant any such shade
19 trees, unless specially required to do so by resolution adopted
20 by the said board; but said city may lay such sidewalks, curb
21 or gutter, and plant or replant and care for said shade trees,

22 or may let said work to contract, and in either case the total
23 cost of said work or such part thereof as the board may direct
24 shall be charged upon and against the land or lots abutting
25 upon such avenue, street, road, or alley, which assessments
26 shall be and remain a lien upon said land or lots the same as
27 taxes levied upon real estate in said city, which may be en-
28 forced by a suit in equity before any court having jurisdic-
29 tion as other liens against real estate are enforced. The
30 amounts as assessed against any land or lot shall be a debt
31 against the owner of such land or lot, which may be collected as
32 other debts are collected, in any court having jurisdiction, and
33 shall be due and payable in ninety days from the completion
34 and acceptance of such work as certified to by the board of
35 directors, with six per cent interest thereon from the date of
36 such record acceptance. And in ascertaining the amount to
37 be assessed against any corner lot for the cost of laying any
38 such sidewalk and planting trees in front or alongside thereof,
39 the board may assess the total cost of laying such sidewalks,
40 and planting trees, in front or alongside said lot and extended
41 to the curb or gutter of the intersections of the avenues,
42 streets, roads or alleys at that point.

43 When such work is done by the city, and not let to contract,
44 the board shall certify such assessments to the treasurer of the
45 city for collection, who shall account for the same as directed
46 by the board or by ordinance; and the treasurer shall accept
47 payment, when tendered, of the amount of said assessment with
48 interest to the date of payment, and unless said assessment
49 shall have been paid within ninety days from the date of such
50 assessment, then a copy of such report shall be certified by the
51 city clerk to the county court of the county of Marion, who
52 is hereby required to record and index the same in the proper
53 trust book in the name of each person against whose property
54 assessments appear therein. If any such assessment shall not
55 be paid when due, the board of directors shall cause to be en-
56 forced the payment of said assessment and interest in all
57 respects as herein provided for the collection of taxes due the
58 city; and said assessments shall be a lien upon the property
59 liable therefor, the same as for taxes, which lien may be en-
60 forced in the same manner as provided for the sale of the
61 property for the non-payment of taxes and tax liens; and the
62 liens herein provided for shall have priority over all other liens
63 except those for taxes due the state and the county, and shall

64 be on a parity with taxes and assessments due the city. When
65 such assessments shall have been paid in full, and a lien there-
66 for shall be of record in the county clerk's office, the treasurer
67 shall execute and deliver to the owner of said property a
68 release of said lien, which may be recorded in the office of the
69 county clerk as other releases or liens are recorded.

70 The board may, if it so elect, let said work to contract, and
71 certificates may be issued for the amount of said assessments
72 which may be sold to the contractor doing the work, or other
73 person, in full of the total cost, in the same manner as pro-
74 vided for paving certificates, in this act; *provided*, the city in
75 negotiating and selling such certificates shall not be held as
76 guarantor or in any way liable for payment thereof, except
77 upon the direct action of the board of directors as expressed
78 by resolution of record before such sale. Said certificates, to
79 be signed by the mayor or clerk or other person or persons
80 designated of record by the board, shall bear date as of the
81 time when such work is accepted and certified by the board of
82 directors, and shall be due and payable in ninety days from
83 date thereof, with six per cent interest. When the board
84 shall have received said work, it shall at the same time make
85 said assessment upon written report; and at the end of ninety
86 days from date thereof, upon the demand in writing filed with
87 the city clerk, of the holder or holders of the unpaid certifi-
88 cates issued to cover said assessments, said clerk shall certify
89 a copy of said report, only insofar as it relates to the owners
90 against whom said exhibited certificates remain unpaid, to
91 the clerk of the county court of Marion county, who shall
92 record and index the same as other liens of the like kind are
93 recorded and indexed, and the same shall be and remain a lien
94 upon the real estate against which said assessments are made,
95 as set out in said certified report and said lien may be enforced,
96 in the name of the holders of such certificate in the same man-
97 ner as set out in this act.

98 Before letting such work to contract, the board shall adver-
99 tise the same once a week for two successive weeks in two news-
100 papers of opposite politics published in the City of Fairmont,
101 or in one paper in case publication cannot be had in two such
102 papers, setting out the time and place for receiving proposals
103 for such work and referring to the plans and specifications
104 made thereof; and the city reserves the right whether stated
105 in such notice or not, to refuse any and all bids for the work.

.106 On refusal of said papers to publish said notice at reasonable
.107 rates, the board may, by resolution, direct how such notice may
108 be given. The fact that such contract shall be awarded for
109 said work shall be *prima facie* proof that said notice was given
110 as required herein. Such lien, as represented by certificates,
111 may be released of record in the office of the county clerk in
112 the same manner as paving liens represented by certificate, are
113 released of record as provided for in this act.

114 All such work, whether done by the city direct, or through
115 contractors, shall be under the supervision of the street de-
116 partment of the city or some person designated for that pur-
117 pose by the board of directors:

118 If the owner or occupier of any such lot or land shall be
119 required by the board to lay, or relay, clean or repair any
120 such sidewalk between the street curb and the property line,
121 and keep the same sodded and free from weeds or obstruction,
122 and otherwise in good condition and repair, written or pub-
123 lished notice shall be given to such owner or occupier in the
124 manner provided by ordinance or resolution adopted by the
125 board, and the neglect or refusal of such owner or occupier
126 to do the work, in the manner and within the time required
127 by the board, as set out or referred to in said notice, shall be
128 an offense and may be punished as provided by ordinance; and
129 after the expiration of the time set out in said notice for the
130 doing of said work, and the same remains undone, the board
131 may do, or cause to be done, said work and assess and collect
132 the cost thereof in the manner, upon either plan, and to the
133 full extent as set out in this section. The board of directors
134 is authorized and empowered to require the owners and occu-
135 piers of any lot or tract of land to keep the same free from
136 weeds and other vegetation which may be unsightly or noxious,
137 and to that end, may pass suitable ordinances with penalties
138 to be inflicted on the owners and occupiers of such lots who
139 may fail to comply with the provisions of such ordinances;
140 and in addition thereto, upon the failure of such owners and
141 occupiers of said lots to comply therewith, the city may do the
142 work necessary in keeping said lots or lands free from weeds
143 and other vegetation which may be unsightly or noxious and
144 charge the total costs thereof against the owner of such lots or
145 lands, which amount or amounts shall be a debt against such
146 owner, with which he is charged, with interest thereon, from
147 the time of the completion of said work, and the expense shall

148 remain a lien upon said lots or lands, or any part thereof the
149 same as taxes levied upon real estate in said city and which
150 lien may be enforced by a suit in equity before any court
151 having jurisdiction, as other liens against real estate are en-
152 forced, and in addition thereto, such costs or expense, with in-
153 terest, may be collected from the owner, occupant, tenant,
154 agent or assignee, by distress or sale in the same manner in
155 which taxes levied against real estate are herein authorized to
156 be collected. And the costs or expense, with interest thereon,
157 for the cleaning of said lots or land of weeds and other noxious
158 vegetation, as well as the costs or expense, with the interest
159 thereon, for the laying of sidewalks, planting of trees, etc., as
160 set out in section one hundred and fifty-five or elsewhere which
161 may remain unpaid at the time of making out of tax tickets
162 covering the taxes due in any year by such owner of said lots
163 or lands, shall be placed on the tax ticket for that year along
164 with the statement of other taxes due by such owner, and the
165 treasurer shall collect such amounts at the time and in the same
166 manner as the other taxes are collected by him from such
167 owner, but without allowing any discount thereon, and upon
168 failure to pay the same on or before the last day of that year
169 there shall be added thereto the same interest penalties which
170 are provided for the failure to pay other taxes assessed at such
171 time against such owner; and the treasurer, upon the failure
172 to pay said amounts, shall return the real estate, against which
173 said amount is a lien, delinquent for the non-payment of taxes
174 for such year the same as in the case of returning such lands
175 delinquent for the non-payment of other taxes assessed against
176 such owners and such real estate, and said real estate may be
177 sold, at the time and in the manner, provided for in the case
178 of delinquent lands for the non-payment of taxes; and these
179 remedies, when applicable, are in addition to all other reme-
180 dies, provided for in section one hundred and fifty-five or
181 elsewhere.

182 Notice to owners and occupiers of lots or lands requiring
183 them to clean said premises of weeds and other noxious vege-
184 tation, may be given in the same way and to the same effect as
185 provided in section one hundred and fifty-five or elsewhere;
186 and tenants and agents shall have the same rights and reme-
187 dies against such owners as therein provided.

Sec. 113. For the purpose of creating a revolving fund by
2 and with which to promote and expedite permanent street and

3 sewer improvements, the city is authorized and empowered to
4 levy and collect, for a period not longer than ten years includ-
5 ing the year one thousand nine hundred and twenty-five, a
6 special annual tax, in addition to all other taxes, during all or
7 any part of said period, not exceeding ten cents on each one
8 hundred dollar valuation, on all taxable property in said city,
9 and which levy shall also be in addition to that now permitted
10 by law. Such levy shall not be laid except by ordinance duly
11 adopted by the unanimous vote of all of the members of the
12 board of directors.

13 No part of said revolving fund shall be used for any purpose
14 other than to pay for permanent improvements of streets, ave-
15 nues, roads, alleys and public grounds and the construction of
16 sewers, and only then by the purchase of street or sewer im-
17 provement bonds provided for in this act or assessment certifi-
18 cates provided for in this act, and for which assessments against
19 real estate are made to cover the amount of such bonds or cer-
20 tificates as provided in this act; and when and as such bonds
21 or certificates so purchased out of this revolving fund shall be
22 paid, the amount thereof shall be and become a part of such
23 revolving fund, and thereby prevent material diminution of
24 the fund.

25 When said fund, or any considerable part thereof is not being
26 used or in contemplation for immediate use, the city shall keep
27 the same invested to the best advantage in securities of the kind
28 permitted by state law for the investment of sinking fund, or,
29 in the discretion of the board of directors, the same may be de-
30 posited, for a fixed time, at the highest rate of interest and to
31 the best protection of the city, in some bank or banks, or may
32 be directed by the directors to be deposited in the manner set
33 out in section one hundred and sixteen for the deposit of other
34 funds of the city.

Sec. 114. All taxes assessed upon the real estate within the
2 said city, shall remain a lien thereon from the time the same are
3 so assessed, which shall have priority over all other liens, except
4 for taxes due the state, county or district, and all taxes whether
5 assessed upon realty or personalty or otherwise may be enforced
6 and collected in the same manner and by the same remedies as
7 is now or may hereafter be provided by law for the enforcement
8 of liens and levies for state and county taxes, or in such manner
9 as the board of directors may by ordinance prescribe. And in
10 levying taxes and collection thereof, and the return of property

11 delinquent for non-payment of taxes, the duties of the city clerk
12 shall be similar to the duties of the county clerks of the state in
13 that behalf; the duties of the treasurer in the collection of taxes,
14 licenses and money due the city and accounting for the same
15 and the return of property delinquent for the non-payment of
16 taxes, shall be similar to the duties of the sheriffs of the state;
17 except the board of directors may make such regulations and
18 ordinances prescribing the duties of the city clerk and the city
19 treasurer and their manner of performance as the board may
20 deem necessary. And the board shall, through itself and such
21 officers and employees as it may appoint or employ under such
22 regulations and ordinances as it may enact (not contrary to the
23 laws of this state), have such authority and power as may be
24 necessary for the levying and collection of taxes, tithables,
25 fines, licenses, sewer and paving assessments owing the city with
26 power and authority to enforce the collection of such fines by
27 imprisonment in the city or county jail.

Sec. 115. (a) The board of directors of the City of Fair-
2 mont may order and cause any avenue, street, road or alley
3 therein to be graded, or curbed or recurbed with stone, con-
4 crete or other suitable material, or paved or repaved, between
5 curbs, with brick, wooden blocks, asphalt or other suitable ma-
6 terials, or to be graded and curbed or recurbed and paved or
7 repaved as aforesaid or to be macadamized or to be otherwise
8 permanently improved or repaired, under such supervision as
9 may be directed by ordinance or resolution, upon the best bid
10 to be obtained by advertising for proposals therefor, except the
11 city may do the work without letting it to contract as herein-
12 after provided in (d) of this section; and may purchase or
13 condemn land for opening or widening avenues, streets, roads
14 and alleys. The entire cost, or any part thereof, designated
15 by the board of directors, of such grading, curbing and paving
16 or macadamizing, or other permanent improvements, of any of
17 the avenues, streets, roads and alleys as aforesaid, from and
18 including the curb of either side thereof to the middle thereof
19 and the cost, or any part thereof, of purchasing or condemn-
20 ing land as aforesaid for street purposes, may be assessed to
21 and required to be paid by the owners of the land, lots or
22 fractional parts of the lots, fronting or bounding on such
23 avenue, street, road or alley so improved, except as otherwise
24 provided in (c) and (g) of this section.

25 Payment is to be made by all land owners on either side of
26 such portion of any avenue, street, road or alley so paved,
27 opened, widened, or improved in such proportion to the total
28 cost (less the portion, if any, chargeable to the street or other
29 railway company) as the frontage in feet of his abutting land
30 bears to the total frontage of all the land so abutting on said
31 avenue, street, road or alley or portion thereof opened, wid-
32 ened, paved or improved as aforesaid; but the cost of such
33 paving or improvement on said avenue, street, road or alley
34 (not including opening or widening), shall not include any
35 portion or amount paid for the paving or improvement of
36 intersections of avenues, streets, roads or alley, unless the work
37 be done, and the payment made therefor, as especially pro-
38 vided in (c) and (g) of this section.

39 (c) *Provided*, the board of directors of Fairmont may
40 order and cause any of the work to be done, and improvements
41 made, set out in (a) of this section and in addition to the as-
42 sessment provided for in (a) of this section, may assess pro-
43 portionately the property abutting or abounding on such ave-
44 nue, street, road or alley so improved with the total cost of the
45 paving, grading and curbing or macadamizing or other perma-
46 nent improvements of the intersections of the avenue, streets,
47 roads or alleys so paved or otherwise permanently improved.

48 *Provided, further*, that if the said directors propose, order
49 and cause such improvements to be made under this clause of
50 this section they shall first enact an ordinance or resolution
51 setting forth the work and improvement to be done, the extent
52 of said improvement and manner of paying for the same,
53 which ordinance or resolution shall be published once a week
54 for two consecutive weeks in two newspapers of opposite poli-
55 tics, published and of general circulation in said city. In such
56 publication the directors shall set a time of at least ten days
57 from the date of the first publication in which objection and
58 protest may be made against the proposed improvement as
59 aforesaid by the owners of the property against which said
60 assessment is proposed to be made, and if, at or before such
61 time so set by the directors, the *bona fide* owners or more than
62 three-fifths in lineal feet of the property abutting upon the
63 avenue, street, road or alley proposed to be improved as afore-
64 said, shall file separately or jointly their written protest set-
65 ting forth the fact, under oath, that they are the *bona fide*

66 owners of said property, with the board of directors, objecting
67 to and protesting against the work to be done and the improve-
68 ment to be made under this clause in this section, the directors
69 shall proceed no further hereunder and shall make note of
70 the discontinuance of such proposed work and improvement
71 under this clause of this section in their minute book. If the
72 owners of more than three-fifths of said property do not file
73 objection or protest as herein provided, the board of directors
74 may immediately, by ordinance or resolution, order and direct
75 such work to be done, improvement made and the assessments
76 levied against said property in manner set out in this section,
77 and the other sections of this act. The publication of the ordi-
78 nance herein provided for shall be sufficient if the title to the
79 same is published, with a statement of the purposes of the ordi-
80 nance setting out between what points the improvement is pro-
81 posed to be made, and the method under which payment for
82 the same is to be made, and stating the time at which objections
83 may be heard.

84 (d) The city itself, after any work or improvement is
85 finally ordered to be done or made in manner and form pro-
86 vided in this act, may, at its election, do such work and make
87 such improvement, and collect the cost thereof, in the manner
88 set out in this act. The decision of the city to do such work,
89 or make such improvement, may be without notice or after the
90 publication of the notice to contractors mentioned in this sec-
91 tion, or after the rejection of all bids for doing the same.

92 (e) The cost of grading, curbing and paving, or otherwise
93 improving the intersections, or parts of intersections, of ave-
94 nues, streets, roads or alleys, on the plans adopted by the board
95 of directors for such work, shall be paid by the city, except as
96 otherwise provided in (c) and (g) of this section.

97 (f) And if any such avenue, street, road, or alley be occu-
98 pied by street car track, or tracks of other railroads, the cost
99 of said improvements of the space between the rails and two
100 additional feet outside of each rail shall be assessed to and
101 borne and paid entirely by the person or company owning or
102 operating such street car or other railway line, unless other-
103 wise provided by the franchise of such street car or other rail-
104 way company granted previous to the passage of this act.

105 (g) *Provided*, the board of directors, if they so elect, may
106 order and cause any avenue, street, road or alley, including in-
107 tersections, public park or public place, to be widened, graded

108 or changed in grade, and curbed or recurbed, and paved or re-
109 paved, with brick, concrete, asphalt or any other suitable ma-
110 terials, or macadamized or otherwise permanently improved,
111 including the construction of retaining walls, sewers, drains,
112 water pipes, water dams and water courses in connection there-
113 with and may purchase land, or condemn land for any public
114 avenue, street, road or alley, or part thereof, or park or other
115 public purpose, and the board may assess all or any part of the
116 entire cost of such improvements (or taking of land or both)
117 upon the abutting, adjacent, contiguous and other lots or land
118 especially benefited by such improvement in the proportion in
119 which such lot or land is especially benefited by the improve-
120 ment. The board of directors, when they decide to order the
121 improvements under this plan, shall, by ordinance or resolu-
122 tion, before doing the same, fix the approximate total amount
123 of the special benefits to be derived from such improvements
124 to the abutting, adjacent, contiguous and other specially bene-
125 fited land or lots so assessed and setting out the names of the
126 owners, the approximate amount of the special benefits to the
127 lot or land of each owner and the approximate amount of the
128 total cost of the proposed improvements, the board may in
129 fixing such assessments take into consideration the assessed
130 value of the lots or land as fixed for the last assessment year
131 for state and county purposes.

132 *Provided, further,* that if the said directors propose to order
133 and cause such improvements to be made under this clause of
134 this section, they shall first enact an ordinance or resolution
135 setting forth the work and improvements proposed to be done,
136 the extent of said improvements and manner of paying for the
137 same, which ordinance or resolution shall be published once a
138 week for two consecutive weeks in two newspapers of opposite
139 politics published and of general circulation in said city, in
140 which publication the directors shall set a time of at least ten
141 days from the date of the first publication in which objection
142 may be made against the proposed improvement as aforesaid
143 by the owners of the property against which said assessment is
144 proposed to be made.

145 The publication of the ordinance herein provided for shall
146 be sufficient if the title to the same is published with a state-
147 ment of the purposes of the ordinance setting out at what
148 place the improvement is proposed to be made, and the method

149 under which payment for the same is to be made, the lots and
150 land with the names of the owners of record thereof and the
151 approximate amounts to be assessed against each lot, and the
152 owner thereof, and stating the time at which objections may be
153 filed.

154 (h) When the board of directors shall deem it expedient
155 and proper to cause any avenue, street, road or alley, or any
156 portion thereof, in such city, to be graded, or graded and
157 paved, curbed or macadamized, or otherwise permanently im-
158 proved, or land to be acquired or taken for street purposes, as
159 provided in (a) of this section, or shall deem it expedient
160 and proper to cause the construction of any public sewer in or
161 under such avenue, street, road or alley or land or easement
162 therein to be acquired or taken therefor, or elsewhere, or cause
163 any other permanent improvements to be undertaken, contem-
164 plated by this or any other section, or sections, they shall, by
165 ordinance or resolution. order the work done, stating the
166 method of payment thereof, and, if it be let to contract, notice
167 shall be in the following manner, to-wit:

168 (i) The notice for the bids or proposals for doing such
169 work and making such improvements, as amended by this act,
170 shall be published for at least fifteen days in two newspapers
171 of opposite politics, or in one newspaper, if two such news-
172 papers be not published in the city. If the publication of the
173 notice cannot be procured in any newspaper in said city at
174 reasonable rates, then said notice may be given in the manner
175 directed by the board. Said notice shall state, when, where
176 and how the bids or proposals shall be made; and whether so
177 stated in the notice or not, the city may reject any and all bids
178 for such proposed work. Before advertising for bids on the
179 work, the city shall approve and adopt plans and specifications
180 therefor, and the advertisement for bids, and the contract
181 awarded thereon, shall refer to such plans and specifications.
182 The fact that such contract shall be let for said work shall be
183 *prima facie* proof that the notice mentioned above was given
184 as required herein.

185 (j) The cost of said paving, macadamizing or otherwise
186 permanent improvement may be paid in either one of the two
187 ways provided for in this act (to be specified by ordinance by
188 the board of directors).

189 (k) If the abutting land on any such avenue, street, road
190 or alley sought to be improved as aforesaid, or in which a

191 sewer is ordered laid, is not laid off into lots by a map of rec-
192 ord, the board of directors may, for the purpose of making the
193 assessments provided for in this section and other sections
194 herein, lay off said land into lots of such sizes as the board
195 deems advisable for the purpose of laying the proper assess-
196 ment against such land.

Sec. 116. Said City of Fairmont is hereby authorized to
2 issue its bonds for the purpose of providing for the costs of
3 grading, paving and curbing, or macadamizing, or otherwise
4 permanently improving the avenues, streets, roads and alleys
5 of said city, or acquiring ground for opening public avenues,
6 streets, roads, alleys or parks, or constructing main and lat-
7 eral sewers, or both in anticipation of special assessments to be
8 made upon the property abutting upon the avenues, streets,
9 roads and alleys so improved or benefited. Said bonds may
10 be in such an amount as shall be sufficient to pay the entire
11 costs and expenses of said improvements for which such special
12 assessment are to be levied; and said city is authorized to sell
13 said bonds, but not below the par value thereof. The amount
14 for which said bonds are to be issued may be made of five
15 bonds, payable in two, four, six, eight and ten years, respec-
16 tively, from the date of their issue, and shall bear interest not
17 to exceed six per cent per annum, payable annually; or may
18 be of four bonds, payable in one, two, three and four years,
19 respectively, from the date of their issue, and shall bear inter-
20 est not to exceed six per cent per annum, payable annually,
21 and the date of said four year bonds, when issued, shall con-
22 form, as near as can be, to the date of assessment laid against
23 real estate for the purpose of procuring revenue to retire said
24 bonds; *provided*, the city shall have the right to redeem and
25 pay off, at any interest paying period, all or any number of
26 said undue bonds of the said four year issue of bonds pro-
27 vided for in this section. In the issuance and sale of said
28 bonds the said city shall be governed by the restriction and lim-
29 itations of the constitution of this state, and the restriction
30 and limitations of the state laws of this state relating to the
31 issuance and sales of bonds, so far as such state laws are not
32 in conflict with the provisions of this act; and the assessments
33 as provided for and required to be paid herein shall be ap-
34 plied to the liquidation of said bonds and interest thereon, and
35 if, by reason of the penalties collected with the delinquent
36 assessments there be any balance after the payment of the

37 bonds and all accrued interest and costs, it shall be turned into
38 the city treasury to the credit of the interest and sinking fund
39 of the city.

40 (b) And it shall be the duty of the board of directors to
41 immediately certify such assessments to the treasurer for col-
42 lection, as herein provided; and for the purpose of facilitating
43 the collection of such assessments against the properties herein,
44 the board of directors may issue assessment certificates, with
45 the interest coupons attached thereto, to be delivered to and
46 charged against the city treasurer who shall collect the same,
47 and as such certificates and coupons are paid he shall deliver
48 the cancelled certificates to the party paying the same. A copy
49 of the said order shall be certified by the city clerk to the clerk
50 of the county court of the county, who is hereby required to
51 record and index the same in the proper trust deed book in
52 the name of each person against whose property assessments
53 appear therein.

54 (c) The amounts so assessed against said lots and owners
55 thereof, respectively, if assessed for the liquidation of the five
56 bonds payable in two, four, six, eight and ten years, respec-
57 tively, after date, shall be paid in ten payments as follows:
58 that is to say, one-tenth of said amount, together with the in-
59 terest on the whole assessment for one year, shall be paid into
60 the treasury of the city before the first day of the following
61 January; and a like one-tenth part, together with the interest
62 for one year on the whole amount remaining unpaid, shall be
63 paid before the first day of January of each succeeding year
64 thereafter, until all shall have been paid; and the amount so
65 assessed against said lots and owners thereof, respectively, if
66 for the liquidation of the four bonds payable in one, two, three
67 and four years, respectively, after date, shall be paid in five
68 payments, as follows: that is to say, one-fifth of said amount,
69 with interest, shall be paid in thirty days from date of assess-
70 ment; and one-fifth of said amount, together with interest
71 on the whole unpaid assessment, shall be paid into the treas-
72 ury of the city before one year from date of such assessment;
73 and a like one-fifth part together with the interest on the whole
74 amount remaining unpaid, before two years from the date of
75 such assessment, and a like amount in each succeeding year
76 thereafter, until all shall have been paid. All of said install-
77 ments shall bear interest at six per centum per annum, pay-
78 able annually from the date of assessment. *Provided, how-*

79 *ever*, that the owner of any land, so assessed for the cost of any
80 of the permanent improvements herein mentioned, shall have
81 the right at any time to anticipate and pay the whole of such
82 undue assessment and interest thereon until the day on which
83 the next undue assessment shall become due, and have the lien
84 against the property so assessed released as hereinafter pro-
85 vided.

86 (d) If any assessment shall not be paid when due, then a
87 penalty of four per cent per annum shall be added and col-
88 lected on the amount of such assessment after it is due until
89 its payment, and such four per cent penalty shall be in addi-
90 tion to the six per cent interest which the assessment carries,
91 and shall be a lien the same as the assessment, and the board
92 of directors shall cause to be enforced the payment of said
93 assessment and interest and penalty in all respects as herein
94 provided for the collection of taxes due the city; and said
95 assessments shall be a lien upon the property liable therefor
96 the same as for taxes, which lien may be enforced in the same
97 manner as provided for the sale of property for the payment
98 of taxes and tax liens; and the liens herein provided for shall
99 have priority over all other liens except those for taxes due
100 the state and county, and shall be on a parity with taxes and
101 assessments due the city.

102 (e) When all of said assessments shall be paid in full to
103 the treasurer, he shall deliver to the owner of said property a
104 release of the lien therefor, which may be recorded in the office
105 of the clerk of the county court as other releases of liens are
106 recorded.

107 Under this plan for the payment of the cost of such perma-
108 nent improvements of avenues, streets, roads and alleys, and
109 the construction of sewers, the contractor (if the work is let
110 to contract) shall look only to the city for the payment of the
111 work, and in no sense to the abutting land owners.

112 (f) If the abutting land on any such avenue, street, road or
113 alley sought to be improved as aforesaid, or in which a sewer is
114 ordered laid, is not laid off into lots by a map of record, the
115 board of directors may, for the purpose of making the assess-
116 ments provided for in this section and other sections herein,
117 lay off said land into lots of such size as the board deems ad-
118 visable for the purpose of laying the proper assessment against
119 such land.

Sec. 117. The board of directors may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street and park purposes, as aforesaid, and may, if the board so elect stipulate that the cost thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) and (c) of section one hundred and fifteen, or specially benefited property owners, as provided in (g) of said section, in five equal or nearly equal installments (making four in terms of dollars only and when practicable in multiples of ten, the cents and odd amounts to be covered by the first installment), except as hereinafter provided in this section, to be evidenced by a certificate issued therefor against each separate lot or tract of land, setting out the total amount of such assessment against the same, payable in five installments except as hereinafter provided, as follows: The first in thirty days after date of certificate, the second on the first day of May of the year following the year in which the certificate is issued, and the remaining three on the first day of May of the three following years respectively. The date of certificate in case of permanent improvement of streets or other roadways shall be the day on which the city received said work from the contractor, and it shall bear interest at the rate not to exceed six per cent per annum, payable on the due date of each principal installment, which certificates are to be signed in person by the mayor and clerk, or other person or persons designated of record by the board. Said certificates shall bear coupons designated "principal installment coupons," representing the respective amounts of the installments to be paid under the same, and which coupons shall be due and payable on the dates provided for the payment of the installments in this section, and said certificate shall also bear interest coupons representing the interest to be paid on said assessment and which said interest coupons shall be due and payable at the same time the principal installment coupons are due and payable. Upon the due date of any principal installment coupons excepting the first, the accrued interest on so much of said assessment as remains unpaid shall be due and payable and shall be represented by interest coupons as hereinabove set out. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid. Both the principal installment and

33 interest coupons shall be signed by the mayor and clerk, or
34 other person or persons designated, of record by the board,
35 either in person or by stamp bearing a *fac simile* of the written
36 name of person signing or lithographed in *fac simile* on said
37 principal installment and interest coupons.

38 The certificates herein provided for may be sold either to
39 the contractor doing the paving or other improvements, or to
40 any other person, and which shall cover the entire cost of such
41 work provided for in the ordinance or resolution, including the
42 cost of acquiring or taking land for street or park purposes, the
43 cost of surveys, notices and other things pertaining thereto;
44 *provided*, when the entire amount to be assessed against any lot
45 or piece of ground under the provisions of this section does not
46 exceed fifty dollars, then such amount shall be covered by only
47 one set of said coupons, payable in thirty days after date of its
48 issue; if over fifty and not more than one hundred dollars, then
49 such amount shall be covered by only two principal install-
50 ment and interest coupons, payable in thirty days after date of
50-a certificate and on the first day of May of the year succeeding
50-b the year in which the certificate was issued, respectively; if
50-c over one hundred and not more than one hundred and fifty
50-d dollars, then such amount shall be covered by only three prin-
50-e cipal installment and interest coupons, payable in thirty days
50-f from date of certificate and on the first day of May of the
50-g year succeeding the year in which the certificate was issued
50-h and on the first day of May in one year thereafter, respec-
50-i tively; if over one hundred and fifty dollars and not more
50-j than two hundred dollars, then such amount shall be covered
50-k by only four principal installment and interest coupons pay-
50-l able in thirty days after date of certificate and on the first
50-m day of May of the year succeeding the year in which the
50-n certificate was issued, and on the first day of May in one and
50-o two years thereafter, respectively; if more than two hundred
50-p dollars, then such amount shall be covered by five principal
50-q installment and interest coupons payable in thirty days after
50-r date of certificate and on the first day of May of the year
50-s succeeding the year in which the certificate was issued and
50-t on the first day of May in one, two and three years there-
50-u after, respectively; *provided, further*, the city in
51-60 negotiating and selling such certificates, shall not be
61 held as guarantor or in any way liable for payment thereof,

62 except upon the direct action of the board of directors as ex-
63 pressed by resolution of record. And the certificate and cou-
64 pons covering the amount of the assessment and interest shall
65 be paid by the owner of the land, lot or fractional part thereof,
66 so assessed for the cost of said improvement on such avenue,
67 street, road or alley so paved or improved, or land acquired
68 or taken, as aforesaid. The amount specified in said assess-
69 ment certificates shall be a lien in the hands of the holder
70 thereof upon the lands, lots or parts thereof so assessed, and
71 shall also be a debt against the owner of such real estate, and
72 said amount shall draw interest from the date of said certifi-
73 cates, payable on the due date of each principal installment
74 coupon; and the payment of the debt may be enforced as pro-
75 vided by law for the collection of other debts or such lien may
76 be enforced in the name of the holder of such certificate in
77 manner provided by law for the enforcement of other liens
77-a against real estate, and accrued interest shall be a lien the
77-b same as amount set out in assessment certificate.

78 After a contract has been made by the board to pave or
79 otherwise permanently improve any public road, avenue,
80 street or alley in said city under this act, and the paving or
81 other permanent improvement, or stipulated part thereof, has
82 been completed, or the cost of acquiring or taking land as
83 aforesaid, has been ascertained, the board shall assess the
84 amount each lot shall bear and shall make a written report,
85 stating the number of lots and the blocks or tracts of land, when
86 not laid off into lots, the names of the owners of such lots or
87 land when known, and the amount assessed thereon; and when
88 the said board approves said report, or modifies it and then ap-
89 proves it, a copy of said report, so adopted by the board, when
90 certified to by the city clerk of said city, shall be recorded in the
91 clerk's office of the county court of Marion county, in a trust
92 deed book and shall be a continuing tax lien upon the lot or
93 ground against which the assessment is made until the certifi-
94 cates as aforesaid are paid, except as otherwise provided in this
95 act, and the clerk shall index the same in the name of each lot
96 or land owner mentioned therein. *Provided*, any property own-
97 er shall have the right to pay the whole amount of any such as-
98 sessment against his property as soon as the same shall have
99 been ascertained, but before the day on which the city enters
100 such assessments of record after the two weeks' notice provided
101 in section one hundred and twenty-two; and such payment shall

102 be made to the city clerk, who shall give the proper receipt
 103 therefor, and such assessment, so paid, shall not be included in
 104 the report to be recorded in the office of the county clerk as set
 105 out in this section; and the amount so paid to the clerk shall
 106 forthwith be paid to the contractor or other person entitled
 107 thereto, which shall operate as full discharge of the amount of
 108 such indebtedness of such property owner. The certificates and
 109 principal installment and interest coupons herein provided for
 110 may be made in the following form or to the same effect:

111 No..... STATE OF WEST VIRGINIA \$.
 112 (State Coat of Arms)
 113 CITY OF FAIRMONT

114 PAVING ASSESSMENT CERTIFICATE

115 This certifies that
 116 as the owner of a lot, piece or parcel of real estate, situate in
 117 the City of Fairmont, known and designated as Lot
 118 No.....in Block No....., has been duly assessed
 119 the sum of.....dollars, with
 120 interest from this date at the rate of six per centum per
 121 annum, payable on the due date of each principal installment
 122 coupon as hereinafter set out, which assessment has been made
 123 to pay the cost of the public improvement hereinafter recited.
 124 This certificate is one of a series issued pursuant to the pro-
 125 visions of the charter of the City of Fairmont, West Virginia,
 126 and the laws of the state of West Virginia, to pay the cost of
 127 grading, curbing and paving.....
 128 from to.....in the
 129 City of Fairmont, West Virginia.

130 The charter of the City of Fairmont, West Virginia, re-
 131 quires assessments for such improvements to be made payable
 132 in installments as follows:

133 (a) If not more than fifty dollars in one installment, due
 134 in thirty days after date of certificate.

135 (b) If more than fifty dollars and not more than one hun-
 136 dred dollars, in two installments, due in thirty days and on the
 137 first day of May of the year succeeding the year in which the
 137-a certificate was issued.

138 (c) If more than one hundred dollars and not more than
 139 one hundred and fifty dollars, in three installments, due in
 140 thirty days, and on the first day of May of the year succeeding
 140-a the year in which the certificate was issued, and on the first
 140-b day of May one year thereafter.

141 (d) If more than one hundred fifty dollars and not more
142 than two hundred dollars, in four installments, due in thirty
143 days, and on the first day of May of the year succeeding the
143-a year in which the certificate was issued, and on the first day
143-b of May in one and two years thereafter, respectively.

144 (e) If more than two hundred dollars, in five installments,
145 due in thirty days, and on the first day of May of the year suc-
145-a ceeding the year in which the certificate was issued, and on
145-b the first day of May in one, two and three years thereafter,
145-c respectively.

146 Said assessments to draw interest at the rate of six per
147 centum per annum, payable on the due date of each principal
147-a installment.

148 Installments of this certificate, therefore, are evidenced by
149principal installment coupons hereunto attached,
150 which show the amounts of such installments, the due date
151 thereof, and are signed by the mayor and the clerk of the City
152 of Fairmont, West Virginia.

153 The interest on this certificate and the installments thereof
154 are evidenced by interest coupons hereunto attached, which
155 show the amount of such interest, the due date thereof, and
156 are signed by the mayor and clerk of the City of Fairmont,
157 West Virginia.

158 Upon the due date of any principal installment coupon, ex-
159 cepting the first, the accrued interest on so much of said assess-
160 ments as remains unpaid, shall be due and payable in accord-
161 ance with, and as evidenced by interest coupons hereto at-
162 tached. The interest on the first principal installment coupon
163 shall be paid when the said principal installment coupon is
164 paid.

165 The said several principal installment and interest coupons
166 respectively, are payable at the office of the treasurer of the
167 City of Fairmont.

168 The amount of the assessment represented by this certificate
169 and principal installment coupons attached has been duly
170 levied, equalized and confirmed, and along with accrued
170-a interest is a lien upon the real estate herein
171 mentioned, and is also a debt against the owner of said
172 real estate and the holder or bearer of this certificate may en-
173 force the debt evidenced thereby, as provided by law.

174 It is hereby certified and recited that all the acts, conditions
175 and things required to be done precedent to and in the letting

176 of the contract for said improvement, the equalization and
 177 making of said assessment, and the issuing of this certificate,
 178 have been done and performed in regular and due manner and
 179 form, as required by the charter of the City of Fairmont,
 180 West Virginia, and the constitution and laws of the state of
 181 West Virginia.

182 In testimony whereof, the City of Fairmont, a municipal
 183 corporation created and existing under the laws of the state
 184 of West Virginia, has caused this certificate to be signed by
 185 its mayor and clerk, and the principal installment and inter-
 186 est coupons ,respectively, hereunto attached, to be signed by
 187 its mayor and clerk this.....day of.....,
 188 19.....

189
 190 Clerk. Mayor.

191 No.... PRINCIPAL INSTALLMENT COUPON \$.....
 192 On the.....day of....., 19.....
 193 there will be due and payable to the bearer hereof, from
 194 the sum of
 195 dollars, being the.....installment on certificate
 196 No....., of the City of Fairmont, West Virginia, for the
 197 curbing, grading and paving of.....
 198 from..... to

199
 200 Clerk. Mayor.

201 No..... INTEREST COUPON \$.....
 202 On the.....day of....., 19.....
 203 there will be due and payable to the bearer hereof, from
 204the sum of.....
 205 dollars, representing interest at six per centum from.....
 206to..... of certificate
 207 No..... on installment No..... of the City of
 208 Fairmont, West Virginia, for curbing, grading and paving of
 209 from.....
 210 to.....

211
 212 Clerk. Mayor.

Sec. 118. The board of directors of said city is authorized
 2 and empowered to order and cause to be constructed, in said
 3 city, or part within and part outside of the limits of said city,
 4 a public sewer or sewers, either main or lateral, or both, by

5 contract or direct by the city, for the benefit of said city or any
6 part thereof, and to purchase land or easement therein or to
7 condemn land or easement therein, for such sewer; and when
8 the board shall order and complete the construction of any
9 such sewer or any part thereof in said city, the owners of the
10 property abutting thereon or abutting upon an avenue, street,
11 road, or alley in which such sewer shall be constructed, or
12 abutting on any land or easement therein specially procured
13 for the purpose of the construction of a sewer therein, may
14 be charged with all or any part of the cost thereof, including
15 the cost of such sewer at and across intersections of avenues,
16 streets, roads and alleys adjacent thereto. If said work is let
17 to contract the provisions of (i) of section one hundred and
18 fifteen shall apply.

19 When said sewer is completed in any one block, or between
20 two designated points, the board of directors shall cause a re-
21 port to be made in writing setting forth the total cost of such
22 sewer and a description of the lots or lands as to location,
23 frontage and ownership liable therefor, including the cost of
24 acquiring or taking land or easement therein for such purpose
25 and cost of surveys, notices, etc., therefor, together with the
26 amount chargeable against each lot or piece of land and the
27 owner thereof. If any lot fronts on two streets, or on a street
28 (or road) and alley, in which a sewer is constructed, it may be
29 assessed on both said streets, or street and road, or street (or
30 road) and alley. Said board shall enter an order upon its rec-
31 ords setting forth the location and owner of each lot or piece
32 of land, and the amounts of said sewer assessments there-
33 against, calculated in the same way as provided for street pav-
34 ing in (c) of section one hundred and fifteen herein. The city
35 clerk shall file a certified copy of said order with the clerk of
36 the county court of Marion county, who shall record the same
37 in the proper trust deed book, and index the same in the name of
37-a each owner, and any lot or land thus charged with said as-
37-b sessment. The entry of such order shall constitute and be
38 an assessment for such proportionate amounts so fixed therein
39 against respective lots and land and the owners thereof; and
40 said board shall thereupon certify the same to the treasurer
41 for collection; and for the purpose of facilitating the collec-
42 tion of such assessments against the properties as hereinbefore
43 set out, the board of directors may issue assessment certificates,
44 with principal installment and interest coupons attached there-

45 to, in form and manner provided for street improvement cer-
45-a tificates and coupons in section one hundred and seventeen,
46 to be delivered to and charged against the city treasurer, who
47 shall collect the same, and as such coupons and certificates are
48 paid he shall deliver the cancelled coupons and certificates to
49 the party paying the same;

50 *Provided*, the board of directors, if they so elect, may, after
51 passage and publication of ordinance or resolution, as provided
52 in (g) of section one hundred and fifteen, order and cause
53 the construction of any such sewer, and may acquire or take
54 land or easement therein, either in or outside said city, or both,
55 for said sewer purposes, and assess all or any part of the cost
56 thereof upon and against the abutting, adjacent, contiguous,
57 and other lots of land specially benefited by the construction
58 of such sewer, as provided in (g) of section one hundred and
59 fifteen, and said assessments along with accrued
59-a interest thereon shall be a lien upon such lots or
60 land, and a debt against the owners thereof for the amount so
61 charged against them respectively, which debt may be collected
62 as provided by law for the collection of other debts of like
63 kind, and which lien may be enforced in the same manner as
64 provided for the enforcement of paving liens in this act; and
65 the city shall have exclusive ownership and control of that
66 part of any such sewer constructed outside of said city, unless
67 otherwise provided by some ordinance of the city.

68 The amounts so assessed against said abutting lots or land,
69 or lots or lands specially benefited, and which shall be a lien
70 there against, shall be collected in the manner provided in this
71 act for the collection of paving liens .

72 Said assessments shall be divided into five installments, each
73 for one-fifth of the amount thereof, as near as practicable
74 (making four in terms of dollars only, and when practicable,
75 in multiples of ten, the cents and odd amounts to be covered
76 by the first installment), the first due and payable in thirty
77 days, the second on the first day of May of the year succeeding
77-a the year in which said certificates were issued and
77-b a like amount on the first day of May for each
78 succeeding year thereafter from the time of receiving
79 said sewer (except as hereinafter provided in this section), all
80 bearing interest at six per centum per annum from such date,
81 interest payable on the due date of each principal install-

81-a ment; and the board of directors may issue sewer
82 certificates, and principal installment and interest coupons
83 thereon as of such date, as provided in section one hundred and
84 seventeen of this act for street improvement assessments, as
85 further evidence of said indebtedness and lien therefor, and
86 said certificates may be sold or negotiated, at not less than par
87 and without any kind of discount to the contractors doing
88 such work, or other person, if the board deem it expedient;
89 *provided*, the city, in negotiating and selling such certificates,
90 shall not be held as guarantor or in any way liable for pay-
91 ment thereof, except upon the direct action of the board of
92 directors as expressed by resolution of record. But the owner
93 of the land or lot so assessed may, at any time, anticipate and
94 pay such assessment or certificates with interest thereon until
95 the day on which the next undue assessment shall become due.
96 And if such assessment shall not exceed fifty dollars, then such
97 amount shall be covered by only one set of said coupons, pay-
98 able thirty days after date of its issue of certificate. If
99 over fifty dollars and not more than one hundred dollars, then
100 such amount shall be covered by only two principal install-
101 ments and interest coupons, each, payable in thirty days and
102 on the first day of May of the year succeeding the year in
103 which the certificate was issued, respectively; if over one
104 hundred dollars and not more than one hundred and fifty
105 dollars, then such amount shall be covered by only three
106 principal installments and interest coupons, each, payable in
106-a thirty days, and on the first day of May of the year suc-
106-b ceeding the year in which the certificate was issued, and
106-c on the first day of May one year thereafter respectively; if
107 over one hundred and fifty dollars and not more than two hund-
108 red dollars then such amount shall be covered by only four prin-
109 cipal installments and interest coupons, each payable in thirty
110 days, and on the first day of May of the year succeeding the year
111 in which the certificate was issued, and on the first day of
112 May in one and two years thereafter, respectively; and if
113 more than two hundred dollars, then such amount shall be
114 covered by five principal installment and interest coupons
115 payable in thirty days, and on the first day of May of the
116 year succeeding the year in which the certificate was issued,
117 and on the first day of May in one, two and three years
118 thereafter, respectively; and the term equal amounts herein
118-a shall mean as nearly equal as practicable, that is, four

118-b installments being expressed in terms of dollars only, and,
118-c when practicable, in multiples of ten, the cents and odd
118-d amounts being covered by the first installment.

118-e All assessments along with accrued interest thereon, made
118-f under this section shall constitute and be a lien upon
118-g said lots or lands, respectively, which shall have
119 priority over all other liens except for state, county and
120 municipal taxes.

121 The certificates and principal installment and interest cou-
122 pons provided for in this section may be made and issued in
123 form or to the same effect as provided for certificates and
124 principal and interest coupons for street improvements in sec-
125 tion one hundred and seventeen.

126 If two newspapers of opposite politics are not published in
127 the city at the time of the passage of any of the ordinances
128 provided in this act to be published, then the same may be
129 published in one newspaper of general circulation in the city,
130 as provided by this act, and if the publication of the ordinance
131 cannot be procured in any newspaper in said city at reason-
132 able rates or for any other cause, then the same may be posted
133 for the period provided in this act for publication, at the front
134 door of the city building, and such posting shall be equivalent
135 to publication as herein provided.

136 All certificates, principal installment and interest coupons
137 provided for in this act shall be made payable at the office of
138 the treasurer of the City of Fairmont.

Sec. 119. In addition to the provisions for the release of said
2 assessment liens, either for street paving or other permanent
3 street improvements, or construction of sewers, as elsewhere set
4 out in this act, on the presentation by the land or lot owner of
5 any of the certificates issues as aforesaid against him or his
6 predecessor in the title to such lot or land, the clerk of the
7 county court shall mark upon the margin of the trust deed book
8 at which said certified report is recorded, that the lien is re-
9 leased to the land or lot mentioned in such certificate to the ex-
10 tent of the amount of the certificates thus exhibited; and the
11 county clerk shall thereupon write across the face of said cer-
12 tificates the date of their production to him for the release of
13 lien, and shall sign his name thereto in his official capacity, for
14 which he shall receive in advance a fee of twenty-five cents for
15 each certificate so marked, from the person demanding the re-
16 lease of the lien aforesaid; but if more than one of the serial cer-

17 tificates against the land or lot or lots shall be produced at the
18 same time, the fee of the county clerk shall not exceed twenty-
19 five cents for the release of the liens as to all of the certificates
20 thus produced and relating to the same real estate.

21 *Provided*, that the owner of any lot or land against which
22 any paving or sewer certificate is an unreleased lien of record
23 shall make and produce to the county clerk, or some person for
24 such owner shall make and produce an affidavit setting out
25 therein such certificate (or certificates) has been paid in full,
26 and after diligent search, cannot be found, said county clerk
27 shall upon the payment of a fee of twenty-five cents, file and
28 preserve said affidavit as a public document and shall forthwith
29 note the release of said lien to the extent of said lost certificate
30 (of certificates) and the lots or land against which it is a lien
31 upon the margin of the trust deed book, as aforesaid, and noting
32 therewith the filing of said affidavit, which shall operate as a
33 release of such lien to the extent of such marginal notation. If
34 the affidavit so filed be false, the person making oath and sub-
35 scribing thereto shall be guilty of a felony and upon conviction
36 thereof shall be fined not to exceed one thousand dollars, or sen-
37 tenced to be confined in the penitentiary for a term of not more
38 than two years, or both, in the discretion of the court passing
39 sentence.

40 *Provided further*, that any paving or sewer lien, which
41 may be created in consequence of the provisions of this act,
42 the last payment of which is not yet due, shall not, under any
43 circumstances, be a lien against the lot or land or fractional
44 part of the lot or land, against which it may have been assessed
45 and made a lien for a longer period than two years after the
46 last assessment or certificate of the same date and group, repre-
47 senting such lien, shall have become due and payable, unless
48 some suit or action, at the termination of said two years period,
49 shall be pending for the enforcement of the lien, or unless the
50 amount of the lien or some part thereof is in some way involved
51 in a suit or action pending at the end of said two year period.

52 All of the assessment certificates, which may be issued under
53 the provisions of this act, shall be made payable at the office of
54 the treasurer, who shall receive payments thereon when due, if
55 tendered to him, and interest thereon from the date of such
56 payments shall cease. The treasurer shall keep a separate and
57 special account of all said sums of money received by him, and

58 he shall hold said money in trust for the person who thereafter
59 delivers to the treasurer for cancellation any and all certificates
60 on which the treasurer has received full payment as aforesaid ;
61 but the owner of said certificate shall not be entitled to interest
62 on said sum after the date of payment thereof to the treasurer.
63 When the whole amount of any such assessment lien shall have
64 been paid to the treasurer as aforesaid, or the treasurer shall be
65 convinced that all of the paving or sewer certificates against any
66 land, lot or fractional part of lot, shall have been paid in full, he
67 shall when demanded, execute a release of said lien in the man-
68 ner hereinbefore provided for the release of paving liens. If the
69 city shall have no person for treasurer, the clerk, unless some
70 other person is designated by ordinance or resolution, which the
71 board is hereby authorized to enact, shall perform the duties
72 herein required to be performed by the treasurer.

Sec. 120. It shall be lawful for said City of Fairmont to
2 issue and sell its bonds, as provided in this act for the sale of
3 other paving and sewer bonds, to pay the city's part of the cost
4 of construction of said sewers and for the paving or other per-
5 manent improvements of streets and alleys, as required by this
6 act; and said city may levy taxes, in addition to all other taxes,
7 authorized by law, to pay such bonds and interest thereon ;
8 *provided*, that the total indebtedness of the city for all purposes
9 shall not exceed five per centum of the total value of all taxable
10 property therein.

11 It is expressly provided that no bonds shall be issued under
12 the provisions of this act, unless and until the question of issu-
13 ing said bonds shall have first been submitted to a vote of the
14 people of said city and shall have received three-fifths of all
15 votes cast at said election for and against the same. The board
16 of directors of said city may provide by ordinance for submit-
17 ting to the people at any regular election, or special election
18 called for that purpose, the question whether or not said city
19 shall be authorized to issue bonds for the purpose specified in
20 this act ; but the ordinance relating to the issuance of said bonds,
21 and the submission of the same to the vote of the people, need
22 not specify in detail the location of the improvements contem-
23 plated to be paid for out of, and works to be constructed with,
24 the proceeds of sale of said aggregated issue authorized thereby ;
25 and if at such election the people by their vote thereon shall
26 authorize the issuance of said bonds, said board of directors may

27 order the sale of same, as needed for said improvements, and
28 works, dealing with all the requirements set forth in this act;
29 and notwithstanding any other provision of law it shall be
30 sufficient description of the purpose for which said election is
31 held for the ordinance calling the same, or submitting said
32 question to a vote at any general election, if it shall recite that
33 it authorized the board of directors to issue bonds for the pur-
34 pose of grading, paving, curbing, sewerage, or otherwise perma-
35 nently improving the streets, roads, and alleys of said city.

36 The provisions of state law concerning bond elections shall,
37 so far as they are not in conflict with the provisions of this act,
38 apply to the bond election herein provided for.

Sec. 121. In setting forth the lots and land abutting upon
2 the improvement it shall be sufficient to describe them as the lots
3 and lands abounding and abutting upon said improvements, be-
4 tween and including the termini of said improvements, or by
5 the description by which they are described on the land books
6 of the county, and this rule of description shall apply in all
7 proceedings in which lots or lands are to be charged with special
8 assessments.

Sec. 122. When work shall have been completed on any ave-
2 nue, street, road or alley or part thereof as provided in section
3 one hundred and twelve or one hundred and fifteen, or
4 the construction of any sewer or other work shall have been com-
5 pleted on any avenue, street, road, or alley, or part thereof, or
6 elsewhere, as provided in section one hundred and eighteen,
7 and said assessments there against shall have been calculated as
8 provided in this act, the board of directors shall give notice, by
9 publication at least once a week for two successive weeks in
10 two newspapers of opposite politics published in said city, or in
11 one newspaper if two such papers be not published therein, that
12 an assessment under this act is about to be made against the
13 property so assessed and the owners thereof, mentioning the
14 kind of work and the location thereof; and the owners of said
15 property shall have a right to appear before said board, either
16 in person or by attorney or agent, at any regular or special
17 meeting called for that purpose within two weeks of the first
18 publication thereof, and move the board to correct any appor-
19 tionment of the assessment excessive or improperly made; and
20 the board shall have the power to make any such corrections
21 before it enters the same, as corrected, upon its records.

22 If the publication in the newspapers aforesaid cannot be had
 23 at reasonable rates, or for any other cause, the notice may be
 24 given in some other manner designated of record by the board.
 25 The fact that said assessments shall have been entered of record,
 26 as provided by this act, shall be *prima facie* proof that the
 27 notice mentioned herein was given as prescribed in this section.

Sec. 144. The board of directors may adopt by-laws and ordi-
 2 nances, which, when adopted, shall be printed in a book form,
 3 or it may be adopted as a whole after it is printed, and said code
 4 shall be the laws and ordinances of said city, and shall be re-
 5 ceived as such in all the courts of this state and the laws, ordi-
 6 nances, franchises and rules when printed therein, shall be
 7 *prima facie* proof of their correctness. No newspaper publica-
 8 tion of such code or revision thereof need be made.

Sec. 144-a. This act shall not become effective unless and
 2 until it shall be submitted by the board of directors to a vote of
 3 the people of the city thereon and receive a majority of the votes
 4 cast at such election. Said board may call a special election for
 5 that purpose.

CHAPTER 32

(House Bill No. 497—By Mr. Dean, by request)

AN ACT to amend and re-enact sections twelve and fourteen of ar-
 ticle eight of chapter seventy-eight of the acts of the legisla-
 ture for the year one thousand nine hundred and thirteen re-
 lating to the charter of the City of Piedmont and the terms of
 its elective officers.

[Passed March 24, 1925. In effect from passage. Approved by the Governor.]

Sec.

12. Election of officers.

14. Councilman; tenure; inconsistent
 acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections twelve and fourteen of article eight of chapter
 seventy-eight of the acts of the legislature of West Virginia for the
 year one thousand nine hundred and thirteen be amended and re-
 enacted so as to read as follows:

ARTICLE VIII.

Election of Officers

Section 12. On the second Monday in May, one thousand nine
 2 hundred and twenty-five, and on the same day every two

3 years thereafter, there shall be elected by the qualified voters of the city a mayor, who shall hold office from the first day of June succeeding in the year in which he is elected for a term of two years and until his successor is elected and qualified.

Sec. 14. On the second Monday in May, one thousand nine hundred and twenty-five, there shall be elected by the qualified voters of the city in addition to the mayor as provided in section twelve, three councilmen, the two councilmen receiving the greater number of votes to hold office from the first day of June, one thousand nine hundred and twenty-five until the first day of June, one thousand nine hundred and twenty-nine, and the one who is elected receiving the least number of votes shall hold office from the first day of June, one thousand nine hundred and twenty-five until the first day of June, one thousand nine hundred and twenty-seven, or until their successors are elected and qualified. Beginning with the first election held under this amendment, which will be on the second Monday in May, one thousand nine hundred and twenty-five, and every two years thereafter, there shall be elected three councilmen and a mayor by the qualified voters of the city, the two councilmen receiving the highest or greater number of votes to hold office for a term of four years, and the one receiving the least number of votes for a term of two years, and the members of the council of the city who were elected under section fourteen prior to this amendment whose terms of office shall expire prior to the election to be held on the second Monday in May, one thousand nine hundred and twenty-seven, shall hold over until their successors are elected and qualified.

All acts and parts of acts in conflict with this act are hereby repealed.

CHAPTER 33

(House Bill No. 581—By Mr. Read)

AN ACT to create and incorporate the municipal corporation of the City of Avis, in the county of Summers and state of West Virginia, and to grant a charter thereto, and defining the powers of said city and the officers thereof and fixing the corporate limits of said city.

[Passed April 2, 1925. In effect from passage. Approved by the Governor.]

<p>Sec. 1. A body corporate. 2. Corporate limits. 3. Boundaries of wards. 4. Municipal authorities. 5. Council exercise corporate power. 6. Council shall appoint officers. 7. Eligibility of officers. 8. Elections. 9. Who are voters. 10. Registration of voters. 11. Ballot; how elections held; results ascertained and declared; governed by state law. 12. Tie vote decided by council. 13. Contests determined by council. 14. Vacancies filled by council. 15. Appointive officers, duties of. 16. Official bonds. 17. Oath. 18. Term. 19. Vacancies by ineligibility, how filled. 20. Mayor, powers and duties; compensation. 21. Recorder, powers and duties; compensation. 22. Quorum. 23. Record books. 24. Council proceedings read. 25. Presiding officer has deciding vote.</p>	<p>Sec. 26. Meetings of council. 27. City funds, how paid out. 28. Corporate powers. 29. Police docket. 30. Taxation and levies. 31. Assessment and collection of taxes. 32. State laws applicable to delinquents. 33. Tax collector, duty; bond. 34. Assessor, duty. 35. Licenses. 36. Council has right to condemn for public utilities. 37. Bond issues. 38. Indebtedness prohibited. 39. Maintain roads and bridges. 40. Ordinances. 41. Streets and sidewalks. 42. Local improvements; plans; notice; payment; method; gas and water lines; voting places. 43. City attorney. 44. City depository. 45. Councilmen, compensation. 46. Board of health. 47. Nuisances. 48. Connect with sewer system. 49. Franchises. 50. Inconsistent ordinances abrogated.</p>
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Be it enacted by the Legislature of West Virginia:

The City of Avis.

Section 1. That the inhabitants of so much of the county of Summers, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby created and are to remain and continue a municipal corporation by the name of the City of Avis, by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, purchase and otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by this charter.

Corporate Limits.

Sec. 2. The corporate limits of the city of Avis shall be as follows, that is to say: Beginning at a walnut stump near the pond of Greenbrier river in said county north seventy-five degrees, east ten poles to a cucumber tree corner to Eli Ballangee and with his line north twenty-four degrees west sixty-six poles to a buckeye below a cliff of steep rocks; thence north thirteen and one-half degrees, west two hundred and eighty-five poles to a stone corner to the Chesapeake and Ohio railway company; thence north eighty-one degrees, west one

10 hundred and eighty-five poles to a station on the bank of New
11 river, a corner of Hinton and the county line; thence the same
12 comes across the river to the opposite bank seventy-five poles;
13 thence up said river to a station opposite the beginning; thence
14 north seventy-five degrees, east one hundred and seventy-five
15 poles to the place of beginning, containing two hundred and
16 forty-eight acres, more or less.

Boundaries of Wards.

Sec. 3. The said City of Avis shall be divided into wards,
2 which shall be bounded as shown in the first or original charter
3 of the City of Avis, as recorded in the records of the clerk of
4 the county court of Summers county, West Virginia, and refer-
5 ence is here made for a full description by metes and bounds.

Municipal Authorities.

Sec. 4. The municipal authorities of the said City of
2 Avis shall consist of a mayor, recorder and five councilmen,
3 who shall constitute the council of the said city and shall be
4 elected by the voters of said city as hereinafter prescribed. One
5 councilman shall be elected by the voters of each of the re-
6 spective wards and three councilmen shall be elected by the
7 voters at large.

Sec. 5. All of the corporate powers and functions pertain-
2 ing to said city shall be exercised by its council, or under its
3 authority, in the corporate name of said city, unless otherwise
4 provided by state law or municipal ordinance.

Sec. 6. The city council shall appoint a street commissioner,
2 a health commissioner, city engineer, chief of police and any
3 additional police officers that they may deem necessary, city
4 attorney, chief of fire department, building inspector, and all
5 other officers whose offices may be established by ordinance of
6 the city council or by this act, and such officers shall hold the
7 respective offices to which they are appointed during the pleas-
8 ure of the council and until their successors are appointed and
9 qualified, the several offices, or any two or more may be held
10 by the same person; *provided*, a councilman, the mayor and the
11 recorder shall not be eligible to any of the appointive offices,
12 and such officers shall receive such compensation as the council
13 may prescribe, by ordinance or order, unless said compensation

14 be fixed by this act, and the same shall not be increased or
15 diminished during the term for which the appointment was
16 made.

Sec. 7. No person shall be eligible to the office of mayor,
2 recorder, or councilman, unless at the time of his election he is
3 legally entitled to vote in the city election for member of the
4 common council; and he was for the preceding year assessed
5 with taxes upon real or personal property within the said city,
6 of the assessed aggregate value of at least three hundred dol-
7 lars, and shall actually have paid the taxes so assessed.

Elections.

Sec. 8. On the first Tuesday in December, one thousand nine
2 hundred and twenty-five, and every two years thereafter, on the
3 first Tuesday in December, there shall be elected by the quali-
4 fied voters of said city, a mayor, recorder and three councilmen
5 and by the qualified voters of each of the two wards, one coun-
6 cilman. The term of office of said mayor, recorder and coun-
7 cilman shall be for the period of two years, commencing on the
8 first day of February next after their election and until their
9 successors shall be elected and qualified.

Sec. 9. Every person residing in said city over twenty-
2 one years of age shall be entitled to vote for all officers elected
3 under this act; but no person who is a minor, or of unsound
4 mind, or a pauper, or who is under conviction of treason or
5 bribery in an election, or who has not been a resident of this
6 state for one year and of said city for six months, next preceding
7 the election at which he desires to vote, shall be permitted to
8 vote therein.

Sec. 10. All qualified voters within the City of Avis entitled
2 to vote in the municipal election held therein shall be regis-
3 tered in like manner as are the qualified voters in state and
4 county elections, and the state laws of the state of West Vir-
5 ginia in effect at the time of such registration shall in all things
6 apply thereto; except the fee for such registration shall be five
7 cents for each qualified voter so registered, and the powers con-
8 ferred upon the county court by the laws in reference to the reg-
9 istration of voters are hereby conferred upon the council of
10 said City of Avis.

Sec. 11. In all elections by the people the mode of voting
2 shall be by ballot, but the voters shall be left free to vote an

3 open, sealed or secret ballot, as they may elect. The election in
4 said city shall be held and conducted and the result thereof cer-
5 tified, returned and finally determined under the laws in force
6 in this state relating to general elections, except the persons
7 conducting the elections shall, on the day after the election is
8 held deliver the ballots, tally sheets and poll books to the re-
9 corder and thereafter the council of said city shall meet within
10 five days (Sunday excepted) after said election and canvass the
11 returns of said election, and declare the result thereof, and in
12 all respects comply with the requirements of the statute of the
13 state relating to elections. The corporate authorities of said
14 city shall perform all duties in relation to such elections re-
15 quired by general law of the county court and officers in effect
16 on the day of said election, and each succeeding election under
17 this charter. And the provisions of the code in effect on the
18 date of said election, concerning elections by the people, shall
19 govern such elections and be applicable thereto, and the penal-
20 ties therein prescribed for offenses relating to elections shall be
21 enforced against the offenders of such corporate elections; and
22 the said act shall have the same force and effect as if it were
23 specially applicate in such corporate elections and was by this
24 act re-enacted *in extenso*; except as above modified as to the
25 time in which the returns of the election and canvass thereto
26 shall be made.

Sec. 12. Whenever two or more persons receive an equal
2 number of votes for mayor, recorder or councilman, such tie
3 shall be decided by the council in existence at the time the elec-
4 tion is held; *provided*, that the council in office at the time of
5 the institution of such contest proceeding shall hold over and
6 remain in office for the purpose of passing upon and deciding
7 such contest, and for such purpose only; and nothing herein
8 provided shall be construed to interfere with the duties, power
9 and authority of the new or incoming council.

Sec. 13. All contested elections shall be heard and deter-
2 mined by the council in existence at the time the election is held,
3 and the contest shall be made and conducted in the manner as
4 provided for in contests for county and district officers, and the
5 council by their proceeding in such cases shall, as nearly as
6 practicable, conform with like proceedings of the county court
7 in such cases.

Sec. 14. Whenever a vacancy from any cause shall occur in
2 any office, the council shall by a majority vote of those present

3 fill such vacancy; and, in case of a vacancy in the office of coun-
4 cilman, or mayor, or recorder, the remaining members of the
5 council shall fill said vacancy.

Appointive Officers; Duties of Officers

Sec. 15. The council shall also have authority to provide by
2 ordinance for the appointment of such other officers as shall be
3 necessary and proper, to carry in full force and authority the
4 power, capacity, jurisdiction and duties of said city, which are
5 or shall be vested therein or in the council, or in the mayor, or
6 any other officer or body of officers, thereof, and to grant to the
7 officers so appointed the power necessary or proper for the pur-
8 pose mentioned above. The council, by ordinance, shall define
9 the duties of all officers so appointed, and may provide them a
10 reasonable salary, which shall be payable out of the city treas-
11 ury which salary shall not be increased or diminished during
12 their term of office, and shall require and take from all of them
13 whose duty shall be to receive its funds, assets or property, or
14 have charge of the same, such bonds, obligations, or other writ-
15 ing as they shall deem necessary or proper to insure the faith-
16 ful performance of their several duties. All officers elected may
17 be removed by the council from office for intemperance, gross
18 immorality, gambling, malfeasance or misfeasance in office, or
19 inability or neglect to perform the duties of their respective
20 offices. Any appointed officer who holds his office at the pleas-
21 ure of the council, may be removed from his office for cause,
22 after due notice. The chief of police and any other police officer
23 appointed by said council, shall have all power, rights and privi-
24 leges within the corporate limits of said city in regard to the
25 arrest of persons, the collection of claims and the execution and
26 return of process that can be legally exercised by a constable of
27 a district within this state; and may without having any war-
28 rant or other process therefor, arrest any person who commits
29 any offense against the laws of this state or infraction of the
30 ordinances of said city, in his presence. The chief of police
31 shall be *ex-officio* the keeper of the city jail, and have charge of
32 the city prisoners confined therein, and may confine any person
33 arrested by him in the city jail until such time as the charge
34 against such person can be inquired into by the mayor. Any
35 person fined by the mayor, for infraction of any of the ordi-
36 nances of the city, may pay such fine to either the mayor, re-
37 corder, or chief of police; and the said chief of police and his

38 sureties shall be liable for all fines, penalties and forfeitures that
39 a constable of a district is liable for in the same court that the
40 said fine, penalties and forfeitures are now recovered against a
41 district constable. The chief of police shall also be *ex-officio*
42 tax collector of the said city. For his services as chief of police
43 and tax collector, the said chief of police shall receive such sum
44 of money per month as the council may fix, payable out of the
45 city treasury. The chief of police shall be appointed to his office
46 by the council. It shall be his duty as tax collector to collect
47 the city taxes, licenses, levies, assessments and other city claims
48 as are placed in his hands for collection by the council, and he
49 may distrain and sell therefor in like manner as a sheriff may
50 distrain and sell for state taxes; and he shall, in all other re-
51 spects, have the same powers as a sheriff to enforce the payment
52 and collection thereof.

Official Bonds

Sec. 16. All bonds, obligations or other writings taken in
2 pursuance of any provisions of this act or under the provisions
3 of any order of said city, shall be made payable to the City of
4 Avis and the obligors therein and their heirs, executors, admin-
5 istrators and assigns bound thereby shall be subject to the same
6 proceedings on such bonds, obligations or writings for enforcing
7 the conditions of the terms thereof, by motion or otherwise, be-
8 fore any court of record or justice of the peace having juris-
9 diction thereof, held or acting in or for said Summers county,
10 or any district thereof or elsewhere, that the sheriff or collector
11 of said county and his sureties are or shall be subject to on his
12 bond taken for the enforcement of the duties in the payment
13 of the county levy.

Oath of Office

Sec. 17. The mayor, recorder and councilmen, and all other
2 officers provided for in this act, shall each, before entering upon
3 the duties of their offices, and within fifteen days after receiv-
4 ing their certificate of election or appointment, take the oath or
5 affirmation prescribed by law for all officers in this state, and
6 make oath or affirmation that they will truly, faithfully and
7 impartially to the best of their ability, discharge the duties of
8 their respective offices so long as they may continue therein.
9 Said oath or affirmation may be taken before any person author-
10 ized to administer oaths under the laws in force at the time the

11 same is taken or before the mayor or recorder of said city; but
12 in any event a copy of said oath of said office shall be filed with
13 the recorder.

Term of Office

Sec. 18. The mayor, recorder and councilmen, shall enter
2 upon the duties of their offices upon the first day of February
3 next after their election and continue for the period of two
4 years and all appointed officers shall enter upon their duties
5 as soon as they have qualified; and all officers, both elected
6 and appointed, shall remain in office until their successors are
7 elected or appointed and qualified, or until removed therefrom
8 in the manner prescribed by law.

Sec. 19. If any person elected to any office shall not be
2 eligible thereto under the provisions of this act, or shall fail to
3 qualify as herein required, the council shall declare his said
4 office vacant and proceed to fill the vacancy as required by
5 this act.

The Mayor

Sec. 20. The mayor of the said city shall be chairman of
2 its council, shall preside at the meetings of the council, and
3 shall also be a conservator of the peace within the said city.
4 He shall especially see that the orders, by-laws, ordinances,
5 acts and resolutions of the council are faithfully executed. He
6 shall be *ex-officio* justice of the peace within the said city and
7 shall, within the same, have, possess and exercise all the
8 powers and perform all the duties vested by law in a justice
9 of the peace, except he shall have no jurisdiction in civil causes
10 of action arising out of the corporate limits of the city, unless
11 the defendant resides or is found therein and process therein
12 served upon him. He shall have the same power to issue
13 attachments in civil suits as a justice of the peace of his county;
14 but in such case, he shall have no power to try the same, but
15 such attachments shall be made returnable and heard before a
16 justice of the peace of his county. Any warrant issued by
17 him, or other process, may be executed at any place in said
18 county. He shall have control of the police of said city and
19 may appoint special police officers, whenever he may deem it
20 necessary, and may suspend any police officer of the city until
21 the next regular meeting of the council. And it shall be his
22 duty especially to see that the peace and good order of the city

23 are preserved, and that persons and property therein are pro-
24 tected, and to this end he may arrest or cause the arrest and
25 detention of all violators of the laws of this state and ordinances
26 of the city, before issuing his warrant therefor, if the offense
27 is committed in his presence. He shall have power to issue his
28 warrant for the arrest and apprehension of all persons violat-
29 ing the ordinances of the city, and shall have power to try the
30 same and impose upon such violators of the ordinances of said
31 city such fines and penalties as are prescribed by the ordinances
32 thereof. He shall have the power to issue executions for all
33 fines, penalties and costs imposed by him, or he may require
34 the immediate payment thereof, and in default of such pay-
35 ment, he may commit the party in default to the jail of said
36 county, or other place of imprisonment used by such corpora-
37 tion, if there be one, until the fine or penalty and the costs
38 be paid. And in all cases where a person is sentenced to im-
39 prisonment or to the payment of a fine of ten dollars or more
40 (and in no case shall a judgment for a fine be for less than
41 ten dollars, if the defendant, his agent or attorney object to
42 a less fine being imposed) such person shall be allowed an
43 appeal from such decision to the criminal court of the county
44 of Summers, upon the execution of an appeal bond with a
45 security deemed sufficient by said mayor to cover the fine and
46 costs, and the cost in the criminal court in case said judgment
47 be affirmed, with condition that the person proposing to appeal,
48 shall make his personal appearance before the criminal court
49 of Summers county and will perform and satisfy any judg-
50 ment which may be rendered against him by the criminal
51 court on such appeal. If such appeal be taken, the warrant
52 of arrest, if any, a transcript of the judgment, the appeal bond
53 and other papers in the case shall forthwith be delivered by
54 the said mayor to the clerk of said court, and the said court
55 shall proceed to try the case as upon an indictment or pre-
56 sentment and render such judgment, including costs, as the law
57 and evidence may require. The expense of maintaining any
58 person committed to jail as hereinbefore set forth by the
59 mayor, except it be to answer an indictment shall be paid by
60 the said city and taxed as costs against the defendant. He
61 shall from time to time recommend to the council such measures
62 as he may deem useful and needful for the welfare of the city.
63 For his services as mayor, he shall receive the sum of two

64 hundred dollars per year, or such other sum as the council may
65 fix to be paid out of the city treasury in monthly installments
66 and such fees as may be collected in the trial of cases by him
67 as such mayor and *ex-officio* justice of the peace.

The Recorder

Sec. 21. The recorder shall keep an accurate record of all
2 the proceedings of the council, and shall have charge of and
3 preserve the records of the city. In case of the absence of the
4 mayor from the city, or his inability to act from any cause, or
5 during any vacancy in the office of mayor, the recorder shall
6 perform such duties of the mayor as pertain to the office of
7 mayor, and to that end in addition to the other powers herein
8 conferred upon him, the recorder is hereby vested with all the
9 powers necessary for the performance of the duties of the
10 mayor, while acting as such, including the authority of the
11 mayor, pertaining to civil suits. The recorder shall be *ex-*
12 *officio*, assessor of said city, and shall perform such duties as
13 are imposed by law. He shall be paid a salary of two hundred
14 dollars per year, or such other sum as the council may fix,
15 payable in equal monthly installments, for his services as
16 recorder and assessor, to be paid out of the city treasury.

Quorum

Sec. 22. The presence of the mayor, or *ex-officio* mayor
2 and three members of the said council shall be necessary to
3 constitute a quorum for the transaction of business at all
4 meetings of the council of said city.

Record Books

Sec. 23. The council shall cause to be kept by the recorder
2 in a well bound book to be called the minute book, an accurate
3 record of all its proceedings, ordinances, acts, orders and reso-
4 lutions and in another to be called ordinance book, an accurate
5 record of all general ordinances adopted by the council; both
6 of which shall be accurately indexed and open to the inspection
7 of anyone required to pay taxes in the city, or who may be
8 otherwise interested therein.

9 All oaths and bonds of officers in the city, and all papers
10 of the council shall be endorsed, filed and securely kept by the
11 recorder. The bond of officers shall be recorded in a well bound

12 book to be called record of bonds, the recorder shall perform
13 such other duties as by ordinance of the council may be pre-
14 scribed. The transcript of ordinances, acts, orders and reso-
15 lutions certified by the recorder under the seal of the city shall
16 be admissible in evidence in any court, or before any justice.

Sec. 24. At each meeting of the council the proceedings of
2 the last meeting shall be read and, if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the
4 call of any member the ayes and noes on any question shall be
5 taken and recorded by the recorder in the minute book. The
6 call of the members for such vote shall be made alphabetically.

Tie Vote

Sec. 25. The mayor and recorder shall have votes as mem-
2 bers of the council, and in case of a tie, the presiding officer for
3 the time being shall have the deciding vote, but in no case shall
4 the presiding officer vote twice on the same proposition.

Meetings of Council

Sec. 26. The regular meetings of the council shall be pub-
2 licly held at such times and at such places in the city as they
3 shall from time to time ordain and appoint; and it shall be
4 lawful for the council by ordinance to vest in any officer of the
5 city, or in any member, or number of members, of its own
6 body, the authority to call special meetings and prescribe the
7 mode in which notice of such special meetings shall be given;
8 if a majority of the members of the council do not attend any
9 regular or special meeting, those in attendance shall have
10 authority to compel the attendance of absent members under
11 such reasonable penalties as they may think proper to impose
12 by ordinance. All questions put to vote, except such matters
13 as hereinafter provided for, shall be decided by a majority of
14 the members present.

Payment of City Funds

Sec. 27. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him
3 except as the same shall have been appropriated by the council,
4 and upon an order signed by the mayor and recorder, and not
5 otherwise except at the expiration of his term of office upon the
6 order of the council, signed by the mayor and recorder, he shall
7 pay into the hands of his successor, all the money remaining
8 in his hands.

Corporate Powers

Sec. 28. The common council of said city shall have, and 2 is hereby granted, power to have city surveyed; to lay out, 3 open, vacate, straighten, broaden, change grade of, grade, re- 4 grade, curb, widen, narrow, repair, pave and repave, streets, 5 alleys, roads, squares, steps, sidewalks and gutters for public 6 use and to alter, improve, embellish and ornament and light 7 the same, and to construct and maintain public sewers and 8 laterals, and shall in all cases have power and authority to 9 assess upon, and collect from, the property benefitted thereby 10 such parts of the expense thereof as shall be fixed by ordin- 11 ance, except as hereinafter provided; to have control of all 12 streets, avenues, roads, alleys and grounds for public use in 13 said city, and to regulate the use thereof and driving thereon, 14 and to have the same kept in good order and free from ob- 15 struction, pollution or litter on or over them; to have the 16 right to control all bridges within said city and the traffic 17 thereover; to change the name of any street, avenue, or road 18 within said city, and regulate and cause the numbering and 19 renumbering of houses on any street, avenue or road therein; 20 to provide for and regulate the naming of streets, avenues and 21 public places; to regulate and determine the width of streets, 22 sidewalks, roads and alleys; to order and direct the curbing, re- 23 curbing, paving, repaving and repairing of sidewalks, and 24 footways for public use in said city, to be done and kept 25 clean and in good order by the owners of adjacent prop- 26 erty; to prohibit and punish the abuse of animals; to re- 27 strain and punish vagrants, mendicants, beggars, tramps, 28 prostitutes, drunken or disorderly persons within the city, 29 and to provide for their arrest and manner of punishment; 30 to prohibit by ordinance the bringing into the city any per- 31 son or animal afflicted with contagious or infectious diseases 32 and to punish any violator of said ordinance who knows or 33 has reason to believe such person or animal to be so afflicted; 34 to control and suppress disorderly houses, houses of prosti- 35 tution or ill-fame, houses of assignation and gaming houses, 36 or any part thereof, and to punish those engaged in gambling, 37 to prohibit within said city, or within two miles thereof, 38 slaughter houses, soap or glue factories and houses and places 39 of like kind, and any other thing or business dangerous, un-

40 wholesome, unhealthy, offensive, indecent or dangerous to
41 life, health, peace or property; to provide for the entry into,
42 and the examination of, all dwellings, lots, yards, enclosures,
43 buildings and structures, cars, vehicles of every description.
44 and to ascertain their condition for health, cleanliness, or
45 safety; to regulate the building and maintenance of party
46 walls, partition fences or lines, fire walls, fire places, boilers,
47 smoke stacks and stove pipes; to provide for and regulate the
48 safe construction, inspection and repair of all public and
49 private buildings, bridges, basements, culverts, sewers or other
50 buildings or structures of any description; to take down and
51 remove, or make safe and secure, any and all buildings, walls,
52 structures or superstructures at the expense of the owners
53 thereof, that are, or may become, dangerous, or to require the
54 owners or their agents, to take down and remove them, or
55 put them in a safe condition, at their own expense; to reg-
56 ulate, restrain or prohibit the erection of wooden or other
57 buildings within the city; to regulate the height, construction
58 and inspection of all new buildings hereafter erected, and
59 the alteration and repair of any buildings already erected, or
60 hereafter erected in said city, and to require permits to be
61 obtained for such buildings and structures, and plans and
62 specifications thereof to be first submitted to the building in-
63 spector; to regulate the limit within which it shall be lawful
64 to erect any steps, porticos, bay windows, bow windows, show
65 windows, awnings, signs, columns, piers or other projection or
66 structural ornaments of any kind for the houses or buildings
67 fronting on any street of said city; to establish fire limits and
68 to provide the kind of buildings and structures that may be
69 erected therein, and to enforce all needful rules and regu-
70 lations to guard against fire and danger therefrom; to require,
71 regulate and control the construction of fire escapes, for any
72 buildings or other structures in said city; to control the
73 opening and construction of ditches, drains, sewers, cesspools,
74 and gutters, and to deepen, widen and clear the same of stag-
75 nant water or filth, and to prevent obstruction therein, and
75a to fill, close or abolish the same, and to determine at whose
76 expense the same shall be done; and to build and maintain
77 fire station houses, crematories, jails, lockups and other
78 buildings, police stations and police courts, and to regulate

79 the management thereof; to acquire, establish, lay off, ap-
80 propriate, regulate, maintain, control public grounds, squares
81 and parks, hospitals, market houses, city buildings, libraries
82 and other educational or charitable institutions, either within
83 or without the city limits; and when the council determines that
84 any real estate in or out of the city is necessary to be ac-
85 quired by said city for any such purpose, or for any public
86 purpose, or is necessary in the exercise of its powers herein
87 granted, the power of eminent domain is hereby conferred
88 upon said city, and it shall have the right to institute con-
89 demnation proceedings against the owner thereof in the same
90 manner, to the same extent and upon the same conditions, as
91 such power is conferred upon public corporations by chapter
92 forty-two of the code of West Virginia, of the edition of one
93 thousand nine hundred and six, and as now, or may hereafter
94 be amended; to purchase, sell, lease, or contract for, and
95 take care of, all public buildings and structures and
96 real estate deemed proper for the use of said city; and for
97 the protection of the public, to cause the removal of unsafe
98 walls, structures or buildings and the filling of excavations:
99 to prevent injury or annoyance to the business of individ-
100 uals from anything dangerous, offensive or unwholesome; to
101 abate or cause to be abated, all nuisances, and to that end
102 and thereabout to summon witnesses, to hear testimony; to
103 regulate or prohibit the keeping of gunpowder and other
104 combustible or dangerous articles; to regulate, restrain or
105 prohibit the use of firecrackers or other explosives or fire-
106 works, and all noises or performances which may be danger-
107 ous or annoying to persons, or tend to frighten horses or
108 other animals; to provide and maintain proper places for
109 the burial of the dead, in or out of the city, and to regulate
110 interments therein upon such terms and conditions as to price
111 and otherwise as may be determined; to provide for shade
112 and ornamental trees, shrubbery, grass, flowers and other
113 ornamentation, and the protection of the same; to provide for
114 the poor of the city, and to that end may contract with the
115 proper authorities of Summers county to keep and maintain
116 the poor, or any number thereof, upon terms to be agreed
117 upon; *provided, however,* that the said City of Avis shall not
118 keep or maintain the paupers of said city until such time as

119 the county court of Summers county shall relieve the said
120 City of Avis from the payment of all taxes for the support
121 of the paupers residing outside of the corporate limits of
122 said city; to make suitable and proper regulations in regard
123 to the use of the streets, public places, sidewalks and alleys
124 by street cars, foot passengers, animals, vehicles, motors,
125 automobiles, traction engines, railroad engines and cars, to
126 regulate the running and operation of the same so as to
127 prevent obstruction thereon, encroachments thereon, or
128 injury, inconvenience or annoyance to the public; to pro-
129 hibit prize fighting, cock and dog fighting, to license, tax,
130 regulate or prohibit theaters, moving pictures, circuses, the
131 exhibition of showmen and shows of any kind, and the ex-
132 hibition of natural or artificial curiosities, caravans, menag-
133 eries and musical exhibitions and performances and other
134 things or business on which the state does, or may, exact a
135 license tax; to organize and maintain paid fire companies and
136 departments and to provide necessary apparatus, engines and
137 implements for the same, and to regulate all matters pertain-
138 ing to the prevention and extinguishment of fires; and to
139 make proper regulations for guarding against danger and
140 damage from fires, water or other element, to regulate and
141 control the kind and manner of plumbing and electric wiring,
142 airships, balloons, wireless stations and other appliances, for
143 the protection of the health and safety of said city, to levy
144 taxes on persons, property and licenses, to license and tax
145 dogs and other animals, and regulate, restrain and prohibit
146 them, and all other animals and fowls running at large and
147 as one means of prevention to provide for impounding there-
148 of, and upon failure of the owner to reclaim such fowls and
149 animals to make such sale thereof at the expense of the owner;
150 to provide revenue for the city and appropriate the same to
151 its expenses; to adopt rules for the transaction of business
152 for its own regulation and government; to promote the gen-
153 eral welfare of the city, and to protect the persons and prop-
154 erty of the citizens therein; to regulate and provide for the
155 weighing of produce and other articles sold in said city, and
156 placing of signs, billboards, posters and advertisements in or
157 through the streets, alleys and public places; to have the sole
158 and exclusive right to grant, refuse or revoke any and all

159 licenses for the carrying on of any business within said city
160 on which the state exacts, or may exact, a license tax; to es-
161 tablish and regulate markets and to prescribe the time for
162 holding the same, and what shall be sold in such market, and
163 to let stalls or apartments and regulate the same, and to ac-
164 quire and hold property for market purposes; to regulate the
165 placing of signs, billboards, posters and advertisements in,
166 or over the streets, alleys, sidewalks and public grounds of
167 said city; to preserve and protect the peace, order and safety
168 and health of the city and its inhabitants including the right
169 to regulate the sale and use of cocaine, morphine, opium
170 and poisonous or dangerous drugs; to prohibit the carrying
171 of concealed or dangerous weapons within the corporate lim-
172 its of said city; to punish drunkenness; to prevent gambling;
173 to prohibit anything against good morals and common de-
174 cency, and fix punishment therefor; to prevent the desecra-
175 tion of the Sabbath day; to prohibit profane swearing; to
176 prohibit the illegal sale of intoxicating drinks, mixtures or
177 preparations; to appoint and fix the place of holding city
178 elections; to erect, own, lease and authorize or prohibit the
179 erection of gas works, electric light works or water works, in
180 or near the city, and to operate or to regulate the operation
181 of the same, and sell the products or services thereof, and
182 to do any and all things necessary and incidental to the
183 conduct of such business; to provide for the purity of water,
184 milk, meats and provisions offered for sale in said city, and to
185 that end provide for a system of inspecting same and making
186 and enforcing rules for the regulation of their sale, and to pro-
187 hibit the sale of unwholesome or tainted milk, meats, fish,
188 fruits, vegetables, or the sale of milk containing water or other
189 things not constituting a part of pure milk; to provide for in-
190-198 specting dairies and slaughter houses, whether in or outside
199 of the city, where the milk and meat therefrom are offered
200 for sale within said city, and to prohibit the sale of any article
201 deemed unwholesome, and to condemn the same or destroy
202 or abate it as a nuisance; to provide for the regulation of
203 public processions so as to prevent interference with pub-
204 lic traffic, and to promote the good order of the city; to
205 prescribe and enforce ordinances and rules for the purpose
206 of protecting the health, property, lives, decency, morality,

207 cleanliness and good order of the city and its inhabitants,
208 and to protect places of divine worship in and about the
209 premises where held, and to punish violations of all ordin-
210 ances even if the offense under and against the same shall
211 also constitute offense under the laws of the state of West
212 Virginia or the common law; to provide for the employment
213 and safe keeping of persons who may be committed in de-
214 fault of the payment of fines, penalties or costs under this
215 act, who are otherwise unable, or fail, to discharge the same,
216 by putting them to work for the benefit of the city, upon the
217 streets or other places in or out of the city provided by said
218 city, and to use such means to prevent their escape while at
219 work as the council may deem expedient; and thê council
220 may fix a reasonable rate per day as wages to be allowed such
221 person until the fine and costs against him are thereby dis-
222 charged; to compel the attendance at public meetings of the
223 members of the council; to have and exercise such additional
224 rights, privileges and powers as are granted to municipalities
225 by chapter forty-seven of the code of West Virginia, as
226 amended. For all such purposes, except that of taxation, and
227 for purposes otherwise limited by this act, the council shall
228 have jurisdiction, when necessary, for one mile beyond the
229 corporate limits of said city; to grant and regulate all
230 franchises in, upon, under and over the streets, alleys and
231 public ways of said city, under such restrictions as are con-
232 tained herein or shall be provided by ordinance, but no ex-
233 clusive franchise shall be granted by said council to any in-
234 dividual or corporation, nor shall any franchise be granted
235 for a longer period than fifty years; to regulate licenses and
236 restrict the use of motor buses, automobiles, carriages, drays
237 and wagons upon the streets, alleys and public grounds of
238 said city when same are being used for hire and reward.

239 And the council shall have the right to establish, construct,
240 and maintain public markets on the grounds which do, or
241 shall, belong to said city, or which it shall acquire, by pur-
242 chase, or otherwise, and to sell, lease, repair, alter or re-
243 move any public markets or buildings which have been, or
244 shall be, so constructed, and to preserve and protect the peace
245 and good order at the said markets, and regulate the manner
246 in which they shall be used.

247 To carry into effect these enumerated powers and all other
248 powers conferred upon said city expressly or by implica-
249 tion in this and other acts of the legislature, the council of
250 said city shall have the power, in the manner herein pre-
251 scribed to adopt and enforce all needful orders, rules and
252 ordinances not contrary to the laws and constitution of this
253 state; and to prescribe, impose and enforce reasonable fines
254 and penalties, including imprisonment in the city lock-up,
255 jail or station-house, and to work prisoners found guilty as
256 the council may prescribe, and market the products of such
257 labor, and with the consent of the county court of Summers
258 county entered of record shall have the right to use the
258a jail of said county for any purposes necessary to the ad-
259 ministration of its affairs.

260 The council shall have the authority to pass all ordinances
261 not repugnant to the constitution and laws of the United
262 States and of this state, which shall be necessary and proper
263 to carry into full effect the power, authority, capacity and
264 jurisdiction which is or shall be granted to or vested in the
265 said city, or in the council or in any officer or body of of-
266 ficers of said city, and to enforce any and all of the ordinances
267 by reasonable fines and penalties, and upon the failure to
268 pay any fine or penalty imposed, may compel the offender
269 to labor without compensation at and upon any of the public
270 works or improvements undertaken, or to be undertaken, by
271 said city, or to labor at any work which the said council may
272 lawfully employ labor upon, at such reasonable rates per
273 diem as the council may fix, until any fines, or fines and
274 costs upon any offender of said city have been fully paid and
275 discharged after deducting reasonable charges of support
276 while in the custody of the officers of the city; *provided*, that
277 upon conviction and imposition of penalty under such ord-
278 inance, no further prosecution shall be had in any of the
279 courts of the state for the same offense. And in all cases
280 where a fine is imposed for an amount exceeding ten dollars
281 and costs, or a person be imprisoned or be compelled to
282 labor as aforesaid for a greater term than ten days, an appeal
283 may be taken from such decision upon the terms and condi-
284 tions as appeals are taken from the judgment of a justice
285 of this state. Such fines and penalties shall be imposed and

286 recovered, and such imprisonment inflicted and enforced by
287 and under the judgment of the mayor of said city; or in
288 case of his absence or inability to act, then any member of
289 the council, to be appointed by the council for that purpose;
290 and for his services in trying such cases, whether civil, crim-
291 inal or infractions against ordinances, the mayor shall be
292 entitled to charge and collect such fees as are paid to jus-
293 tices of the peace for similar services. And in all such cases
294 the chief of police, or other officer performing the service
295 shall be entitled to receive such fees as are paid to con-
296 stables for similar services; *provided, further*, that the fee
297 for making any arrest shall be one dollar, whether such of-
298 ficer be the chief of police or other officer. In addition to
299 the powers above enumerated, the said city council shall have
300 the power to build, construct, maintain and operate a suf-
301 ficient sewerage system and water works, as may be neces-
302 sary for the proper supply of water to the inhabitants of
303 said city, for public and private use, and said city shall
304 have the power to purchase or condemn any water works
305 now in the said city, or hereafter placed therein by any
306 party other than the said city, wherever the council of said
307 city shall deem proper, and such order shall have been rati-
308 fied by a vote of the qualified voters of said city, at an elec-
309 tion called for that purpose, with due notice, and at least
310 two-thirds of the votes cast at said election shall vote for
311 the ratification of said council to purchase or condemn said
312 water works; and the said city shall have the power to en-
313 large the said water works, if so purchased or condemned, by
314 putting additional reservoirs either within or out of said
315 city; and the said city shall have the right, if its council
316 shall deem proper, and the order of said council be rati-
317 fied by a vote as aforesaid, to build, construct, maintain, and
318 to operate such water works in the said city as may be deemed
319 proper without the purchase or acquisition of any water
320 works then in said city and said city shall have the right to
321 lay pipes and mains for the proper distribution of said
322 water, either in or out of said city, as shall be necessary for
323 the proper distribution of same, and for that purpose may ac-
324 quire by lease, purchase or condemnation all such lands as
325 shall be necessary, either within or without the said city, or

326 they may contract for such work to be done, in either event
327 to supply an adequate supply of pure, healthful water for
328 said city, and do all things necessary to supply said city and
329 inhabitants thereof with water as aforesaid; and the said
330 city may acquire by purchase or condemnation any electric
331 light plant now in said city or hereinafter placed therein by
332 any party other than said city, and shall have the right to
333 build, construct, maintain and operate such plant for the
334 furnishing of electricity for said city, and for the inhab-
335 itants thereof, but no electric light plant shall be purchased,
336 condemned, or built or operated unless voted on by the qual-
337 ified voters of the said city at an election called and held
338 as aforesaid, and the same be ratified by a two-thirds vote
339 of all votes cast at said election.

Police Docket

Sec. 29. A well-bound book indexed, to be denominated
2 the police docket, shall be kept in the office of the mayor, in
3 which shall be noted each case brought before or tried by
4 him, together with the proceedings therein, including a state-
5 ment of the complaint, the warrant or summons, the return,
6 the fact of appearance or non-appearance, the defense, the
7 hearing, the judgment, the costs and in case the judgment be
8 one of conviction the action taken to enforce same. The rec-
9 ord of each case shall be signed by the mayor, and the orig-
10 inal papers thereof, if no appeal be taken, shall be kept to-
11 gether and preserved in his office.

Taxation

Sec. 30. The council shall be governed in all respects in
2 laying the annual levy or any additional levy or special levy
3 by chapter nine of the acts of the extraordinary session of
4 the legislature of West Virginia of one thousand nine hundred
5 and eight, and by chapter eighty-five of the acts of the legis-
6 lature of one thousand nine hundred and fifteen as the same
7 is amendatory of certain sections of the said chapter nine of
8 the said acts of one thousand nine hundred and eight, except
9 that they may include a poll tax of not exceeding one dollar
10 each year upon each able bodied man therein, who is above
11 the age of twenty-one years and not over fifty years of age, which

12 poll tax shall be used exclusively for opening, improving and
13 maintaining roads, streets and alleys of the city, and shall
14 designate the same as the street taxes; and the said council
15 may also impose such license tax upon dogs and other animals
16 as they may deem proper, and collect the same from the owners
17 of such animals, as other taxes are collected, and prescribe
18 such rules, regulations and penalties governing the payment of
19 such tax on animals as they may deem reasonable. And the
20 general annual levy upon the taxable property within the
21 corporate limits of said city shall not exceed the sum of fifty
22 cents upon each one hundred dollars of valuation. But in ad-
23 dition to said levies above mentioned, and in addition to any
24 levies provided by the general law, with which these are not
25 meant to conflict, the council of said city, beginning with the
26 year of one thousand nine hundred and twenty-five are em-
27 powered to and shall lay a special annual levy of not to exceed
28 thirty cents on each one hundred dollars valuation of the
29 property in said city for the purpose of creating a sinking
30 fund with which to pay off the principal of the present out-
31 standing bonded indebtedness of said city when the same be-
32 comes due and for the purpose of paying annually, when due,
33 the interest coupons of the said present outstanding bonded
34 indebtedness of the said city, which said special levy shall
35 be continued annually by the council for as many years as
36 may be necessary to pay off said outstanding bonded indebted-
37 ness and the interest coupons that may become due thereon,
38 but no longer.

Assessment and Collection of Taxes

Sec. 31. It shall be the duty of the assessor to make an
2 assessment of the property within the city subject to taxation
3 substantially in the manner and form in which assessments
4 are made by the assessor of the county, and return the same
5 to the council or or before the first day of August of each
6 year, being governed by the law governing county assessors.
7 He shall list the number of dogs and other animals subject to
8 license tax in the city, and the names of the persons owning
9 the same, which list shall be returned. In order to aid the
10 assessor in ascertaining the property subject to taxation by
11 said city, he shall have access to all books and public records of

12 Summers county, without expense to him or said city, and
13 he shall have the same power and be subject to the same
14 penalties in ascertaining and assessing the property and sub-
15 jects of taxation of said city as are granted and imposed on
16 the county assessors throughout the general state laws; and
17 the council shall have authority to prescribe by general ord-
18 inance such other rules and regulations as may be necessary to
19 enable and require such assessor to ascertain and properly
20 assess all property liable to be taxed by said city, so that such
21 assessment and taxation shall be uniform and equal, and the
22 council may enforce such rules and regulations by reason-
23 able fines to be imposed on any one failing to comply therewith.
24 When he shall complete his assessment book he shall deliver
25 the same when sworn to, to the city council.

Sec. 32. There shall be a lien on all real estate within the
2 said city for taxes assessed thereon, and for all fines and pen-
3 alties assessed against or imposed upon the owners thereof, by
4 the authorities of said city, including expenses of making,
5 maintaining and repairing, paving and macadamizing side-
6 walks, drains, gutters and streets from the time the same are
7 so assessed or imposed, which shall have priority over all other
8 liens except taxes due the United States and the lien for taxes
9 due the state, county and district, and such lien may be en-
10 forced by the council in the manner provided by law for the
11 enforcement of the lien for county taxes. And the laws of
12 the state of West Virginia in relation to delinquent taxes, and
13 the sale of property therefor, are hereby and in all respects
14 adopted as to all proceedings in relation to taxes for city pur-
15 poses delinquent in said city. And the powers and duties con-
16 ferred by the laws of said state upon county courts and their
17 clerks and sheriffs in regard to delinquent taxes and their
18 collection, are hereby in all things conferred upon said city
19 council, its recorder and other city officials whose duties are
20 of a similar nature as those of said county officials, in so far
21 as the same may be directed or by implication applicable in
22 the collection of delinquent taxes due said city.

Sec. 33. It shall be the duty of the city tax collector when
2 the extended copies of the assessor's books are completed, to
3 receive a copy thereof, receipting to the council for same, and
4 it shall be his duty to collect from the parties the entire amount

5 of the taxes with which they are severally charged therein,
6 and may proceed to collect the same at any time after the
7 first day of October, and may enforce the payment thereof by
8 levy upon the personal property, and sale thereof, of the
9 person charged with taxes at any time after the first of Jan-
10 uary next, after said taxes are assessed. He may also allow
11 a discount of two and one-half per cent on all taxes paid on
12 or before the first day of December. Said taxes shall be a lien
13 upon the property upon which they are assessed, from and
14 after the time the assessor's books are completed, verified and
15 returned to the city council, and he shall write the word paid
16 opposite the name of each person who pays the taxes against
17 him, and shall also give to the person paying such taxes a
18 receipt therefor; *provided, however,* that said treasurer may
19 distrain at any time for any taxes assessed against a person
20 who is about to remove or who has removed from said city,
21 after such taxes are assessed, and the books returned as afore-
22 said. He shall also receive such other moneys of the city as
23 he is authorized by this act to receive, and also all moneys
24 ordered by the council to be paid to him, giving receipt there-
25 for to the parties paying the same, and shall keep an accurate,
26 itemized account of all moneys received by him. His books
27 shall, at all times, be open for the inspection of the mayor,
28 council, city recorder, and to any taxpayer in the city. He
29 shall also make up monthly statements of the money received
30 by him and the amount paid out by him and to whom, show-
31 ing the amounts in his hands from all sources, and shall post
32 the same in the mayor's office on the last day of each month.
33 He shall pay out the money in his hands upon the order of
34 the city council, upon orders signed by the mayor and re-
35 corder. He shall, on or before the expiration of the term of
36 office of the mayor, and at such other times as the council may
37 require, present to the council a full and complete statement
38 of all moneys with which he is chargeable, or that have been
39 received by him and not previously accounted for, and shall
40 at the same time, and in like manner, furnish a complete
41 statement, by separate items, of all disbursements made by
42 him during such period, with his vouchers evidencing the
43 same. He shall receive all taxes upon licenses and receipt to
44 the party paying the same, by endorsement upon the permit

45 granted by order of the council, or mayor as the case may be.
46 He shall, upon the expiration of his term of office, turn over to
47 the council all books and other property in his possession be-
48 longing to the city, except the money in his hands, which he
49 shall turn over to his successor, upon the order of the coun-
50 cil, as hereinbefore provided; and shall, before entering upon
51 the duties of his office, execute a bond with good security pay-
52 able to said city in a penalty of not less than ten thousand
53 dollars, conditioned that he will faithfully discharge the
54 duties of his office and account for and pay over as required
55 by law and the order, ordinances, rules and regulations of
56 the council of said city, all money which shall come into his
57 hands, which bonds shall be subject to the approval of the
58 council. He shall be chargeable with all the city taxes, levies
59 and assessments and money of the city which shall come into
60 his hands and shall account therefor.

Sec. 34. In addition to the other duties of the assessor
2 it shall be his duty on or before the first day of August each
3 year, to make a copy from the real and personal property
4 books prepared by him, and to certify such under his hand as
5 a true and correct copy thereof, and to deliver the same to the
6 council, to assist said council in preparing the annual estimate
7 of expenses to be certified as a basis for the annual levy. After
8 such annual levy is made in each year, it shall be the duty of
9 the assessor to extend said levy upon said real estate and per-
10 sonal property books for said city, but the tax collector shall
11 prepare proper tax tickets therefrom against all owners of real
12 estate and personal property subject to taxation in said city.

Licenses

Sec. 35. The council shall prescribe by ordinance the time
2 and manner in which licenses of all kinds shall be applied for
3 and granted, and shall require the payment of the tax thereon
4 to the city recorder before the delivery thereof to the person
5 applying therefor, which tax shall include the same fees for
6 the issuing of such licenses as are charged for smiliar serv-
7 ices by state and county officers, which fees shall be paid into
8 the city treasury. The council may revoke any such license
9 for the breach of any of the conditions, or for other good
10 cause shown by the person holding such license, who must

11 first have reasonable notice of the time and place of hearing
12 and adjudicating the matter, as well as the cause alleged, and
13 shall be entitled to be heard in person by the council, in op-
14 position to such a revocation. The term for which license
15 provided for in this charter be granted shall be governed by
16 the general law providing for state licenses.

Sec. 36. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemna-
3 tion of real estate for streets, alleys, roads, drains, sewers,
4 market grounds, city prison, city hall, water works, electric
5 light plant or other works, or purposes for public utility.
6 Such proceedings shall conform to the provisions of chap-
7 ter forty-two of the code of West Virginia, and the expenses
8 thereof shall be borne by the city, except in cases where it is
9 proper under said chapter to charge said expenses or any
10 part thereof against the defendant.

Bond Issues

Sec. 37. The council of the said city shall have the right to
2 bond the said city for the purpose of paving the said streets,
3 or for other permanent improvements, or for the purpose of
4 taking up, paying off or refunding any already outstanding
5 city bonds or items of indebtedness, whenever the council
6 thereof may deem the same necessary; but the aggregate in-
7 debtedness of the said city for all purposes shall never at any
8 time exceed five per centum of the assessed valuation of the
9 taxable property therein according to the last assessment next
10 preceding said date. The said council shall provide a fund
11 for the payment of the interest annually on the said indebted-
12 ness so created, and to pay the principal thereof within and
13 not exceeding thirty-four years; *provided*, that no debt shall
14 be contracted hereunder, unless all questions connected with
15 the same be first submitted to a vote of the qualified voters
16 of said city, and have received three-fifths of all the votes cast
17 for and against the same.

Indebtedness Prohibited

Sec. 38. The council of the said city shall not, at any time,
2 or for any purpose, create any indebtedness against the said
3 city except as provided in the next preceding section, exceed-

4 ing the available assets of the said city for the current year,
5 and if the said council shall create such indebtedness or issue
6 orders on the city for an amount exceeding the amount of
7 money collected for that year for said city from all sources,
8 and the amount of money then in the treasury appropriated,
9 the members of the said council shall be severally and jointly
10 liable for the payment of the excess of such indebtedness or
11 orders over the amount of money applicable thereto and the
12 same may be recovered in any court having jurisdiction thereof.
13 Any councilman violating the provisions of this section shall
14 be deemed guilty of malfeasance in office and may be re-
15 moved as such councilman in pursuance of section fifteen of
16 this act. *Provided, however,* this shall not be applicable to
17 such members who have voted against said excess; and, *pro-*
18 *vided further,* that the vote of each member of the council
19 shall be recorded.

Maintain Roads and Streets

Sec. 39. The said city shall construct, conduct and main-
2 tain its own roads and streets, and by reason thereof shall not
3 be required to pay any district or county road levies for the
4 construction and maintenance of roads outside the city limits.

Ordinances

Sec. 40. All ordinances, by-laws, resolutions and rules of
2 the City of Avis in force on the day preceding the passage of
3 this act, which are not inconsistent herewith, shall be and re-
4 main in full force over the whole boundary of said City of
5 Avis, as established by this act, until the same are amended or
6 repealed by the council of said city, and the officers elected
7 in one thousand nine hundred and twenty-five shall remain
8 and continue in office in the positions as hereinbefore pro-
9 vided; and after this act takes effect, shall have jurisdiction
10 over all the territory embraced in the boundary specified in
11 this act, and shall perform all the duties of such respective
12 offices under this act; but nothing in this act shall be con-
13 strued or held, in any way, to affect or impair any of the
14 bonds, obligations or indebtedness of the City of Avis issued
15 or contracted prior to the passage of this act; but on the con-
16 trary, the said City of Avis shall be liable for all the bonds,

17 obligations and indebtedness of the City of Avis as though the
18 same had been created under this charter.

Streets and Sidewalks

Sec. 41. The council shall have power, without petition of
2 the owners of abutting property, to provide for the grading,
3 construction, maintenance and repair of sidewalks, drains and
4 gutters upon the streets of the city, and assess the expense of
5 the construction, maintenance and repair of the same upon the
6 property abutting thereon and the owners thereof, and collect
7 the same in the same manner as other taxes and levies are
8 collected, and shall have power, without petition of the own-
9 ers of abutting property, to grade, macadamize and pave the
10 streets of the said city, or any of them, and assess part of
11 the expense of grading, macadamizing and paving not to ex-
12 ceed one-third thereof upon abutting property on each side
13 thereof, and the owners thereof, and collect the same in the
14 same manner as other taxes and levies are collected; and such
15 assessments for sidewalks, drains, gutters, macadamizing and
16 paving shall be a lien upon such abutting property, the same
17 as other taxes and levies within said city upon the property
18 therein. *Provided*, that nothing herein shall be construed to
19 prevent the council from arranging for the construction of
20 any such improvement, by agreement with the abutting prop-
21 erty owners, if the council shall so desire and deem it advis-
22 able to do so.

Sec 42. The city council shall have power, upon the pe-
2 tition in writing of the owners of the greater amount of front-
3 age of the lots abutting on any street or alley or between any
4 two cross streets, or alleys, to provide for the construction,
5 reconstruction, repairing and maintenance of all local im-
6 provements including the grading, paving, sewerage and oth-
7 erwise permanently improving of streets and alleys of the
8 city, and to provide for the assessment of the cost thereof,
9 including all incidental expenses and the cost of intersec-
10 tions of streets, with interest payable annually, against the
11 abutting or other specially benefitted properties, according
12 to their frontage, on either side of such street or alleys, and
13 against the owners thereof, upon the following conditions:

14 (a) *Plan and Resolution:* The city council, when deemed
15 expedient by it, shall cause plans, specifications, profiles and
16 estimates of the proposed improvements by grading, paving,
17 curbing, sewerage or otherwise locally improving any streets
18 or alleys, to be made and filed in the office of the mayor, and
19 shall by ordinance and resolution prescribe generally the
20 location and character of the proposed improvement and
21 refer to such plans, specifications, profiles and estimates.

22 (b) *Notice and Hearing:* The city council shall then cause
23 notice thereof to be published once in some newspaper pub-
24 lished in said city, fixing the date for a hearing thereon not less
25 than one week after the adoption of such resolution. At the date
26 stated in such resolution and notice, or any adjourned meeting,
27 the city council shall hear objections to the proposed improve-
28 ments and may correct, amend or modify such plans, specifica-
29 tions, profiles and estimates not extending to any other street or
30 part of street, and may pass or adopt a resolution or ordinance
31 providing for such improvement, by direct employment of labor
32 or by contract with the lowest responsible bidder, and for the
33 assessment of the cost thereof against the abutting or specially
34 benefitted properties on each side of such street or alley.

35 (c) *Assessment, Docketing and Payment:* The city coun-
36 cil shall, by resolution or ordinance, levy the assessment of
37 the approved estimate of the cost of such improvement, in-
38 cluding incidental expenses and intersections, upon the abut-
39 ting or other specially benefitted properties and against the
40 owners thereof, in proportion to the frontage of such prop-
41 erties, designating the same by numbers, names of owners
42 or other convenient description; and shall also assess against
43 any street car or other railway company the cost of the im-
44 provement of the space between the rails of its track or tracks
45 and two feet additional outside of each rail (unless otherwise
46 provided in the franchise therefor); and which assessments
47 shall be liens upon the respective properties and upon the
48 tracks and franchises of such company for the distance of
49 the improvement thereon, and said liens shall have priority
50 over all other liens except taxes due the state. The said as-
51 sessment shall be payable fifteen days after the levying there-
52 of, unless the owners of such properties may elect to pay the
53 same in ten annual installments as hereinafter provided; and,
54 within thirty days after the levying thereof the city recorder

55 shall cause a memorandum of all unpaid assessments to be
56 made, showing the names of the owners of such properties,
57 descriptions of the properties, and the amounts of the as-
58 sessments, respectively, and shall file the same in the office
59 of the clerk of the county court of Summers county for rec-
60 ord in the deed of trust books therein; such assessments,
61 after said period of thirty days, and before recordations
62 of such memoranda, shall not be liens as against purchasers
63 of such property for value and without notice. Upon pay-
64 ment thereof, releases shall be executed and recorded in the
65 manner provided by law.

66 (d) *Collateral Bonds:* The city council shall, at the op-
67 tion of the owner or owners of such properties, permit pay-
68 ment of one-tenth of the amount assessed against them, re-
69 spectively, within said fifteen days, and issue and sell its
70 notes and bonds, without vote of the electors of the city, in
71 anticipation of the payment of such special assessments in
72 annual installments as follows: One-tenth of such amount
73 with interest on said one-tenth, at six per cent per annum,
74 payable annually, in one year from the date of the levying
75 of such assessment, and a like one-tenth, with interest as afore-
76 said, at the expiration of each succeeding year until the whole
77 amount shall have been paid.

78 (e) *Method of Improvement:* The city council shall,
79 after levying and collecting assessments and issuing its notes
80 and bonds as aforesaid, proceed with such local improve-
81 ments according to the said approved plans, specifications,
82 profiles, and shall pay the cost thereof out of the special as-
83 sessment fund accruing from such payment and the sale of
84 its notes and bonds. *Provided,* that the assessments against
85 any such street car or other railway company shall be deduct-
86 ed from the cost to be paid by the owners of the abutting
87 lots.

88 (f) *Rebates or Further Assessments:* Upon the com-
89 pletion of any improvement, any excess above the actual cost
90 of the improvement shall be refunded to the owners of the
91 properties on the basis on which assessed, and in the event
92 of a deficit in the assessment fund, the city council may by
93 ordinance lay supplementary assessment on the basis of ac-
94 tual cost of the improvement which shall be made and col-

95 lected as provided in the case of the original assessments for
96 the improvement.

97 (g) *Gas and Water Lines:* The city council, before
98 making any such local improvements, shall compel any per-
99 son, firm or corporation having gas, water, telephone, street
100 car or other public utility equipment on, in or under such
101 street or alley under franchise therefor, to be moved, re-
102 newed, lowered or raised, and the gas or water lines or con-
103 nections to be extended from the mains to the abutting prop-
104 erties, as directed, within ten days after notice to do so; and
105 shall also cause the owner of properties abutting on said
106 street or alley to install sewer connections at their expense,
107 within ten days after notice to do so; and if the same be not
108 done within said time, the work may be done by the city and
109 the cost thereof, with a penalty of ten per cent of the cost
110 assessed against the owners of such franchise and against the
111 said properties, respectively, for which said connections are
112 made, which assessments shall be liens and may be collected
113 as other taxes.

114 (h) *Damages and Improvements:* Whenever any
115 street or alley of the city, or any part thereof, shall have been
116 graded, sewered or otherwise permanently improved by order
117 of the city council, pursuant to the authority conferred on
118 them by this section, by providing for an assessment of a
119 part of the cost thereof, as provided by this section, against
120 abutting property and the owners thereof, it shall not be
121 within the power of the said city council to thus charge the
122 said property or the owners thereof, with any part of the
123 cost of re-grading, re-paving, re-sewering or again perman-
124 ently improving such street or alley until after fifteen years
125 from the completion of such grading, paving, sewerage or
126 otherwise permanently improving thereof. The city coun-
127 cil shall, by ordinance, provide for the protection, preserva-
128 tion and use of any such local improvements and shall pre-
129 scribe fines and penalties for damages or injuries thereto, for
130 which the person or company causing such injury shall be
131 liable; and no owner or owners of abutting properties shall
132 be compelled to pay subsequent special assessments for the
133 reconstruction, repair and maintenance of any curb, pave-
134 ment, sewer or other local improvements, so injured or dam-

135 aged by any other person or corporation in violation of such
136 ordinance.

137 (i) The city council of the City of Avis shall provide
138 places for voting in each ward in all municipal elections of
139 the city, and appoint commissioners residing therein to hold
140 and conduct the elections hereinbefore provided to be held:
141 and shall pass all proper ordinances to give this act full
142 force and effect. *Provided*, that the council may consolidate
143 the voting places of two or more wards, if in its opinion no
144 inconvenience is placed upon the voters in the respective
145 wards.

Sec. 43. The city attorney shall be the legal advisor of the
2 city and all its officers in all matters arising, and in which
3 legal proceedings may be taken; he shall prosecute all suits,
4 actions and proceedings instituted on behalf of the said city;
5 and defend all suits and actions against said city, and when re-
6 quested in writing, shall give his written opinion to the mayor
7 or council or any standing committee thereof upon such legal
8 questions as may be referred to him affecting the city's in-
9 terest; he shall perform such other duties as may be required.
10 It shall be his duty to attend the sessions of the council when
11 requested and prosecute all trials before the mayor and all
12 appeals that are taken from such mayor to the criminal or
13 circuit court, and for his services he shall receive such com-
14 pensation as the council shall provide, and in addition thereto
15 in all criminal prosecutions conducted by said city attorney,
16 where there is a conviction of the defendant, there shall be
17 taxed an attorney's fee in favor of said city attorney, not less
18 than five nor more than ten dollars, which said fee shall be
19 taxed as a part of the costs of the case.

Sec. 44. The council shall designate some bank in which
2 all moneys shall be deposited by the treasurer in its cor-
3 porate name. The council of the City of Avis shall appoint a
4 city treasurer, prescribe his duties and provide compensation
5 not to exceed the sum of eighteen hundred dollars per year,
6 payable in equal monthly installments.

Sec. 45. Each councilman of the said city shall receive
2 from the city to be paid out of the city treasury the sum of
3 forty dollars per year, payable in monthly installments, and
4 there shall be deducted from the salary of the mayor, recorder

5 and councilmen two dollars for each time either of said officers
6 shall be absent from a regular meeting of said council, unless
7 such absence is caused by sickness or absence from the city.

Board of Health

Sec. 46. The council shall appoint a suitable person, who
2 shall be a practicing physician, as health commissioner, whose
3 term of office shall be one year and until his successor is ap-
4 pointed and qualified. The mayor, health commissioner and
5 city attorney are hereby constituted and shall be a city board of
6 health. The board of health shall do and perform all such
7 duties and exercise such powers as may be required or con-
8 ferred upon it by legal ordinance of said city. The board of
9 health shall have the power to summon witnesses, hear testi-
10 mony and to do any and all other things necessary and proper
11 in the performance of its duties under this act and under the
12 general laws of the state in such case made and provided.

Nuisances

Sec. 47. The council of said city shall have authority to
2 abate and remove all nuisances in said city. It may compel
3 the owners, agents, assignees, occupants, or tenants of any lot,
4 premises, property, building or structure upon or in which
5 any nuisance may be, to abate and remove the same by orders
6 therefor, and by ordinance provide a penalty for the violation
7 of such orders.

8 Said council may also by its own officers, appointees, and
9 employes abate and remove nuisances, including all obstruc-
10 tions on the streets and alleys of said city. It may by ordi-
11 nance regulate the location, construction, repair, use, empty-
12 ing, and cleaning of all water closets, privies, cess-pools, sinks,
13 plumbing, drains, yards, lots, areaways, stables and other
14 places where offensive, unsightly, unwholesome, objectionable,
15 or dangerous substances or liquids are, or may accumulate,
16 and provide suitable penalties for violations of such regula-
17 tions, which may be enforced against the owners, agents, as-
18 signee, occupant, or tenant of any premises or structure where
19 such violation may occur.

20 If the owner, agent, tenant, assignee, or occupant of any
21 such premises, lot, property, building or structure as is men-
22 tioned herein, fails to comply with the provisions of any such

23 ordinance and the regulations herein contained, the said coun-
24 cil may have said nuisance abated or the provisions of said
25 ordinance or ordinances carried out, after reasonable notice
26 to said owner, occupant, tenant, agent or assignee, of its inten-
27 tion so to do, and collect the expenses thereof, with one per
28 centum per month interest added from the date of said notice,
29 from the said owner, occupant, tenant, agent or assignee, by
30 distress or sale, in the same manner in which taxes levied upon
31 real estate for the benefit of said city are herein authorized to
32 be collected, and the expense shall remain a lien upon said lot,
33 or part of lot, the same as taxes levied upon real estate in
34 said city; which lien may be enforced by a suit in equity
35 by any court having jurisdiction as other liens against real
36 estate are enforced. In case of non-resident owners of real
37 estate, such notice may be served upon any tenant, occupant,
38 assignee, or rental agent, or by publication thereof once a week
39 for not less than two consecutive weeks in some newspaper of
40 general circulation in said city.

41 And in all cases where any tenant, occupant or agent is re-
42 quired to abate and remove any nuisance under the provisions
43 of said section, or comply with the provisions of such ordi-
44 nance as is mentioned herein, the expense thereof may be de-
45 ducted from the accruing or accrued, rent of said property,
46 or amount due said owner from said agent, and such tenant,
47 occupant, or agent may recover the amount so paid from the
48 owner, unless otherwise especially agreed upon.

49 Any expense incurred by the council as herein provided, in
50 the manner aforesaid, may be collected in the manner herein
51 provided, notwithstanding the imposition of any other penalty
52 or penalties upon any of the persons named herein, under any
53 of the provisions of this act. The abatement or removal of
54 any such nuisance by the council, at the expense of said city,
55 as herein provided, shall be *prima facie* proof that the said
56 notice to the owner, occupant, tenant, agent, or assignee, was
57 given as herein prescribed.

Sec. 48. The council may require all owners, tenants or oc-
2 cupants of improved property which may be located upon or
3 near any street or alley along which may extend any sewer
4 or system of sewerage, which the said city may construct, own
5 or control, to connect with such sewer or system of sewerage,
6 all privies, ponds, water closets, cess-pools, drains or sinks lo-

7 cated upon their respective properties or premises so that their
8 contents may be made to empty into such sewer or system of
9 sewerage, and shall have the right to charge a reasonable amount
10 for the right to connect to such sewer.

Franchises

Sec. 49. Franchises shall be granted by the council, allow-
2 ing to persons or corporations, for a limited time, such occu-
3 pancy of the streets as may be necessary for works of public
4 utility and service such as steam railway tracks, street rail-
5 way tracks, poles, and trolley wires, telephone and telegraph
6 poles, wires and subways, and gas and steam pipe lines, water,
7 water lines and pipes. But no such franchise shall hereafter
8 be granted except under the following restrictions:

9 (a) No ordinance, granting any franchise for the use of
10 the streets, alleys, or public grounds of the town or for any
11 of the purposes of public utility above mentioned, or for any
12 other purpose of like nature, shall be passed unless it shall
13 have been first proposed in the council, and notice of the object,
14 nature and extent of the franchise shall have been published
15 at least thirty days by the applicant, in some newspaper of
16 general circulation, in the City of Avis, before being acted
17 upon, and shall have received a vote of the majority of the
18 members of the council at a regular meeting after said publi-
19 cation. The votes thereon shall be taken by ayes and nays,
20 and the same entered upon the journal.

21 (b) Every grant of any such franchise shall be for a
22 limited period of time. If no limit be expressly provided in the
23 grant, the franchise shall be valid for one year only. In no case
24 shall a franchise be extended for a period exceeding fifty
25 years.

26 (c) No grant of any such franchise shall be made without, at
27 the time of making it, providing that the grantee shall indem-
28 nify the city against all damages caused by the construction of
29 such work. All reasonable additional provisions and condi-
30 tions may be made for the protection of the public from un-
31 necessary damages or inconveniences by reason of such works
32 and the operation thereof.

33 (d) No grant of a franchise or the extension of, or an ad-
34 dition to, any line of such work, over any additional street
35 or territory of the city, shall be made for a period extending

36 beyond the time limit for the expiration of the franchise of
 37 the principal work of which it is an extension; and if the
 38 franchise of the principal company or work is one which was
 39 granted before this act goes into effect, and not limited as to
 40 time, the franchise granted for the extension or addition shall
 41 nevertheless be made subject to the conditions hereof, includ-
 42 ing a time limit of not exceeding fifty years. If a franchise
 43 be secured from the city by an individual or by an independent
 44 or new company, and the work constructed thereunder after-
 45 wards becomes a part of it, or be operated as a part of a larger
 46 work or the same kind whose franchise was previously obtained
 47 and is limited to expire earlier, such later franchise shall, by
 48 reason of such annexation, merger, or single operation, expire
 49 simultaneously with such earlier franchise.

Sec. 50. All ordinances of the town of Avis, as they exist
 2 at the time of the passage of this act, which are inconsistent
 3 herewith, are hereby abrogated, and all acts and parts of acts
 4 inconsistent with any of the provisions of this act are hereby
 5 repealed.

CHAPTER 34

(House Bill No. 631—By Mr. Morris)

AN ACT to authorize the municipal corporation of the Town of
 Harrisville, in the county of Ritchie, to vote upon, issue and
 sell its bonds to an amount, including existing indebtedness,
 in the aggregate not to exceed five percent of the value of the
 taxable property therein to be ascertained by the last assess-
 ment for state and county purposes, the proceeds of the sale
 of such bonds to be applied in the purchase or construction of
 a water system, or for the purchase and construction of a gas
 plant for said town, or both.

[Passed April 21, 1925. In effect from passage. Became a law without the
 approval of the Governor.]

Sec. 1. Bond issue authorized for water system or gas plant. 2. Common council, powers of refer-		Sec. endum. 3. Act not restrictive of powers.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of the Town of
 2 Harrisville, in the county of Ritchie, be and is hereby author-
 3 ized, in the manner provided by law, to vote, issue and sell its

4 bonds to an amount, including existing indebtedness, not to
5 exceed five per centum on the value of the taxable property
6 therein, to be ascertained by the last assessment for state and
7 county taxes. The proceeds from the sale of said bonds are
8 hereby authorized to be used for the purchase or construction
9 of a water system for said town, including mains, reservoirs,
10 and pumping stations, or for the purchase or construction of
11 a gas plant, including mains, regulators and other necessary
12 equipment and gas wells for the supply of gas in said town.

Sec. 2. The common council of said town shall have power
2 and authority to sell water provided by said water plant and
3 gas provided by said gas plant to the citizens of said town.
4 and to other persons at reasonable rates. Said council shall
5 have power to sell or lease said plants, but before doing so,
6 shall submit the question of said sale to a vote of the citizens of
7 said town at an election to be held in said town, after publish-
8 ing a notice of said election for one month in all of the news-
9 papers published in said town. A majority of the votes cast
10 at such election shall be sufficient to authorize such sale or
11 lease.

Sec. 3. This act shall not be deemed or construed as
2 restrictive of the powers of said municipality and its common
3 council and officers under general law but supplemental
4 thereto.

CHAPTER 35

(House Bill No. 682—By Mr. Radabaugh)

AN ACT to amend section fifty-six of chapter fifteen of the acts of the legislature of West Virginia at its one thousand nine hundred and nineteen session, fixing the date of the regular election of city officers for the City of Buckhannon, providing the manner of making nominations, calling said city election and all special elections, the appointment of election officers to hold all elections hereunder, to fix the term of office of the mayor, city recorder, and councilmen hereafter to be elected and empowering the mayor, city recorder, and councilmen to adopt a seal, and to divide the City of Buckhannon into fire districts and residence districts.

[Passed March 23, 1925. In effect from passage. Approved by the Governor.]

Sec. 56. Council a body corporate; nominations, how made; city and		special elections; tenure; fire and residence districts.
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Be it enacted by the Legislature of West Virginia:

That section fifty-six of chapter fifteen of the acts of the legislature of West Virginia at its one thousand nine hundred and nineteen session be amended and re-enacted by adding after the words "one year" in the one hundred and fifth line of said section fifty-six the following:

The mayor, city recorder, and councilmen shall be, and they 2 are hereby, made a corporate body, and as such can sue and be 3 sued, plead and be impleaded, and shall be called the city coun- 4 cil of the City of Buckhannon, and authorized to employ a city 5 seal. The said city council is hereby empowered to fix the terms 6 of office of the members of said city council hereafter to be 7 elected not to exceed a two-year term. If the term is hereafter 8 fixed by said city council at two years, said city council shall 9 also provide by proper ordinance that the mayor and a coun- 10 cilmen from the first, third and fifth wards shall be elected at 11 the first election after the adoption of said ordinance for a term 12 of two years and that the city recorder and one councilman 13 from the second and one from the fourth wards of the city for 14 the term of one year, and at all subsequent elections all persons 15 shall be elected for a term of two years. The general election 16 shall be held on the second Tuesday in May of each year and 17 special elections shall be held at such times as may be desig- 18 nated by the city council by resolution properly adopted and 19 spread upon its records. A call for said general election and 20 for all special elections shall be made by said city council at 21 least thirty days before said city election is to be held, and 22 notice thereof shall be published in two newspapers of general 23 circulation published in said city for at least two weeks prior to 24 said election. Said city council shall at least two weeks before 25 the date of any general or special election appoint three com- 26 missioners and two poll clerks for each voting place to hold 27 said election who shall have the same qualifications, perform 28 similar duties and under the same penalties as is now provided 29 by law for persons holding the general state elections, and said 30 city council shall fix the compensation of said election officials. 31 Candidates to be voted for at said general election may be

32 nominated either by convention called by resolution regularly
33 adopted by the said city council and held at least fifteen days
34 before said city election, or any candidate may be nominated
35 by a petition signed by at least two hundred legal voters of the
36 city and filed by the city recorder at least ten days previous to
37 the date fixed for holding said election.

38 All other acts and parts of acts coming within the purview of
39 this act and inconsistent with this act or in conflict herewith
40 are repealed, and all parts of said act not inconsistent or in
41 conflict with this act shall not be repealed or affected by this
42 amendment.

