

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

REGULAR SESSION
1921



MUNICIPAL CHARTERS



TRIBUNE PRINTING CO., CHARLESTON, W. VA.

1921

WEST VIRGINIA LEGISLATURE
STATE SENATORS

Officers

Hon. Goben C. Arnold.....President
John T. Harris.....Clerk
Homer Gray.....Chief Assistant
Jack Smith.....Sergeant-at-Arms
James P. Stewart.....Doorkeeper

District	MEMBERS	Postoffice
First.....	†Jesse A. Bloch (R)..... *J. Ness Porter (R).....	Wheeling Newell
Second.....	†Carl H. Hunter (R)..... *T. P. Hill (R).....	Moundsville Middlebourne
Third.....	†Edgar R. Staats (R)..... *James D. Dinsmoor (R).....	Parkersburg St. Marys
Fourth.....	†W. L. Poling (R)..... *R. P. Shinn (R).....	Point Pleasant Ripley
Fifth.....	†Floyd S. Chapman (R)..... *Philip Hager (R).....	Huntington Hamlin
Sixth.....	†Wm. York (R)..... *William J. McClaren (R).....	Williamson Welch
Seventh.....	†Joseph M. Sanders (R)..... *C. C. Coakler (R).....	Bluefield Hinton
Eighth.....	*M. V. Godfrey (R)..... *Harry G. Shaffer (R).....	Charleston Madison
Ninth.....	†Joseph S. Lewis (R)..... *Robert H. Boone (R).....	Oak Hill Ronceverte
Tenth.....	†Esbridge H. Morton (D)..... *J. N. Shackelford (D).....	Wetster Springs Glenville
Eleventh.....	†Edgar B. Stewart (R)..... *George W. Bowers (R).....	Morgantown Mannington
Twelfth.....	†Harvey W. Harmer (R)..... *George E. White (R).....	Clarksburg Weston
Thirteenth.....	†Herman G. Johnson (R)..... *Goben C. Arnold (R).....	Elkins Buckhannon
Fourteenth.....	†George B. Harman (R)..... *A. L. Eelmick (R).....	Maysville Thomas
Fifteenth.....	†Milton Burr (D)..... *H. P. Henshaw (D).....	Bardoo Bunker Hill

(R).....Republicans
(D).....Democrats
(*).....Elected 1920
(†).....Holdovers

Republicans.....26
Democrats.....4

Standing Committees of the Senate

ON PRIVILEGES AND ELECTIONS.

Messrs. Staats (*Chairman*), Sanders, Boone, Bowers, Godbey, Harman, Poling, Shackelford and Henshaw.

ON THE JUDICIARY.

Messrs. Stewart (*Chairman*), Sanders, Harmer, Shaffer, Hill, White, Poling, Staats, Harman, Porter and Morton.

ON FINANCE.

Messrs. Lewis (*Chairman*), Hunter, Bloch, Bowers, Chapman, Coalter, Dinsmoor, Godbey, Helmick, McClaren, Shinn, White, York, Shackelford and Burr.

ON EDUCATION.

Messrs. Johnson (*Chairman*), Harmer, Bowers, Hager, Harman, Hill, Poling, Shinn and Shackelford.

ON COUNTIES AND MUNICIPAL CORPORATIONS.

Messrs. Harmer (*Chairman*), Staats, Bloch, Bowers, Chapman, Godbey, Harman, York and Burr.

ON ROADS AND NAVIGATION.

Messrs. McClaren (*Chairman*), Bloch, Boone, Bowers, Hager, Harman, Hunter, Johnson, Sanders, Shaffer, Shinn, Staats, White, Henshaw and Morton.

ON RE-DISTRICTING.

Messrs. Sanders (*Chairman*), Helmick, White, Hunter, Dinsmoor, Johnson, McClaren, Chapman and Henshaw.

ON BANKS AND CORPORATIONS.

Messrs. Hunter (*Chairman*), Lewis, Bowers, Shaffer, Coalter, Helmick, Shinn, York and Henshaw.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.

Messrs. Chapman (*Chairman*), Staats, Godbey, Harmer, Lewis, McClaren, Porter, Sanders, Bowers, Burr and Henshaw.

ON PENITENTIARY.

Messrs. Hill (*Chairman*), Hunter, Coalter, Harmer, Bloch, Shinn, McClaren, Lewis and Morton.

ON RAILROADS.

Messrs. Coalter (*Chairman*), White, Helmick, Hill, Hunter, Shinn, Stewart, York and Shackelford.

ON MILITIA.

Messrs. Helmick (*Chairman*), Porter, Boone, Coalter, Dinsmoor, Harmer, Shaffer, Morton and Burr.

ON FEDERAL RELATIONS.

Messrs. Sanders (*Chairman*), Poling, Staats, White, Helmick, Dinsmoor, Porter, Stewart and Burr.

ON INSURANCE.

Messrs. Porter (*Chairman*), Hager, Bloch, Godbey, Lewis, Poling, White, Henshaw and Morton.

ON IMMIGRATION AND AGRICULTURE.

Messrs. Harman (*Chairman*), Shinn, Bloch, Boone, Burr, Hager, Harmer, Johnson and Shackelford.

ON MINES AND MINING.

Messrs. York (*Chairman*), Boone, Dinsmoor, Hager, Helmick, Johnson, Porter, Chapman and Shackelford.

ON MEDICINE AND SANITATION.

Messrs. Godbey (*Chairman*), York, Hager, Harmer, Johnson, Sanders, Staats, Helmick and Henshaw.

ON LABOR.

Messrs. White (*Chairman*), Dinsmoor, Lewis, McClaren, Poling, Porter, Shinn, Staats and Burr.

ON CLAIMS AND GRIEVANCES.

Messrs. Boone (*Chairman*), Chapman, Dinsmoor, Hunter, Porter, Shaffer, Stewart, York and Morton.

ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Shaffer (*Chairman*), Hill, Coalter, Bowers, McClaren, White, Hager, Shackelford and Henshaw.

ON PUBLIC PRINTING.

Messrs. Poling (*Chairman*), Johnson, Chapman, Harman, Porter, White, Coalter, Hill and Burr.

ON RULES.

Messrs. Arnold (*Chairman*), Coalter, Stewart, White and Morton.

ON PUBLIC LIBRARY.

Messrs. Shinn (*Chairman*), Shaffer, Bloch, Bowers, York, Stewart, Harmer, Helmick and Morton.

TO EXAMINE THE CLERK'S OFFICE.

Messrs. Dinsmoor (*Chairman*), Hunter, McClaren, Sanders, Godbey, White, Lewis, Hager and Shackleford.

ON FORESTRY AND CONSERVATION.

Messrs. Bloch (*Chairman*), Coalter, Hunter, Johnson, Sanders, Shaffer, Stewart, Morton and Henshaw.

ON PROHIBITION AND TEMPERANCE.

Messrs. Hager (*Chairman*), Boone, Harman, Harmer, Hill, Johnson, Shinn, Shackleford and Burr.

ON THE VIRGINIA DEBT.

Messrs. Hunter (*Chairman*), Sanders, Bloch, Harmer, Shaffer, Chapman, Bowers, Staats, Poling, Morton and Henshaw.

JOINT COMMITTEE ON PASSED BILLS, ON THE PART OF THE SENATE.

Messrs. Bowers (*Chairman*), Poling, Godbey, Harman and Burr.

HOUSE OF DELEGATES

Officers

HON. EDWIN M. KEATLEY, Speaker
 M. S. HODGDS, Clerk
 W. H. C. CURTIS, Sergeant-at-Arms
 W. M. MORRIS, Doorkeeper

COUNTY	MEMBERS	POSTOFFICE
Barbour.....	Fred E. Thompson (R).....	Beffington
Berkeley.....	M. K. Butts (R).....	Hedgesville
	H. A. Downs (R).....	Martinsburg
Boone.....	A. M. Rogers (R).....	Ottawa
Braxton.....	John I. Bender (R).....	Burnsville
	W. R. Picson, Jr. (R).....	Sutton
Brooke.....	J. L. Dezley (R).....	Wellsburg
Cabell.....	O. W. Fitch (R).....	Huntington
	H. O. Dunfee (R).....	Huntington
	F. O. Sanders (R).....	Huntington
	R. P. Aleshire (D).....	Huntington
Calhoun.....	Marion R. Hersman (D).....	Grantville
Clay.....	B. F. Murphy (R).....	Clay
Doddridge.....	Geo. C. Howard (R).....	West Union
Fayette.....	H. T. Lyttleton (R).....	Thurmond
	Geo. F. Grissinger (R).....	Kilguth
	G. E. Callison (R).....	Claremont
	J. Alfred Taylor (D).....	Fayetteville
Gilmer.....	F. N. Hays (D).....	Glenville
Grant.....	D. O. Fort (R).....	Maysville
Greenbrier.....	C. F. McClintic (D).....	Willisburg
	H. W. Eivens (D).....	Rape: t
Hampshire.....	J. S. Zimmerman (D).....	Romney
Hancock.....	R. M. Brown (R).....	New Cumberland
Hardy.....	G. W. McCauley (D).....	Moorefeld
Harrison.....	William G. Stathers (R).....	Clarksburg
	Edward Post (R).....	Clarksburg
	Luther Haymond (R).....	Clarksburg
	John B. Wyatt (R).....	Shinnston
Jackson.....	S. K. Somerville (R).....	Ravenswood
	*J. P. Kiser (R).....	Fletcher
Jefferson.....	Frank J. Beckwith (D).....	Charles Town
Kanawha.....	George W. McClintic (R).....	Charleston
	Edwin M. Keatley (R).....	Charleston
	Russell L. Hastings (R).....	Chelyen
	Cris: h Barnes (R).....	Charleston
	T. G. Nutter (R).....	Charleston
	Charles A. Middelburg (R).....	Charleston
Lewis.....	Ernest E. Knight (R).....	Jane Low
Lincoln.....	Ebb Cummings (R).....	Fes
Logan.....	*Chas. Avis (D).....	Logan
Marion.....	Net Robinson (R).....	Mannington
	W. H. Vesch (R).....	Farmington
	H. E. Satterfield (R).....	Fai: mont
Marshall.....	Everett F. Moore (R).....	oundsville

COUNTY	NAME	POSTOFFICE
Mason	C. E. Hutchinson (R)	Moundsville
	W. B. Shiflet (R)	Point Pleasant
Mercer	James M. Crump (R)	Beerb Hill
	A. F. Wysong (R)	Princeton
	W. R. Godfrey (R)	Matoakn
Mineral	George F. Daugherty (R)	Bluefield
	J. J. Johnston (R)	Shaw
Mingo	John S. Hall (D)	Williamson
Monongalia	Dennis M. Willis (R)	Morgantown
	R. Earle Davis (R)	Morgantown
Monroe	C. P. Feavener (R)	Peters town
Morgan	Geo. W. Biser (R)	Bekeley Springs
McDowell	J. A. Strother (R)	Welch
	E. W. Cullen (R)	Welch
	H. L. Tutwiler (R)	Jaeger
	H. J. Capchart (R)	Keystone
	E. P. Ramsey (R)	Mt. Nebo
Nicholas	Wm. T. Otto (R)	Wheeling
	Harry A. Weiss (R)	Wheeling
	Wright Hugus (R)	Wheeling
	Milton McColloch (R)	Wheeling R. D.
	G. A. Hiner (D)	Franklin
Pleasants	L. C. White (D)	Ravens Rock
Pocahontas	E. N. Moore (D)	Dunmore
Preston	James W. Flynn (R)	Kingwood
	H. B. McCrum (R)	Aurora
Putnam	H. F. Henson (R)	Hurricane
Raleigh	J. W. Hunter (R)	Cirtsville
	A. J. Manning (R)	Saxon
Randolph	Frank C. Baker (D)	Elkins
	Wellington M. Rowan (D)	Elkins
Ritchie	C. C. Freed (R)	Berea, R. F. D. No. 1
Roane	A. M. Hensman (R)	Spencer
	G. T. Sarver (R)	Ernest
Summers	T. A. Jones (R)	Hinton
Taylor	H. Clay Davis (R)	Simpson
Tucker	Hubert N. Ward (R)	Hambleton
Tyler	H. C. Williamson (R)	Friendly, R. R. No. 1
Upshur	J. B. Hillcary (R)	Buckhannon
Wayne	A. W. Preston (D)	Dickson
	F. W. Terrill (D)	Wayne
Webster	Geo. A. Herold (D)	Cowen
Wetzel	Septimius Hall (D)	New Martinsville
	L. E. Lantz (D)	Jacksonburg
Wirt	Duncan Daugherty (R)	Parkstone
Wood	W. L. McPherson (R)	Parkersburg, R. No. 2
	A. J. Nicely (R)	Parkersburg, R. F. D.
	James W. Miller (R)	Parkersburg
Wyoming	John F. Lusk (R)	Itmann

*Died March 5, 1921.

†Died March 14, 1921

Republicans.....73
 Democrats.....21

Standing Committees of the House of Delegates

ON ELECTION AND PRIVILEGES.

Messrs. Thompson (*Chairman*), Miller, Pierson, Fout, Wyatt, Somerville, Cummings, Satterfield, Manning, Davis (of Taylor), Daugherty (of Wirt), Nicely, Hall (of Mingo), Moore (of Pocahontas), and Hersman (of Calhoun).

ON RULES.

Mr. Speaker (*Chairman. ex-officio*), Sarver, McClintic (of Kanawha), Brown, Stathers, McCauley and Hays.

ON THE JUDICIARY.

Messrs. Strother (*Chairman*), Moore (of Marshall), Downs, Nutter, Sanders, Brown, Wyatt, Daugherty (of Wirt), Stathers, Davis (of Monongalia), Hugus, Heavener, Beckwith, Zimmerman and Hersman (of Calhoun).

ON FEDERAL RELATIONS.

Messrs. Henson (*Chairman*), Miller, Manning, Nutter, Callison, Davis (of Taylor), Freed, Heavener, Murphy, Post, Robinson, Lantz, Terrill, Hiner and Butts.

ON TAXATION AND FINANCE.

Messrs. McClintic (of Kanawha), (*Chairman*), Wysong, Howard, Weiss, Hersman, Dunfee, Hutchinson, Flynn, Bender, Post, Capehart, Willis, Hilleary, Hall (of Wetzel), Aleshire, Baker and Hays.

ON MILITARY AFFAIRS.

Messrs. Hugus (*Chairman*), Heavener, Davis (of Monongalia), Grisinger, Godfrey, Wyatt, Hilleary, Crump, Cullen, Veach, Johnston, Daugherty (of Wirt), Taylor, Bivens and Hersman (of Calhoun).

ON PROHIBITION AND TEMPERANCE.

Messrs. Somerville (*Chairman*), Knight, Veach, Willis, Ward, Butts, Crump, Biser, McColloch, McCrum, Daugherty (of Wirt), Fout, White, McClintic (of Greenbrier) and Herold.

ON EDUCATION.

Messrs. Murphy (*Chairman*), McPherson, Sarver, Crump, Cummings, Butts, Dunfee, Fout, Deuley, Williamson, Knight, Capehart, Hall (of Mingo), Rowan and Taylor.

ON COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS.

Messrs. Midelburg (*Chairman*), Otto, Moore (of Marshall), Fitch, Wyatt, Bender, Rogers, Daugherty (of Wirt), McCrum, Robinson, Cullen, Jones, Moore (of Pocahontas), Beckwith and Preston.

BANKS AND CORPORATIONS.

Messrs. Bender (*Chairman*), Rogers, Biser, Ward, Downs, Davis (of Taylor), Hugus, Haymond, Flynn, Tutwiler, Robinson, Godfrey, Herold, Lantz and Bivens.

ON ROADS.

Messrs. Sanders (*Chairman*), Stathers, McCrum, Midelburg, Jones, Cullen, Biser, Hutchinson, Deuley, Henson, Fout, Pierson, Zimmerman, Bivens and Lantz.

ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Otto (*Chairman*), Rogers, Hastings, Pierson, Cummings, Satterfield, Daugherty (of Wirt), Johnston, Freed, Nicely, Henson, Hunter, Taylor, Beckwith and Rowan.

ON CLAIMS AND GRIEVANCES.

Messrs. Rogers (*Chairman*), Sarver, Henson, Capehart, Grissinger, Hastings, Howard, McColloch, McPherson, Dunfee, Hunter, Butts, Hiner, Hall (of Mingo) and White.

ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.

Messrs. Sarver (*Chairman*), Wysong, Willis, Downs, Nicely, Flynn, Callison, Barnes, Haymond, Veach, Bender, Cullen, McClintic (of Greenbrier), Moore (of Pocahontas) and White.

ON PRINTING AND CONTINGENT EXPENSES.

Messrs. Brown (*Chairman*), Hilleary, Wyatt, Thompson, Daugherty (of Wirt), Deuley, Knight, McCrum, Ramsey, Somerville, Shiftet, Henson, Hays, Taylor and Rowan.

ON THE EXECUTIVE OFFICES AND LIBRARY.

Messrs. Weiss (*Chairman*), Howard, Hunter, Williamson, Nicely, Cummings, Freed, Fitch, Grissinger, Hastings, Haymond, Robinson, Hiner, Bivens and Hersman (of Calhoun).

ON FORESTRY AND CONSERVATION.

Messrs. Willis (*Chairman*), Weiss, Strother, Brown, Lyttleton, Hilleary, Flynn, Hastings, Daugherty (of Mercer), Henson, Veach, Ramsey, Beckwith, Herold and Hersman (of Calhoun).

ON ARTS, SCIENCES AND GENERAL IMPROVEMENTS.

Messrs. Wysong (*Chairman*), Fitch, Grissinger, Heavener, Hersman (of

Roane), Davis (of Monongalia), Miller, Nutter, Pierson, Shiflet, Satterfield, McColloch, Terrill, Lantz and Hersman (of Calhoun).

ON THE PENITENTIARY.

Messrs. Hutchinson (*Chairman*), Moore (of Marshall), Crump, Fitch, Callison, Hastings, Capehart, Manning, Ramsey, Fout, Heavener, Davis (of Taylor), Hall (of Wetzel), Herold and Preston.

ON MINES AND MINING.

Messrs. Lyttleton (*Chairman*), Godfrey, Ward, Tutwiler, Lusk, Veach, Johnston, Cullen, Brown, Murphy, Flynn, Rogers, Baker, Aleshire and Moore (of Pocahontas).

AGRICULTURE.

Messrs. Hersman (of Roane) (*Chairman*), Nicely, Jones, Deuley, Ward, Ramsey, Williamson, Somerville, Heavener, Manning, Shiflet, Freed, Hiner, Moore (of Pocahontas) and Herold.

ON STATE BOUNDARIES.

Messrs. Deuley (*Chairman*), Wysong, Hunter, Nicely, Callison, Tutwiler, Shiflet, Johnston, Davis (of Taylor), Fitch, Jones, Knight, Hays, McCauley and Hall (of Wetzel).

ON RAILROADS.

Messrs. Biser (*Chairman*), McPherson, Jones, Daugherty (of Mercer), Moore (of Marshall), Hastings, Lusk, Capehart, Hilleary, Hugus, Bender, Heavener, Herold, Terrill and White.

ON LABOR.

Messrs. Cullen (*Chairman*), Weiss, Middelburg, Callison, Fitch, Crump, Johnston, Daugherty (of Mercer), Lusk, Biser, Sarver, Rogers, Brown, Aleshire and Herold.

ON MEDICINE AND SANITATION.

Messrs. Howard (*Chairman*), Hutchinson, Grissinger, Haymond, Hunter, Bender, Tutwiler, Downs, Brown, Miller, Hilleary, Lyttleton, McClintic (of Greenbrier), Lantz and Terrill.

ON GAME AND FISH.

Messrs. Hilleary (*Chairman*), Shiflet, Stathers, McClintic (of Kanawha), Howard, Flynn, Fout, Cullen, Downs, Deuley, Lyttleton, Lantz, Moore (of Pocahontas), Zimmerman and Hiner.

ON INSURANCE.

Messrs. Post (*Chairman*), Sarver, Tutwiler, McColloch, Dunfee, Biser, Ward, Lusk, Flynn, Davis (of Monongalia), Godfrey, Satterfield, Hall (of Wetzel), Beckwith and Baker.

ON RE-DISTRICTING.

Messrs. Moore (of Marshall), (*Chairman*), Stathers, Brown, Flynn, Lusk, Hilleary, McClintic (of Kanawha), Strother, Downs, Sanders, Miller, Lyttleton, Hall (of Wetzel), Hall (of Mingo) and Baker.

ON ENROLLED BILLS.

Messrs. Thompson (*Chairman*), Hilleary, Hugus, Wyatt and Taylor.

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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1921

REGULAR SESSION

MUNICIPAL CHARTERS

CHAPTER 1

(House Bill No. 450—Mr. Thompson.)

AN ACT to amend chapter one of the acts of the legislature, one thousand nine hundred and five, and re-enact sections twenty-eight, forty-three and forty-six, relating to the duties and powers of council, improvement of streets and alleys and repeal of inconsistent ordinances and acts for and within the city of Belington.

[Passed April 27, 1921. In effect ninety days from passage. Approved by the Governor May 3, 1921.]

General powers of council in regard to: public grounds, parks and public places; public libraries and reading rooms; protection of divine worship; acquiring lands for streets and alleys; width of sidewalks, streets, etc.; use of walks, highways, streets, etc.; planting and preservation of shade trees; license and sale of merchandise; spirituous liquors, tobacco, etc.; license tax from residents to operate an automobile; establishing and regulating market houses and sale of products; salutary conditions;

arrests and prohibition of certain acts; picture shows and public performances; construction and repair of buildings; fire prevention; police force and violation of city ordinances; public utilities such as water works, telephone and telegraph companies; sewerage system; fines and penalties; building or repairing sidewalks; expense of; assessment of taxable property; building restrictions; repair of streets and alleys; enforcement of ordinances, orders, rules, regulations and by-laws.

Be it enacted by the Legislature of West Virginia:

That the council of said city shall have the following general powers enumerated in sub-divisions of this section from one to eighty-seven, both inclusive, as follows:

To lay off, open, close, vacate or maintain public grounds,
2 parks, public places, name and re-name the same, to have con-
3 trol and supervision thereover, to protect the same from pun-
4 age or other injury by persons or property, to fix fines and pun-

5 ishments for any injury thereto in violation of any of the orders
6 of said council, and to maintain good order and prevent viola-
7 tions of the ordinances of said city therein or thereon.

8 To establish, maintain and regulate free public libraries and
9 reading rooms and to purchase books, papers, maps, manuscripts
10 and other proper things therefor, to receive donations and be-
11 quests of money or property for the same, in trust or otherwise,
12 and to pay the necessary expenses for establishing, maintaining
13 and regulating the same out of the funds for general purposes;
14 *provided*, such expenditures shall not exceed one hundred dol-
15 lars per annum, unless by a unanimous vote of all the members
16 of the council.

17 To protect divine worship within the limits of said city and to
18 fix fines and punishment for disturbance of any assemblage of
19 people, then and there, met for the worship of God, to prohibit
20 any interference with or disturbance of divine worship or an
21 assemblage of people met together for the worship of God by any
22 person or persons loitering about the premises or places where
23 such worship is being had or such assemblage is met, or from
24 loitering in the public streets or public places adjacent thereto in
25 such manner as to interrupt such worship.

26 To acquire either by purchase, condemnation or any other
27 modes provided by general law, ground within said city for such
28 streets and alleys as the council may deem proper; to locate,
29 lay off, vacate, close, open, alter, grade, straighten, widen or nar-
30 row, pave or re-pave, construct and keep in good repair, the roads,
31 streets, alleys, pavements, sidewalks, crosswalks, drains, viaducts
32 and gutters therein, and such bridges as may be owned or built
33 by the said city, for the use of the public or of any of the citi-
34 zens thereof, and to improve and light the same and to keep the
35 same clean and free from obstruction of every kind; *provided*,
36 the municipality shall not be liable for or responsible in damages
37 for injury to persons or property caused by or from a defect or
38 obstruction in or on the plat of ground between the gutter or curb
39 of any street and the paved or plank sidewalks extending there
40 along or between any such sidewalks and the porperty lying next
41 adjacent thereto, unless the municipality had actual notice of
42 such defect or obstruction prior to the time of the injury com-
43 plained of; and, *provided, further*, that where said city shall
44 be required to respond in damages by reason of injury to per-

45 sons or property occasioned by the failure of any abutting
46 owner to provide or keep in repair any sidewalk along such prop-
47 erty, after being notified by the council so to do, that such prop-
48 erty owner shall be liable to the city for any sum of money, costs
49 and council fees which it has been required to pay by reason
50 thereof.

51 To regulate the width of sidewalks and the streets and the
52 width and the care of the public grounds or grass plots abutting
53 thereon, and to order the sidewalks, footways, crossways, drains
54 and gutters to be curbed, paved or re-paved and kept in good
55 order, free and clean and to provide for the removal of snow and
56 ice therefrom, and for sprinkling the same by the owners or
57 occupants of the real property next adjacent thereto, and to pro-
58 vide and enforce punishments for obstructing, injuring or pre-
59 venting the free and proper use thereof, and to provide and
60 enforce fines and penalties for throwing therein or thereon any
61 paper, glass, rubbish, decaying substances or other things that
62 would make said streets, sidewalks, grass plots, crosswalks,
63 drains or gutters unsightly or unhealthy.

64 To regulate the use of the walks, highways, bridges, streets,
65 alleys and gutters and the rate of speed of travel thereon, and to
66 prevent and punish for fast riding or driving thereon of any
67 horse, bicycle, wheeled vehicles, wagon, steam or electric or trac-
68 tion engine, motor car or automobile, and to prevent injury to
69 such streets, alleys, roads and highways from overloaded or
70 improperly loaded vehicles, and from dragging logs or other mat-
71 ter thereon, and to regulate the speed of engines or trains or
72 street cars upon or across any such streets, alleys, highways,
73 bridges, public places or any other place where the council deems
74 the public safety requires such regulation.

75 To regulate the planting, trimming and preservation of shade
76 trees by persons and corporations, in streets, alleys, roads, pub-
77 lic grounds and places, and shall require the owner of adjacent
78 property to trim any shade tree or ornamental shrubbery or
79 other tree that in the opinion of the council is an obstruction
80 to the streets, alleys, or sidewalks or a menace to public safety.

81 The council shall have the right to require the owner or
82 occupier of any property in the city to keep his premises clean
83 and free from all matters that would endanger the health of the
84 city, and may require the removal of any waste paper or waste

85 material of any kind or character upon the private property
86 of any citizen or property owner that would cause the spread of
87 fire or when the council deems the same should be removed; and
88 may require the removal or straightening of any fence, wire,
89 railings or other material enclosing any lot, when, in the opinion
90 of the council, the same is dangerous or obstructs or encroaches
91 upon the streets, alleys or sidewalks; *provided*, that in all such
92 cases, if the owner or occupier of such property fails to do any
93 of the things enumerated in this section required by the council,
94 after notice by the council, the council may take such action as
95 may be necessary to perform such acts and the expenses thereof
96 shall be charged to the property owner and collected as taxes are
97 collected.

98 To regulate the making of division fences and party walls
99 by the owners of adjoining and adjacent premises and lots.

100 To regulate or require drainage by the owner or occupier of
101 any lot or other real estate, by proper drains, ditches, and sewers,
102 and to require the owner or occupier of any lot to fill the same, at
103 his own expense, so that water will not collect in a body thereon,
104 or so the same will not become a menace to public health.

105 To regulate or prohibit street carnivals, or street fairs, or
106 street parades, advertising exhibition, or other exhibitions
107 thereon, or the exhibition of goods, wares, merchandise, material
108 or artificial curiosities upon any street, sidewalk, alley or public
109 place of the said town.

110 To regulate or prohibit the ringing of bells, blowing of steam
111 whistles, or use of hand-organs or other instruments of any
112 annoying character, or other music of itinerant performers in
113 the streets, or public speaking and preaching in the streets,
114 roads, parks or public places of the municipality.

115 To license, regulate or prohibit auctioneering.

116 To license, regulate or prohibit the sale of goods, wares, mer-
117 chandise, drugs or medicine on the streets or other public
118 places.

119 To prevent the illegal sale, offering or exposing for sale, or
120 advertising of spirituous liquors, wine, porter, ale, beer or drinks
121 of a like nature.

122 To prevent the illegal sale of tobacco, cigars, snuff or cigar-
123 ettes, within said municipality, and to prevent the smoking, by
124 any person under twenty-one years of age, of any cigarette, in

125 any public building or upon any public grounds, street, alley,
126 sidewalk or public place within said city, and to fix fines and
127 punishments for violation thereof.

128 To regulate, control or prohibit runners for hotels, boarding
129 houses and eating houses, and to regulate draymen or persons
130 hauling or transporting for hire at and about the railroad depots
131 and stations and other public places and in an assemblage of
132 people within said city.

133 To regulate, assess and collect a license fee for the said city
134 for the doing of anything or business on which a state license is
135 required, subject to the exemption as provided in chapter thirty-
136 two of the code of West Virginia.

137 To provide, assess and collect a license tax from residents in
138 said city who own or operate or run an automobile therein, or
139 from any person, whether a resident of said city or not, who
140 shall run or operate an automobile for hire, or keep the same
141 for hire within said city, *provided*, that any person, not a resi-
142 dent of the city, who shall run or operate an automobile in said
143 city, not for hire, for a longer period than one week at any time,
144 shall be liable to pay the license tax assessed against resident
145 automobile owners.

146 To establish, when the council may deem proper, locate and
147 keep in repair, market places, market houses and regulate mar-
148 kets, prescribe the time for holding the same, to authorize the
149 seizure and destruction of any and all such foods and drink
150 products, as shall be found unwholesome, dangerous or offen-
151 sive, and without recourse against the municipality for its cost
152 or value.

153 To regulate the sale of food and drink products, milk, fresh
154 meats, fish and vegetables, and to provide penalties for the sale
155 of any such that is unwholesome or unfit for use.

156 To regulate and provide for the weighing of hay, coal and
157 other articles for sale in the markets, or to residents of said
158 city.

159 To require the merchants and other persons selling goods,
160 foods or materials that must be weighed, to keep correct scales;
161 to seize and destroy such as are found to be incorrect, and not
162 corrected after due and proper notice to the owner or person using
163 the same, without damage or expense to the municipality for the
164 value thereof.

- 165 To prevent injury or annoyance to the public or individuals
166 from anything dangerous, offensive or unwholesome.
- 167 To regulate the keeping, handling and transportation of ex-
168 plosives and dangerous combustibles within the municipality;
169 and to regulate or prohibit the use of fire crackers, sky rockets,
170 toy pistols, air rifles or guns, within the said municipality.
- 171 To regulate or prohibit the erection or maintenance in what
172 the council deems an improper locality within said city, any
173 garage, blacksmith shop, livery stable, barn, stable, cattle pen,
174 poultry house, pig pen, privy, bill board, sign board, gas or other
175 engine, or anything that would be a menace to persons or prop-
176 erty or public safety, or that would injure private property or
177 annoy citizens of said city.
- 178 To regulate or prohibit the use of walls or walks for signs; to
179 regulate or prevent the distribution or posting of any sign, bill
180 or other paper that, in the opinion of the council or mayor, is
181 indecent or immoral.
- 182 To require the removal or abatement of any building, business,
183 bill boards, sign, sign board, or other thing, which, in the opinion
184 of the council, is a nuisance.
- 185 To regulate or prohibit the distribution of hand bills, circu-
186 lars and other advertisements of like kind, on the streets, roads,
187 alleys and public places, or the placing of same in private yards,
188 buildings or other structures, without having first secured the
189 consent of the owner or occupier of such property.
- 190 To regulate or prohibit within the municipality or within one
191 mile of its corporate limits, the erection or maintenance of any
192 slaughter house, soap factory, glue factory, lamp black factory,
193 tannery, or other house, shop or factory of like kind or char-
194 acter.
- 195 To establish within said municipality public drinking foun-
196 tains and water troughs; and to regulate the time and place and
197 manner of bathing in pools, streams and public waters within the
198 police jurisdiction of said municipal corporation.
- 199 To prevent hogs, cattle, sheep, horses and other animals and
200 fowls of all kinds, from going at large in the municipality; and
201 to establish and maintain places for their detention, make regula-
202 tions respecting the same, appoint a pound master and define his
203 duties and provide for the sale of such property impounded.

204 To arrest, convict and punish any person for committing
205 adultery or fornication, or for any lewd or lascivious co-habita-
206 tion within said city, and for keeping an assignation house,
207 house of ill-fame, or for leasing or letting to any other per-
208 son any house or other building to be kept or used as such, or
209 for knowingly permitting any house, under the control or owned
210 by any person, to be used as an assignation house or house of
211 ill-fame; and to convict and punish for frequenting, entering or
212 loitering in any assignation house or house of ill-fame within said
213 municipality.

214 To arrest, convict and punish any person for importing, print-
215 ing, publishing, selling, giving away, exhibiting, or distributing
216 any book, picture or device, or other thing containing any
217 obscene picture or language, or making any indecent represen-
218 tation.

219 To restrain, convict and punish vagrants, mendicants, beg-
220 gars, tramps, common prostitutes, and their associates, and
221 drunken or disorderly persons within the municipality, and to
222 provide for their arrest and manner of punishment.

223 To prevent and prohibit the use of indecent or profane lan-
224 guage within the corporate limits, and to provide and fix pun-
225 ishment therefor.

226 To prevent and prohibit any tumult, riot, quarrel, angry con-
227 tention or abuse of any person, assault and assault and battery,
228 and to fix punishment therefor.

229 To prevent and prohibit trespass upon private property or the
230 doing of anything which would annoy the owner or occupier of
231 any premises, and to fix and provide fines and punishment there-
232 for.

233 To provide against danger or damages by fires, and to that
234 end, to require, when the council think necessary, an inspection
235 of all the properties within the said city, and to require the
236 owner or occupier of any property in which a defective or dan-
237 gerous chimney or flue is found. to immediately repair the
238 same, and to prevent the use thereof until repaired as required.

239 To prohibit and prevent intoxication or drunkenness and to
240 fix fines and penalties therefor.

241 To prohibit and punish for larceny where the amount stolen is
242 less than twenty dollars.

243 To prohibit, prevent and punish for anything against the
244 good morals and common decency, or that would tend to cor-
245 ruption, vice or crime.

246 To protect the public schools in said city, and to prohibit and
247 prevent any disturbance thereof in and about the buildings or
248 upon the grounds, and to prevent injury, destruction or deface-
249 ment of any school property or building.

250 To establish a board of health and invest it with the neces-
251 sary power to maintain its object, and to fix fines and penalties
252 for any violation of its lawful orders.

253 To establish quarantine, and to erect and maintain pest
254 houses and places of detention, and to make an enforce neces-
255 sary orders for controlling or preventing the spread of infec-
256 tious and contagious diseases, and for abating pestilence.

257 To prohibit the bringing into the corporate limits by railroads,
258 carriers, persons, or in any manner, persons who are paupers or
258-a persons who are afflicted with contagious diseases; to punish by
259 fine, any railroad company, carrier or corporation, by fine
260 or imprisonment, or both, or any person who shall bring into the
261 corporate limits any such pauper or person afflicted with con-
262 tagious disease, knowing or having reason to believe, at the time
263 that such person is a pauper or afflicted with such contagious
264 disease, and to collect and recover from any such railroad com-
265 pany, carrier, or other person, the expense of keeping and main-
266 taining such pauper or diseased person, until such person can be
267 lawfully removed from the corporate limits.

268 To authorize the taking up and providing for the mainten-
269 ance and safe keeping, and educating of (for such period as may
270 be deemed expedient) all children within said city who are desti-
271 tute of proper parental and other care.

272 To arrest, convict and punish any person for cruelly, unnee-
273 ssarily or needlessly beating, torturing, mutilating, killing, or
274 overloading, or overdriving, or wilfully depriving of necessary
275 sustenance, any horse or other domestic animals.

276 To regulate the hitching of horses within the corporate limits,
277 and the driving of cows and cattle through, upon and along the
278 streets and alleys of the said city.

279 To prohibit, prevent and punish the pollution of any stream
280 of water running into or through the said municipality; and to
281 prohibit and prevent the throwing into any such stream of any

282 trash, dirt, filth, offal, decayed substances or matters, or anything
283 that would make said water unhealthy or unfit for domestic use.

284 To prohibit, prevent and punish for any desecration of the
285 Sabbath day; prohibit the playing of any game, exhibiting any
286 show, theatre, picture show, and the keeping open of business
287 places, except hotels, eating houses, boarding houses, restaurants,
288 drug stores and places where ice cream or soft drinks are fur-
289 nished.

290 To restrain, prevent and punish fraudulent practices of any
291 kind or character within the municipality.

292 To regulate, control or prohibit any theatre, picture show or
293 carnival, which, in the opinion of the council, would corrupt the
294 morals of the community.

295 To regulate, control or prohibit the maintenance of any public
296 dance hall.

297 To arrest, convict and punish any person for gambling or keep-
298 ing any gaming table, commonly called "faro bank", or table and
299 chips used in playing such game; crap table, chips or dice used
300 in playing such game; or roulette or the wheel, chips or other
301 equipment used in playing such game; or keno table or table of
302 like kind or device used in playing the same; or table of like kind
303 under any denomination, whether the game or games be played
304 with cards, dice or otherwise on which anything is bet or wagered,
305 whether the same be played in any public place or private room
306 or residence; and may convict and punish any person who shall
307 be a partner or concerned in interest in the keeping of any such
308 gambling devices heretofore enumerated, or in any game played,
309 such as is prohibited hereby, or in keeping or maintaining any
310 gambling house or place of gambling for money or anything of
311 value; and shall have the right to destroy such gambling par-
312 aphernalia as may be found in use on any such premises; and
313 any officer armed with a warrant for the arrest of any person
314 engaged in any such unlawful game or for the search of any
315 room in which gambling is suspected, or for the seizure of any
316 gambling paraphernalia, shall have the right to break into any
317 building, other than a private dwelling house, without notice or
318 demand, and into a private dwelling or room, after demand and
319 refusal to open same, to execute any such warrant.

320 To restrain all felons and persons guilty of offenses against this
321 state or the United States, and deliver them over to the authori-

322 ties or court having jurisdiction of the offense whereof such per-
323 sons is accused.

324 To apprehend and punish any person who, without a state
325 license therefor, is guilty of carrying about his person, within
326 the municipality, any revolver or other pistol, dirk, bowie knife,
327 slung shot, razor, billy, metallic or other false knuckles, or any
328 other dangerous or deadly weapons of like kind and character, as
329 provided by chapter fifty-one of the acts of the legislature of one
330 thousand nine hundred and nine, and the punishment therefor,
331 whether for the first or other offenses, shall be that prescribed by
332 said chapter for any such person guilty under the misdemeanor
333 clause provided therein; *provided*, that the mayor acting as *ex*-
334 *officio* justice of the peace, may, after enforcing this ordinance,
335 hold such offender to answer to an indictment in the circuit court
336 of Barbour county for such offense, under the state law.

337 To regulate the erection, construction, alteration and repair of
338 dwelling houses, buildings, and other structures within the mu-
339 nicipality, issue permits therefor, and compel the numbering of
340 the same by the owners or the occupants thereof.

341 To regulate the hangings of doors, the construction of stair-
342 ways and elevators, and require fire escapes in theaters, churches,
343 school buildings, factories and other places deemed necessary by
344 the council.

345 To establish fire limits and to regulate the construction of
346 buildings, and designate materials to be used in the construction
347 of buildings within such limits.

348-349 To regulate the building of fire walls, fire places, chimneys,
350 boilers, smoke stacks, stove pipes, and the burning of waste paper,
351 trash or other waste matter, in the corporate limits.

352 To require any building that, in the opinion of the council, is
353 dangerous, to be repaired, altered or removed by the owners
354 thereof, or put in a safe condition, such as the council may ap-
355 prove, at the expense of such owners or occupier, and to provide
356 punishments for failure to comply with any order of the council
357 concerning same.

358 To regulate the height, construction and inspection of all new
359 buildings hereafter erected, the alteration and repair of any build-
360 ings now or hereafter erected, to require permits to be obtained
361 of the council therefor, and the submission of plans and specifi-
362 cations to the council for its approval; to regulate the limits

363 within which it shall be lawful to erect any steps, porticos, bay
364 windows, awnings, signs, columns, piers, or other projection or
365 structural ornaments of any kind for the houses or buildings on
366 any street or alley.

367 To provide for the prevention and extinguishment of fires, and
368 for this purpose, the council may equip and govern fire com-
369 panies, prescribe the powers and duties of such companies and
370 departments, and of the several officers thereof, or may authorize
371 volunteer fire companies, under such rules and regulations as the
372 council may prescribe, and impose on those who fail to obey any
373 lawful command of the officer in charge of any such company, or
374 volunteer company, any penalty which the council is authorized
375 to impose for violation of an ordinance, and to give authority
376 to any such fire officer to direct the pulling down or destruction of
377 any building, fence, wall or other thing, if such officer deem it
378 necessary, to prevent the spreading of any fire which is being ex-
379 tinguished under the direction of such officer, and without any
380 liability on the municipality for damages therefor.

381 To protect the persons and property within the corporate limits
382 and preserve the peace and good order therein, and for this
383 purpose, to appoint, when necessary, a police force and such other
384 officers as may be deemed necessary; and to provide a lock-up, jail
385 or other suitable place to confine persons sentenced to imprison-
386 ment for violation of the ordinances of said city; *provided, how-*
387 *ever,* that the jail in Barbour county may be used for that pur-
388 pose, if authorized by the county court of said county.

389 To require any person violating any of the ordinances of said
390 city, or any order for which a fine, imprisonment or both is im-
391 posed, to work upon the streets of said city in case of non-pay-
392 ment of said fine, until the same is paid by such labor, or in case
393 of imprisonment is imposed to work upon the streets of said city
394 during the term of such imprisonment in addition to the payment
395 of such fine, under such regulations as the council may pre-
396 scribe.

397 To prescribe the powers, define the duties of the officers ap-
398 pointed under the corporate authority, fix their terms of service
399 and compensation, if not otherwise prescribed by this chapter,
400 and to require and take from them bonds, when deemed necessary,
401 payable to the state of West Virginia, or the city of Belington,
402 with the sureties, and in such penalties as may be prescribed, con-

403 ditioned for the faithful discharge of their respective duties;
404 *provided*, that the compensation of any officer, elected or ap-
405 pointed, shall not be increased nor diminished during the time
406 for which he is elected or appointed.

407 To make regulations with respect to, and have supervision and
408 control over the erection, removal and re-location of all telephone,
409 telegraphs, electric light or other poles within said city, and the
410 extension of wires, lines or poles by any individuals or corpo-
411 rations.

412 To require the extension of any electric light wire, telephone
413 lines, gas line, water system, or other public service within said
414 corporate limits, to meet the needs of the inhabitants, when, in the
415 opinion of the council, such extension is necessary and justifiable.

416 To grant and regulate all franchises in, upon, over and under
417 the streets, alleys and public ways of said city, under such re-
418 strictions as shall be provided by ordinance and general law; but
419 no exclusive franchise shall be granted by said city council to
420 any individual or corporation; nor shall any franchise be granted
421 for a longer period than twenty years.

422 To acquire, erect or authorize or prohibit the erection of gas
423 works, electric light works or water works within the city limits;
424 to prevent injury to such works or the pollution of any gas or wa-
425 ter used or intended to be used by the public or by individuals;
426 and to do all things necessary to adequately supply said city and
427 the inhabitants thereof with pure, healthful and wholesome wa-
428 ter; and to require any company furnishing gas or electricity
429 for sale or distribution in said city, to furnish an adequate sup-
430 ply thereof; to require gas fixtures, electric light wires, telephone
431 wires and all apparatuses used in connection with any of these,
432 to be kept in repair and suitable for use, and free from danger,
433 so far as practicable; to use, generate, distribute, sell and control
434 electricity and gas for heat, light and power, and to furnish light
435 for the streets, highways, buildings, stores and other places in
436 and about said city.

437 To require any gas company or person furnishing gas for
438 said city or the inhabitants thereof, to put in standard meters for
439 the measurement thereof, and may appoint a competent person
440 to inspect the meters and remove the same if not standard and in
441 good order; to prevent injury to any gas works, electric light

442 works, water system or any gas meter or other meter within said
443 municipality.

444 The council shall have the right to require of any water
445 company or person furnishing water for the use of the inhabitants
446 of said city, for hire, compensation or reward, to obey any order
447 of the council with respect to keeping the reservoir or other
448 source from which said water is furnished, free from filth and in
449 good, clean condition, and may require said water company to
450 properly filter the water distributed for use, and may require
451 said company to put in such lines as may be necessary to pump
452 the said water into the reservoir or other receptacle therefor, with-
452-a out pumping the same into the main distributing lines, or in
453 any other way or manner effecting them; and may fix fines and
454 penalties for any failure on the part of any corporation, company
455 or other person distributing water, to obey any order of the council
456 or any authorized officer of the town, respecting same, or any
457 ordinance that may be enacted by the council relative thereto.

458 The council shall have the right to own, maintain, operate and
459 control any electric light or water plant within said city, and
460 to use, generate, distribute, sell and control electricity and gas
461 for heat, light and power, and to furnish light and water for the
462 streets, houses, buildings, stores, and other places in and about
463 said city, and for such electricity or water other than that fur-
464 nished for the municipality in lighting its streets or public places;
465 it may charge reasonable rates, but such rates in all cases shall
466 be uniform; and such electric light or water plant shall be under
467 the supervision and control of the council, and its wires, poles,
468 pipe line, reservoirs, distributing system and machinery shall be
469 kept in such repair so that as little danger as possible shall arise
470 therefrom, and so that same will furnish an adequate supply of
471 electricity and water to all persons in said city desiring to use
472 same.

473 The council shall have the right to provide a sewerage system
474 for said city, and may require the owner of any property abutting
475 upon any street or alley in which a sewer has been laid or placed,
476 to connect a sewer leading from his or her property or lot into
477 any public sewer which is located in such street or alley adjoining
478 same, and pay such fees for tapping, as the council shall pre-
479 scribe, and if the owner or occupier of said lot or property fails
479-a or refuses to do so, after having been given a reasonable notice,

480 the council may enter upon such lot and construct such sewers,
481 and may levy the actual cost thereof including fee fixed by coun-
482 cil for sewer tap against the lot upon which the same is built and
483 collect such costs from the owner of such lot upon which the
484 same is built and collect such costs from the owner of such lot
485 in the same manner as city or state taxes are collected; in addi-
486 tion thereto, the council may punish by fine, or fine and im-
487 prisonment, any person who permits any drainage from his resi-
488 dence or lot to enter upon any street or upon any property after
489 a sewer has been placed in a street or alley adjacent to his property
490 to which he could connect, after notice has been given to him by
491 the council to make such connection.

492 The council shall have the right to impose fines and penalties
493 for any interference with or destruction of the sewer system or
494 any part thereof in said city, or for the destruction of or dam-
495 age to any street, alley or sidewalk in said city, or any improper
496 use thereof; it shall have the right to regulate or prevent the use
497 of the sidewalk for bicycles, push carts, sleds, tricycles, roller
498 skates and other things of like character, and to fix fines and pen-
499 alties for violation of the ordinances respecting same.

500 To grant by ordinance or resolution permits for the temporary
501 use of such parts of its streets, roads, alleys and public places as
502 the council may deem proper and right to be used in the con-
503 struction, alteration or repair of buildings located thereon, or for
504 such other purposes as the council may deem proper and right,
505 and under such regulations and for such time as the council may
506 prescribe.

506-a The council may buy, lease and operate either within or with-
507 out the municipality, stone quarries, crushers and land for said
508 purposes or for the purpose of furnishing a supply of stone or
509 other material suitable for macadamizing or paving the streets,
510 sidewalks and alleys, and improving public property.

511 Whenever in the opinion of the council it is necessary that
512 any sidewalk be built or repaired, it shall first have a competent
513 engineer fix a grade line for such sidewalk and shall then, by
514 order of council, name the character of material out of which
515 same is to be built, and fix the width thereof, and put in such
516 curbing as the council may deem necessary, as well as make the
517 the necessary cuts or fills to conform to grade given, and shall
518 then give notice, in writing, to the owner or occupier of said lot,

519 if he be found, and if he be not found, by posting notice thereof
520 upon the said lot and at the front door of the court house of Bar-
521 bour county for at least ten days, requiring the construction of
522 the said sidewalk in accordance with the requirements of the
523 council, and upon the grade fixed by the said engineer, and if
524 such sidewalk be not built, altered or repaired within twenty
525 days after such notice is first given or posted, the council shall
526 proceed to put the same under its supervision and control, and
527 shall charge the expense thereof against the property along which
528 the same is being placed, altered or repaired, and shall cause an
529 itemized account of the same to be made up and delivered to such
530 property owner or occupier of such premises, if found, and if he
531 be not found, have the same recorded in the county clerk's office
532 of Barbour county, and the same shall constitute a lien upon the
533 said lot or property and shall be collected as other taxes are col-
534 lected; *provided*, nothing herein contained shall prevent the coun-
535 cil from requiring immediate repair of such sidewalks now or
536 hereafter constructed that may become dangerous, and after no-
537 tice to the property owner along which the same run, the council
538 may make such immediate repairs, if the property owner fails
539 to make same after such notice, and the expense thereof shall be
540 a lien in the manner aforesaid.

541 The council shall have the right when in its opinion it is neces-
542 sary or proper so to do to pave or otherwise improve by macadam,
543 tarvia or concrete any street or alley of the said city and to
544-545 charge one-half the cost thereof to the owner of the property on
546 each side of the said street or alley; but the grading and prepar-
547 ing shall be done by the city and paid for out of such funds
548 as the council may provide, but such improvement shall be done
549 and such assessment and charges made against the property own-
550 ers as provided by the general law of the state of West Virginia.

551 To provide for the annual assessment of the taxable property
552 in said city, including dogs kept in said city, and to provide a
553 revenue for the city for municipal purposes and appropriate such
554 revenue to its expenses; *provided*, nothing herein contained shall
555 require the council to keep in repair and maintain any bridge or
556 bridges within said corporation owned by the county of Barbour,
557 but the officers of said corporation in the preservation of law and
558 order shall have jurisdiction over any such bridges within said
559 corporation; and, *provided, further*, that the police regulations as

560 may be ordained by said city, and the right and power to enforce
561 the same shall extend one mile into the state of West Virginia
562 beyond the corporate limits of said city.

563 To create by ordinance such committees or boards, delegates
564 such authority thereto, as may be deemed necessary or advisable
565 by the council.

566 The council may, within any prescribed area, prohibit the erec-
567 tion on any street or in any square, of any building, or of any ad-
568 dition to any building more than ten feet high, unless the outer
569 walls thereof be made of brick and mortar or other fire proof ma-
570 terial. And may require the removal of any building or addition
571 which shall be hereafter erected contrary to this prohibition, at
572 the expense of the owner or owners thereof.

573 The council shall keep all roads, streets and alleys within its
574 limits passable and in good repair, except where such streets are
575 surrendered to the state or county for main highways, and may
576 provide the expenses therefor by a direct taxation, as provided
577 under this charter, or in any other manner authorized by law;
578 and the residents of the said city who are taxed therein for the
579 purpose of maintaining such streets and alleys shall be exempt
580 from the payment of any county road tax.

581 In the enforcement of the ordinances, orders, rules, regulations
582 and by-laws of the said city, no fine shall be imposed exceeding
583 one hundred dollars, and no person shall be imprisoned or com-
584 pelled to labor upon the streets of said city as aforesaid more
585 than thirty days, for any one offense, and in all cases where a
586 fine is imposed for an amount exceeding ten dollars or a person be
587 imprisoned or compelled to labor as aforesaid for a greater term
588 than ten days, an appeal may be taken from such decision upon
589 the same terms and conditions that appeals are taken from a
590 judgment of a justice of this state; and in no case shall a fine of
591 less than ten dollars be imposed where the ordinance prescribes a
592 fine of as much as ten dollars or more, if the defendant requests
593 that such fine be made at least ten dollars for the purpose of ap-
594 peal.

595 The council shall have the right to enforce the attendance of
596 its members at all regular meetings and at all special meetings
597 of which such members have notice, and may cause the arrest and
598 punishment, by fine or fine and imprisonment, of any such mem-
599 ber who refuses to attend and take part in its proceedings.

600 It shall be the express duty of the council to present charges
 601 against any of its members, or any officer of the city, who fails to
 602 perform, or who does not promptly and diligently perform any
 603 duty prescribed by this act, or by any ordinance or resolution of
 604 the council, and upon hearing thereof before the council, after
 605 notice to such officer, he shall be removed from office by the
 606 council, if the charges be found correct.

CHAPTER 2

(Senate Bill No. 169—Mr. Sanders.)

AN ACT to amend and re-enact chapter nine of the acts of one thousand nine hundred and fifteen, relating to the charter of the city of Bluefield.

[Passed April 1, 1921. In effect from passage. Approved by the Governor April 6, 1921.]

<p>Sec.</p> <p>1. The City of Bluefield.</p> <p>2. Corporate limits.</p> <p>3. Wards.</p> <p>4. Districts.</p> <p>5. Who entitled to vote; sixty days residence.</p> <p>6. Elections.</p> <p>7. Governing body.</p> <p>8. Meetings of board of directors.</p> <p>9. Vacancies.</p> <p>10. Salaries and compensation.</p> <p>11. Restrictions on officers.</p> <p>12. Legislative procedure.</p> <p>13. Employees.</p> <p>14. City manager's powers and duties.</p> <p>15. Appointments and bonds.</p> <p>16. Qualifications of officers.</p> <p>17. Members of board required to give bond.</p> <p>18. Form of ordinance.</p> <p>19. Municipal primary; nominating petitions; official primary ballot; names of candidates; proceedings of election.</p> <p>20. Removal of officers; special recall election; official ballot.</p> <p>21. Initiative and referendum; referendum features.</p> <p>22. Stay of ordinance.</p> <p>23. Only legal voters can petition.</p> <p>24. Control of streets.</p> <p>25. Franchise restrictions.</p> <p>26. Further franchise provisions.</p> <p>27. Further franchise provisions.</p> <p>28. Private switch grants.</p> <p>29. For public inspection.</p>	<p>Sec.</p> <p>30-36. General ordinance powers.</p> <p>37-45. Regulations and licenses.</p> <p>46-48. Public extension powers.</p> <p>49. City planning commission.</p> <p>50-51. Paving.</p> <p>52-53. Sewers.</p> <p>54. Sidewalks.</p> <p>55. Ornamental street lighting.</p> <p>56. Building regulations.</p> <p>57. May establish a system of regulations regulating flues, etc.</p> <p>58. Power to enact laws.</p> <p>59. Judge of police court; salary; duties.</p> <p>60. Jurisdiction of police court.</p> <p>61. Recovery and enforcement of fines.</p> <p>62. Violation of a law of the state, city's jurisdiction.</p> <p>63. Sessions of court.</p> <p>64. Enforcement of orders and judgments.</p> <p>65. Docket and other books of record.</p> <p>66. Judgment for cost of prosecution.</p> <p>67. Appeals in certain cases.</p> <p>68. Hospitals, parks, libraries, etc.</p> <p>69. City prison.</p> <p>70. Annual audits.</p> <p>71-79. Taxation and finance.</p> <p>80. Deposits of city funds.</p> <p>81-82. Bonds.</p> <p>83. Investigations.</p> <p>84-87. Bribery.</p> <p>88-93. Miscellaneous.</p> <p>94. Civil service provisions.</p> <p>95-98. First election and present officers.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter nine of the acts of the legislature of West Virginia, session of one thousand nine hundred and fifteen granting a charter

to the city of Bluefield and subsequent acts amendatory thereof, be and the same are hereby amended and re-enacted to read as follows:

The City of Bluefield.

Section 1. The inhabitants of the portion of the county of
2 Mercer, in the state of West Virginia, within the limits of the
3 city of Bluefield, as hereinafter set forth, shall be and continue a
4 body politic and corporate, by the name and style of "The City
5 of Bluefield," and as such, and by that name, shall have perpet-
6 ual succession, and may contract and be contracted with, sue
7 and be sued, plead or be impleaded, answer and be answered unto,
8 and may purchase, acquire by condemnation proceedings for pub-
9 lic use, take, receive, hold and use goods and chattels, lands and
10 tenements and choses in action, or any interest, right or estate
11 therein, either for the proper use of said city, or in trust for the
12 benefit of any person or association therein; and the same may
13 grant, sell, convey, transfer and assign, let, pledge, mortgage.
14 charge and encumber, in any case and in any manner in which
15 it would be lawful for private individuals so to do, except
16 where its powers may be limited by law; and may have and use
17 a common seal, and alter and renew the same at pleasure; and
18 generally shall have all the rights, franchises, capacities and
19 powers appertaining to municipal corporations in this state.

20 All real and personal estates, and all funds, rights, titles, taxes,
21 credits and claims, and rights of action owned by the city of Blue-
22 field immediately before this charter takes effect or which are
23 then held in trust or have been appropriated for the use or
24 benefit of said city or of the inhabitants thereof, shall be and
25 the same are hereby transferred to and vested in the city of
26 Bluefield under this charter.

27 All lawful contracts with and all lawful rights, claims and
28 demands against the city of Bluefield, at the time this charter
29 takes effect, shall be good in law against the said city under this
30 charter.

Corporate Limits.

Sec. 2. The corporate territorial limits of the city of Blue-
2 field shall comprise all that district of country situate in the
3 county of Mercer and state of West Virginia, to-wit:

4 Beginning at the intersection of the state line between Vir-
5 ginia and West Virginia with the center of a street between
6 Bluefield, West Virginia, and Graham, Virginia, known as
7 "Bluefield avenue," east of the state line and "Graham avenue"
8 west of the state line; thence with the state line north 49 degrees
9 34 minutes west 3058 feet to a stone corner 740 feet north of
10 Stony ridge; thence north 66 degrees 35 minutes east 21817
11 feet to a stone corner on the north side of Stony ridge; thence
12 south 23 degrees 25 minutes east, crossing Stony ridge at 454
13 feet and running along the west side of the county road over-
14 head bridge 3816 feet to a point on top of Valley ridge; thence
15 following the dividing line of Valley ridge in a southwestern
16 direction 5768.5 feet to a point on top of said ridge, dividing
17 the property of R. W. Tuggle and Marinda Wilson; thence along
18 the said dividing line in a southeastern direction 6919.5 feet
19 to a black oak at the Cumberland Gap turnpike; thence in a
20 northwesterly direction with said line dividing Virginia from
21 West Virginia to the beginning.

Wards.

Sec. 3. The said city shall be divided into eight wards, the
2 boundaries of which shall be as follows:

3 *Ward No. 1.*—On the north by the Norfolk and Western Rail-
4 way Company's right of way; on the east by Thomas street; on
5 the south by the summit of Valley ridge, running with a line
6 of the Bluefield Water Works and Improvement Company's
7 lands; and on the west by the line dividing the states of Virginia
8 and West Virginia.

9 *Ward No. 2.*—On the north by the Norfolk & Western Rail-
10 way Company's right of way; on the east by Higginbotham
11 avenue; on the south by the summit of Valley ridge, on the line
12 mentioned above; and on the west by Thomas street.

13 *Ward No. 3.*—On the north by the Norfolk and Western Rail-
14 way Company's right of way; on the east by the center line of
15 Monroe street to its intersection with the south line of the alley
16 in the rear of section number twenty-six; thence a straight
17 line south 23 degrees 25 minutes east to the summit of Valley
18 ridge; on the south by the summit of Valley ridge and the lines
19 of the Bluefield Water Works and Improvement Company; and
20 on the west by Higginbotham avenue.

21 *Ward No. 4.*—On the north by the south lines of wards num-
22 bers one and two; on the east by Bland street; on the south and
23 west by the corporate limits of the said city of Bluefield.

24 *Ward No. 5.*—On the south by the summit of Valley ridge to
25 a point south 23 degrees 25 minutes east from the intersection
26 of the center line of Monroe street with the south line of the alley
27 in the rear of section twenty-six, said line being a part of the
28 northern boundary line of ward number eight; on the west by
29 ward number three, and crossing the Norfolk and Western rail-
30 way to Henry street; thence along Henry, Sussex, and Warren
31 streets to the head of Warren street; thence a straight line to
32 the northern boundary of said city; and on the north and east
33 by the corporate limits of said city.

34 *Ward No. 6.*—On the south by the Norfolk and Western Rail-
35 way Company's right of way; on the east by the lines of ward
36 number five; on the north by the corporate line to a point on a
37 line of Beasley street; on the west by a straight line running
38 from the said corporate line to the head of Beasley street; thence
39 with Beasley street to Marshall street; thence with Marshall
40 street to Reese street; thence with Reese street to the Norfolk
41 and Western Railway Company's right of way.

42 *Ward No. 7.*—On the north and west by the corporate lines of
43 said city; on the south by the Norfolk and Western Railway
44 Company's right of way; on the east by the lines of ward num-
45 ber six.

46 *Ward No. 8.*—On the north by the south lines of wards num-
47 ber three and five; on the west by Bland street; and on the south
48 and east by the corporate lines of said city of Bluefield.

49 The board of directors of said city shall, from time to time,
50 create and establish voting precincts in said several wards so that
51 for every three hundred voters a voting precinct shall be created,
52 and said board of directors shall designate the territorial limits
53 and boundaries of such voting precincts as may be created, all of
54 which may be done by ordinance or resolution unless additional
55 precincts are created before this act takes effect, but no new pre-
56 cinct shall be established or the boundary line of any precinct
57 changed within thirty days of any election. The voting pre-
58 cincts of said city shall be established within the ward divisions.

Districts.

Sec. 4. The city of Bluefield shall be divided into five districts as follows: District number one shall include all of that section of the city now known as ward number four as herein set forth; district number two shall include all of that section of the city now known and designated as ward number eight as herein defined; district number three shall include and consist of wards numbers one and two as herein defined; district number four shall include and consist of all that section of the city, bounded on the north by the Norfolk and Western railway, on the east by the corporate limits, on the south by district number two, and on the west by Federal street; district number five shall include and consist of that section of the city lying north of the Norfolk and Western railway line and extending to the corporate limits on the west, north and east.

Sec. 5. Every person qualified by law to vote for members of the legislature of the state, who shall have been a resident of said city for at least sixty days preceding the election, shall be entitled to vote at elections for corporate authorities and on questions authorized by law to be determined by popular vote.

Elections.

Sec. 6. The first election for a board of directors under this charter shall be held on the first Tuesday in July, one thousand nine hundred and twenty-one, provided this charter is approved by the voters as hereinafter set out, and every regular city election of a board of directors shall be held every four years thereafter, on the first Tuesday in July, unless the first Tuesday falls on the fourth of July, when it shall be held on the day following. 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 for a board of directors shall be held as provided by chapter three of the code of West Virginia insofar as the same is applicable and in such manner as may be ordained by the board of directors not inconsistent with the general election laws of this state. All other elections or votes on any question by the qualified voters of

18 said city, shall be held or taken at such places under the superin-
19 tendency of such person and subject to such regulations as are
20 consistent with the laws of the state and ordained by the board of
21 directors. The board of directors shall by ordinance, provide for
22 such regulations for the registration of voters as may be rendered
23 necessary by state law.

Governing Body.

Sec. 7. Said city shall have a board of directors of five mem-
2 bers. All directors shall serve for a term of four years and until
3 their successors are elected and have qualified, unless sooner re-
4 moved from office as hereinafter provided. They shall be resi-
5 dents of the city and qualified voters therein. No one elected a
6 member of such board of directors shall be eligible to hold office
7 as such member, who shall be interested, directly or indirectly,
8 in the profits or emoluments of any contract, job, work or service for
9-10 the city. If any such person shall serve or attempt to continue to
11 serve as a member of such board of directors who is not eligible for
12 such membership, he shall be guilty of a felony and upon con-
13 viction thereof, be confined in the penitentiary of this state not
14 less than one nor more than five years. The board of directors
15 shall appoint, within ten days after their election, one of their
16 number as their chairman or presiding officer, who shall be known
17 officially as mayor of the city and recognized as such for cere-
18 monial purposes and for the purpose of being served with civil
19 processes against the city, and for the performance of all duties
20 imposed upon him by this charter. A majority vote of all the
21 members of the board of directors elected shall be necessary for
22 the election of such chairman. The mayor shall hold his office as
23 such at the pleasure of the board of directors.

Meetings of Board of Directors

Sec. 8. The first meeting of such board of directors shall be
2 held on the first Tuesday of August next succeeding their election.
3 or as soon thereafter as practicable, or as soon as a quorum of
4 members shall be in attendance thereafter, in the room or chamber
5 in the city hall in said city, or, at such other public place in
6 said city as the majority of such members shall select, the resi-
7 due of such members having first received reasonable notice of the

8 time and place of the meeting, and the same publicly announced.
9 Subsequent meetings shall be held at such place in said city
10 hall or elsewhere in said city, and (commencing at such hour
11 as the board of directors shall from time to time determine), on
12 Tuesday of each week, unless a legal holiday shall occur on
13 that day, in which event the meeting shall be held on the suc-
14 ceeding Wednesday. The board of directors may hold special
15 meetings at the place selected for their regular meetings, com-
16 mencing at such hour as they shall determine. Special meetings
17 of the board of directors may be called by the mayor, or any
18 three members thereof. All meetings of the board of directors
19 shall be open to the public.

Vacancies.

Sec. 9. A majority of the board of directors elected shall
2 have authority at any meeting of the directors to appoint one
3 of their number to serve *pro tempore* as chairman or mayor
4 in the event of the absence from the city, or such meeting, or
5 disability of the regular mayor. Vacancies in the board of di-
6 rectors shall be filled by a majority of the remaining members
7 for the unexpired term but any vacancy arising from a recall
8 election shall be filled in the manner provided in such case. In
9 the event of the death or resignation of the regular mayor the
10 vacancy in the office of mayor for the unexpired term shall be
11 filled by the board of directors.

Salaries and Compensation.

Sec. 10. Directors shall be paid five dollars each for every
2 regular meeting they attend, and the mayor shall be paid six
3 dollars for like attendance, but no compensation shall be al-
4 lowed for special meetings, nor for any committee meeting of
5 the board of directors.

6 No extra compensation shall be granted or allowed to any
7 member of the board of directors, agent or servant of the city,
8 or contractor therewith after the services shall have been ren-
9 dered or the contract made; nor shall any payment be made of
10 any claim or part thereof, created against the city, under any
11 agreement or contract made without express authority of law;
12 and all such unauthorized agreements shall be null and void. Nor

13 shall the salary or compensation of any member of the board of
14 directors be increased or diminished during his term of office.
15 No member of the board of directors shall receive any addi-
16 tional emolument, allowance or perquisite on any account, save
17 the compensation hereinbefore in this section provided.

Restrictions on Officers.

Sec. 11. No person holding a lucrative office under this
2 state, the United States, or any foreign government; no member
3 of congress; no person who is a sheriff, justice of the peace, con-
4 stable, or clerk of any court of record shall be eligible to a seat
5 on the board of directors. No person who has been, or hereafter
6 shall be convicted of bribery, perjury or other infamous crime
7 shall be eligible to a seat on the board of directors. No person
8 who may have collected or been entrusted with public money,
9 whether of a state, county, township, district or any municipal
10 corporation, shall be eligible to the board of directors, or to any
11 office of honor, trust or profit in the city, until he shall have duly
12 accounted for and paid over such money, according to law.

Legislative Procedure.

Sec. 12. The board of directors shall be judge of the election
2 and qualifications of its members, subject to the provisions of
3 section six of this chapter. A majority of all members elected
4 shall constitute a quorum to do business, and the affirmative votes
5 of a majority of all members elected shall be required for the
6 adoption of any ordinance or resolution. Every ordinance or
7 resolution passed by the board of directors shall be signed by
8 the mayor or mayor *pro tempore* and filed with the clerk within
9 two days and by him recorded.

Employees.

Sec. 13. The board of directors shall employ the following
2 named officers of the city, to-wit: A city manager, who shall
3 be the administrative head of the municipal government and who
4 shall be responsible for the efficient administration of all de-
5 partments; a clerk, who shall be known as city clerk, who shall
6 keep all records of the meetings of the city board of directors,
7 and perform such other duties as may be required by this charter

8 or the board of directors; a city solicitor; a city treasurer, who
9 shall perform such duties as are prescribed in this charter or
10 as the city board of directors by ordinance shall prescribe; a
11 judge of police court, and such commissioners of muni-
12 cipal loans and bond issues as may be required by law
13 of the state or city ordinance. All employees of the board of
14 directors shall hold office at the pleasure of the board of direc-
15 tors and receive such compensation therefor as the board of di-
16 rectors may determine.

City Manager's Powers and Duties.

Sec. 14. The duties and powers of the city manager shall be:

- 2 (a) To see that the laws and ordinances are enforced;
- 3 (b) To appoint all officers of the city, except members of the
4 city board of directors and the officers of such city board
5 of directors is hereby authorized to appoint, and to employ, or
6 cause to be employed, all employees of the city, the officers by
7 him appointed and such employees he shall appoint or cause
8 to be appointed, to continue in their offices or employment during
9 his pleasure or that of his successor as such city manager, but all
10 appointments or employments shall be upon merit and fitness
11 alone;
- 12 (c) To exercise supervision and control over all departments
13 and divisions created herein or that hereafter may be created
14 by the board of directors, except the board of directors and other
15 officers by it appointed;
- 16 (d) To attend all meetings of the board of directors with
17 the right to take part in discussions, but having no vote;
- 18 (e) To recommend to the board of directors for adoption such
19 measures as he may deem necessary or expedient;
- 20 (f) To keep the board of directors fully advised as to the
21 financial condition and needs of the city.
- 22 (g) To supervise the conduct and performance of their du-
23 ties by other officers and employees of the city, except the mem-
24 bers of the city board of directors, reporting to such board of
25 directors any failure of performance of duty by any of the other
26 appointees of such board of directors, and enforcing the proper
27 performance of their duties by the officers appointed by him and
28 by the city employees, to the end that the city's business shall be
29 efficiently and economically transacted; and

30 (h) To perform such other duties as may be prescribed by
31 this charter or be required of him by ordinance or resolution of
32 the board of directors. The city manager shall devote his whole
33 working time to the performance of the duties of his office, and
34 while occupying such office he is not to be engaged, directly or
35 indirectly, or be interested, in any other business than the per-
36 formance of his duties concerning the affairs of the city of Blue-
37 field.

Appointments and Bonds.

Sec. 15. The city manager shall have authority to provide
2 for the appointment of such officers, the appointments of whom
3 are not vested in the board of directors, as shall be necessary or
4 proper to carry into full effect any authority, power, capacity
5 or jurisdiction which is or shall be vested in the city of Blue-
6 field, or in the board of directors thereof, or in such city man-
7 ager; to grant, in writing, to the officers so appointed the powers
8 necessary or proper for the purposes above mentioned; to define
9 their duties in writing; to allow them reasonable compensation
10 (said compensation to be approved by the board of directors),
11 and to require and take of all or any of them such bonds, obli-
12 gations or other writings as he shall deem necessary or proper to
13 insure the proper performance of their several duties.

14 All bonds, obligations or other writings taken in pursuance of
15 this section, as well as all other bonds given to the city of Blue-
16 field, shall be made payable to such city, and the respective persons
17 or corporations, their heirs, executors, administrators and suc-
18 cessors bound thereby, shall be subject to the same proceedings on
19 the said bonds, obligations or other writings for enforcing the
20 conditions and terms thereof, by motion or otherwise, before any
21 court of record whose sessions are or shall be held in said Mer-
22 cer county, that collectors of the county levies and their securi-
23 ties are or shall be subject to on their bonds for the enforcing
24 of the payment of such levies.

Qualifications of Officers.

Sec. 16. Every city officer, before he enters upon the duties
2 of his office, shall make, before some one authorized by law to
3 administer oaths, and file with the city clerk (or in the case
4 of the first one of the board of directors elected under this charter

5 with the city auditor), an oath or affirmation to support the
6 constitution of the United States, and of the state of West Vir-
7 ginia, and to perform faithfully, honestly and impartially the
8 duties of his office, to the best of his skill and judgment. No
9 person, except citizens of said city shall be elected or appointed
10 to any municipal office therein, except the city manager, who
11 may be a non-resident of the city at the time of his appointment.

Sec. 17. Each member of the board of directors shall give a
2 good and sufficient bond, payable to the city, in the sum of one
3 thousand dollars, conditioned for the faithful performance of
4 his duties and with a corporate surety authorized to do business
5 in the state of West Virginia, or with such other surety or
6 sureties as may be approved by a judge of the circuit court of
7 Mercer county, and such bonds shall be filed with the clerk of
8 said court, after being approved as to form and security by such
9 judge. Such officers and employees of the city as the board of
10 directors may determine by ordinance, shall, respectively, fur-
11 nish and file, after approval thereof by the board of directors,
12 as to form and security, their bonds with the said clerk of the
13 city in such penalties, respectively, and with such conditions as
14 are fixed by such ordinance, with such corporate or other surety
15 or securities hereinbefore mentioned, payable to the city. The
16 furnishing of such bond shall be a necessary part of the qualifi-
17 cation of such officers and employees. The bonds of all appoint-
18 ive officers required to give bond shall also be approved, as to
19 form, by the city solicitor. All premiums payable to surety
20 companies shall be paid by the city. No officer or employee of
21 the city of whom a bond is required, shall enter into the discharge
22 of his official duties or of the duties which he is employed to
23 discharge, until his bond has been approved and duly filed.

Form of Representation.

Sec. 18. The membership of the city board of directors shall
2 be apportioned among the districts of the city to the extent of
3 one member from each of the five districts. All members of
4 the board of directors shall be nominated and elected at large,
5 but shall be selected from their districts respectively. The fill-
6 ing of any vacancy shall take into account the district of the
7 member whose place has been vacated, and his successor must
8 reside in such district. Removal from a district shall vacate the

9 seat of a member of the board of directors residing in such
10 district at the time of his election, and in all cases the removal
11 of a member of the board of directors from the city shall cause
12 the seat of the removing member to become vacant at once.

Municipal Primary.

Sec. 19. Candidates to be voted for at all general municipal
2 elections at which members of the board of directors are to
3 be elected under the provisions of this charter (but not at
4 special recall elections), shall be nominated by a primary elec-
5 tion, and no other names shall be printed upon the ballots used
6 at the general election except those selected in the manner here-
7 after prescribed. The primary election for such nominations
8 shall be held on the second Tuesday of June preceding the gen-
9 eral municipal election. The judges and clerks of any primary
10 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 execu-
16 tive committee or county chairmen of the dominant political
17 parties shall be performed by the city executive committees or
18 city chairmen of such dominant political parties, and except that
19 such election officers shall be appointed by the board of directors
20 at least ten days before any such election, and except further that
21 the duties to be performed by the clerks of the circuit or county
22 court shall be performed by the city clerk. The council of
23 said city, as constituted just before this charter takes effect.
24 shall appoint the judges and clerks for the first primary and
25 general election to be held hereunder, as provided in this section.

26

Nominating Petitions.

27 The name of any person desiring to become a candidate for
28 board of directors shall be printed upon the primary ballots,
29 if ten days prior to said primary election there be filed with
30 the city clerk a petition requesting such privilege, signed by at
31 least twenty-five and not more than fifty qualified voters of his
32 district. Each petition shall be verified by the affidavit of one

33 or more credible persons as to the qualifications and residence
34 of each of the persons so signing the said petition. Said peti-
35 tion shall be in form or effect as follows:

36 The undersigned, duly qualified electors of the city of Bluefield
37 and residing at the places set opposite our respective names
38 hereto, do hereby request that the name of (name of candi-
39 date) be placed on the ballots as a candidate for nomination for
40 (name of office) at the primary election to be held in such city
41 on the second Tuesday in June, 19.... We further state that
42 we know him to be a qualified elector of said city and a man
43 of good moral character, and qualified, in our judgment, for
44 the duties of such office.

45 Names of qualified electors..... Number.....Street.

46 Any person whose name has been submitted for candidacy by
47 any such petition shall file his acceptance of such candidacy
48 with the city clerk not later than ten days before the day of
49 the primary election, and in the absence of such acceptance the
50 name of the candidate shall not appear on the ballots. Imme-
51 diately upon the expiration of the time of filing the petitions
52 for and acceptance of the candidates, the city clerk shall cause
53 to be published in all the daily newspapers of the city once, in
54 proper form, the names of the persons as they are to appear
55 upon the primary ballots; and the said clerk shall thereupon
56 cause the primary ballots to be printed, authenticated with a
57 *fac-simile* of his signature. No candidate shall circulate his
58 own petition for nomination, and the name of any such candi-
59 date circulating his own name for nomination shall be omitted
60 from the primary ballot.

61 The ballots shall be printed upon plain, substantial white
62 paper, without party mark or designation, and shall contain the
63 names of the candidates in alphabetical order in their respective
64 districts. The ballots shall be substantially in the following
65 form or to the following effect, to-wit:

66 *Official Primary Ballot.*

67 Candidates for Nomination for Board of Directors of the
68 city of Bluefield at the Primary Election.

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

71 For Member of the Board of Directors.

72 (Vote for one in each district.)

73 Names of Candidates.

74 Official ballot, attest:

75 *Fac-simile* of the signature.....City Clerk.

76 *Proceedings of Election.*

77 Having caused said ballot to be printed the said city clerk
 78 shall cause to be delivered at each polling place a number of
 79 said ballots equal to twice the number of votes cast in such polling
 80 precinct at the last general municipal election. The persons who
 81 are qualified to vote at the general election shall be qualified to vote
 82 at such primary election, and challenges can be made by not more
 83 than two persons, to be appointed at the time of opening the polls
 84 by the judges of election ; and the law applicable to challenges at a
 85 general municipal election shall be applicable to challenges made
 86 at such primary election. The judges of election in each precinct
 87 shall, immediately upon the closing of the polls, count the ballots
 88 and ascertain the number of votes cast in their precinct for each of
 89 the candidates, and make return thereof on proper blanks, prop-
 90 erly sealed, to the city clerk within six hours of the closing of
 91 the polls, and post duplicate return blanks on the outside of the
 92 voting place. On the day following the said primary election the
 93 said city clerk shall canvass said returns so received from the poll-
 94 ing precincts, and shall make and publish in all the newspapers of
 95 said city, at least once, the result thereof. Said canvass by the city
 96 clerk shall be publicly made. The two candidates receiving the
 97 highest number of votes for board of directors from each district,
 98 shall be the candidates and the only candidates whose names shall
 99 be placed upon the ballots at the next ensuing general municipal
 100 election. In the event of the death of or resignation of a nomi-
 101 nee before the election, the name of the candidate receiving the
 102 next highest number of votes at the primary, in his district, if
 103 such nominee was nominated in a district, shall be placed on the
 104 ticket in his stead.

105 When more than two persons shall have an equal number of
 106 votes for the same nomination and more than the other candi-
 107 dates, so that there is no choice at the primary, the city clerk
 108 shall determine by lot the two names of those voted on at the
 109 primary, and tied as aforesaid, to be placed on the ballot for the
 110 next ensuing regular election, and whenever in any other case no
 111 choice of candidate is made at a primary by reason of a tie vote,

112 such clerk shall also determine by lot who of those so tied shall
113 have his name placed on the ballots for the next ensuing regular
114 election.

115 The ballot at such general municipal election shall be in the
116 same general form as for such primary election, so far as prac-
117 ticable.

118 The necessary and legitimate expense of the holding of any
119 such primary, as well as of any regular or special municipal elec-
120 tion in said city for ballot, stationery, forms, ballot boxes, booths.
121 voting places, judges and clerks and notices of the election shall
122 be paid by the city. At every such primary election and at every
123 other municipal election in said city, regular or special, the polls
124 shall open and close as provided by state law.

125 In so far as the first primary election under this charter is
126 concerned, the duties, by this section imposed upon the city
127 clerk, shall be performed by the recorder of the city in office when
128 this act takes effect, and the words "city clerk" as hereinbefore
129 used in this section, shall be construed as meaning such recorder
130 in respect of such first primary.

Removal of Officers.

Sec. 20. The city board of directors may be removed from
2 office by the electors qualified to vote for their successors. The
3 procedure to effect the removal shall be as follows:

4 A petition signed by electors entitled to vote for such suc-
5 cessors equal in number to at least twenty per centum of the
6 entire vote cast at the last preceding general municipal election,
7 demanding an election of a successor or successors of the per-
8 son or persons sought to be removed, shall be filed with the
9 city clerk, which petition shall contain a general statement of
10 the grounds for which the removal is sought. The signatures
11 of the petition need not all be on one paper, but each signer
12 shall add to his signature his place of residence, giving the
13 street and number. One of the signers of each of such papers
14 shall make oath before an officer competent to administer oaths,
15 that the statements therein made are true as he believes, and
16 that each signature on the paper is the genuine signature of
17 the person whose signature it purports to be. Within ten days
18 from the date of filing such petition, the city clerk shall ex-

19 amine and ascertain whether or not said petition is signed by
20 the requisite number of qualified electors, and, if necessary, the
21 board of directors shall allow him extra help for that purpose,
22 and he shall attach to said petition his certificate, showing the
23 result of said examination. If, by the clerk's certificate, the
24 petition is shown to be insufficient, it may be amended within
25 ten days from the date of said certificate. The clerk shall,
26 within ten days after such amendment, make like examination
27 of the amended petition, and, if his certificate shall show the
28 same to be insufficient, it shall be returned to the person filing
29 the same; without prejudice, however, to the filing of a new
30 petition to the same effect. If the petition shall be deemed
31 sufficient by him, the clerk shall submit the same to the city
32 board of directors without delay. If the petition shall be found
33 by it to be sufficient, the city board of directors shall order and
34 fix a date for holding said election of such a successor or suc-
35 cessors, not less than thirty days nor more than forty days
36 from the date of the clerk's certificate to the city board of di-
37 rectors that a sufficient petition is filed.

38

Special Recall Election.

39 The city board of directors shall make or cause to be made,
40 publication of notice and all arrangements for holding such
41 election, and the same shall be conducted, returned and the re-
42 sult thereof declared in all respects as are other city elections.
43 Nominations of candidates to be voted on at such election shall
44 be made without the intervention of a primary election, by filing
45 with the city clerk at least ten days prior to said special election,
46 a statement of candidacy accompanied by a petition signed
47 by electors entitled to vote at said special election, equal in
48 number to at least ten per centum of the entire vote cast in
49 the district at the last preceding general municipal election,
50 for which said candidate is to be elected, which said statement
51 of candidacy and petition shall be substantially in the form set
52 out in section eighteen of this act, so far as the same is ap-
53 plicable, substituting the word "special" for the word "pri-
54 mary" in such statement and petition and stating therein that
55 such person is a candidate for election instead of nomination, and
56 making such other necessary changes therein to adapt the same
57 to the case of such special recall election. But the person sought

58 to be removed shall have his name placed on the ballots for
59 use at such election, as a candidate to succeed himself, without
60 nomination, unless he requests the city clerk otherwise in writing.

61 The ballot for such special election shall be in substantially
62 the following form or to the following effect:

63 *Official Ballot.*

64 "Special election for the balance of the unexpired term of
65 (here name the person or persons whose unexpired term or
66 terms are to be filled, designating the district). For member
67 of the city board of directors District, (desig-
68 nating the district) of the city of Bluefield, West Virginia.

69 (Vote for one only)

70 [] Names of candidates.

71 [] Name of present incumbent.

72 If more than one vacancy is to be filled, add for each va-
73 cancy: For member, of the city board of directors from the
74 district, designating the district.

75 (Vote for one only)

76 [] Names of candidates.

77 [] Name of present incumbent.

78 Official ballot—attest:

79 *Fac-simile* of the signature.....
80 City clerk."

81 The successor of any member of the city board of directors so
82 removed shall hold office during the unexpired term of his pre-
83 decessor. In any such removal election, the candidate receiving
84 the highest number of votes shall be declared elected. At such
85 election, if some other person than the incumbent receives the
86 highest number of votes, the incumbent shall thereupon be re-
87 moved from the office upon the qualification of his successor. In
88 case the person who received the highest number of votes shall
89 fail to qualify within ten days after the result of the election
90 is ascertained, the office shall be deemed vacant. If the incum-
91 bent receives the highest number of votes, he shall continue in
92 office. The said method of removal shall be cumulative and
93 additional to other methods provided by law. No recall peti-
94 tion shall be filed within ninety days succeeding or preceding
95 any regular city election.

96 The city manager shall be subject to recall, according to the
97 procedure for the recall of members of the city board of direc-
98 tors in this section, so far as practicable, except that the ballots
99 shall give the name and title of this employee, followed by the
100 words, with appropriate voting squares to the left: "For recall,"
101 and "Against recall." Should a majority of the votes cast be
102 in favor of recalling the employee subject to this provision, the
103 city board of directors shall forthwith choose a successor to the
104 employee so recalled.

Initiative and Referendum.

Sec. 21. Any proposed ordinance may be submitted to the city
2 board of directors by petition, signed by electors of the city equal
3 in number to the percentage hereinafter required. The signa-
4 tures, verification, authentication, inspection, certification, amend-
5 ment and submission of such petition shall be the same as pro-
6 vided for the petition first named in the next preceding section.

7 If the petition accompanying the proposed ordinance be signed
8 by such electors equal in number to fifteen per centum of the
9 votes cast at the last preceding general municipal election in the
10 city, and contains a request that the said ordinance be submitted
11 to a vote of the people, if not passed by the board of directors, the
12 board of directors shall either

13 (a) Pass such ordinance without alteration within twenty days
14 after attachment of the clerk's certificate of sufficiency to the ac-
15 companying petition, or

16 (b) Forthwith after the clerk shall attach to the petition ac-
17 companying such ordinance his certificate of sufficiency, the board
18 of directors shall call a special election, unless a general munic-
19 ipal election is to be held within ninety days thereafter, and at
20 such special or general municipal election, such ordinance shall
21 be submitted without alteration to the vote of the electors of said
22 city. But if the petition is signed by less than fifteen per centum
23 and not less than ten per centum of the electors, as above defined,
24 then the board of directors shall within twenty days, pass said
25 ordinance without change, or submit the same at the next gen-
26 eral municipal election occurring not less than thirty days after
27 the clerk's certificate of sufficiency is attached to said petition.

28

Referendum Features.

29 The ballot used when voting upon said ordinance, shall contain
30 these words: "For the ordinance" and "Against the ordinance,"
31 stating the nature of the proposed ordinance. If a majority vote
32 be in favor thereof, such ordinance shall thereupon become a valid
33 and binding ordinance of the city, and the ordinance proposed
34 by petition, or which shall be adopted by a vote of the people, can-
35 not be repealed or amended except by a vote of the people. Any
36 number of proposed ordinances may be voted upon at the same
37 election, in accordance with the provisions of this section; but
38 there shall not be more than one special election in any period
39 of six months for such purpose.

40 The board of directors may submit a proposition for the repeal
41 of any such ordinance or for amendments thereto, to be voted
42 upon at any succeeding general city election; and should such
43 proposition so submitted receive a majority of the votes cast
44 thereon at such election, such ordinance shall thereby be repealed
45 or amended accordingly.

46 Whenever the people have properly petitioned for the submis-
47 sion of a bond issue to a referendum vote there shall not be any
48 other bond issue submitted at the same election.

49 Whenever any ordinance or proposition is required by this
50 charter to be submitted to the voters of the city at any election,
51 the city clerk shall cause such ordinance or proposition to be pub-
52 lished once in all daily newspapers published in said city; such
53 publication to be not more than twenty days nor less than five days
54 before such election.

Stay of Ordinance.

Sec. 22. No ordinance, resolution or action of the city board
2 of directors changing the district boundaries or otherwise redis-
3 tricting the city, or annexing any municipality or territory, or
4 granting to any corporation, firm, person or association or com-
5 bination of persons, any privilege, right, license, easement or
6 franchise, to establish, maintain or conduct in the city any pub-
7 lic utility, except when otherwise required by the general laws
8 of this state, or by the provisions of this charter, shall go into
9 effect before thirty days from the time of its final passage, and
10 not then unless within two days after passage, Sundays and holi-
11 days excepted, the same shall have been published in all daily
12 newspapers published and generally circulated in said city. And

13 if during said thirty days a petition signed by electors of the city,
14 equal in number to at least fifteen per centum of the entire vote
15 at the last preceding regular general municipal election, protest-
16 ing against the passage of such ordinance, resolution or action
17 be presented to the board of directors, the said ordinance, resolu-
18 tion or action shall thereupon be suspended from going into opera-
19 tion, and it shall be the duty of the board of directors to recon-
20 sider the same, and if the same is not entirely repealed, the board
21 of directors shall submit the ordinance, resolution or action, as
22 is provided in relation to referendum of ordinances, to the vote
23 of the electors of the city either at the next general municipal
24 election or at a special municipal election to be called for that
25 purpose, and such ordinance, resolution or action shall not go into
26 effect or become operative unless a majority of the qualified elec-
27 tors voting on the same shall vote in favor thereof. Said peti-
28 tion shall be in all respects in accordance with the provisions of
29 the last section (except that it must be signed by the number of
30 electors in this section specified), and examined and certified to by
31 the clerk in all respects as in the last preceding section.

Only Legal Voters Can Petition.

Sec. 23. Petitions provided for in this charter shall be signed
2 by none but legal voters of the city. Each petition shall con-
3 tain, in addition to the names of the petitioners, the street and
4 number of the house, or if no number or street is designated, then
5 the district in which the petitioner resides must be given. It
6 shall also be accompanied by the affidavit of one or more legal
7 voters of the city, stating that the signatures thereof were, at
8 the time of the signing, legal voters of said city.

Control of Streets.

Sec. 24. The board of directors shall have the custody and con-
2 trol of the streets, alleys and public grounds of the city, with all
3 the powers with reference thereto, which are held by the city im-
4 mediately before this charter takes effect, and all such powers as
5 are now or hereafter shall be held by boards of directors of cities,
6 towns and villages organized under the general laws of the state;
7 subject, however, to the provisions of this charter.

Franchise Restrictions.

Sec. 25. Franchises, rights or privileges may be granted by
2 the board of directors, allowing to persons, firms or corporations,
3 for a limited time, such occupancy of portions of the streets,
4 alleys or public grounds of the city, as may be deemed by it
5 necessary for works of public utility and service, such as steam
6 railroad tracks, street railway tracks, poles and trolley wires,
7 telephone and telegraph poles, electric light and other electric
8 poles, wires and conduits, and subways, and water, gas, steam and
9 heating pipe lines. But no franchise, right or privilege shall
10 hereafter be granted by the city board of directors, except under
11 the following restrictions and conditions:

12 *First*—No ordinance granting any franchise, right or privi-
13 lege, for the use of the streets, alleys or public grounds of the
14 city, for any of the purposes of public utility above named,
15 or for any other purpose of like nature, shall be passed unless it
16 shall have been first offered at a regular meeting of the city board
17 of directors, and notice of the object, nature and full extent of
18 such franchise, right or privilege shall have been published daily
19 for at least thirty days (Mondays excepted) by the applicant, in
20 some daily paper published in the city of Bluefield before being
21 acted upon. The vote thereon shall be taken by ayes and noes and
22 the same entered upon the journal of the proceedings at the meet-
23 ing of the board of directors.

24 *Second*—If no time be expressly provided in the grant, the
25 franchise, right or privilege shall be granted for one year only,
26 and in no case shall the same extend for a period exceeding thirty
27 years. Nor shall any grant of a franchise, right or privilege be
28 made without reservation on the part of the city of the right to
29 alter, amend or repeal the same at any time during its term,
30 should the grantee fail to do those things which the said grant
31 of franchise, right or privilege stipulates that the grantee shall
32 do, or, should the grantee do such things as by the said grant of
33 franchise, right or privilege the grantee is prohibited from doing.
33-a *Provided*, that after notice by the city to the grantee, specifying
34 wherein the grantee has failed to comply with the terms of the
35 grant, the grantee shall not within three months from the service
36 of such notice comply with such terms.

37 *Third*—No grant of any franchise shall be made without, at the
38 time of making it, providing that the grantee shall indemnify the

39 city against all damages caused by the construction, operation or
40 maintenance of any works, under the grant. All reasonable addi-
41 tional provisions and conditions may be made for the protection
42 of the public from unnecessary damages or inconvenience by
43 reason of such works and the maintenance or operation thereof.

44 *Fourth*—No grant of any franchise, rights or privilege shall be
45 made without, at the time of making it, providing that the city
46 shall receive in consideration therefor, a compensation, to be paid
47 annually during the whole period. *Provided, however,* that the
48 principle of competition shall be employed by the city board of
49 directors where the same is offered, so that the franchise, right
50 or privilege with prescribed terms and conditions as to its extent,
51 and as to the rates to be charged the public by it for its services
52 will be given to the person, firm or corporation bidding or agreeing
53 to pay therefor to the city the highest compensation, or so that the
54 franchise, right or privilege with prescribed conditions as to its
55 extent and the compensation that must be paid therefor, will be
56 given to the person, firm or corporation that will agree to render
57 service to the public at the lowest rates. But where revenue or
58 tolls to be charged the public and revenue to the city are joint
59 points of deliberation, the city board of directors may take both
60 into consideration with probable good or ill service of competing
61 applicants, and grant any such franchise to the applicant, the
62 grant to whom will result in the greatest benefit to the largest
63 number of citizens of the city, in the board of directors' judg-
64 ment.

65 *Fifth*—The board of directors shall, in suitable terms, make it
66 an express condition of the grant of any such franchise, right or
67 privilege, where it is for a work that is useful chiefly to the local
68 public, that at the expiration of such franchise, grant, right or
69 privilege, the grantee shall, if required by the board of directors,
70 sell to the city the physical plant in the city, at what it is then
71 worth, independent of any value based upon the earning power
72 thereof, and may also provide a means of arbitration or otherwise
73 for determining what such value may be. *Provided,* the city is
74 authorized by law to use, maintain and operate such plant.

75 *Sixth*—In case a petition for stay of ordinance is presented,
76 in accordance with section twenty-two, and a special election is
77 called for the purpose of accepting or rejecting the application
78 for a franchise, right or privilege, the applicant for the same shall

79 deposit with the city, the amount of expenses of said election,
80 which shall be applied to the payment of such expenses, if the
81 franchise is granted, otherwise to be returned to the applicant.

82 *Seventh*—No franchise, right or privilege referred to in this
83 section can be granted unless on the affirmative vote of a majority
84 of the membership of the board of directors.

85 *Eighth*—The provisions of this section, however, shall not ap-
86 ply to grants made under section twenty-eight of this act.

Further Franchise Provisions.

Sec. 26. No renewal of any franchise, right or privilege for
2 any such work of public utility or service as is mentioned in the
3 next preceding section, granted for a period of more than three
4 years, shall in any manner be granted until within three years
5 of the time of its expiration.

Sec. 27. The non-user of a franchise, right or privilege, for
2 a period continuously of one year, shall vacate and annul the
3 same.

Private Switch Grants.

Sec. 28. Permission may be given to a person, firm or private
2 corporation, not engaged in conducting a public utility business,
3 to place a switch or tramway on a part of a public street or alley,
4 at grade, for his own or its own use, but the grant shall be so
5 limited as not to exceed ten years, and a charge, in the nature of
6 an annual rental or license charge for the same, payable to the
7 city, may be fixed by the board of directors.

8 All grants under this section shall be subject to the following
9 restrictions and conditions:

10 If no time is expressly provided in the grant, it shall be for one
11 year only.

12 It shall provide that the grantee shall indemnify and save
13 harmless the city against all suits, loss or damage, by reason of
14 the construction or maintenance of such switch or tramway, and
15 that said grant may be altered, amended or repealed upon satis-
16 factory evidence that the grantee has failed to comply with its
17 provisions. Reasonable provisions must be made to protect the
18 public from unnecessary damage or inconvenience by reason of
19 such switch or tramway and the operation or maintenance thereof.

For Public Inspection.

Sec. 29. Every ordinance, resolution or action appropriating
2 money or ordering any street improvement or sewer or making
3 or authorizing the making of any contract, or granting any
4 franchise, or right to occupy or use the streets, highways, bridges
5 or public places in the city, or any part thereof, for any purpose,
6 shall be complete in the form in which it is finally passed, and
7 remain on file with the city clerk for public inspection at least
8 one week before the final passage or adoption thereof. No fran-
9 chise, or right to occupy or to use the streets, highways, bridges,
10 or public places in said city, or any part thereof, shall be granted,
11 renewed, altered, amended, repealed or extended except by ordi-
12 nance.

General Ordinance Powers.

Sec. 30. The board of directors shall have authority to acquire
2 or establish, own and operate water works, gas works, and works
3 for generating and furnishing heat and electricity for the use of
4 said city, and to sell water, heat, electricity and gas from such
5 works to persons or corporations outside as well as within the
6 limits of the city, or to buy heat, electricity, water or gas at
7 wholesale and sell the same at retail; to construct and operate other
8 water works for the use of said city at any point to be selected by
9 the board of directors, inside or outside of the city limits, and to
10 place and maintain all needed mains, pipes and other fixtures and
11 appliances at such works and between such works and the city,
12 and for these purposes to acquire and hold, by purchase or con-
13 demnation all needed lands and rights of way inside or outside of
14 the city limits, and to have power to acquire by purchase or con-
15 demnation or damage, private property real or personal inside
16 or outside of the corporate limits of said city, to the end that
17 pure, clean, wholesome water may be obtained and supplied to
18 the inhabitants of said city, and to have the power to proceed as
19 provided by law, against any person, firm or corporation who so
20 uses their property either inside or outside of the corporate
21 limits of said city as to pollute the water supply of said city; to
22 establish and maintain a fire department, police department,
23 health department, public libraries, play grounds, parks, crema-
24 tory and city prison, and for these purposes acquire and hold
25 all necessary real estate by purchase or condemnation, and also

26 to establish and maintain hospitals and cemeteries either within
27 or outside the limits of the city, and for these purposes to acquire
28 and hold all necessary real estate by purchase or condemnation,
29 outside as well as within the city limits.

Sec. 31. The city board of directors may by ordinance pro-
2 vide for the proper weighing or measurement of all goods of any
3 description whatsoever, which may be offered for sale in said
4 city by either weight or measure; and the board of directors
5 shall further have authority to require by ordinance that goods
6 ordinarily sold by measure shall be sold by weight, and to pre-
7 scribe proper weights and measures. It shall also be within the
8 power of the board of directors to provide for the inspection of all
9 weights and measures used in said city at such times and in such
10 manner as to the board of directors may seem fit and proper.

Sec. 32. The board of directors may by ordinance provide for
2 the inspection of bread, milk, meat, and all other articles intended
3 for food, including animals from which milk and meat are obtain-
4 ed, and all substances entering into the manufacture of food intend-
5 ed for use in said city; and regulate or prevent the sale, or cause
6 the destruction of any such food or milk as may be unwholesome,
7 adulterated, or dangerous, and provide for the punishment of per-
8 sons negligently or knowingly selling or offering the same for
9 sale. Under this section the word "food" means anything in-
10 tended to be eaten or drunk by the inhabitants of the said city.

Sec. 33. The board of directors may by ordinance require and
2 compel the abatement and removal of all nuisances within said
3 city at the expense of the person, or persons causing the same,
4 or of the owner or owners of the ground whereon the same shall
5 be; restrict the driving of hogs, cattle or other stock within said
6 city, either as to time within which they may be driven, or both;
7 prevent any such stock or dogs and other animals, chickens or
8 other fowls from running at large in said city; or subject the
9 same to such regulations and taxes as they may deem proper.
10 The board of directors shall also have authority to locate, pro-
11 hibit or license, regulate and tax, slaughter houses and stock-
12 yards, or the exercise of any offensive or unhealthful business,
13 trade or employment within said city; to prevent the firing of
14 guns, crackers, or any combination of gun powder, or other explo-
15 sives and dangerous materials in said city; to prevent the driving
16 or riding of horses or other animals, the riding of bicycles or

17 other vehicles, the running of locomotives or automobiles pro-
18 pelled by steam, electricity or other power, and of cars of all kinds
19 at a speed exceeding that prescribed by an ordinance of the city,
20 within its limits; and, generally, to prevent such conduct in the
21 city as is prejudicial to the comfort, health, convenience, safety,
22 peace and good order of said city or the inhabitants thereof,
23 and to make and ordain appropriate provisions and penalties
24 for the enforcement of all the lawful regulations of said city,
25 respecting the matters hereinbefore in this section mentioned.

Sec. 34. The board of directors may establish markets in and
2 for said city, maintain or authorize the maintenance of any
3 already established, appoint the time and place for holding the
4 same, provide suitable buildings therefor and ordain and enforce
5 such regulations respecting the markets as in its opinion the con-
6 venience or interest of the inhabitants of said city shall require,
7 among others such regulations as it shall deem necessary or proper
8 to prevent forestalling therein.

Sec. 35. If any ground in the said city shall be subject to be
2 covered by stagnant water, or if the owner or owners, occupier
3 or occupiers thereof, shall permit weeds, rank growth, or offen-
4 sive or unwholesome substances to remain or accumulate thereon,
5 the board of directors may cause such ground to be filled up or
6 drained, or such growths or substances to be cut or covered up.
7 or removed therefrom, and collect the expense of so doing from
8 the said owner or owners, occupier or occupiers, or any of them,
9 by distress and sale, in the same manner as taxes levied upon
10 real estate for the benefit of said city. *Provided, however,* that
11 at least five days' notice of what is required shall be given to the
12 said owners or occupiers, or their agents.

13 In case of non-resident owners, who have no agent in said
14 city, such notice may be given by publication, for not less than
15 ten days in some newspaper printed in said city, at the expense of
16 said owners.

Sec. 36. The board of directors may pass and cause to be
2 enforced such ordinances as it shall deem necessary or proper to
3 secure the inhabitants of said city against thieves, robbers, bur-
4 glars, persons carrying concealed weapons, and all other persons
5 violating the public peace of said city, for the suppression of
6 riots and gaming, and for the prevention and punishment of
7 lewd, lascivious, indecent or disorderly conduct in said city. The

8 board of directors shall also have the authority to provide in
9 like manner for preventing children under twelve years of age
10 from being at large and unattended in the streets or alleys, com-
11 mons, parks, fair grounds, or other public places within the city;
12 to provide for the prevention of cruelty to animals, and of
13 cruelty, neglect, or otherwise, to aged, feebled or imbecile per-
14 sons or children, within the city; and to provide for the welfare,
15 health and safety of persons in theatres or other places of
16 amusement, including assembly and lodge rooms, requiring proper
17 sanitary hygienic arrangements together with adequate exits and
18 fire escapes.

Regulations and Licenses.

Sec. 37. The board of directors may by ordinance require that
2 suitable magazines or places shall be provided in or near said
3 city for the storage of gun powder, dynamite, petroleum and the
4 volatile products thereof, and all explosives and combustible and
5 dangerous articles; make and enforce such regulations as it may
6 deem necessary respecting the place and manner of transporting
7 the same, and assess and collect an annual license tax for the
8 keeping and selling of any or all such articles.

Sec. 38. The board of directors may by ordinance regulate
2 theatrical exhibitions, public shows, musical performances and
3 hypnotic exhibitions, and all performances to which admission
4 is obtained by the payment of money or other reward, and grant
5 or refuse license for any such performances, and levy and collect
6 license taxes on the same.

Sec. 39. The board of directors may grant license to owners
2 and keepers of horses, hacks, carts, wagons, drays, automobiles,
3 bicycles and every description of wheeled vehicles kept within the
4 said city; levy and collect license taxes as well as other taxes there-
5 on, and subject the same to such regulations as the interest or con-
6 venience of the inhabitants of said city, in the opinion of the
7 board of directors, may require. The board of directors shall
8 also have authority to license and collect license taxes from hawkers
9 and peddlers within said city, and persons who rent temporary
10 quarters or who temporarily station themselves upon a street to
11 sell or exhibit articles, and all butchers who do not rent a stall
12 or stand in any of the market houses in the city hawking and
13 peddling meat on the streets of the city must take out and pay
14 the license required by the city of hawkers and peddlers.

Sec. 40. It shall be unlawful for any person, in said city, to hold himself or herself out as a fortune teller, clairvoyant, mind-reader or palmist, and purport and claim to tell the future or the past by the above or any other hidden and secret methods or science, or to practice the above callings, avocations or professions, and the board of directors may pass an ordinance prohibiting the same and prescribing penalties for its violation. Nothing in this section contained shall be construed so as to regulate or control any religious association or body.

Sec. 41. The board of directors may by ordinance regulate sales at auction within said city, and levy and collect taxes upon such sales; grant or refuse licenses to auctioneers, and loan agencies, and levy and collect taxes upon such licenses, in addition to any tax which may be payable to the state. *Provided, however,* that nothing herein contained shall be construed to authorize any interference by the corporate authorities of the city with, or the imposition of any tax upon any sale made under the judgment or decree of any court of justice in this state, or made by a trustee under a deed of trust given in this state, or made by a trustee under a deed of trust given *bona fide* in this state to secure debt.

Sec. 42. The board of directors shall have exclusive authority within said city, by ordinance, to grant or refuse license to the keepers of hotels, inns and taverns, houses of public or private entertainment, not used for immoral purposes, boarding houses, public eating houses, places of public amusement, and boarding stables or stables for keeping and feeding horses and mules for compensation, and automobile garages. *Provided, however,* that persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses and mules for compensation. The board of directors shall further have authority, by ordinance, to regulate the manner in which such houses or places shall be kept, and to levy and collect a license tax from every person licensed under the authority of this section, in addition to all other taxes imposed upon him or his property.

Sec. 43. The board of directors may by ordinance require a city license from persons conducting the business of pawn broker or loan agent in: the city by lending money or other thing of value

4 for profit, for or on account of personal property deposited with
5 the lender in pléde, or left in the possession of the borrower and
6 secured to the lender by lien, pledge, mortgages, or deed of trust.

Sec. 44. The board of directors may by ordinance require city
2 license for persons conducting and carrying on any business or
3 vocation in the city for which the state may now or hereafter re-
4 quire license.

Sec. 45. The board of directors may by ordinance subject any
2 person or persons, who without having obtained a city license
3 therefor, shall do any act, or follow any employment or business
4 in said city, for which the board of directors is or shall be author-
5 ized to grant license, to any fine or punishment which they are
6 authorized to impose or inflict the enforcement of their ordinance.

Public Extension Powers.

Sec. 46. The board of directors may, by ordinance, within said
2 city lay out and cause to be opened any streets, walks, alleys,
3 market grounds, and public squares, or extend or widen the same,
4 first having obtained title to the ground necessary for the purpose,
5 and grade any street, walk, alley, market ground or public square
6 which is or shall be established within said city, pave or otherwise
7 improve the same, and cause them to be kept open and in good
8 repair, and generally ordain and enforce such regulations respect-
9 ing the same, or any of them, as shall be proper for the health, in-
10 terest or convenience of the inhabitants of said city.

Sec. 47. The board of directors may by ordinance have all
2 work done without the intervention of contractors or middlemen,
3 but shall not be compelled so to do.

Sec. 48. The board of directors may cause to be taken or
2 damaged for the use of the city, for streets, alleys, markets, bridges,
3 public squares, parks, playgrounds and other municipal purposes,
4 including 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, (and where such use is to secure
7 or improve the water supply, or for park, playground, 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.

City Planning Commission.

Sec. 49. There shall be a city planning commission of five
2 members, consisting of the city manager and two citizens to be
3 elected by the board of directors. The said citizens members
4 shall be chosen because of their knowledge of city planning and
5 kindred subjects, shall serve without compensation, and shall hold
6 their positions at the pleasure of the board of directors. The board
7 of directors may in its discretion appropriate such sums of money
8 as shall be needed to defray the necessary expenses of said com-
9 mission.

10 The duties of the city planning commission shall be advisory
11 only to the board of directors, and in general said duties shall be
12 as follows:

13 *First*—To keep itself informed of the progress of city planning
14 in this and other countries, to make investigations into existing
15 physical conditions in the city of Bluefield and vicinity and com-
16 pile information relative thereto.

17 *Second*—To determine and report upon what should be done to
18 improve those conditions.

19 *Third*—To prepare a comprehensive city plan for the future
20 improvement and growth of the city within and without the city
21 limits, including recommendation for:

22 (a) Extension of streets and opening of new sub-divisions.

23 (b) Improvement of entrances and terminals to and from the
24 city, particularly those of the public service corporations, looking
25 to the future harmonious development of a city plan.

26 (c) A rapid transit system, including terminal projects when
27 the same may become advisable.

28 (d) Extension of car lines into outlying districts.

29 (e) Playgrounds, parks and boulevard system.

29-a (f) Location of public buildings and other public works as
30 in the opinion of the commission, will tend to make Bluefield a
31 more convenient and attractive city.

32 *Fourth*.—After money to cover the cost thereof shall have been
33 appropriated by the board of directors, to cause the necessary
34 survey to be made, and to prepare a plat for the extension of the
35 city for such distance beyond the city lights as said commission

36 shall deem advisable, which plat shall harmonize with projected
37 improvements within the present city limits, shall carefully con-
38 serve the topography of the land as may be requisite for sanitary
39 influences and purposes, and shall make ample provision for fac-
40 tory and other commercial territory, with efficient transportation
41 service, and may provide residence areas apart from the commer-
42 cial and industrial zones; provided that such plat shall not in-
43 clude territory within the corporate limits of any other city or
44 town.

45 *Fifth*—To suggest, upon the written approval of its chairman
46 and of the city manager, such legislation as may be necessary
47 to facilitate the carrying out of the commission's recommenda-
48 tion.

Paving.

Sec. 50. The board of directors may cause any street or alley
2 to be paved, or repaved between the sidewalks, or between the
3 parkways, with cobble, asphalt, stone, brick, or other suitable ma-
4 terials, under such regulations as shall be fixed by ordinance,
5 upon the lowest and best terms to be obtained by advertisement
6 for bids on proposals therefor by the board of directors as herein
7 provided; or the board of directors may have such work done with-
8 out the intervention of contractors or middlemen; and the cost
9 of such paving and repaving shall be assessed in equal propor-
10 tions against the owners of the lots or fractional parts of lots
11 abutting or bounding on that part of the street or alley so
12 paved or repaved in proportion to the distance of the frontage
13 owned by each, except in the case of a street whereon a railway
14 of any kind is being operated, the railway company, or
15 owner of such railway, shall pay for the paving, repaving
15-a or repairing between the rails and a foot outside of
16 the rails, and the residue of the space between the tracks where
17 more than one are on the street, and the remainder of the cost
18 to be borne in equal proportions by the owners of the abutting
19 property on both sides of said street or alley on which said rail-
20 way is being operated, the intersections of two streets, or of a
21 street and alley, or of two alleys, to be paved or repaved at
22 the expense of the city. But where the intersection is crossed
23 by a railway track or tracks of any kind, the railway company
24 or owner of such tracks shall pay for the paving, repaving
25 and repairing between the rails and a foot outside of

26 the rails, as well as the residue of the space between
27 double tracks. The one-fourth of the cost of paving shall be paid
28 within thirty days after the completion and acceptance of the
29 work, and the remainder in three equal installments, payable re-
30 spectively at such times, not to exceed three years, as the board of
31 directors may in the ordinance provide for such work, and all such
32 installments shall bear six per cent interest from the date of the
33 completion and acceptance of such paving.

34 The board of directors may issue certificates of the city of
35 Bluefield for any or all installments for paving, which said cer-
36 tificates shall be signed by the mayor and countersigned by the
37 clerk, and shall state the amount of the installment, the name
38 of the owner and the number and section of the lot against which
39 such paving assessment has been made, the said certificates to be
40 dated as of the date the said work was accepted by the city, and
41 shall bear six per cent. interest from date; and shall further state
42 that the indebtedness represented by said certificate is a lien
43 upon the lot of land therein referred to. Said certificate shall
44 state the date when due, and be negotiable at any bank in the
45 city of Bluefield.

46 When so ordered, the paving or repaving of any street or alley
47 shall include curbs and gutters, which shall be considered a part
48 of the paving or repaving.

49 In case two street railway tracks belonging to different owners
50 are on a street the cost of paving, repaving and repairing between
51 such tracks on such street shall be paid one-half by the owner
52 or owners of each of such tracks.

53 The sum or sums of money thus assessed for paving and repav-
54 ing shall be a lien on the lots or fractional parts of lots upon which
55 they are assessed, which lien may be enforced by a suit in equity in
56 the name of the city, in the circuit court of Mercer county, West
57 Virginia, or the same, or any installment thereof, may be col-
58 lected by a suit at law before such court, or before any justice of
59 the peace of said county if the amount involved does not exceed
60 three hundred dollars exclusive of interest and costs.

61 Immediately upon the completion and acceptance of any such
62 paving and repaving the board of directors shall direct the
63 city clerk to cause to be published a notice, which shall name
64 and describe the location of the portion of the street or alley
65 upon which said paving and repaving shall have been con-

66 structed; give the name or names of the owners of each
66-a lot abutting or bounding upon such portion of the
67 street or alley, if known, and if the name or names of the owner
68 of any lot or fractional part of a lot are unknown, such lot shall
69 be described with reasonable certainty in order that the same may
70 be identified; and the number of feet each lot or fractional
71 part of a lot abuts upon such paved portion, as well as the amount
72 assessed against each lot or fractional part of a lot, for the cost
73 of the paving and repaving. Said notice shall cite all
74 owners of lots or fractional parts of lots, abutting upon the
75 portion of the street or alley which has been paved or
76 repaved to appear before the board of directors at
76-a a regular meeting thereof, within thirty days from the
77 first publication of the notice, and show cause, if they can, why
78 the assessment aforesaid should not become final, which notice
79 shall be published once a week for two successive weeks in one or
80 more newspapers of general circulation published in said city.
81 The board of directors shall, upon the request of any one or more
82 of the owners of said lots or fractional parts of lots, appoint a
83 day to hear the grievances of said owner or owners, and may alter
84 or amend any assessment made against any one or more of said
85 owners for good cause shown. The city clerk shall give notice
86 to all persons claiming to be injured by said assessment, of the
87 time and place of holding the meeting of the board of directors
88 to hear such grievances, which meeting shall be held within ten
89 days after the clerk shall have given the last mentioned notice.
90 The board of directors may adjourn the hearing from time to
91 time. In case any owner or owners of abutting property fail
92 within such thirty days to complain to the board of directors of
93 any grievance or injury they may have suffered by reason of the
94 assessment aforesaid, or to appear before the board of directors
95 for the purpose of having the same corrected on the day appointed
96 by the board of directors for the hearing of such grievances as
97 have been complained of, the assessment as laid shall be final.
98 The finding of said board of directors shall be subject to cor-
99 rection by said circuit court, upon appeal, which must be taken
100 and perfected within thirty days from the finding and be heard
101 and determined by such court without delay, having precedence
102 of other causes on the court's docket. The rights conferred by
103 this section are cumulative and shall not be exhausted as to any

104 particular street or alley by reason of having been once exercised.

105 But a lien upon any real estate created by virtue of this sec-
106 tion shall be void as to any purchasers of any such real estate, for
107 value and without notice, who shall have purchased such real
108 estate at any time after the period of twelve months has elapsed
109 after the paving has been accepted by the city, unless, before such
110 purchase, an abstract of such assessment, giving the location of
111 the real estate affected, the name of the owner and the date and
112 amount of the assessment shall have been recorded in the office
113 of the clerk of the county court of Mercer county, West Vir-
114 ginia, in a well bound book to be furnished by the city and pre-
115 served in said office.

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

119 Upon the payment of the final assessment upon any lot of land
120 as provided for in this section, it shall be the duty of the treasurer
121 of the city to certify that fact to the clerk of the city, who shall in
122 turn certify the fact within thirty days from the date he re-
123 ceives the certificate of the treasurer, to the clerk of the county
124 court of Mercer county; and it shall be the duty of the clerk of
125 the county court to mark in red ink said lien "satisfied" upon the
126 record of the abstract of such assessment in his office. It shall
127 be the duty of the said treasurer, upon collecting the last install-
128 ment of such assessment, to add to and collect a fee of fifty cents
129 as a part of such last installment, and he shall remit the same to
130 the city clerk with his certificate showing the payment thereof,
131 and twenty-five cents of said amount shall be retained by the
132 said clerk for his fee in certifying the same to the clerk of the
133 county court, and twenty-five cents shall be paid to the clerk of
134 the county court as his fee for marking the said assessment lien
135 satisfied.

136 All moneys appropriated for the paving, repaving or repair-
137 ing of streets or alleys shall be used for that purpose only, and the
138 revenue received by the city from assessments against any and
139 all property or property owners shall be placed in a "street pav-
140 ing" fund and shall be considered and treated the same as moneys
141 appropriated for that purpose.

Sec. 51. If two-thirds, or more, of the owners of the property
2 abutting on any street or alley, or any section thereof which shall

3 lie between intersecting streets or alleys, shall desire the same to be
4 paved or repaved, and shall present a petition to the board of di-
5 rectors, setting forth their desire and describing the street, or al-
6 ley, or the section thereof desired to be paved or repaved, the
7 board of directors shall, within a reasonable time cause the said
8 work to be done, after the method set forth in the next preceding
9 section, the provisions of which section shall apply to the last
10 named paving or repaving.

Sewers.

Sec. 52. The board of directors of the city of Bluefield may
2 order a sewer or sewers to be constructed in or through any street
3 or alley in the city, under such regulations as may be prescribed
4 by ordinance either by the city itself, or upon the lowest and best
5 terms to be obtained by advertisement for bids therefor by the
6 board of directors. The cost of the construction of any such sewer
7 or sewers, to be paid by the city.

Sec. 53. The board of directors 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 therein, and shall have the authority to compel the
5 owners 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 board of directors, and may charge such
8 person or persons a reasonable amount therefor, to be fixed by the
9 board of directors by ordinance; and in case of the failure of the
10 owner of any such property to so connect his sewer pipe with
11 any such sewer when required, the board of directors may provide
12 by ordinance such fines and penalties as in its discretion may be
13 necessary to effect a compliance with its regulations. The amount
14 fixed by the board of directors for the connection with such
15 sewer shall be paid into the city treasury to the credit of the fund
16 to be used for sewers, and shall be used for no other purpose.

Sidewalks.

Sec. 54. The board of directors may by ordinance establish the
2 width of any sidewalks along any street, alley or public square
3 or part thereof, and cause to be constructed or reconstructed, the
4 curbing thereon, and require that when any such street, alley or
5 public square, or part thereof shall be prepared by the city for the

6 laying of sidewalks, by grading the sidewalk space, either by fill-
7 ing or cutting, as the case may require, the owner or owners of any
8 ground fronting on such sidewalks adjacent to their property
9 shall be required to pave or repave the same; and in case of the
10 failure or refusal of such owners so to do, the city may cause the
11 same to be properly paved or be repaved by others than such owner
12 or owners, and levy and collect from such owner or owners the cost
13 of the paving or repaving adjacent to his or their property, or
14 where the cost cannot be conveniently ascertained, levy and col-
15 lect a special tax to defray the expense of such paving or repaving
16 upon the owner or owners of such adjacent ground, who fail to
17 pave as required, by an assessment upon each, proportionate to
18 the number of front feet which he shall own abutting on the side-
19 walk. The board of directors shall have power, by ordinance,
20 in like manner, to require the owner or owners of property ad-
21 jacent to any paved sidewalk whether heretofore or hereafter con-
22 structed, to keep such sidewalk in repair, and in default of his or
23 their so doing, to cause the same to be repaired, and assess the
24 cost thereof upon such owner or owners. It shall be lawful for
25 the officers authorized by the board of directors to collect any such
26 tax or assessment for the cost of such paving or repaving, to collect
27 the same from the owner or owners of such grounds at once by dis-
28 tress and sale as provided in sections seventy-three and seventy-
29 four of this charter, and such assessment shall be a lien upon such
30 adjacent property, which may be enforced as taxes assessed upon
31 estate for the benefit of the city. All disturbances of any streets
32 or alleys of the city (including sidewalks), or public ground of
33 said city, caused by digging therein for the benefit of a private per-
34 son or firm, other than the city itself, and except where the dig-
35 ging is done by the city to furnish water, gas or other commodity
36 to such private person or firm, for a consideration, shall be re-
37 paired by the city at the expense of the person or firm for whose
38 benefit, or for the benefit of whose property the digging is done;
39 and the board of directors shall by ordinance require the enforce-
40 ment of this duty, including the duty of making repeated repairs,
41 as often as the defect so caused shall reappear.

42 The board of directors may by ordinance establish a date from
43 which new or renewed sidewalks along any of the streets or alleys
44 of the city must be made uniform as to width, material and con-
45 struction for paving and repaving sidewalks.

Ornamental Street Lighting.

Sec. 55. The board of directors may, by ordinance, establish a district or zone which shall include the business section of the city, for the purpose of ornamental street lighting, the limits of said district or zone to be defined in said ordinance.

The board of directors may order ornamental street lights placed upon any street within the said ornamental lighting district or zone, the same to be fully described in such ordinance, which shall also state the distance such lights shall be placed apart, and assess and collect the cost of the installation of same from the owners of the property abutting on said street in proportion to the frontage owned by each. And such assessment shall be made in the same manner and shall become a lien upon the property abutting upon the said street to the same extent as herein provided for liens against property for sidewalks constructed upon any street by the city, and the remedies herein provided for the collection of sidewalk assessments against property owners or the property abutting upon any street upon which a sidewalk is laid by the city, shall apply to the collection of any assessment made for the construction of ornamental street lighting upon any street upon which such lights are installed.

Provided, however, that electric current for any such street lights or system of street lighting shall be carried by wires placed beneath the surface of the street or sidewalk, and in no event shall such a system of lights or lighting be established by electricity carried from wires on poles located along said street, unless all parties owning property abutting upon said street shall join in a petition to the board of directors asking that poles be used instead of the underground system as hereinbefore set forth.

Building Regulations.

Sec. 56. The board of directors may, by ordinance, prohibit the erection within any square or squares of the city, of any building or any addition to any building, more than ten feet high, having in the foundation or outer walls thereof, or the outside covering of the roof thereof, any wood or other combustible material; and provide for the removal of any building, or addition which shall be erected contrary to such prohibition, at the expense of the builder or builders, or owners thereof.

Sec. 57. The board of directors, by ordinance, may establish a system of regulations by which all plans for the construction of buildings or additions thereto within the city shall be required to be submitted to the board of directors or some other designated officer or officers of the city, for inspection as to the safety of all flues, elevators, drainage, plumbing, electrical wiring, power and lighting or heating arrangements, and as to the sufficiency of all supporting parts and the general safety of such buildings and additions.

The board of directors may provide by ordinance, that no building or addition thereto, shall be erected within the city without the owner or builder thereof having first obtained from the officer designated to make such inspection, a license or "building permit" authorizing the erection of such structure. Such ordinance may provide for the keeping of a permanent record of all such permits or licenses, and the keeping on file, or on record, of a full description of all such buildings and structures. The board of directors may, by ordinance, establish and maintain supervision over the construction and maintenance of electrical conductors within said city, whether they be located within or outside of a building.

The board of directors may, by ordinance, regulate buildings, already constructed, which are either dangerous, unsafe or in a bad sanitary condition, and may require the removal or reconstruction of the same, or that they be repaired so as to render them safe or put in proper condition.

Power to Enact Laws.

Sec. 58. The board of directors shall have authority to pass all ordinances not in conflict with the constitution and laws of the United States, or of this state, which shall be necessary and proper to carry into effect any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in, the said city, or in the board of directors or any officer of said city; and to provide for the enforcement of any and all of their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinances, and by compelling them to labor without compensation, at any of the public work or improvements undertaken by said city, or by any or all of the said modes; *provided, however*, that no person shall be imprisoned or compelled

13 to labor as aforesaid more than one year or fined more than one
14 hundred dollars for any one offense.

Sec. 59. The judge of the police court shall receive a salary
2 to be fixed by the board of directors, and no other compensation
3 shall be allowed him. He shall preside over said police court and
4 try and determine all cases over which said court has jurisdiction.
5 In the event of his temporary absence or disability, the board of
6 directors shall appoint a member of the Mercer county bar of good
7 standing to preside over said court, and perform the duties of
8 the judge thereof, during the absence or disability of the regular
9 judge, and the judge's salary shall be transferred to and paid
10 such temporary judge for the time he serves as such judge.

Sec. 60. The said police court shall have jurisdiction over all
2 offenses against, or violation of, the ordinances of said city, and
3 full authority to punish in any manner lawfully prescribed by
4 such ordinances, the offenders against or violation of, the same;
5 *provided, however,* that no jury shall be allowed in any trial in
6 said court for the violation of any ordinance of said city.

Sec. 61. The proceedings for the recovery of the fine or for
2 the enforcement of the penalty prescribed by any ordinance shall
3 conform to the regulations so far as they are applicable, pre-
4 scribed in the code of West Virginia for civil proceedings before
5 justices of the peace; but the judge of said court may, for good
6 cause, shown by affidavit, by an endorsement upon the summons,
7 order the defendant or defendants to be arrested and brought
8 before the said court to be dealt with according to law.

Sec. 62. In cases where evidence discloses such a violation
2 within the city, of a law of the state, that, in the opinion of the
3 judge of the police court, the person accused should be committed
4 to await the action of the grand jury upon an accusation made,
5 the judge of the police court shall have the same jurisdiction and
6 power as a justice of the peace in the county of Mercer, in re-
7 gard to the apprehension, commitment and admission to bail of
8 the person so accused; and in the exercise of such jurisdiction and
9 powers, shall be governed by the same regulations.

Sec. 63. The sessions of said court shall be at such time and
2 places as the board of directors of said city shall by ordinance
3 direct.

Sec. 64. The said court shall have full power and authority to
2 enforce its orders and judgments, by any process of law which

3 may be necessary and proper for the purpose, and all processes,
4 executions and orders of said court shall be signed by the judge
5 thereof. Such processes and executions shall be directed to the
6 chief of police of said city, and be executed by him or one of his
7 deputies. In the execution of any process or order of said court,
8 the chief of police or deputy shall have the same powers, be gov-
9 erned in his proceedings by the same rules of law, and be subject
10 to the same liabilities as the sheriff of Mercer county, West Vir-
11 ginia, in the performance of like services. There may be charged
12 for the services of such officer the same fees as the sheriff is en-
13 titled to charge for like services, but all such fees, as well as all
14 fines imposed by said court, shall be collected by the chief of police
15 and accounted for and paid by him to the treasurer of the city.
16 The city shall in no event be liable for any such fees.

Sec. 65. A docket and other books required for the records and
2 a seal shall be provided for the said court by the board of directors,
3 and the seal may be altered or renewed as the said court may di-
4 rect. Full faith and credit shall be given to the records of said
5 court, and the certificates of its judge whether the seal of said
6 court be fixed thereto or not, in like manner and with the same
7 effect as if the same were records of the circuit court or certifi-
8 cates of the judge of a circuit court similarly authenticated.

Sec. 66. The said police court shall have power, upon render-
2 ing judgment against a defendant charged with the violation of
3 an ordinance of the city, to render judgment against him also
4 for the costs of prosecution. In every suit or prosecution for
5 the violation of an ordinance the said court shall cause the per-
6 son or persons at whose instance it was instituted to be desig-
7 nated upon the warrant or writ issued to arrest or summon the
8 person charged, and if the person or persons charged shall not be
9 convicted in such court, and such court shall be of the opinion
10 that no sufficient or probable cause existed for the institution
11 of the said suit or prosecution, then judgment for the costs of
12 the city, and of the defendant, or of either of them, as the
13 court shall deem just, shall be rendered against the person or
14 persons at whose instance such suit or prosecution was instituted.

Sec. 67. From the judgment of the police court in any case
2 in which there is imposed a fine of ten dollars or more, or imprison-
3 ment, or both, or in any case involving the validity of an ordi-
4 nance of the said city, an appeal shall lie as a matter of right, to

5 the criminal court of said Mercer county, either on behalf of the
6 defendant or the city, and in any case where a fine is imposed,
7 on demand of the defendant, such fine must be fixed at not less than
8 ten dollars, so that such appeal may be taken; but no defendant
9 shall be entitled to such appeal until and unless he execute before
10 the said police court, bond in such penalty, not exceeding two
11 hundred dollars, as the said police court may prescribe, condition-
12 ed for the performance of the judgment or order of the criminal
13 court of said county made or rendered upon such appeal. Every
14 such bond shall be with security approved by the said police
15 court; but in any case in which an appeal is taken or granted on
16 behalf of the city, no bond or security shall be required. Every
17 such appeal shall be proceeded with in the criminal court, in the
18 same manner as is provided by law for the proceedings in such
19 criminal court, in cases appealed from justices of the peace. If
20 on such appeal judgment be against the appellant it shall also
21 be against the sureties on his appeal bond for costs, and for any
22 fine or pecuniary penalty adjudged against him. No such appeal
23 shall be allowed after ten days from the date of any fiscal order
24 or judgment desired to be appealed from.

Hospitals, Parks, Libraries, Etc.

Sec. 68. The board of directors shall have the authority to
2 erect, buy, sell, and lease all buildings necessary for the use of
3 the city government, and to provide for and regulate the same;
4 to establish, regulate and maintain public parks, hospitals, librar-
5 ies, and reading rooms, and to purchase books, papers, and manu-
6 scripts for such libraries and reading rooms, and to receive dona-
7 tions, gifts, or bequests for the same in trust or otherwise.

City Prison.

Sec. 69. It shall be lawful for the board of directors to main-
2 tain within said city a prison, and to ordain and enforce all
3 necessary or proper regulations respecting the same, and to vest
4 in the officer or officers of said prison, under the supervision
5 of the city manager, any powers and duties which, by the laws
6 of this state, are or shall be vested in or imposed on the sheriffs
7 or jailors of the several counties in this state in relation to the
8 county jails, or the custody of persons imprisoned therein.

Annual Audits.

Sec. 70. At the end of each year the board of directors shall
2 cause a full and complete examination of all the books and ac-
3 counts of the city to be made by competent accountants, and shall
4 publish the result of such examination in connection with the an-
5 nual city financial statement required by law.

Taxation and Finance.

Sec. 71. The board of directors shall have power and authority
2 to levy taxes on all property subject to taxation within the city
3 in accordance with the provisions of chapter nine of the acts of
4 the legislature of West Virginia, special session of one thousand
5 nine hundred and eight, and as it may be amended, and in the
6 making of such levies the said board of directors shall comply with
7 all the provisions of said act as the same now exists, or as it may be
8 hereafter amended in so far as it applies to the laying of levies
9 by municipalities. The taxes so levied as aforesaid shall be levied
10 upon the values of the real and personal property within the city
11 as the same shall be ascertained by the assessor of Mercer county.

Sec. 72. The board of directors shall have authority to levy and
2 collect an annual tax on real estate and personal property in said
3 city, and to impose a license and assess a tax thereon on wheeled
4 vehicles for public hire, and for all dogs and horses kept within
5 said city, and upon automobile garages, and gasoline filling sta-
6 tions occupying any street or alley, and to impose a tax upon all
7 other subjects of taxation as provided in this charter, or under the
8 several laws of the state, which taxes shall be uniform with respect
9 to persons and property within the jurisdiction of said city, and
10 shall only be levied on such property, real, personal and mixed,
11 and on capital on which the state imposes a tax; *provided*, the
12 levy upon the taxable property of said city shall not exceed for all
13 purposes one dollar upon the one hundred dollars valuation.
14 There shall be a tax of one dollar annually assessed on each in-
15 habitant of said city over the age of twenty-one years who is subject
16 to a capitation tax under the laws of the state of West Virginia.
17 The same shall be set out and included in the personal property
18 book against every such inhabitant, and shall be collected under the
19 authority of the board of directors at the time of collecting other
20 levies and taxes.

Sec. 73. The taxes levied by the board of directors for the use of the city shall become due at the same time as taxes levied for the use of the county of Mercer, and the treasurer of said city, or such other person as the board of directors may direct, shall collect the same at the same time, and in the same manner, as taxes are collected by the sheriff of Mercer county for county purposes, and the same discount shall be allowed to those paying taxes to the city and the same penalties added as in the case of taxes collected by the sheriff of Mercer county, it being the intention of this act to make the collection of taxes levied for the purposes of the city uniform in all respects with the collection of taxes for county purposes, and the treasurer of said city, or such other person as may be designated by the board of directors for the collection of taxes, is hereby clothed with all the power within the said city for the purposes of collecting city taxes, that is now possessed by the sheriff of Mercer county for the collection of county taxes.

The treasurer, or collector, on the first Monday in June next succeeding the year for which such taxes were assessed, shall make out and return to the board of directors two alphabetical lists, one a list of real estate, and the other a list of persons and property other than real estate, in the city delinquent for the non-payment of taxes thereon for such year and shall subscribe on oath to each list in form and effect as sheriffs are required to make to delinquent lists returned to county courts, and the board of directors shall not give the treasurer or collector, credit for any uncollected taxes unless the same have been abated as prescribed herein or are mentioned in such lists. If any real estate within said city be returned delinquent for the non-payment of the taxes thereon and such return shall be made by the treasurer or collector thereof, in the manner aforesaid, a copy of such delinquent list shall be certified by the board of directors to the auditor of the state, and the same shall be sold for taxes, interest, and commissions thereon, in the same manner and at the same time, and by the same officer as real estate is sold for the non-payment of state and county taxes. A copy of said delinquent list, within ten days after it has been certified by the board of directors, shall be filed in the office of the clerk of the county court of Mercer county, and recorded in a well-bound permanent book, to be furnished by the city, and kept and preserved in said office for that purpose.

41 *Provided, however,* that a copy of each of said lists shall be
42 posted at the front door of the city hall of said city at least two
43 weeks before said lists are returned to the board of directors, and
44 a copy of said lists shall at the same time be printed for one time
45 in two newspapers of opposite politics, if such there be in said
46 city.

Sec. 74. The treasurer shall have power to collect the city
2 taxes, except as otherwise provided in this act, and he shall also
3 have power to collect city claims which may be placed in his hands
4 by the board of directors for collection, and to execute, within
5 the city, any process which might be executed by the sheriff of
6 Mercer county.

Sec. 75. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any city taxes, whether the
3 same be a capitation tax or a tax upon real or personal property,
4 or an assessment for paving or other improvements shall be liable
5 for said tax, and may be distrained therefor in whosoever posses-
6 sion they may be found, and the treasurer shall have the same
7 power to collect said taxes or assessment from any person owing
8 a debt to or having in his possession any estate belonging to a
9 person assessed with any tax or assessment of any kind that the
10 sheriff has to collect state taxes in such cases. The treasurer may
11 distrain and sell for all city taxes and assessments and in all
12 respects have the same power to enforce the collection thereof as
13 the sheriff has to enforce the collection of state taxes.

Sec. 76. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of January of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record within Mercer county; *provided,* such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Bluefield as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens
13 except those for taxes due the state.

Sec. 77. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county

3 court of Mercer county for certification to the state auditor, and
4 the same may be certified down by said auditor, and sold for the
5 taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate is
7 sold for the taxes, interest, damages, costs and commissions due
8 the state thereon, which officer shall account therefor on settlement
9 with the board of directors, and pay over the same to the treasurer
10 of the city.

Sec. 78. Neither the city clerk, the treasurer, nor any other
2 disbursing officer of the city, shall issue any order or check for the
3 payment of money for any work, matter or thing contracted for or
4 ordered by the board of directors or any officer or employee of the
5 city, which shall have been so contracted for or ordered wholly
6 or in part in excess of the amount which shall have been previously
7 set by ordinance or resolution as the limit of expenses of the de-
8 partment to which such work, matter or things belongs, or in ex-
9 cess of the amount previously appropriated for the payment there-
10 of, or in the city treasury available for such payment. The fore-
11 going provision of this section is intended as a restrainer provi-
12 sion, and it is further declared that no act of such clerk, treasurer
13 or other disbursing officer shall be in anywise held to render valid
14 any debt contracted by or on behalf of the city in violation of the
15 constitution and laws of the state. If any such officer of the
16 city, as is mentioned in the first sentence of this section, shall
17 violate the provisions thereof, he shall be disqualified from holding
18 his office, and shall forfeit and pay for such violation to the city
19 a fine of not less than twenty dollars, nor more than one hundred
20 dollars, or be imprisoned for a term not exceeding one year, or
21 both.

Sec. 79. No debt shall be incurred by said city even with the
2 consent of the voters, to an amount, including existing indebted-
3 ness, in the aggregate exceeding the amount fixed by law of the
4 state of West Virginia.

Deposits of City Funds.

Sec. 80. The board of directors shall provide by ordinance,
2 for the deposit of all public moneys of the city, in such bank, or
3 banks, situated within the city, as offer, at competitive bidding,
4 the highest rate of interest and give a good and sufficient bond to
5 the city, to secure the accounting for and due payment of such

6 public money, with security approved by the board of directors.
7 The security shall always be in a sum not less than ten per cent.
8 in excess of the maximum amount at any time deposited, but there
9 shall not be deposited in any one bank an amount in excess of the
10 paid-up capital stock and surplus of such bank, and not in any
11 event to exceed one million dollars.

12 In such ordinance the board of directors may determine the
13 method by which such bids shall be received, the authority which
14 shall receive them, the duration of the contracts respecting de-
15 posits of public money, and all details for carrying this section
16 into effect. Proceedings in connection with such competitive bid-
17 ding and the deposit of money shall be conducted in such manner
18 as to insure full publicity, and shall open at all times to the
19 inspection of any citizen. As to any deposits made under author-
20 ity of an ordinance of the board of directors, passed pursuant to
21 this section, neither the depositing officer, nor other persons so
22 depositing, nor such officers' sureties shall be liable for any loss
23 occasioned by the deposit, or in anywise growing out of it.

Bonds.

Sec. 81. All provisions of general law governing the issuance
2 and sale of bonds by municipalities and the investment of sink-
3 ing funds shall be applicable to the issuance and sale of bonds
4 and the investment of sinking funds by said city of Bluefield,
5 except as herein otherwise provided. All the provisions of gen-
6 eral law governing the levying and collecting of taxes for the use
7 and benefit of municipal corporations shall be enforced and applied
8 by the board of directors in the levying and collecting of taxes
9 for the use and benefit of said city of Bluefield, except as herein
10 otherwise provided, and the provisions of general law requiring
11 the making and publishing of estimates of expenditures in advance
12 of the laying of levies therefor, and limiting the amount of such
13 levies, shall be enforced and complied with by the board of direc-
14 tors of said city.

Sec. 82. The board of directors may refund the lawful bonded
2 indebtedness of said city by issuing bonds of the city, payable
3 within twenty years, bearing no greater rate of interest than five
4 per cent., but the indebtedness of the city shall not thereby be in-
5 creased without the consent of the voters of said city being first
6 had and obtained, as provided by law.

7 Such bonds shall not be sold for less than par nor exchanged
8 for the evidence of said indebtedness of said city, except dollar
9 for dollar, and there shall be provided a sinking fund that will
10 discharge said bonds as they shall become due. Said bonds shall
11 express on their face that they may be paid at any time after five
12 years, at the pleasure of the city. A record shall be kept of all
13 proceedings hereunder; *provided*, that nothing herein contained
14 shall be construed to authorize an increase of the bonded indebt-
15 edness of said city beyond the amount now authorized by law.

Investigations.

Sec. 83. The board of directors shall have authority at its
2 discretion, upon the filing before it, by any person, of charges in
3 writing, of malfeasance or non-feasance in office, of gross immoral-
4 ity, or any improper conduct, verified by affidavit, against any offi-
5 cer of the city, in any department thereof, to make or cause to be
6 made an investigation of such charges. The board of directors
7 shall have authority to require the attendance of witnesses, and
8 the production of any books or papers pertinent to such inquiry or
9 investigation. Any officer found guilty of any such offense shall
10 be removed from office.

Relating to Bribery.

Sec. 84. Any person who shall bribe, by directly or indirectly
2 giving to or bestowing upon a member of the board of directors of
3 the city, or other officer thereof, any money, testimonial or other
4 valuable thing, or do any act beneficial to such officer, in order
5 to influence him in the performance of any of his official or public
6 duties, shall be deemed guilty of a felony, and, upon conviction
7 thereof, shall be imprisoned in the penitentiary of the state of
8 West Virginia, for a term of not less than two years, nor more
9 than five years, and shall, moreover, be forever disqualified from
10 holding any office or position of honor, trust or profit in said city.

Sec. 85. Any person attempting to bribe, by offending or pro-
2 posing to give any officer or member of the board of directors of
3 the said city of Bluefield, money, testimonial, or other valuable
4 thing, or to do any act beneficial to such officer or member of the
5 board of directors in the performance of his official or public du-
6 ties, shall be deemed guilty of a felony, and, upon conviction there-

7 of, shall be imprisoned in the penitentiary of the state of West
8 Virginia, for not less than one year, nor more than three years,
9 and shall, moreover, be forever disqualified from holding any
10 office of honor, trust or profit in said city.

Sec. 86. If any member of the board of directors of the city of
2 Bluefield, or other officer of the said city shall demand or receive
3 from any corporation, company, firm or person, any money, tes-
4 timonial or other valuable thing, for the performance of any of
5 his official or public duties, or for refusal or failure to perform the
6 same, or for any vote or influence he may give or withhold as
7 such member of the board of directors or other officer, or for mak-
8 ing any particular nomination or appointment, he shall be deemed
9 guilty of felony, and, upon conviction thereof, shall be imprisoned
10 in the penitentiary of the state of West Virginia, for not less than
11 five years, nor more than ten years; and shall, moreover, be for-
12 ever disqualified from holding any office or position of honor, trust
13 or profit in said city.

Sec. 87. Any person bribing or attempting to bribe, or de-
2 manding or receiving a bribe, fee, reward or testimonial, as set
3 forth in any of the three next preceding sections, shall be com-
4 pelled to testify against any person or persons who have commit-
5 ted any of the offenses in said sections mentioned; *provided*, that
6 any persons so compelled to testify shall be exempted from trial
7 and punishment for the offense of which he may have been guilty,
8 and concerning which he is compelled to testify.

Miscellaneous.

Sec. 88. All officers of the city of Bluefield, who shall collect
2 or receive or whose official duty it is, or shall be, to collect,
3 receive, hold or pay out any money belonging to, or which is or
4 shall be, for the use of said city, shall make annual account and
5 settlement therefor. Such settlement, when made, shall be subject
6 to exceptions, and take such direction, and have only such force
7 and effect as may be provided by law; but in all cases, such settle-
8 ments shall be recorded, and be open to examination of the peo-
9 ple, at such convenient place or places as may be appointed by
10 ordinance of the city.

11 Any person violating any of the provisions of this section shall
12 be guilty of a misdemeanor, and fined not less than fifty dollars nor
13 more than one hundred dollars, or imprisoned not less than

14 two nor more than twelve months, or punished by both such fine
15 and imprisonment.

Sec. 89. All contracts, grants, easements, rights, privileges or
2 consents on, in or relative to any street, alley, or public ground or
3 property of said city, made by the council of said city, or by any
4 board or officer thereof, prior to this charter taking effect, and all
5 other contracts, grants, easements, rights, privileges or consents
6 entered into or granted by the said city or its duly constituted au-
7 thorities, at any time prior to this charter taking effect, which are
8 now in force, or which may have been lawfully entered into or
9 granted within any territory hereafter annexed to the city of Blue-
10 field and be in force and effect, when the annexation is made, shall
10-a continue in full force and effect, and be respected and complied
11 with by the city of Bluefield, and the board of directors and other
12 officers thereof under this charter, and all indebtedness incurred
13 by the said city, prior to this charter going into effect, shall be
14 binding upon the city of Bluefield, under this charter; and be paid
15 by it out of its revenues.

Sec. 90. All copies purporting to be copies of the ordinances
2 of said city or extracts from the journal or minutes of the board
3 of directors, which shall be printed by the authority of the board
4 of directors, or which shall be certified to be correct by the mayor
5 of said city under the seal thereof, shall be received by all courts
6 and magistrates of this state as *prima facie* evidence of the tenor
7 of such ordinances, and of the acts and proceedings of the board of
8 directors therein set forth.

Sec. 91. All valid ordinances and regulations passed and
2 adopted by the duly constituted authorities of the city of Bluefield
3 on or before the date this charter goes into effect, and not incon-
4 sistent with this act, shall be and remain in full force until
5 amended or repealed.

Sec. 92. All fees and money paid to an officer of the city, for
2 any official service, shall belong to the city and be paid at once
3 into the city treasury by such officer, the salary or compensation
4 given by the city to its officers respectively, being all the compen-
5 sation they shall be entitled to for any official service.

Sec. 93. Any person who shall violate any of the provisions
2 of this charter for the violation of which no punishment has been
3 provided herein, shall be deemed guilty of a misdemeanor, and
4 upon conviction thereof, shall be punished by a fine not exceeding

5 one hundred dollars, or by imprisonment in the county jail not ex-
6 ceeding one year, or by both such fine and imprisonment.

Civil Service Provisions.

Sec. 94. The city board of directors, in its discretion, may ap-
2 point a civil service commission for the purpose of examining ap-
3 plicants for positions in the fire, police and health departments.
4 Said commission shall consist of three citizens, not all of whom
5 shall be of one political party. Any vacancies occurring in the
6 commission shall be filled by the board of directors. For the pur-
7 pose of conducting tests in the departments specified they shall
8 conduct practical examinations annually or oftener, fixing grades
9 and classifications as they may determine, and a list of those suc-
10 cessfully passing the examinations prescribed shall be furnished
11 to the city manager. Such list shall be known as the "eligible
12 list," and, unless for good cause shown, selections must be made
13 from among the three applicants rated highest for the appoint-
14 ments necessary to be made. Said list and all examination papers
15 shall be kept on file in the office of the city clerk and available to
16 the public at all times; *provided*, that appointees in the depart-
17 ments under civil service may be subjected to examinations from
18 time to time in the interest of efficiency, and that the passing of
19 the required examination prior to entering the city's employ shall
20 not constitute a life tenure of office. No member of the civil ser-
21 vice commission during his incumbency shall be a holder of any
22 state, county or municipal office.

First Election and Present Officers.

Sec. 95. The officers elected at the first election held under
2 this charter, shall begin their terms on the first day of August,
3 one thousand nine hundred and twenty-one, and thereafter all
4 elections, except special elections, shall be held on the first Tues-
5 day in July in every fourth year thereafter; unless the first
6 Tuesday fall on the fourth then the day following and the terms
7 of office of the persons elected shall begin on the first day of
8 August next after such election.

9 For the first election to be held hereunder, the city council now
10 in office shall be a canvassing board to ascertain and disclose the
11 result of said election, to determine and settle ties as herein

12 provided for, and determine all contests. Thereafter, the
13 board of directors shall act as such canvassing board.

Sec. 96. At the first election held hereunder, the recorder of
2 the city of Bluefield shall perform all the duties prescribed under
3 the charter of the city of Bluefield existing at the time of such elec-
4 tion, and the general laws of the state of West Virginia.

Sec. 97. The mayor and council and all other officers, agents
2 and employees of the city of Bluefield shall remain in and hold
3 their offices and discharge the duties thereof, until the first day of
4 August, nineteen hundred and twenty-one, and thereafter until
5 their successors are elected and qualified as provided by this act,
6 and all existing offices not provided for by this act shall be abol-
7 ished as of the first day of August, nineteen hundred and twenty-
8 one.

Sec. 98. Before this charter shall become effective a special
2 election shall be called and held in said city in the several pre-
3 cincts as now established and existing in said city to be held on
4 the sixteenth day of May, one thousand nine hundred and twenty-
5 one, at which election if a majority of the votes cast in said
6 election be in favor of the adoption of this charter then this
7 charter shall thereafter be the charter of the city of Bluefield.

8 The ballots at said election shall be prepared as provided by
9 the general election laws of this state, except that the duties in
10 connection with the preparation of said ballots to be performed
11 by the clerks of the circuit and county courts shall be performed
12 by the city recorder, and the said ballots shall be in the following
13 form:

14

Vote on New Charter

15 [] For new charter.

16 [] Against new charter.

17 And the voter shall indicate his preference by making a cross or
18 X in the square opposite the wording for or against new charter.

19 The laws of the state of West Virginia governing the holding
20 of elections, and special elections, and the ascertaining of the re-
21 sult thereof shall govern the conduct of the special election herein,
22 in so far as applicable, except that the recorder shall perform the
23 duties required of the circuit and county clerks under general elec-
24 tion laws, and the council of said city in connection with the selec-
25 tion of election officers and ascertaining the result of said election,

26 and the holding of said special election shall perform the duties
27 required of the county court under general election laws.

28 The council of said city at a special or regular meeting shall
29 enter an order calling said special election to be held in said
30 city on May sixteenth, one thousand nine hundred and twenty-one,
31 and have published once a week for two weeks immediately pre-
32 ceding the date of said election in a newspaper of general cir-
33 culation in said city, the call for said special election, as well
34 as a full draft of this charter. The expense of holding said
35 election, including the publication of said call for said election
36 and the publication of a draft of this charter, shall be paid by
37 the said city out of its treasury.

38 The result of said special election, shall be ascertained and be
39 spread upon the minutes of the city council of said city at once
40 after the result of said election is ascertained, so that a permanent
41 record of the choice of the voters for and against this charter
42 shall exist. If a majority of the votes in said election be in favor
43 of adopting this charter it shall become effective for all purposes
44 from the date of the ascertaining of the result of said election.

45 All acts in conflict or inconsistent with this act are hereby
46 repealed.

CHAPTER 3

(House Bill No. 537—Mr. Moore, of Marshall.)

AN ACT to amend and re-enact chapter eighteen of the acts of the legislature of the year one thousand nine hundred and fifteen and chapter twelve of the acts of the legislature of the year one thousand nine hundred and nineteen relating to the charter of the city of Cameron in the county of Marshall, state of West Virginia, fixing its corporate limits, prescribing and defining the powers and duties of said city.

[Passed April 27, 1921. In effect from passage. Approved by the Governor May 3, 1921.]

<p>Sec. 1. "The city of Cameron," a body corporate; powers. 2. Boundaries. 3. Wards. 4. Officers; duties of, eligibility. 5. Municipal authorities. 6. Elections; rules governing. 7. Terms of officers. 8. Oaths of officers.</p>	<p>Sec. 8-a. Council; duties. 9. Council; additional duties; bonds; levies, etc. 10. Council; authority to remove officers. 11. Council; meetings, time and place; quorum. 12. "Minute book." kept by clerk; oaths and bonds, etc.</p>
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- Sec.
13. Proceedings of council meetings.
 14. Ordinances; when adopted.
 15. Council; powers; duties; improvements; to abate all nuisances, etc.; additional duties; to create committees or boards; authority of.
 16. Franchises, length of time granted by council; restrictions; conditions; when void.
 17. Council; authority to carry into effect these enumerated powers, etc.; violations; penalties; fines; absence or inability.
 18. Mayor; power; duties; conservation of peace; authority to issue warrants, etc.; to appoint special officers; salary; violation.
 19. To enforce ordinances; summons required; violation of; mayor to have power and authority of a justice; trial or hearing; penalty.
 20. Mayor; power to issue an execution for any fine and costs assessed by him for violation of any ordinance, etc.; require payment thereof; imprisonment for.
 21. Mayor to appoint policemen with consent of council only; bond required; duties; accounting for all money to council; penalty.
 22. Police to enforce ordinances; violations; account for all fines, etc.; other rights and powers; compensation.
 23. Mayor's docket; a book for noting cases brought or tried by him, etc.
 24. Appeals; when and how made; conditions for granting same.
 25. Same; mayor to transmit records to clerk of court.
 26. Violation; punishment; cost of; fees.
 27. Appeals allowed; conditions regarding.
 28. Solicitor; duties; directed by council; compensation.
 29. Health officer; duties; how provided; salary; no other compensation to be received.
 30. Treasurer; may be any citizen, a bank or trust company of said city; selected by council; term of office; money disbursed only by orders drawn against same, etc.; to report to council monthly or otherwise; books open for inspection treasurer to give bond; amount; compensation; liability.
 31. Street commissioner; duties; compensation.
 32. City engineer, selected by council; duties; term of office; compensation.
 33. Lien for taxes; by city authorities; delinquent taxes; certified;

- Sec.
- property sold for non-payment of.
 34. Council; authority to require licenses generally; conditions; dog licenses, etc.; tax imposed on.
 35. Council; shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted; tax thereon to be made to city clerk before delivery to person.
 36. Council; power to condemn real estate for streets and other work for purposes of public utilities; cost to be born by city; exception.
 37. City clerk; duties; to act as mayor in his absence, etc.; and books to be made annually by assessor; compensation; clerk to have access to same for making tax tickets; notice given; taxes collected; penalty for non-payment thereof; discount allowed; when license taxes shall be paid; bond required from clerk.
 38. Sidewalks, etc.; city to pay for establishing grades, etc.; council to require persons owning property to construct same; liens; provisions.
 39. Council shall have authority to do all street paving, etc.; publication of; bids let; owners of lots assessed one-third of cost of said improvements; lien on property; additional annual levy caused.
 40. Council; shall cause levy to be made upon real and personal property otherwise subject to state and county taxes; capitation tax required; age.
 41. Financial statement; council shall cause to be published each March the financial conditions of said corporation; receipts; expenditures, etc.; copies for distribution; misdemeanor; penalty for.
 42. Power of municipal authorities; bonds; additional levy.
 43. City to succeed to all rights, powers, etc.; vested with title of all property of city heretofore existing; present officers to continue till successors are elected.
 44. This act shall be submitted to qualified voters of said city before becoming effective; special election to provide for same; publication required.
 45. Ballots; forms made.
 46. Duty of mayor, council and clerk governing election.
 47. Council power to combine offices of clerk, chief of police and others, same to be designated at city manager's salary.
 48. Acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Marshall as are within the bounds prescribed by section two of 2 this act, now and hereafter residing within said bounds, shall

4 be and they are hereby constituted a body politic and corporate,
5 by and under the name of "The city of Cameron", and as such
6 and in that name shall have perpetual succession and a common
7 seal and may sue and be sued, contract and be contracted with,
8 purchase, lease, hold and use real and personal property for
9 municipal purposes, and generally shall have all the rights, powers
10 and franchises belonging or appertaining to municipal corpora-
11 tions in the state of West Virginia.

Boundaries.

Sec. 2. The boundary of said city shall be as follows:

2 Beginning at the northeast corner of the county bridge over
3 Grave Creek southwest of site of Baltimore & Ohio railroad shops,
4 thence down said creek N. 87° 35' W. 160 feet to a stake; thence
5 continuing down said creek N. 41° W. 242 feet to a stake; thence
6 leaving the creek and continuing up a drain N. 23° 25' E. 1200
7 feet to a stake, N. 45° W. 43 feet from a sycamore; thence leaving
8 said drain, continuing through the lands of George Gump, West
9 Lawn Addition, and E. Hall S. 66° 20' 2200 feet to a stake, an
10 original corner to the present corporation line of the town of
11 Cameron; thence following the said present corporation line the
12 following ten courses and distances, S. 85° E. 240 feet; N. 5° E.
13 985 feet; N. 3° W. 650 feet; N. 1430 E. 688 feet; thence cross-
14 ing run north of Patterson Glass Company's plant S. 39° 10' E.
15 249 feet; S. 10° 15' W. 431 feet; S. 1° 45' E. 264 feet; S. 4° 15'
16 W. 379 feet; S. 17° E. 360 feet; S. 24° S0' E. 41 feet to corner
17 of John Crawford's land; thence, leaving the present corporation
18 line, and continuing with line of lands of John Crawford and
19 Lizzie McConaughy N. 72° 50' E. 1712 feet to an iron pin, cor-
20 ner to lands of Lizzie McConaughy and John Crawford; thence
21 through the lands of John Crawford and Geo. N. Yoho, and pass-
22 ing between said Yoho's house and barn, N. 83° 50' E. 1459 feet
23 to stake in Yoho's line 13 feet South of A. McCracken and Allen
24 Kinsey's lot; thence with Geo. N. Yoho's line, N. 23° 15' E.
25 492 feet to a stake, corner to lands of Geo. N. Yoho; thence with
26 his land N. 5° 20' E. 548 feet to a post in Yoho's line and a cor-
27 ner to lands of Jerry A. Fitzgerald and A. McCracken; thence
28 leaving Yoho's line and running with lines of Fitzgerald and
29 McCracken and Simmons, S. 89° 15' E. crossing the Cameron
30 and Clouston Pike 600 feet to a stake on a flat in field of S. D.

31 McConaughey; thence through the lands of S. D. McConaughey
 32 and D. W. McConaughey, S. 19° W. 2660 feet to a locust stump;
 33 thence continuing through lands of D. W. McConaughey and J. M.
 34 Nichols, S. 83° 50' E. 2324 feet to a locust tree; thence S. 69° E.
 35 1260 feet to the most northerly of three large white oaks on the
 36 east side of a drain; thence S. 17° 30' W. 710 feet to the 28 mile
 37 post on the Baltimore & Ohio railroad; thence continuing through
 38 the lands of L. L. Howard, S. B. Dallison and J. A. Hicks' heirs
 39 S. 87° 20' W. 2700 feet to a locust tree; thence S. 16° 45' E.
 40 473 feet to a locust tree in J. A. Hicks' heirs and S. B. Dallison
 41 line; thence S. 47° 15' E. 520 feet to a stone in old quarry on a
 42 point; thence S. 57° 5' E. 1248 feet to a stake 175 feet east of a
 43 drain; thence S. 42° 30' W. passing 30 feet east of residence of
 44 Nancy Barnett, crossing Ramp Hollow 600 feet to a stake in
 45 Henry Wendt's field, thence continuing through lands of said
 46 Wendt and J. C. Reid, N. 66° 50' W. 1709 feet to a corner of J. C.
 47 Reid and Dr. W. V. Teagarden; thence through said Teagarden's
 48 lands, N. 37° W. 560 feet to a dead white oak in Teagarden's
 49 line; thence N. 78° W. 1543 feet to a locust tree; thence A. 73°
 50 W. 816 feet to a white oak on the west side of drain in W. Cham-
 51 bers' lot; thence through the lands of said Chambers and Harry
 52 Moose, passing between barn and house of said Harry Moose, N.
 53 73° W. 1280 feet to a stake; thence through the lands of Harry
 54 Moose, Elder Company, Mrs. Anderson, G. W. McCracken and
 55 David Gump, N. 62° W. 1790 feet to a stake at top of bank in
 56 David Gump's field; thence N. 29° 15' W. 951 feet to the begin-
 57 ning, containing, approximately, 50 acres, according to survey
 58 made by R. C. Yoho, county surveyor, January fifth and sixth,
 59 one thousand nine hundred and fifteen.

Wards.

Sec. 3. The territory of said city is hereby divided into three
 2 wards, as follows: All that part of the city lying south of the
 3 Baltimore & Ohio Railroad shall constitute the first ward; that
 4 part lying east of Bridge Street and North Avenue and north of
 5 the Baltimore & Ohio Railroad shall constitute the second ward
 6 and all that portion lying west of Bridge Street and North Avenue
 7 and north of the Baltimore and Ohio Railroad shall constitute
 8 the third ward. The council of the city may change
 9 the different wards, but regard shall be had to equality of popu-
 10 lation.

Officers.

Sec. 4. The officers of said city shall be a mayor, chief of
2 police, clerk, who shall be *ex-officio* collector; solicitor, treasurer,
3 health officer, and six councilmen. The mayor and six council-
4 men shall be elected by qualified voters of said city. The clerk,
5 solicitor, treasurer, health officer and such other officers as may
6 be needed from time to time, shall be appointed by the council,
7 and the councilmen shall be elected by the qualified voters of their
8 respective wards. No person shall be eligible to any elective
9 office unless he is a qualified voter thereof, nor unless he has re-
10 sided therein for at least six months before his election, and in
11 case of a councilman, unless he be a *bona fide* resident of the
12 ward in which he is elected; and the removal of a councilman
13 from the ward in which he was elected shall vacate his office, and
14 no person shall be eligible to any city office unless he is a tax-
15 payer and a qualified voter thereof.

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

Elections.

Sec. 6. The first election held hereunder shall be on the
2 first Thursday in January, one thousand nine hundred and
3 twenty-two and biennially thereafter. Every person who has
4 been a *bona fide* resident of the city for three months next pre-
5 ceding any election, and otherwise a qualified voter under the
6 constitution and laws of the state, shall be entitled to vote
7 at such election, in the ward in which he resides. The elec-
8 tion shall be held, conducted and results thereof be ascertained,
9 returned and determined under such rules and regulations as
10 may be prescribed by the council, which shall not be inconsistent
11 with the general laws of the state governing municipal elec-
12 tions, and shall conform as nearly as practicable to such laws.
13 contested elections shall be heard and decided by council, and
14 the proceedings therein shall conform as nearly as may be to
15 similar proceedings in the case of county and district officers.
16 The council shall be the judge of the election, return and quali-
17 fication of its own members. In case two or more persons re-

18 ceived an equal number of votes for the same office, if such num-
19 ber be the highest cast for such office, the city council shall de-
20 cide by vote which of them shall be returned elected, and shall
21 make their return accordingly.

Terms of Officers.

Sec. 7. The term of office of the mayor shall begin on the
2 first day of February next succeeding his election, and shall be
3 for the term of two years, and until his successor shall have been
4 elected and qualified. The clerk, solicitor, marshal, health
5 officer and such other officers, including a treasurer, as may be
6 needed from time to time, shall be appointed by the council and
7 shall hold their office during the pleasure of the council. Any
8 former incumbent shall be ineligible for a second appointment
9 unless he shall have fully settled up the business of his former
10 term or terms. At the first election provided for in section six, of
11 this act, there shall be elected a mayor and one councilman
12 from each ward, whose terms of office shall begin on the first day
13 of February, next succeeding their election and shall be for the
14 term of two years and until their successors are elected and
15 qualified, and one councilman from each ward, whose term of
16 office shall begin on the first day of February next succeeding
17 his election, and who shall hold office for the term of four years,
18 and until his successor is elected and qualified. On the same
19 day in each succeeding two years one councilman from each
20 ward shall be elected and shall hold office for four years from
21 the first day of February next succeeding his election and until
22 his successor is elected and qualified. At said first election
23 hereunder, it shall be designated on the official ballot of election
24 whether the candidates for councilman are being voted on for
25 the long term of four years or the short term of two years. But
26 nothing in the section shall be construed to invalidate the elec-
27 tion or term of office of any councilman elected to office and
28 whose term of office began on the first Monday in February in
29 the year one thousand nine hundred and twenty, under the pro-
30 visions of section seven of chapter eighteen of the acts of the
31 legislature one thousand nine hundred and fifteen.

32 The council of said city shall have the right to fix a compen-
33 sation for the members thereof, which compensation, however,
34 shall not exceed fifty dollars per year to each member.

Sec. 8. Every person elected or appointed to any office in 2 said city shall within twenty days after his election or appoint- 3 ment and before entering upon the discharge of the duties thereof, 4 take and subscribe the oath of office prescribed by law for offi- 5 cers generally, which may be done before the mayor or clerk of 6 said city, or before any person authorized by law to administer 7 oaths; and the same, together with the certificate of the officer 8 administering the oath, shall be filed with the clerk of said city.

Council.

Sec. 8-a. The council shall prescribe the powers and define 2 the duties of all officers by it appointed, except so far as the same 3 are by this act defined; shall fix their compensation, and may 4 require and take from them respectively, bonds payable to the 5 city in its corporate name with such sureties and in such penalties 6 as may be deemed proper, conditioned for the faithful perform- 7 ance of their duties.

Sec. 9. The council shall require and take from all officers 2 elected or appointed as aforesaid, whose duty it shall be to receive 3 funds, assets or property belonging to the city, or having charge 4 of the same, such bonds, obligations or other writings as may be 5 deemed necessary and proper to secure the faithful performance 6 of their several duties. All bonds, obligations or other writings 7 taken in pursuance of any of the provisions of this act shall be 8 made payable to "The City of Cameron," with such sureties and 9 in such penalties as may be deemed proper, conditioned for the 10 faithful performance of their duties and for the accounting for 11 and paying over, as required by law, all moneys coming into their 12 hands by virtue of their offices, and the respective persons and 13 their heirs, executors and assigns bound thereby, shall be subject 14 to the same proceedings on said bonds, obligations and other 15 writings, for enforcing the conditions of the terms thereof, by 16 motion or otherwise, before any court of competent jurisdiction 17 held in and for the county of Marshall, that collectors of county 18 levies and other sureties are or shall be subject to on their bonds 19 for enforcing the payment of the county levies.

Sec. 10. The council shall have the authority to remove from 2 office any elected officer of the city for misconduct or neglect of 3 duty, by an affirmative vote of three-fourths of the members of 4 the council, but only after reasonable notice to such officer, and

5 a hearing of the charges preferred; and any vacancy in office, how-
6 ever occasioned, may be filled by the council for the unexpired
7 term.

Sec. 11. The council shall fix the place and time of holding
2 its regular meetings; may provide for special and adjourned meet-
3 ings; shall have power to compel the attendance of its members;
4 and may prescribe rules and regulations, not inconsistent here-
5-6 with, for the transaction of business and for its own guidance
7 and government. The council shall be presided over at its
8 meetings by the mayor, or in his absence by the clerk, or in the
9 absence of both the mayor and clerk, then one of the council-
10 men selected by a majority of the council present who may vote
11 on any question as member of the council. The mayor shall
12 have a vote only in case of a tie and in no case shall the presid-
13 ing officer have more than one vote. A majority of the council
14 shall be necessary to constitute a quorum for the transaction of
15 business. No member of the council shall vote upon or take
16 part in the consideration of any proposition in which he is or may
17 be interested otherwise than as a resident of said city.

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

Sec. 13. 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 call
4 of any member, the yeas and nays on any question shall be
5 taken and recorded in the minute book.

Sec. 14. No ordinance or by-law, and no resolution or measure for the expenditure of money other than to defray the current and incidental expenses of the city, shall be deemed passed or adopted unless it shall have been fully read at two consecutive meetings of the council, and shall have received a majority of the votes of the members present, when it shall stand and be declared adopted and not otherwise.

Sec. 15. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross-walks, drains and gutters therein for the use of the citizens or of the public, and to improve and light the same, and to keep the same free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughterhouses and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the person causing the same, or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subjected to be covered by stagnant water; to prevent horses, hogs, dogs, cattle, sheep, or other animals and fowls of all kinds from going or being at large in such city, and as one means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim, for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide and regulate the building of houses or other structures, and for the making and maintaining of division fences

34 by the owners of adjoining premises, and for the proper drainage
35 of city lots or other parcels of land, by or at the expense of the
36 owner or occupant thereof; to provide against damage or danger
37 by fire; to punish for assaults and batteries: to arrest, convict
38 and punish any person for gambling or keeping gaming tables,
39 commonly called A, B, C, or E. O, table or faro bank or keno
40 table, or table of like kind, under any denomination, whether
41 the game or table be played with cards, dice or otherwise, or
42 shall be a partner, or concerned in interest, in the keeping or
43 exhibiting such table or bank, or keeping or maintaining any
44 gaming house or place, or betting or gambling for money or
45 any thing of value; to suppress houses of ill-fame and to arrest
46 and punish persons loitering in, or visiting them, or loitering
47 in saloons, or upon the streets; to prevent lewd and lascivious
48 conduct; the sale or exhibition of indecent pictures or other
49 representations; the desecration of the Sabbath day; profane
50 swearing; the illegal sale of all intoxicating liquors, drinks, mix-
51 tures and preparations, beer, ale, wine, or drinks of like nature;
52 to protect the persons of those residing or being within said
53 city; to appoint when necessary or advisable a police force, per-
54 manent or temporary, to assist the chief of police in the dis-
55 charge of his duties; to build or purchase, or lease and to use,
56 a suitable place within or near said city for the safe keeping
57 or punishment of persons charged with or convicted of the viola-
58 tion of ordinances; to provide for the employment of persons con-
59 victed of the violation of ordinances or who may be committed
60 in default of the payment of fines, penalties or costs, and who are
61 otherwise unable to discharge the same, by putting them to
62 work for the benefit of the city, and to use such means to prevent
63 their escape while at work, as they may deem expedient; to erect,
64 or authorize or prohibit the erection of gas works, electric light
65 works, or water works within the city limits; to prevent injury to
65-a such works or the pollution of any gas or water used or intended
66 to be used by the public or by individuals, and to do all things
67 necessary to adequately supply said city and the inhabitants
68 thereof with pure, healthful and wholesome water to use, gen-
69 erate, distribute, sell and control electricity and gas for heat,
70 light and power and to furnish light for the streets, houses, build-
71 ings, stores, and other places in and about said city; to provide a
72 sewerage system for said city; to provide for and regulate the

73 weighing and measuring of hay, coal, lumber and other articles
74 sold or kept or offered for sale, within said city; to regulate the
75 running and speed of engines and cars within the said city, ex-
76 cept that the council of said city shall not interfere with the speed
77 of trains and engines beyond the corporation line of the city of
78 Cameron as heretofore existing, until the said new territory shall
79 be laid out in lots, streets and alleys, and opened and used by the
80 public; to organize one or more fire companies and provide neces-
81 sary apparatus, tools, implements, engines or any of them for
82 their use, and in their discretion to organize a paid fire depart-
83 ment; to make regulations with respect to the erection and loca-
84 tion of all pipes, conduits and telephone, telegraph, electric light
85 or other poles within said city, and the extension of any wires,
86 lines and poles by any individuals or corporation; to create by
87 ordinances such committees or boards, and delegate such author-
88 ity thereto as may be deemed necessary or advisable; to provide
89 for the annual assessment of the taxable property therein, includ-
90 ing dogs kept in said city, and to provide a revenue for the city
91 for municipal purposes, and to appropriate such revenue to its
92 expenses, and generally to take such measures as may be deemed
93 necessary or advisable to protect the property, public and pri-
94 vate, within the city; to preserve and promote the health, safety,
95 comfort and well being of the inhabitants thereof.

96 The council of said city shall have power and authority to
97 control and regulate the construction and repairs of all houses
98 and other buildings within the said city; to provide for the grant-
99 ing of building permits; to cause the removal of unsafe walls
100 or buildings and may prohibit the erection on any such street,
101 or in any such square, of any building, or of any addition to any
102 building unless the outer walls thereof be made of brick and
103 mortar or other fire proof material; and to provide for the re-
104 moval of any building or addition which shall have been erected
105 contrary to such prohibition, at the expense of the owner or
106 owners thereof.

107 The said council of said city shall have any and all additional
108 power and authority granted to cities, towns and villages here-
109 tofore enacted or hereinafter to be enacted by the legislature of
110 West Virginia, under general statutes.

Franchises.

Sec. 16. Franchises may be granted by the city council to 2 persons or corporations allowing such occupancy of portions of 3 the streets and alleys as may be necessary for works of public 4 utility and service, but no such franchise shall hereafter be 5 granted except under the following restrictions and conditions: 6 No ordinance shall be passed granting any franchise for the use 7 of any of the streets or alleys of the city for any of the purposes 8 above named, until the same shall have been filed with the clerk 9 at least thirty days prior to the time when it is to be acted upon 10 by the council, and notice of such application, stating the object 11 of such franchise, and when the same will be considered by 12 the council, shall have been given thirty days notice in some 13 newspaper of general circulation published in the city.

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

18 Nor shall any franchise be hereafter granted by council for a 19 longer period than fifty years; *provided*, that the council shall 20 have the power to renew any such franchise for the term of fifty 21 years when the same shall have expired. No franchise hereafter 22 granted for a longer term than fifty years shall be of any force 23 or validity. No grant of any such franchise shall be made 24 without at the time of making it providing that the grantee, its 25 successors or assigns, shall indemnify the city against all dam- 26 ages caused by the construction of such works. Any corporation 27 or person to whom a franchise has been heretofore or may here- 28 after be granted, or their successors or assigns, who shall fail 29 to comply with the condition of the ordinance granting such 30 franchise within one year from the time said conditions are di- 31 rected to be performed, said franchise shall be and the same 32 become null and void.

Sec. 17. To carry into effect these enumerated powers and 2 all others by this act or by general law conferred, or which may 3 hereafter be conferred upon the said city or its council or any of 4 its officers, the said council shall have and possess full authority 5 to make, pass and adopt all needful ordinances, by-laws, orders 6 and resolutions not repugnant to the constitution and laws of 7 the United States or of this state; and to enforce any or all of

8 such ordinances, by-laws, orders or resolutions by prescribing for
9 a violation thereof, fines and penalties and imprisonment in
10 either the county jail of Marshall county, or the city prison if
11 there be one; but no fine shall exceed one hundred dollars, and
12 no term of imprisonment shall exceed ninety days. Such fines
13 and penalties shall be imposed and re-covered, and such imprison-
14 ment inflicted and enforced, by and under the judgment of the
15 mayor of said city, or in case of absence or inability to act, of
16 the clerk of said city, or in case of absence or inability to act
17 of both of said officer, of one of the councilmen, appointed for
18 that purpose by the council.

Mayor.

Sec. 18. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 regulations 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 city
13 are preserved, and that persons and property therein are pro-
14 tected; 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
17 to time recommend to the council such measures as he may deem
18 needful for the welfare of the city; he shall not receive any money
19 due or belonging to the state or corporation or to individuals,
20 unless and until he shall have given the bond and security of
21 a justice of the peace by chapter fifty of the code of West Vir-
22 ginia; and all the provisions of said chapter relating to moneys
23 received by justices shall apply to moneys received by him in like
24 cases.

25 The mayor shall receive a salary of not less than three hun-
26 dred nor more than five hundred dollars per annum; such sal-
27 ary shall be in lieu of the fees which would otherwise accrue to

28 him in proceedings for the enforcement of ordinances, but all
29 such fees shall be collected when practicable, and accounted for
30 to the city, and he may tax such costs against any person or corpor-
31 ation found guilty of the violation of any ordinance of the city,
32 as are provided to be taxed and recovered by justices of said
33 county in criminal cases.

Sec. 19. The process in proceedings to enforce any ordinances
2 prescribing a fine or imprisonment, or a fine and imprisonment,
3 for the violation thereof, shall be a summons in the name of the
4 city of Cameron as plaintiff, directed to the chief of police,
5 to one of the regular police officers of the city, or to any con-
6 stable of any district within the said city, requiring him to sum-
7 mon the person accused of such violation, and who shall there-
8 after be designated as defendant, to appear before the mayor at
9 the time and place therein named to make answer to such accusa-
10 tion and be dealt with according to law; such summons shall
11 contain such statement of the facts alleged as will inform such
12 person of the general nature of the offense against the city of
13 which he stands charged, and except in cases of arrest upon view,
14 shall be issued only upon the complaint, on oath, of some credible
15 person. But the mayor for good cause appearing, by endorse-
16 ment of the summon, may order the person so accused to be forth-
17 with apprehended and brought before him for a hearing of the
18 charge. The clerk of said city, as well as the mayor, shall have
19 authority to receive any complaint in writing of the violation of
20 any ordinance, and to sign and issue the proper summons based
21 upon such complaint. The mayor shall have, possess and may
22 exercise the power and authority belonging to a justice under sec-
23 tions two hundred and twenty-four and two hundred and twenty-
24 five of chapter fifty of the code of West Virginia, in summoning
25 and enforcing the attendance and examination of witnesses, in
26 punishing for contempt, in granting continuances, and in secur-
27 ing and enforcing the further attendance of the accused with a
28 view to a trial or hearing. If any recognizance be taken for
29 such further attendance, and is forfeited, the mayor may record
30 the default, and an action be maintained in the name of the city,
31 before the mayor, or any justice having jurisdiction, against
32 the accused and his sureties, if any to recover the penalty thereof.

Sec. 20. The mayor shall have the power to issue an execu-
2 tion for any fine and costs assessed or imposed by him, for the

3 violation of any ordinance, or he may at the time of rendering
4 judgment therefor, or at any time thereafter and before satisfac-
5 tion of such judgment, by his order in writing, require the imme-
6 diate payment thereof; and in default of such payment he may
7 cause the person so in default to be apprehended and brought be-
8 fore him, and commit him to the jail of Marshall county or
9 in his discretion to the prison of said city, if one shall have been
10 provided, until the fine and costs are fully paid; but such im-
11 prisonment shall not exceed thirty days.

Sec. 21. The mayor shall, with the consent of council and not
2 otherwise, appoint one or more policemen, as the council may
3 determine.

4 Each policeman appointed as prescribed by this section shall,
5 before entering upon the discharge of his duties, execute a bond
6 conditioned for the faithful performance by him of the duties of
7 his office and as is required by law, and for the accounting for and
8 paying over, as is required by law, all money which may come into
9 his hands by virtue of his office, with sureties satisfactory to the
10 council, in a penalty of not less than one hundred dollars nor
11 more than five thousand dollars, as the council may prescribe.

Sec. 22. In case a violation of any ordinance of said city is
2 committed in the presence, or within view of any of the police
3 officers, the offender may be forthwith apprehended and taken be-
4 fore the mayor, and a complaint under oath, stating such viola-
5 tion, there lodged and filed; and thereupon such offender may be
6 tried and dealt with according to law, without summons. Any
7 of the police officers shall execute, within the county of Marshall,
8 when directed to him, any proper process issued by the mayor in
9 proceedings for the enforcement of ordinances; and shall collect
10 by levy of execution, or otherwise, and duly account for, all fines
11 assessed and costs imposed in such proceedings. He shall also
12 have all the rights and powers, within said city, in regard to the
13 arrest of persons, the collection of claims, and the execution and
14 return of process, that are or may be lawfully exercised by a con-
15 stable of a district within the same, and shall be entitled to the
16 compensation therefor; and he and his sureties shall be liable
17 to all fines, penalties and forfeitures that a constable is liable, for
18 any dereliction of duty in office, to be recovered in the same man-
19 ner, and in the same courts, that such fines, penalties and for-
20 feitures are recovered against constables.

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 the 4 proceedings therein, including a statement of complaint, the sum- 5 mons, the return, the fact of appearance or non-appearance, the 6 defense, the hearing, the judgment, the costs, and in case the 7 judgment be one of conviction, the action taken to enforce the 8 same; the record of such case shall be signed by the mayor or other 9 person acting in his stead; and the original papers thereof, if 10 no appeal be taken, shall be kept together and preserved in his 11 office.

Appeal.

Sec. 24. In any case for the violation of an ordinance of 2 the said city, in which there is a judgment by the mayor of im- 3 prisonment, or for a fine of more than ten dollars, an appeal shall 4 lie at the instance of the person against whom such judgment is 5 rendered to the circuit court of Marshall county. Such appeal 6 shall not be granted by the mayor unless, within ten days from the 7 date of the judgment, such person shall enter into a recognizance, 8 with security deemed sufficient, in a penalty double the amount of 9 fine and costs, with condition that the person appealing will ap- 10 pear before the said court on the first day of the next term thereof, 11 to answer for the offense against the city with which he stands 12 charged, and not thence depart without leave of said court, and 13 will perform and satisfy any judgment which may be rendered 14 against him by the circuit court, on appeal. The provisions of 15 chapter one hundred and sixty-two of the code of West Virginia, 16 relating to recognizance in criminal cases, shall be applicable to 17 the recognizance contemplated by this section, except where here- 18 in otherwise provided; but any money recovered thereon or by 19 virtue thereof shall inure to the 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 judg- 4 ment, the recognizance, and any other papers belonging to the 5 case; and such clerk shall receive and file the same, and place the 6 case upon the trial docket of the next succeeding term of said 7 court, and said court shall proceed to try the same 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 or 3 otherwise, the court shall ascertain by its judgment the fine or 4 imprisonment or the fine and imprisonment to be paid or suffered 5 by such defendant, having regard to the punishment prescribed by 6 such ordinance, and shall include in any such judgment the costs 7 incurred by said city, as well in the proceedings before the 8 mayor as those in court, including a fee to the attorney for the 9 city of five dollars, and the fees, if any, of the jailor or the 10 keeper of the city prison; and the proceedings to enforce the col- 11 lection of any such fine and costs, as may be provided in sections 12 ten, eleven and twelve of chapter thirty-six of the code of West 13 Virginia, except that the writ mentioned in the tenth section may 14 be issued by the clerk upon the order of the mayor of the city, 15 and the notice contemplated by the eleventh section shall be given 16 to such officer.

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.

Solicitor.

Sec. 28. It shall be the duty of the solicitor to prepare, when 2 directed by council, all ordinances for said city, to represent the 3 said city in all matters and proceedings in any court in which the 4 said city is interested, and counsel the said council when requested; 5 he shall receive as compensation for his services, to be fixed by the 6 council.

Health Officer.

Sec. 29. The health officer shall perform such duties as may 2 be provided by any ordinance of said city or by resolution of the 3 council, and shall receive a salary at the rate of not more than 4 three hundred dollars per year. He shall receive no compensation 5 from said city, other than the salary herein provided.

Treasurer.

Sec. 30. The treasurer may be any citizen, a bank or trust 2 company of said city, and shall be selected by council and may 3 hold office during the pleasure of the council. All money due the 4 city shall be paid to the clerk, and be by the clerk deposited with

5 the treasurer. The money deposited with the treasurer shall be
6 disbursed only upon orders drawn against the same, signed by the
7 mayor and countersigned by the clerk. The treasurer shall receipt
8 to the clerk for all money paid by him, and shall keep regular
9 books of account, showing the amount of the several funds paid
10 or deposited with the treasurer by said clerk, and shall make report
11 to the council once a month or at such other times as the council
12 may direct, showing the receipts and disbursements of the funds
13 of the city, and the treasurer shall produce his books of account
14 to the council or any committee of the same for inspection, upon
15 the order of the council.

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

Street Commissioner.

Sec. 31. The street commissioner shall perform such duties as
2 are now, or which may hereafter be imposed upon him by any
3 ordinance of said city, and shall receive such compensation as may
4 be fixed by council, which shall be at the rate of not less than five
5 hundred dollars nor more than seven hundred and fifty dollars
6 per annum.

City Engineer.

Sec. 32. The city engineer shall be selected by the council,
2 and shall hold office during the pleasure of the council; he shall
3 perform such duties as may be required of him by the council or
4 provided by ordinance of said city, and his compensation there-
5 for shall be fixed by the council.

Lien for Taxes.

Sec. 33. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penalties
3 assessed to, or imposed upon the owners thereof, by the authori-

4 ties of such city, from the time the same are so assessed or im-
5 posed, which shall have the priority over all other liens, except
6 the lien for taxes due the state, county and district; and which
7 may be enforced by the council in the same manner provided by
8 law for the enforcement of the lien for county taxes. If any real
9 estate within said city be returned delinquent for the non-payment
10 of the delinquent taxes thereon, a copy of such delinquent list may
11 be certified by the council to the auditor, and the same may be
12 sold for the city taxes, interest and commission thereon, in the
13 same manner, at the same time and by the same officer as real
14 estate is sold for non-payment of state taxes.

Licenses Generally.

Sec. 34. The council shall have the authority to require a city
2 license as follows: For anything to be done, carried on or exhib-
3 ited within the city, for which a state license is now or may here-
4 after be required, for the keeping of hacks, carriages, carts, wagons
5 and other vehicles for hire within the city, and for keeping of
6 dogs within the city, and the council may provide for the killing
7 of all dogs, the keeping of which is not so licensed. And upon
8 all such licenses the council may impose a reasonable tax for the
9 use of the city.

Sec. 35. The council shall prescribe by ordinance the manner
2 in which licenses of all kinds shall be applied for and granted, and
3 shall require the payment of the tax thereon to be made to the
4 clerk of said city before delivery to the person applying therefor,
5 and the provisions of section forty-one of chapter thirty-six of
6 the acts of one thousand nine hundred and five, and the provis-
7 ions of section forty of chapter eighty-two of the acts of one
8 thousand nine hundred and seven, extra session, of the legisla-
9 ture of West Virginia, relating to licenses, shall govern the city
10 in the granting of licenses similar in character to those therein
11 mentioned, except where otherwise herein provided. Licenses for
12 keeping dogs shall also expire on the thirtieth day of June next
13 after they are granted, and all other licenses may be for such
14 times as the council may determine.

Power to Condemn.

Sec. 36. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, wharves, city prison, or other work or purpose of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Clerk.

Sec. 37. It shall be the duty of the city clerk to keep a journal of the proceedings of the council and have charge of and preserve the records, papers, contracts and other documents belonging to the city; it shall be his duty to attend the sessions of the police court and keep an accurate record of its proceedings, and all judgments shall be entered by him within twenty-four hours after the same are rendered; he shall, in case of sickness or disability of the mayor to act, or in case of his absence from the city, or during any vacancy in the office of the mayor, perform the duties of mayor, and shall be vested with all the powers necessary for the performance of such duties; he shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise, as may be required of him by this act or by the council.

The officer whose duty it is to make out the land books for Marshall county shall, annually, at such compensation as agreed upon with council, not later than the fifth day of August, furnish to the clerk, showing in separate amounts, the aggregate value of all the personal property and the aggregate value of all the real estate in the city, as ascertained from the land and personal property books of said county for the current year; upon receiving said statement the clerk shall present the same to council at a meeting to be held not later than the second Tuesday in August, for the purpose of determining the rate of levy in said city for the current year; as soon as the rate of levy shall have been fixed by council, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council, fixing the rate of

29 tax, and such officer shall thereupon extend the tax against
30 the property situated in the city in the land and personal prop-
31 erty books in separate columns in said books.

32 The clerk shall, when the extended copies of the assessor's
33 books are completed and returned to the clerk of the county
34 court, have access to the same for the purpose of making out
35 the tax tickets of the taxes therein extended, and it shall be
36 the duty of the clerk to make out all tax tickets, and when
37 the same have been examined, compared and approved by the
38 financial committee of the council and found to be correct, they
39 shall be turned over to the clerk not later than the tenth day
40 of September following the levy, whose receipt shall be re-
41 turned to the council and entered upon its record, and the clerk
42 shall be charged therewith.

43 The clerk shall give notice that said tax tickets are in his
44 hands for collection, stating the penalty for non-payment there-
45 of, and the time and place where the same may be paid, which
46 notice shall be published for fifteen days in one or more news-
47 papers published in said city.

48 To all persons who shall pay their taxes in full before the
49 first day of December next succeeding said levy, there shall
50 be allowed a discount of two and one-half per centum on the
51 whole amount of the taxes so paid, and not otherwise.

52 The clerk shall immediately proceed to collect from the per-
53 sons by distraint or otherwise the entire amount of the taxes
54 with which they are severally charged therein, and remaining
55 unpaid on the first day of January next succeeding said levy,
56 with interest at the rate of one per centum per month from
57 said first day of January until they are fully paid.

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

60 The said clerk shall receive all taxes, assessments, fines and
61 costs and other money due the city authorized by this act, or
62 by any ordinance of the said city, to be paid to the city, and
63 shall receipt for same; he shall keep an accurate account of all
64 money paid to him for the use of said city, showing under
65 separate accounts the amounts received for account of taxes,
66 sewer purposes, street pavement, licenses, fines and costs and
67 of other matters pertaining to his office, which book shall at
68 all times be open to the inspection of the council or to any com-

69 mittee appointed by it for such purpose; he shall pay over
70 promptly all money which he may receive, within five days
71 after the receipt thereof, into the hands of the treasurer of the
72 said city, showing an itemized statement of the several funds
73 included in said payment, taking the treasurer's receipt there-
74 for; he shall keep his office at the office of the mayor, unless
75 otherwise ordered by the council, and shall keep his office open
76 for the transaction of business during usual business hours,
77 and as may be directed by council; he shall on or before the
78 first day of January and July of each year and oftener if
79 directed by council, present to the council a full, complete and
80 detailed statement of all money with which he is chargeable,
81 or that has been received by him from all sources up to that
82 time, together with a statement of all money paid to the treas-
83 urer, and proper receipts therefor, and he shall at such times
84 return a list of all taxes, levies, assessments and other claims
85 in his hands for collection which he shall not have been able
86 to collect by reason of insolvency, removal, or other cause, to
87 which list he shall append an affidavit that he has used due dili-
88 gence to collect the several items therein mentioned, but has
89 been unable to do so, and if the council should be satisfied as
90 to the correctness of said list, it shall allow him a credit for
91 said claims, but may thereafter take such lawful measures to
92 collect the same as shall be by it prescribed. The said clerk
93 shall receive all taxes on licenses, and receipts to the party
94 paying the same by endorsement upon the permit granted by
95 order of the council and shall charge himself with the amount
96 received from the same, and report to the council at the next
97 regular meeting thereafter, the amount so received, and pay
98 the same over to the treasurer, taking his receipt for the same;
99 he shall, upon the expiration of his term of office, or upon the
100 order of council, turn over to his successor all money, books
101 of account and other property of said city in his possession;
102 he shall receive such salary as may be fixed by the council,
103 which shall not be less than at the rate of six hundred dollars,
104 nor more than one thousand dollars per annum.

105 The clerk of said city, before entering upon the discharge of
106 his duties, shall execute a bond conditioned for the faithful
107 performance of his duties of his office, and for the accounting
108 for and paying over, as required by law, all money which may

109 come into his hands by virtue of his office, with sureties satis-
110 factory to the council, payable to the city of Cameron, in a
111 penalty of not less than five thousand nor more than ten
112 thousand dollars, as the council may prescribe; he shall be
113 custodian of all bonds, notes, certificates and other evidences
114 of indebtedness to the city, together with all valuable papers
115 which may be placed in his possession by the council, except
116 that the bond of the clerk shall be deposited with the mayor;
117 he shall be chargeable with, and it shall be his duty to collect,
118 the city taxes, levies and assessments under such regulations
119 as may be prescribed by law and the ordinances of the city,
120 and in case the same are not paid within one month after they
121 are placed in his hands for collection, he may distrain and
122 sell therefor in like manner and have the same power and au-
123 thority possessed by the officer with the collection of state taxes.
124 If the clerk shall fail to collect, account for and pay over
125 to the treasurer of said city any or all of the money with
126 which he may be chargeable, belonging to the said city, ac-
127 cording to the conditions of his bond and orders of council,
128 it shall be lawful for the council to recover the same by action
129 or by motion, upon ten days' notice, in the corporate name of
130 the city, in the circuit court of Marshall county, against him
131 and his sureties, or any or either of them, or his or their
132 executors or administrators.

Sidewalks.

Sec. 38. After having caused a proper grade to be established
2 at the expense of said city, the council may require sidewalks or
3 footways on the streets, avenues or alleys of the said city to be
4 paved with brick, stone or such other suitable material as the
5 council may determine, under the direction of the street com-
6 missioner, by the owners respectively of the lots, or the fractional
7 part of lots, facing or abutting on such sidewalks or footway, and
8 if the owner of any such sidewalk or footway, or of the real
9 property next adjacent thereto, shall fail or refuse to pave the
10 same in the manner or within the time required by the council,
11 it shall be the duty of the council to cause the same to be done
12 at the expense of the city, and to assess the amount of such expense
13 upon such owner, and the clerk shall notify the owner of said
14 lot the amount of such assessment, and if the said assessment

15 be not paid within thirty days from the date of said notice he
16 shall cause a memorandum showing the name of the owner of
17 said lot, a description of the lot, and the amount of such assess-
18 ment, to be filed in the office of the clerk of the county court of
19 Marshall county, which shall be entered of record in the judgment
20 lien docket in his office, and the same shall constitute a lien on
21 such property, which may be enforced by a suit in the name of
22 the city, in the circuit court of Marshall county, as other liens
23 against real estate are enforced, and upon the payment of said
24 assessment the clerk shall issue to the person entitled thereto a
25 release of said lien; *provided, however*, that reasonable notice
26 shall first be given to said owners that they are required to
27 construct such sidewalks or footways, and in case the owner is a
28 non-resident of the state, the notice aforesaid may be given by
29 publication for four successive weeks in a newspaper published
30 in said city. The provisions of this section shall also be ap-
31 plicable to needed repairs to any of the pavements of the city,
32 and to the substitution of new pavements for any which may have
33 heretofore, or which may be hereafter laid, and completed, and
34 which may be deemed insufficient.

Street Paving.

Sec. 39. 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 brick, 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 the city, for bids and proposals for the work; and
7 two-thirds of the cost of such macadamizing or paving, from
8 curb to curb of such street, avenue, or alley, shall be assessed
9 to the owners of lots, or fractional parts of lots, fronting or
10 abutting on such street, avenue or alley, that is to say: The
11 property owners on each side of said street, avenue, or alley to
12 be assessed one-third of the cost of said improvements, to each
13 property owner or sum proportionate to the distance, or extent
14 in feet by him owned, and one-third of the sum so assessed shall
15 be paid by each property owner to the city within thirty days after
16 the completion of the work, and the remainder in two equal in-
17 stallments in six and twelve months thereafter, with interest
18 thereon at the rate of six per centum per annum, or at such other

19 times as the council may prescribe. The remaining one-third
20 of such expense, as well as the expense of macadamizing or pav-
21 ing at the intersections of streets, avenues and alleys, shall be de-
22 frayed by the city. The council shall cause a notice to be pub-
23 lished for one week in a newspaper of said city, showing the own-
24 ers of the property and the number of feet fronting on said im-
25 provements, as well as the time and the place where the said coun-
26 cil will proceed to fix said assessments as above provided, and
27 giving notice to any person having an interest in said property
28 to appear and show cause, if any they can, why such assessment
29 should not be made; and the council may, in making said assess-
30 ments, consider the petition of any person or corporation relative
31 to the inequality of said assessment, and may equalize and ad-
32 just the same. The assessment to be made to any owner of
33 real estate shall constitute a lien on such estate; and like pro-
34 ceedings may be had and taken to enforce such lien, or to recover
35 from such owner the amount of such assessment, or of any in-
36 stalment thereof, as those provided for in the preceding section
37 providing for the laying of pavements. The council of said city
38 may cause an additional annual levy of fifteen cents on the hun-
39 dred dollars of the ascertained value of all the real and personal
40 property within said city, or subject to taxation, for the purpose
41 only of defraying the expenses of paving the streets, avenues and
42 alleys of said city as herein provided; such levy shall be made at
43 the time the general levy is laid, and shall be collected in like
44 manner, but a separate account shall be kept of the receipts and
45 expenditures of such fund.

Levy.

Sec. 40. 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 at
5 a meeting held by it in the month of August of each year, as pro-
6 vided by law, a levy of so much as will, in its judgment, be neces-
7 sary to pay the same; such levy shall be upon all real and per-
8 sonal property otherwise subject to state and county taxes, and
9 an annual capitation tax of one dollar upon each inhabitant of
10 said city who has attained the age of twenty-one years: *provided*,
11 that such levy shall not exceed the amount prescribed by statute

12 law on every one hundred dollars of the ascertained value of such
13 property, except as herein otherwise provided.

Financial Statement.

Sec. 41. In the month of March in each year the council shall
2 cause to be published in a newspaper in the city, if there be such
3 published therein, at a compensation not to exceed the rate as
4 provided by law for like publications, for one issue, or if no such
5 newspaper be published therein, to publish in pamphlet form not
6 less than one hundred copies of a sworn statement of the financial
7 condition of said corporation; said statement shall contain an
8 itemized account of the receipts and expenditures of the city,
9 showing the source from which all the money was derived, and
10 the name of a person to whom an order was issued, together with
11 the amount of each order, and why such order was issued, arrang-
12 ing the same under distinct heads, and also a specific list of the
13 debts of the city, showing the purpose for which any debt was
14 contracted, the time it becomes due, the rate of interest, up to
15 what time the interest thereon has been paid, the amount of
16 money in the treasury at the end of the preceding administra-
17 tion, and the debts contracted by it; such statement shall be pre-
18 pared by the city every twelve months and then shall be printed
19 according to the provisions of this section. Either method of
20 making this report shall be sworn to by the clerk, by the mayor
21 and members of the finance committee of the council. One copy
22 of such printed report shall be delivered to the judge of the cir-
23 cuit court, one to the clerk of the county court, and one to the
24 clerk of the circuit court of Marshall county, and one shall be
25 kept as a part of the records of the city, and the remainder shall
26 be held for distribution as called for by the tax-payers of the
27 city.

28 If council fail or refuse to perform the duties herein named
29 every member of such council and the clerk thereof concurring in
30 such failure or refusal shall be guilty of a misdemeanor, and upon
31 conviction thereof shall be fined not less than ten dollars nor more
32 than one hundred dollars.

Bonds—Additional Levy.

Sec. 42. The municipal authorities of said city shall have the
2 power and authority to issue and make sale of the bonds of the said
3 city and to apply the proceeds thereof to the payment for any

4 general improvement therein, or to any debt or obligation of the
5 said city, as provided in chapter one hundred and forty-one of
6 the acts of one thousand eight hundred and seventy-two and three
7 as amended by chapter fifty-one of the acts of one thousand nine
8 hundred and five, or may submit to the voters of said city the
9 question of making an additional levy, and if three-fifths of the
10 votes cast therein be in favor of such increase levy the council may
11 levy the same.

Sec. 43. The city of Cameron shall succeed to all the rights,
2 powers and responsibilities, and be vested with the title to all
3 property of the town of Cameron and the city of Cameron as
4 heretofore existing and all officers of said city acting as such at
5 the time this enactment takes effect shall continue until the first
6 day of February, one thousand nine hundred and twenty-two,
7 or until their successors, the officers herein mentioned, are elected
8 or appointed and qualified, to exercise the powers, perform the
9 duties, and receive the compensation heretofore conferred, pre-
10 scribed and allowed by former charter, by general law or by the
11 ordinance of said city; such ordinances in force at the time
12 referred to shall continue to have full operation and effect until
13 amended, repealed or superseded by the council of the city.

Sec. 44. *Provided, however,* this act shall not become effective
2 unless the same shall first be submitted to the qualified voters
3 residing within the proposed city of Cameron, as shown by
4 the boundary thereof set out in section two of this act, and having
5 received a majority of all the votes cast at the special election
6 hereinafter provided for.

7 This act shall be submitted to said voters at a special election
8 to be held within the proposed city of Cameron on the fourth
9 Tuesday of June in the year one thousand nine hundred and
10 twenty-one. The notice of election to be held on the fourth
11 Tuesday in June shall be published once a week for three suc-
12 cessive weeks preceding said special election in a newspaper pub-
13 lished in the City of Cameron, and if said charter is ratified
14 it shall go into effect thirty days after having been so ratified.

Sec. 45. The ballot to be voted at said special election shall
2 be printed upon plain, substantial white paper and shall be in
3 the following form:

4 *The City of Cameron Charter Election.*

5 Indicate by a cross in one of the squares below how you desire
6 to vote.

7 () For adoption of new charter.

8 () Against adoption of new charter.

Sec. 46. It shall be the duty of the mayor, the council and
2 clerk now in office to perform the duties in relation to such elec-
3 tion, as required by general law of county courts and officers on
4 June first, one thousand nine hundred and twenty-one; and the
5 provisions of chapter three of the code of West Virginia and the
6 amendments thereof in effect on that date shall govern said
7 election.

Sec. 47. The council shall have the power to combine the offices
2 of clerk, chief of police, street commissioner and superintendent
3 of water works into one office to be administered by one person
4 and to be designated as city manager, and who shall be appointed
5 by council to serve during its will and pleasure, and who shall
6 receive a salary not to exceed two thousand dollars per annum
7 and who may be appointed from within or without the city.

Sec. 48. Chapter eighteen of the acts of the legislature of the
2 year one thousand nine hundred and fifteen and chapter twelve
3 of the acts of the legislature of the year one thousand nine hun-
4 dred and nineteen, relating to the charter of the city of Cameron
5 in Marshall county, West Virginia, are hereby repealed.

CHAPTER 4

(House Bill No. 331—Mr. Midelburg.)

AN ACT to amend and re-enact sections seven, thirty-five, fifty-nine
and seventy-five 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, bound in a volume of municipal charters of such acts,
and to add sections seven-*a*, seven-*b* and fifty-nine-*a* thereto, all
relating to and becoming a part of the charter of the city of
Charleston.

[Passed April 27, 1921. In effect from passage. Approved by the Governor May 3, 1921.]

<p>SEC. 7. The council; power, authority; additional rights and privileges. 7-a. Same; shall have free discretion in granting, refusing and revoking licenses for keeping public eating places, etc. 7-b. Same; power to regulate operation of motor vehicles, etc.; violation of. 35. Council; of whom composed; mayor; salary; appointment of officers made by him; council to confirm or reject same; duties of; appointments made by city council; all fees paid to city treasurer. 59. City authorized to sell bonds to build bridges; public parks, etc.; property for capitol site, etc.; for incinerator plant; descrip-</p>	<p>SEC. tion of bonds; total aggregate of indebtedness; direct annual tax; to pay bonds. 59-a. City authorized to sell bonds to do paving, etc.; improving streets, etc.; power to employ proceeds of such bonds in purchasing certificates; liens on real estate; special improvement fund; rules governing bonds. 75. Council; to refund lawful bonded indebtedness by issuing bonds, when payable, interest on; sinking fund provided for; council to provide for building of city jail, central fire station, public comfort stations, etc.; authorized to purchase real estate for same; levies for.</p>
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Be it enacted by the Legislature of West Virginia:

That sections seven, thirty-five, fifty-nine and seventy-five 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, bound in a volume of municipal charters of such acts, be amended and re-enacted, and that sections seven-a, seven-b and fifty-nine-a be enacted and added thereto, so as to read as follows:

Section 7. The council of said city shall have, and is hereby
2 granted power to have said city surveyed, to lay out, open, vacate,
3 straighten, broaden, change grade of, grade, re-grade, curb, widen,
4 narrow, repair, pave and re-pave streets, alleys, roads, squares,
5 plots, sidewalks and gutters for public use, and to alter, improve,
6 embellish and ornament and light the same, and to construct
7 and maintain public sewers and laterals, and shall, in all cases,
8 have power and authority to assess upon and collect from the
9 property benefitted thereby, such part of the expense thereof
10 as shall be fixed by ordinance, except as hereinafter provided;
11 to have control of all streets, avenues, roads, alleys and grounds
12 for public use in said city, and to regulate the use thereof and
13 driving thereon, and to have the same kept free from obstruc-
14 tion, pollution or litter on or over them: to have the right to
15 control all bridges within said city, and the traffic thereover;
16 to change the name of any street, avenue or road within said
17 city, and regulate and cause the numbering and re-numbering

18 of houses on any street, avenue or road therein; to regulate
19 the naming of streets, avenues and public places; to regulate
20 and determine the width of streets, sidewalks, roads and alleys;
21 to order and direct the curbing, re-curbing, paving, repaving
22 and repairing of sidewalks and footways for public use in said
23 city to be done and kept clean and in good order by the owners
24 of adjacent property; to enter into a contract with the county
25 of Kanawha, or any internal improvement company for the
26 joint ownership of any bridge by the city and such county or
27 company, upon such terms as may be prescribed in the contract,
28 but such bridges shall be a public highway and the interest of
29 the company, county and city shall be only such proportionate
30 part thereof as it may pay for or that may be named in the
31 contract; to prohibit and punish the abuse of animals; to re-
32 strain and punish vagrants, mendicants, beggars, tramps, pros-
33 titutes, drunken or disorderly persons within the city, and to pro-
34 vide for their arrest and manner of punishment; to prohibit and
35 punish by fine the bringing into the city by steamboats, railroads
36 or other carriers, of paupers, dangerous or objectionable char-
37 acters or persons afflicted with contagious diseases; to control
38 and suppress disorderly houses and houses of prostitu-
38-a tion or ill-fame, houses of assignation, and gaming
39 houses or any part thereof, to punish those engaged
40 in gaming and to suppress all gaming or gambling houses,
41 and all places where gambling or betting is in any
42 way carried on or permitted and to punish all persons in any
43 way connected therewith; to prohibit within the city, or within
44 two miles thereof, slaughter houses, soap or glue factories, and
45 houses and places of like kind, and any other thing or business
46 dangerous, unwholesome, unhealthy, offensive, indecent or dan-
47 gerous to life, health, peace or property; to provide for the
48 entry into and the examination of all dwellings, lots, yards,
49 enclosures, buildings and structures, cars, boats and vehicles of
50 every description, and to ascertain their condition for health,
51 cleanliness or safety; to regulate the building and maintenance
52 of party walls, partition fences or lines, fire walls, fire places,
53 chimneys, boilers, smoke stacks and stove pipes; to provide for
54 and regulate the safe construction, inspection and repairs of all
55 public and private buildings, bridges, basements, culverts, sew-

56 ers, or other buildings or structures of any description; to take
57 down and remove, or make safe and secure, any and all build-
58 ings, walls, structures or super-structures at the expense of the
59 owners thereof, that are or may become dangerous, or to require
60 the owners or their agents to take down and remove them or
61 put them in a safe and sound condition at their own expense;
62 to regulate, restrain or prohibit the erection of wooden or other
63 buildings within the city; to regulate the height, construction
64 and inspection of all new buildings hereafter erected, and the
65 alteration and repair of any buildings already erected or here-
66 after erected in said city, and to require permits to be obtained
67 for such buildings and structures, and plans and specifications
68 thereof to be first submitted to the building inspector; to regu-
69 late the limit within which it shall be lawful to erect any steps,
70 porticoes, bay windows, bow windows, show windows, awnings,
71 signs, columns, piers or other protection or structural orna-
72 ments of any kind for the houses or buildings fronting on any
73 street of said city; to establish fire limits and to provide the
74 kind of buildings and structures that may be erected therein,
75 and to enforce all needful rules and regulations to guard against
76 fire and danger therefrom; to require, regulate and control the
77 construction of fire escapes for any building or other structures
78 in said city, to control the opening and construction of ditches,
79 drains, sewers, cess-pools, and gutters, and to deepen, widen and
80 clear the same of stagnant water or filth, and to prevent obstruc-
81 tion therein, and to fill, close or abolish the same and to determine
82 at whose expense the same shall be done; and to build and main-
83 tain fire station houses, crematories, jails, lockups, and other
84 buildings, police stations and police courts, and to regulate the
85 management thereof; to acquire, establish, lay off, appropriate,
85-a regulate, maintain and control public grounds, streets,
86 alleys, roads, squares and parks, hospitals, market houses,
87 city buildings, libraries and other educational or charitable
88 institutions, either within or without the city limits,
89 and when the council determines that any real estate in
90 or out of the city is necessary to be acquired by said
91 city for any such purpose, or for any public purpose, or is
92 necessary in the exercise of its powers herein granted, the power
93 of eminent domain is hereby conferred upon said city, and it
94 shall have the right to institute condemnation proceedings against

95 the owner thereof, whether said property be in or out of said
96 city, in the same manner, to the same extent, and upon the same
97 conditions as such power is conferred upon public corporations
98 by chapter forty-two of the code of West Virginia of the edi-
99 tion of one thousand nine hundred and six, as it is now or may
100 be hereafter amended; to purchase, sell, lease or contract for
101 and take care of all buildings and structures and real estate
102 deemed proper for the use of such city; and for the protection
103 of the public to cause the removal of unsafe walls, structures
104 or buildings, and the filling of excavations; to acquire or assist
105 in acquiring land to be donated, dedicated or conveyed to, or
106 otherwise vested in, the state of West Virginia as a site for
107 a state capitol or other public buildings, and to donate, dedi-
108 cate and convey the same to said state or otherwise procure the
109 title to the same to be vested in said state; to prevent injury
110 or annoyance to the business of individuals from anything
111 dangerous, offensive or unwholesome; to abate or cause to be
112 abated all nuisances and to that end and thereabout to summon
113 witnesses and hear testimony; to regulate or prohibit the keep-
114 ing of gunpowder and other combustible or dangerous articles; to
115 regulate, restrain or prohibit the use of firecrackers or other explo-
116 sives or fireworks, and all noises or performances which may be
117 dangerous, indecent or annoying to persons or tend to frighten
118 horses or other animals; to provide and maintain proper places
119 for the burial of the dead, in or out of the city, and to regulate
120 interments therein upon such terms and conditions as to price
121 and otherwise as may be determined; to provide for shade and
122 ornamental trees, shrubbery, grass, flowers and other ornamen-
123 tation, and the protection of the same; to provide for the poor
124 of the city; to make suitable and proper regulations in regard
125 to the use of the streets, public places, sidewalks and alleys
126 by street cars, foot passengers, animals, vehicles, motors, auto-
127 mobiles, traction engines, railroad engines and cars, and to
128 regulate the running and operation of the same so as to prevent
129 obstruction thereon, encroachment thereto, injury, inconvenience
130 or annoyance to the public; to prohibit prize fighting, cock
131 and dog fighting; to license, tax, regulate or prohibit theatres,
132 moving pictures, circuses and exhibition of showmen and shows
133 of any kind, and the exhibition of natural or artificial curiosi-
134 ties, carnivals, menageries and musical exhibitions and perform-

135 ances, and other things or business on which the state does
136 or may exact a license tax; to organize and maintain fire com-
137 panies and departments, and to provide necessary apparatus,
138 engines and implements for the same, and to regulate all matters
139 pertaining to the prevention and extinguishment of fires; to
140 make proper regulations for guarding against danger and dam-
141 age from fires, water or other elements; to regulate and control
142 the kind and manner of plumbing and electric wiring, air ships,
143 balloons, wireless stations, and other appliances for the protec-
144 tion of the health and safety of said city; to levy taxes on
145 persons, property and licenses; to license and tax dogs and
146 other animals, and regulate, restrain and prohibit them and
147 all other animals and fowls running at large; to provide reve-
148 nue for the city and appropriate the same to its expenses; to
149 adopt rules for the transaction of business of its own regulation
150 and government; to promote the general welfare of the city,
151 and to protect the persons and property of citizens therein; to
152 regulate and provide for the weighing of produce and other
153 articles sold in said city and to regulate the transportation
154 thereof and other things, through the streets, alleys and public
155 places; to have the right to grant, refuse or revoke any and all
156 licenses for the carrying on of any business within said city
157 on which the state exacts a license tax; to establish and regulate
158 markets and to prescribe the time for holding the same, and
159 what shall be sold in such markets, and to let stalls or apartments
160 and regulate the same; to acquire and hold property for market
161 purposes; to regulate the placing of signs, bill boards, posters
162 and advertising, on or over the streets, alleys, sidewalks and
163 public grounds of said city; to preserve and protect the peace,
164 order and safety and health of the city and its inhabitants,
165 including the right to regulate the sale and use of cocaine, mor-
166 phine, opium and poisonous or dangerous drugs; to appoint
167 and fix the place of holding city elections; to erect, own, lease,
168 authorize or prohibit the erection of gas works, electric light works
169 or water works, ferry boats, in or near the city, and to operate
170 the same, and to sell the product or services thereof and to do
171 any and all things necessary and incidental to the conduct of
172 such business; to build, hold, purchase, own and operate toll
173 bridges; to provide for the purity of water, milk, meats and
174 provisions offered for sale in said city, and to that end provide

175 for a system of inspecting the same and making and enforcing
176 rules for the regulation of their sale, and to prohibit the sale
177 of any unwholesome or tainted milk, meats, fish, fruit, vege-
178 tables, or the sale of milk, containing water or other things
179 not constituting a part of pure milk; to provide for inspecting
180 dairies and slaughter houses, whether in or outside of the city,
181 where the milk and meat therefrom are offered for sale within
182 said city, and to prohibit the sale of any article deemed un-
183 wholesome, and to condemn the same or destroy or abate it as
184 a nuisance; to provide for the regulation of public processions
185 so as to prevent interference with public traffic, and to promote
186 the good order of the city; to prescribe and enforce ordinances
187 and rules for the purpose of protecting the health, property, lives,
188 decency, morality, cleanliness and good order of the city and its
189 inhabitants, and to protect places of divine worship in and about
190 the premises where held, and to punish violations of all or-
191 dinances, if the offense under and against the same shall also
192 constitute offenses under the laws of the state of West Vir-
193 ginia or the common law; to provide for the employment and
194 safe keeping of persons who may be committed in default of
195 the payment of fines, penalties, or costs under this act, who are
196 otherwise unable to discharge the same, by putting them to
197 work for the benefit of the city upon the streets or other places
198 in or out of the city provided by said city, and to use such
199 means to prevent their escape while at work as the council may
200 deem expedient; and the council may fix a reasonable rate per day
201 as wages to be allowed such person until the fine and costs
202 against him are thereby discharged; to compel the attendance
203 at public meetings of the members of the council; to have and
204 exercise such additional rights, privileges and powers as are
205 granted to municipalities by chapter forty-seven of the code of
206 West Virginia, as amended.

207 For all such purposes, except that of taxation and for pur-
208 poses otherwise limited by this act, the council shall have juris-
209 diction, when necessary, for one mile beyond the corporation
210 within said one mile limit.

211 And the council shall have the right to establish, construct
212 and maintain public markets, landings, ferries, wharves and
213 docks on any ground which does or shall belong to said city,
214 or which it shall acquire, by purchase or otherwise, and to sell,

215 lease, repair, alter or remove any public markets, landings,
216 ferries, wharves, dikes, buildings or docks, which have been or
217 shall be so constructed, and to levy and collect reasonable duty
218 on vessels and other craft coming to or using said landings,
219 ferries, wharves, dikes, docks, and buildings, and to preserve
220 and protect the peace and good order at the same, and regu-
221 late the manner in which they shall be used; and to have the
222 sole right, under state laws and in the same manner as now
223 control county courts, to establish, construct, maintain, regu-
224 late and control all such wharves, docks, ferries and landings
225 within the corporate limits of said city.

226 To carry into effect these enumerated powers and all other
227 powers conferred upon said city expressly or by implication in
228 this and other acts of the legislature, the council of said city
229 shall have the power, in the manner herein prescribed, to adopt
230 and enforce all needful orders, rules and ordinances not contrary
231 to the laws and constitution of this state; and to prescribe,
232 impose and enforce reasonable fines and penalties, including
233 imprisonment in the city lock-up, jail, or station house, and
234 to work prisoners found guilty, as the council may prescribe.
235 and market the products of such labor, and with the consent of
236 the county court of Kanawha county entered of record, shall
237 have the right to use the jail of said county for any purpose
238 necessary to the administration of its affairs.

Sec. 7-a. The council of the city of Charleston shall have full
2 discretion in the matter of granting, refusing and revoking licenses
3 for keeping hotels, eating houses and restaurants, garages, taxi-cab
4 stands, bowling alleys, pool and billiard tables and like tables, and
5 for selling soft drinks, as in the case of other licenses, and shall
6 supervise, regulate and control all places licensed for said purposes.
7 The council shall have power to enact and enforce proper ordi-
8 nances for the purpose of carrying into effect the powers hereby
9 granted.

Sec. 7-b. The council of the city of Charleston is hereby
2 granted power, in addition to the powers heretofore granted it, to
3 regulate by ordinance the operation of motor vehicles and other
4 vehicles in said city, and the speed at which the same may be
5 driven, and to provide for the punishment of violations of such
6 ordinances; and said council is given specific authority to pun-
7 ish the violation of ordinances relating to the speed of such ve-

8 hicles, or the operation thereof, by impounding or taking pos-
9 session of such vehicles and retaining the same for such time as
10 may be prescribed by ordinance, not to exceed thirty days.

Sec. 35. There shall be a mayor, twenty members of council, a
2 police judge and treasurer elected on the third Monday in April,
3 one thousand nine hundred and nineteen, for the term of four
4 years, and their successors shall be elected every four years there-
5 after, and their terms of office shall begin on the first Monday
6 of May after their election. The mayor's salary shall not be
7 less than three thousand nor more than five thousand dollars per
8 annum, and he shall not be eligible to hold said office for more
9 than two terms in succession.

10 The mayor shall appoint the city solicitor, the chief of police
11 and all policemen, humane officer or officers, building inspector,
12 collector, city auditor, engineer, health commissioner, lockup
13 keeper, and the chief of the fire department, and these appoint-
14 ments shall not require any confirmation by the council, but shall
15 be made at the discretion of the mayor, who shall, with like dis-
16 cretion, have the full and complete power of the removal thereof.
17 The mayor shall appoint the manager, by and with the advice
18 and consent of the council, and the mayor shall, at the first
19 meeting of the council on or after the first day of May, one
20 thousand nine hundred and nineteen, send to the council the
21 nomination of some fit and proper person for the office of mana-
22 ger, and the council shall, either at a regular or special meet-
23 ing called for that purpose in the said month of May, pass upon
24 such nomination and either confirm or reject the same, and if
25 such nomination is rejected, then the mayor shall submit to
26 the council a further nomination of some other person or per-
27 sons until the nomination is confirmed by council, for said office
28 of manager, but it shall be the duty of the council to pass upon
29 all nominations without any unreasonable delay, and in any
30 event within two weeks after the submission of the same, and the
31 failure of members of the council to pass thereon within such
32 time shall be cause for the removal from office of such men-
33 bers of the council.

34 The council shall appoint a city clerk. The manager shall ap-
35 point or employ such persons as the ordinances of the city may
36 require or the council may authorize by proper resolution. All
37 such officers shall be appointed for the term of four years and

38 until their successors are appointed and qualified, unless they
39 are removed in the way and manner in this act provided.

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

42 It shall be the duty of the mayor to see that all of the laws
43 and ordinances of the city are enforced and he shall have a gen-
44 eral oversight over the peace, health and good order of the city.

45 The duties of the city solicitor shall be to attend the sessions
46 of council, and to prosecute all suits in behalf of the city and de-
47 fend all suits against the city, to advise the council and all of the
48 departments of the city and in general to look after the interests
49 of the city when it shall need legal services, for which he shall
50 receive a salary of not less than three thousand nor more than
51 five thousand dollars per annum. All fees of every kind collected
52 by any officer or employee, including the police judge when acting
53 as a justice shall be paid to the city treasurer.

Sec. 59. The city of Charleston is hereby authorized to issue
2 and sell bonds of said city, for the purpose of buying and
3 building bridges, electric light plants, water works, gas lines
4 and fields, and other public utilities; and for the purpose of ac-
5 quiring and providing land for public parks, public streets,
6 avenues and alleys, and other public grounds, and acquiring or
7 assisting in acquiring property to be donated, dedicated or con-
8 veyed to, or otherwise vested in, the state of West Virginia, as
9 a site for a state capitol and other public buildings, which do-
10 nation, dedication and conveyance are hereby authorized to be
11 made, and also to provide ground for and erect an incinerator
12 plant or garbage crematory, or other plant or means for the
13 disposal of garbage and refuse; and such bonds shall be sold for
14 not less than par, and payable in a period not to exceed thirty-
15 four years, and shall bear interest, not to exceed six per centum
16 per annum; and in the issuance and sale of said bonds the city
17 shall be governed by all the restrictions of the constitution of
18 this state and the statutes of this state, with respect to the is-
19 suance and sale of other bonds; *provided* that said city shall
20 not, by the sale or issue of bonds for the purposes above men-
21 tioned, cause the aggregate of its indebtedness, of every kind what-
22 ever, to exceed five per centum of the value of the taxable property
23 therein, but may for the above purposes issue bonds to the max-
24 imum limit of said five per cent; nor shall said city make such

25 issue and sale of bonds without, at the same time, providing
26 for the collection of a direct annual tax sufficient to pay an-
27 nually the interest on the same, and a sinking fund to pay the
28 principal within the time for which said bonds shall be issued.

Sec. 59-a. The city of Charleston is hereby authorized to issue
2 and sell bonds of said city, for the purpose of paying the city's part
3 of the cost of grading, curbing, paving, sewerage or otherwise im-
4 proving the avenues, streets, roads and alleys of said city, and for
5 the purpose of providing funds to cover all or any part of the cost
6 of grading, curbing, paving or sewerage that may be assessed
7 against abutting property owners in the manner provided for by
8 law; and said city is hereby given full power to employ the pro-
9 ceeds of such bonds in the purchase of paving certificates or other
10 permanent improvement certificates issued under the provisions of
11 the charter and made liens or assessments against real estate in said
12 city, at not to exceed their par value, and may hold and collect or
13 otherwise dispose of the same; *provided*, that said city shall not by
14 the sale or issuance of bonds for the purposes above mentioned,
15 cause the aggregate of its indebtedness, of every kind whatever, to
16 exceed five per centum of the value of the taxable property therein.
17 The proceeds of any bond issue, authorized under this section,
18 shall be set aside as a separate fund, and all special assessments
19 covering improvements; the cost whereof has been advanced out of
20 this fund, shall be paid into and become a part of said special fund
21 and be used for the same purpose and in the same manner as the
22 proceeds of said original fund.

23 This fund shall continue to be used for the purposes mentioned
24 herein, until such time as the city's part of the cost of grading,
25 curbing, paving, sewerage or otherwise improving the avenues,
26 streets, roads or alleys of the city equals the original proceeds of
27 the bond issues authorized for the purposes mentioned herein. The
28 issuance and sale of bonds, authorized by this section, shall be gov-
29 erned by all of the restrictions of the constitution of this state and
30 statutes of this state with respect to the issuance and sale of other
31 bonds of said city. No issue and sale of bonds, under this section,
32 shall be made, unless at the same time provision is made for the
33 collection of a direct annual tax, sufficient to pay the annual inter-
34 est on the same and create a sinking fund to pay the principal
35 within the time for which said bonds shall be issued. The direct
36 annual tax, provided for in this section, shall be set aside as a sep-

37 arate fund, to be known as an interest and sinking fund. All in-
38 terest collected on special assessments authorized by or referred to
39 in this section shall be placed in and become a part of said special
40 interest and sinking fund, until the principal and interest of said
41 bonds are paid.

42 Whenever, in the opinion of the council, the special improve-
43 ment fund created by this section, or any part thereof, is no longer
44 needed the council may by order direct that said special assess-
45 ments, when collected, be applied to retiring such of the bonds pro-
46 vided for herein, as may be outstanding at that time.

Sec. 75. The council may refund the lawful bonded indebted-
2 ness of said city by issuing bonds of the city, payable within
3 twenty years, bearing no greater rate of interest than four per
4 cent, but the indebtedness of said city shall not thereby be in-
5 creased without the consent of the voters of said city being first
6 had and obtained as provided by law.

7 Such bonds shall not be sold or exchanged for the evidence of
8 said indebtedness of said city for less than par, and there shall
9 be provided a sinking fund that will discharge said bonds as they
10 shall become due. Said bonds shall express on their face that they
11 may be paid at any time after five years at the pleasure of the
12 city. A record shall be kept of all proceedings hereunder; *pro-*
13 *vided*, that nothing herein contained shall be construed to author-
14 ize an increase of the bonded indebtedness of said city beyond
15 the amount authorized by law. Notwithstanding the limitations
16 of this and other laws of the state of West Virginia relating to
17 the issue of bonds and other indebtedness, the city of Charleston
18 is hereby authorized upon the affirmative vote of three-fifths of all
19 the votes cast at an election held for said purpose to issue and sell
20 bonds for the purpose of providing the necessary funds for pur-
21 chasing the ground and erecting a new city building and jail or
22 a separate jail, a new central fire station or fire stations, buying
23 or building bridges, water works, plants and other public utilities,
24 and a city market or either or any of them.

25 The council of said city shall provide for the building of a city
26 jail, and for that purpose, may, if necessary, purchase the neces-
27 sary land and shall lay such levy for the year one thousand nine
28 hundred and twenty-two in addition to all other levies authorized
29 by law, as may be necessary for the purpose of constructing said
30 city jail. The said city council shall also construct within the city

31 of Charleston two public comfort stations, one of which shall be
32 built in that part of Charleston lying east of Elk river, and one
33 of which shall be built in that part of Charleston lying west of
34 Elk river, which stations shall be constructed in a modern and
35 sanitary manner, and the council is authorized, if necessary, to
36 purchase such real estate as may be needed for such purposes, and
37 the city council shall for the year one thousand nine hundred and
38 twenty-one lay a sufficient levy in addition to all other levies
39 authorized by law, to build one of said comfort stations, and for
40 the year one thousand nine hundred and twenty-two, in addition
41 to all other levies authorized by law, lay a sufficient levy to build
42 the other of said public comfort stations, and, in each case, do all
43 things necessary and proper to carry out the general purpose here-
44 by commanded; and in the event said council shall fail, neglect
45 or refuse to lay said levies for the building of said city jail and
46 public comfort stations as herein required, then any voter of said
47 city, may, by mandamus proceedings in any court having juris-
48 diction, compel the council to perform such duty; *provided*, that
49 the council may, if it so desire, submit to the vote of the people
50 by proper ordinance, the question of issuing bonds for constructing
51 said comfort stations, and in the event such bonds shall be author-
52 ized, then such levies for that purpose shall not be made, and,
53 *provided*, that no such sale of bonds shall be made so as to cause
54 the total indebtedness of said city, for all purposes, to exceed in
55 the aggregate five per centum on the value of the taxable property
56 therein, as ascertained by the last assessment for state and county
57 taxes previous to the incurring of such indebtedness.

CHAPTER 5

(Senate Substitute for House Bill No. 141.)

AN ACT to amend and re-enact sections one, three and sixteen of chap-
ter sixteen of the acts of the legislature of one thousand nine hun-
dred and fifteen, regular session, relating to the charter of Charles
Town, Jefferson county, West Virginia, and changing the cor-
porate name from "Charles Town" to "Charles City" and adding
thereto sections forty-seven, forty-eight and forty-nine.

[Passed April 20, 1921. In effect from passage. Approved by the Governor
April 30, 1921.]

SEC.

1. Incorporated town of Charles City; corporate limits of.
3. "The corporation of Charles City;" composed of mayor and councilmen; a body corporate; power of.
16. Officers appointed; compensation.
47. The town of Charles City shall succeed to all rights and liabilities

SEC.

- of the town of Charles Town, and shall be liable for all debts and obligations thereof.
48. Ordinances to remain in force; mayor and councilmen to continue in office; conditions.
 49. When name of Charles City shall go into effect.

Be it enacted by the Legislature of West Virginia:

That sections one, three and sixteen of chapter sixteen of the acts of the legislature of one thousand nine hundred and fifteen, regular session, relating to the charter of Charles Town, Jefferson county, West Virginia, be amended and re-enacted and that sections forty-seven, forty-eight and forty-nine be added thereto so as to read as follows:

Section 1. On and after this act takes effect, the incorporated town of Charles Town, Jefferson county, West Virginia, shall be known and designated as the incorporated town of Charles City, Jefferson county, the corporate limits of which shall be as follows, to-wit:

Beginning at the corner of William H. Travers and Andrew Hunter, on the north side of Smithfield, Charles Town and Harper's Ferry turnpike, being 41.1 poles from the east side of town alley (figure 1 in plat of S. Howell Brown's survey of January eighteenth, one thousand eight hundred and seventy-two); running thence with the line of said Travers and Hunter, and also the line of Richard Hessey and the said Hunter, N. 20 degrees, 20 minutes, W. to the Winchester and Potomac railroad, and extending the same course in all 79.3 poles to a stake in James M. Ransom's field; thence parallel to Washington street S. 69 degrees, 40 minutes, W. 290 poles to a stake at the prolongation of the line of Mrs. Buskirk and Henry B. Davenport; thence in the direction to said line S. 20 degrees, 20 minutes, E. 10.8 poles to a stake at the west side of new road, where the same intersects the "old mill road;" thence with the west side of new road S. 20 degrees, 10 minutes, W. 52.9 poles crossing the aforesaid turnpike to a stake in the line of said Davenport (5); and thence with the said line S. 17 degrees, 50 minutes, E. 30.9 poles to the south line of the "old Winchester road;" thence with it N. 69 degrees, 40 minutes, E. 36.05 poles to a point at the prolongation of the aforesaid line of Buskirk and Davenport; thence extending said course S. 20 degrees, 20 minutes, E. 147.12

27 poles to a stake in William Drew's field; thence parallel to Wash-
28 ington street N. 69 degrees, 40 minutes, E. 122 poles to a stake;
29 thence S. 20 degrees, 20 minutes E. 45.45 poles to a stake; thence
30 N. 69 degrees, 40 minutes, E. 115.25 poles to a stake; thence N.
31 20 degrees, 20 minutes, W. 45.45 poles to a stake; thence N. 69
32 degrees, 40 minutes, E. 52.75 poles to a stake in George H. Tate's
33 field (13); thence N. 20 degrees, 20 minutes, W. 150.18 poles to
34 beginning; containing 460 acres.

Sec. 3. The mayor and councilmen as soon as they shall be
2 elected and qualified, as herein provided, shall be a body politic
3 and coroprate by the name of "The corporation of Charles City,"
4 and shall have perpetual succession and a common seal; and by
5 that name may sue and be sued, plead and be impleaded, contract
6 and be contracted with, and may purchase and hold réal estate
7 and other property necessary or proper to enable it to discharge
8 its duties, and needful for the good order, government and wel-
9 fare of said corporation.

Officers Appointed.

Sec. 16. There shall be one or more sergeants, a clerk, a
2 treasurer, an assessor, city engineer, town attorney, health officer,
3 and three commissioners of roads, streets and alleys of said town,
4 who shall be appointed by the council thereof, and hold office dur-
5 ing the pleasure of said council. The duties of the clerk, treas-
6 urer and assessor may be discharged by the same person, or other-
7 wise, as the council may from time to time determine; but no
8 member of the council shall hold any said offices. Such officers
9 and members of the council and all persons employed by the coun-
10 cil shall receive such compensation as the council shall determine.

Sec. 47. The said town of Charles City shall succeed to all the
2 rights and liabilities of the town of Charles Town, and it shall be
3 liable for all the debts and obligations of the said town of Charles
4 Town, the same as if such indebtedness were created by the said
5 town of Charles City.

Sec. 48. The ordinances in force in the said town of Charles
2 Town at the time this act goes into effect, so far as they are not
3 inconsistent with this act, shall continue in force as ordinances of
4 the said town of Charles City, until amended or repealed by the
5 council of said Charles City, and the mayor and councilmen now
6 in office in the town of Charles Town, shall continue in office as

7 mayor and councilmen of Charles City, until the end of their
8 present term and until their successors shall have been elected or
9 appointed and qualified unless sooner removed from office in a
10 manner provided by law.

Sec. 49. After this act becomes effective, wherever the name
2 Charles Town is used in the charter of said town as amended and
3 re-enacted by chapter sixteen of the acts of the legislature one
4 thousand nine hundred and fifteen, regular session, it shall be
5 taken and held to mean Charles City.

6 *Provided, however,* that the portion of this act which changes the
7 name of the corporation of Charles Town to the corporation of
8 Charles City, shall not be in effect unless and until the same is rati-
9 fied by a majority vote of the qualified voters of the said corporation
10 of Charles Town, which shall be submitted at the regular munici-
11 pal election to be held in said town on the fourth Thursday in May,
12 one thousand nine hundred and twenty-one, the ballot for which
13 vote shall be in form as follows:

14 "For changing name of Charles Town to Charles City."

15 "Against changing name of Charles Town to Charles City."

16 And, *provided, further,* that in the event a majority of votes cast
17 at said election shall not be in favor of changing the name to
18 Charles City, that then and thereafter the name of the said town,
19 wherever used in this act, shall be Charles Town instead of Charles
20 City.

CHAPTER 6

(House Bill No. 470—Mr. Stathers.)

AN ACT to amend and re-enact chapter one hundred and twenty-three
of the acts of the legislature, regular session, one thousand nine
hundred and seventeen, relating to the city of Clarksburg, in the
county of Harrison, and prohibiting the pollution of the water
supply thereof.

[Passed March 18, 1921. In effect from passage. Approved by the Governor
March 19, 1921.]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Incorporating "City of Clarksburg." 2. City boundaries defined. 3. Wards; boundaries. 4. Council may change boundaries of wards; when. 5. Existing indebtedness. 6. Existing ordinances. 7. Elective officers. 8. Primary elections. 9. Corporate powers. 10. Powers of council. | <p>SEC.</p> <ol style="list-style-type: none"> 11. Appointive offices. 12. Qualification of officers. 13. Compensation of officers. 14. City manager; duties. 15. City clerk; duties. 16. Police court judge; duties. 17. The city collector and treasurer; duties. 18. City attorney; duties. 19. City engineer and street supervisor; duties. |
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SEC.	SEC.
20. City physician; duties.	51. Political belief; assessments and activity.
21. Chief of police.	52. Improvements and assessments.
22. Fire department chief.	53. Method of assessments.
22-a. Public utility franchises; rights and powers; control; city ordinances, instruction of, form of same required.	54. Preliminary resolutions.
23. Financial statement; audit.	55. Plans for improvements.
24. Budget.	56. Notices for improvement assessments; how served.
25. Levies for roads and keeping the poor.	57. Board of revision of assessments.
26. Pollution of water supply of city.	58. Claims for damages.
27. Out-house drainage prohibited.	59. Final assessments.
28. Reservoir; sanitation regulations.	60. Damages assessed.
29. Penalties for pollution of city water.	61. Lands unallotted or not on duplicate.
30. Contracts; cost plus work; various forms for same.	62. Included in cost of improvements.
31. Changes in contracts.	63. Specifying time of payment.
32. Lots sub-division.	64. What included in assessment.
22-a. Motor vehicles.	65. Time of payment when bonds are issued.
33. Code of laws.	66. Lien for special assessment.
34. Continuance of contracts.	67. Docketing and collecting assessment.
35. Services of notices.	68. Proceeding with work.
36. Assessments for removing stones, weeds, etc.	69. Application with assessment.
37. Right of eminent domain; exercise.	70. Sidewalks.
38. Water board; organization.	71. Supplementary assessments and rebates.
39. Water board meetings.	72. Limitations of assessments.
40. Compensation of water board members.	73. Release of liens.
41. General powers of water board.	74. Remedies saved.
42. Water works system under control of general manager; subject to the control of the water board.	75. Issuing bonds.
43. Issue of water works bonds.	76. Bond election.
44. Application of funds.	77. Assessments certificates.
45. Supply water outside of city.	78. Publication.
46. Eminent domain exercises.	79. Work contracted for Adamston.
47. Employment of counsel.	80. Work contracted by Clarksburg.
48. Licensing plumbers.	81. Debt limitation.
49. Bonds of owners and employees.	82. Emergency measures.
50. Sinking fund trustees.	83. Removal of elective officers.
	84. Succeeding to duties of officers.
	85. Not to be published in the code of laws.
	86. Act construed.
	87. Acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and twenty-three (123) of the acts of the legislature of the state of West Virginia, regular session, A. D. one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of Harrison as lies within the boundaries prescribed by section two of this act shall be and remain, and they are hereby made, a body politic and corporate, by the name and style of the "City of Clarksburg," 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, and may 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, association or corporation therein, and the same may grant, sell, convey and

12 assign, let, pledge, mortgage, charge and encumber, in any case
13 and in any manner in which it would be lawful for a private indi-
14 vidual so to do, except where such power may be limited by law;
15 and may have and use a common seal, and alter and renew the
16 same at pleasure; and generally shall have all the rights, fran-
17 chises, capacities and powers conferred herein, and by the laws
18 of this state upon municipal corporations not inconsistent with
19 the provisions of this act.

City Boundaries.

Sec. 2. The corporate limits and boundaries of said city
2 shall be as follows: Beginning at the junction of Murphy's run
3 with Elk creek and running thence with Elk creek up said stream
4 to the boundary line of the Clarksburg Industrial Company's
5 addition; thence with the northern and eastern lines of said addi-
6 tion to the line of the lands of the Union Land company; thence
7 in a southwestern direction with the line between the lands of the
8 Union Land Company and of said addition to Elk creek; thence
9 down Elk creek to a point opposite the southeastern corner of the
10 town of Broad Oaks; thence crossing Elk creek to said corner of
10-a the town of Broad Oaks and with the corporation line of the town
11 Broad Oaks to the southwestern corner of Alta Vista addition;
12 thence in a straight line to the corner lands of L. D. Jarvis'
13 heirs, John J. Davis' heirs and R. T. Lowndes in the low gap at
14 the head of Second street extended; thence southwesterly with
15 the eastern lines of said John J. Davis' heirs and Maud Duncan
16 land, to the northern bank of Arnold's run; thence down the north
17 bank of said run to the west side of the Clarksburg and Weston
18 turnpike; thence with the western side of same to the southern
19 limits of the Clarksburg water works pump station property;
20 thence with the same by the most direct line to the western bank
21 of the West Fork river; thence with the western bank of the same
22 up the river to a point opposite the southewestern corner of Hart-
23 land; thence with the western line of Hartland to the West Mil-
24 ford turnpike; thence with a straight line northeasterly to the
25 northeast corner of the eastern abutment of the bridge across
26 Limestone creek on the northwestern turnpike; thence with the
27 northern line of said turnpike to the southwestern corner of
28 Glenwood; thence with the western line of same to the northwest-
29 ern corner thereof; thence with the northern line of said
30 Glenwood to the northeastern corner thereof; thence a

31 straight line to the southeastern corner of the southern
32 abutment of the bridge across Limestone creek on the Shinn-
33 ston pike; thence a straight line to the mouth of Limestone creek;
34 thence across the West Fork river by the most direct line to the
35 east bank thereof thence down the river to the northern limits of
36 the Riverside addition; thence with the northern line of same to
37 the northeastern corner thereof; thence a straight line to the
38 northwestern corner of Indiana and North Sixth streets in Glen
39 Elk addition number two; thence with the northern line of said
40 addition to the northeastern corner of Block "A" in said Glen Elk
41 addition number two; thence a straight line to the northeastern
42 corner of Montpelier addition; thence with the eastern line of said
43 addition southerly to the northern line of The Baltimore and
44 Ohio Railway Company's right-of-way; thence easterly with same
45 to a point in the eastern line of the Northwestern turnpike where
46 same intersects with said right-of-way line, this point being at
47 the most western of the two crossings known as the "double
48 crossing;" thence a straight line to the mouth of Murphy's run, the
49 beginning.

Wards.

Sec. 3. The territory of said city shall consist of nine wards,
2 which shall be known and designated respectively as first, second,
3 third, fourth, fifth, sixth, seventh, eighth, and ninth wards; and said
4 wards are respectively located, bounded and described as follows:
5 *First Ward.* Beginning at Main street, near Water street. at
6 the bridge over Elk creek on said Main street, and following
7 Elk creek in a northern direction to a sharp bend at the foot of
8 Pinnickinnick Hill; and thence in a straight line in a northeast-
9 ern direction following the boundary line between Glen Elk addi-
10 tion No. 2 and Montpelier Addition to the city of Clarksburg to
11 the northern boundary line of the city; thence in an eastern di-
12 rection following the corporate lines of Elk creek; thence down
13 Elk creek to the Main street bridge leading to Goff plaza; thence
14 with Main street to the place of beginning.
15 *Second Ward.* Beginning at the boundary line of the city at
16 Elk creek at the mouth of Murphy's run, and following the city
17 boundary lines in an eastern, southern and western direction to
18 the southern end of Bassel street; thence with Bassel street to
19 Harrison street; thence with Harrison street to Bridge street;
20 thence with Bridge street to Elk creek; and thence up Elk
21 with Main street to the place of beginning.

22 *Third Ward.* Beginning at the corner of Main and Second
23 streets, and running with Second street and an extension thereof
24 to the southern boundary of the city; thence in an eastern direc-
25 tion with the boundary line to Bassel street; thence with Bassel
26 street to Harrison street; thence with Harrison street to Bridge
27 street; thence with Bridge street to Elk creek; thence up Elk
28 creek to Main street at the bridge leading to Goff plaza; thence in
29 a western direction with Main street, to the place of beginning.

30 *Fourth Ward.* Beginning at Elk creek at the Main street bridge,
31 near Water street, and following Elk creek in a northern direc-
32 tion to a sharp bend in the stream at the foot of Pinnickinnick
33 hill; thence in a northern direction in a straight line following the
34 boundary line between Glen Elk addition No. 2 and Montpelier
35 addition of the city of Clarksburg to the northern boundary line
36 of the city; thence in a western direction with the boundary
37 line to the crest of the hill where the crematory plant is now
38 located; thence following the ridge in a western direction and
39 down the center of the point to what is known as the Barnes
40 railroad crossing; thence in an eastern direction with the right-
41 of-way of the Baltimore and Ohio Railroad Company to the
42 northern end of Sixth street in Glen Elk addition No. 1; thence
43 in a southern direction with Sixth street crossing Elk creek
44 to Main street; thence in an eastern direction with Main street
45 to Elk creek, the place of beginning.

46 *Fifth Ward.* Beginning at the junction of Main and Sixth
47 streets and running westward with Main street to the old fair-
48 ground bridge at the mouth of Elk creek; thence up Elk creek
49 to the railroad bridge and right-of-way of the Baltimore and Ohio
50 Railroad Company; thence with the Baltimore and Ohio Railroad
51 Company's right-of-way and lines passing Barnes crossing to
52 the northern end of Sixth street in Glen Elk addition No. 1;
53 thence with Sixth street to Main street, the place of beginning.

54 *Sixth Ward.* Beginning at the junction of Main and Second
55 streets, and running in a southern direction with Second street
56 and an extension thereof to the southern boundary line of the
57 city; thence with the boundary lines in a southern and western
58 direction to the West Fork river; thence down the West Fork
59 river to the bridge leading to the old fair-grounds at Main
60 street; thence with Main street to Second street, the place of
61 beginning.

62 *Seventh Ward.* Beginning at the bridge across the West Fork
63 river leading to the old fair grounds, and running up the West
64 Fork river to the southern boundary line of the city; thence
65 with the southern and western boundary lines of the city to the
66 top of the hill or point between Hartland addition and what
67 was formerly the town of Adamston; thence in an eastern direc-
68 tion with the center of the ridge and point in a straight line
69 to the West Fork river; thence up the West Fork river to
70 the bridge leading to the old fair-grounds, the place of begin-
71 ning.

72 *Eighth Ward.* Beginning at the western boundary line of the
73 city at the top of the hill between what was formerly the town
74 of Adamston and Hartland addition, and running with the center
75 of the ridge in an eastern direction in a straight line to the West
76 Fork river; thence up the West Fork river to the mouth of
77 Elk creek; thence up Elk creek to the right-of-way of the West
78 Virginia and Pittsburgh division of the Baltimore and Ohio
79 Railroad company; thence with the right-of-way of said rail-
80 road company to the main line of the Parkersburg branch of the
81 railroad of said company; thence in a western direction with the
82 lines of said railroad to the West Fork river; thence down the
83 West Fork river to the northern boundary line of the city;
84 thence with the boundary lines of the city in a southern, western
85 and southern direction to the top of the hill between what was
86 formerly the town of Adamston and Hartland addition, the place
87 of beginning.

88 *Ninth Ward.* Beginning at the bridge over the West Fork
89 river on the main line of the Parkersburg branch of the
90 Baltimore and Ohio Railroad Company; and running with the
91 same to Barnes crossing at Sycamore street; thence in a north-
92 eastern direction with the point and ridge north of Glen Elk
93 addition No. 2 to the city boundary line near the crematory;
94 thence in a western direction with the city boundary lines to the
95 West Fork river; thence up the West Fork river to the Balti-
96 more and Ohio Railroad Company's bridge, the place of be-
97 ginning.

Sec. 4. At any time after the expiration of two years from
2 the time this act takes effect and from time to time, the city
3 council may by ordinance modify and change the boundaries and
4 increase or decrease the number of wards.

Existing Indebtedness.

Sec. 5. The entire indebtedness, bonded and otherwise, and
2 all other liabilities, liquidated or unliquidated, now existing and
3 enforceible against the late town of Adamston, the late town of
4 Stealey Heights, the late town of North View, the late town of
5 Broad Oaks, and the city of Clarksburg, as it existed prior to the
6 nineteenth day of February, one thousand nine hundred and sev-
7 enteen, shall be paid and discharged by the city of Clarksburg
8 herein created or continued, and the territory included within the
9 city of Clarksburg as herein created shall constitute a single assess-
10 ment district for the purpose, and the assessment districts created
11 by the special act of the legislature, chapter one hundred and twen-
12 ty-three, session one thousand nine hundred and seventeen, are
13 hereby abolished: *Provided, however,* that any debt created or
14 bonds issued by either of said municipalities for carrying on any
15 work of public improvement in anticipation of the collection of
16 special assessments for properties specially benefited by such work
17 shall be paid and discharged by the special assessments made
18 against specially benefitted properties in so far as the same shall
19 suffice for the payment thereof; and *provided, further,* that this
20 section in so far as it applies to the indebtedness of the said
21 municipalities above mentioned, which was created for the con-
22 struction and improvement of water works plants therein, shall
23 be subject to the provisions herein contained relating to the
24 Clarksburg water board.

Existing Ordinances.

Sec. 6. All by-laws, ordinances, franchises and resolutions
2 lawfully passed and adopted and in force and effect in the city
3 of Clarksburg immediately before this act becomes effective and
4 not inconsistent with this act shall remain in full force until al-
5 tered or repealed by the council under the provisions hereof, and
6 no right or liability either in favor of or against any of the five
7 former municipal corporations now embraced within the cor-
8 porate limits of Clarksburg nor any pending suit or prosecution
9 for or against either of said municipal corporations shall be af-
10 fected by this act unless otherwise specifically provided for herein.

Elective Officers.

Sec. 7. The elective officers of the city of Clarksburg shall consist of a council composed of nine members, one to be elected from, and resident in, each ward of the city; and of a water board composed of three members. The members of the city council shall hold their respective offices for the term of two years and the members of the water board shall hold their respective offices for the term of six years.

An election for officers under this act shall be held on the third Tuesday in April in the year one thousand nine hundred and twenty-one, and biennially thereafter, on the same day of the same month. The terms of the councilmen shall begin on the first day of May next following the election, and the terms of the present members of the city council shall expire on the thirtieth day of April, one thousand nine hundred and twenty-one.

At the election to be held on the third Tuesday in April in the year one thousand nine hundred and twenty-one, there shall be elected a member of the water board to serve for a term of six years beginning on the first day of May next following. The other members of the water works board in office in the city of Clarksburg at the time this act becomes effective shall serve out the remainder of their respective terms, and at each regular biennial election after one thousand nine hundred and twenty-one, there shall be elected one member of the water board to serve for a term of six years beginning on the first day of May next following the election.

Any vacancy in the office of councilman shall be filled by appointment by the remaining members of the city council, for the unexpired term, and any vacancy on the water board shall be filled by appointment by the remaining members of the water board, for the unexpired term,

All appointive employees of the city, or their successors in employment, shall hold their respective employments until their respective successors shall have been chosen.

Sec. 8. The candidates to be voted for at all general municipal elections shall be nominated by primary elections.

Until the members of any political party in the city of Clarksburg shall choose or select a party executive committee, the members of the county executive committee of the party residing in the city of Clarksburg shall constitute a city executive committee

7 for the party, and the county chairman of the political party
8 county executive committee shall be the chairman of the political
9 party city executive committee until another chairman is chosen.

10 The candidates to be voted for at the municipal election to
11 be held on the third Tuesday in April, one thousand nine hundred
12 and twenty-one, shall be nominated at a primary election to be
13 held on the second Tuesday in April, one thousand nine hundred
14 and twenty-one; and the candidates to be voted for at any regular
15 election thereafter to be held shall be nominated at a primary elec-
16 tion to be held on the first Tuesday in April preceding the day
17 fixed for the regular election. At the election to be held on the
18 third Tuesday in April, one thousand nine hundred and twenty-
19 one, no elector, who is otherwise qualified to vote at such election,
20 shall be denied the privilege of voting for the reason that he may
21 not have been registered or that his name may not appear upon
22 the registration list of voters. Such elections shall be held, con-
23 ducted, and the result thereof ascertained and declared in all re-
24 spects as is or shall be provided by state laws for holding and con-
25 ducting primary elections throughout the state for nominating can-
26 didates for office or electing delegates to party conventions, and the
27 duties by state laws imposed upon the county court and the clerk
28 thereof in respect to general primary elections shall be discharged
29 by the city council and the city clerk, respectively.

30 Regular municipal elections shall be held and conducted in all
31 respects as provided by law for conducting general elections in
32 the state of West Virginia; except that the names of candidates
33 nominated for office need not be published. The city council shall
34 perform all of the duties in regard to the election which are im-
35 posed upon a county court in conducting a general election in the
36 state, and the city clerk shall perform all of the duties which are
37 imposed upon the clerk of the county court. The city council in
38 selecting officers to conduct the election and in choosing ballot
39 commissioners shall be bound by all of the laws obligating a
40 county court to select commissioners and clerks which may be
41 designated by a party executive committee or by the chairman
42 thereof. The ballots shall be received, cast, counted, tabulated,
43 and returns made and canvassed in all respects as provided by law
44 for conducting general elections in the state of West Virginia, ex-
45 cept that the duties devolving upon the county court and the clerk
46 thereof under the general laws for conducting elections in the state
47 shall be discharged by the city council and the city clerk.

48 The places for holding the elections shall be selected and pro-
49 vided by the city council, and the officers selected to conduct the
50 same shall receive the same compensation to be paid by the city
51 which is paid to like officials selected to conduct general elections
52 in the state.

53 A receiving board and a returning board of officials to conduct
54 the election may be appointed at any or all voting precincts when
55 in the judgment of the city council a double election board is nec-
56 essary to facilitate the holding of the election and counting of the
57 ballots. The city council may establish one or more voting pre-
58 cincts in any ward and may fix the boundaries of such precincts.

59 Each resident of the city of Clarksburg who is a citizen of the
60 United States and who has resided in the state of West Virginia
61 for at least one year and in the city of Clarksburg for at least six
62 months, and who is a *bona fide* resident of the ward and election
63 precinct in which he offers to vote, and who is not otherwise dis-
64 qualified by law, shall be entitled to vote.

65 The first city council elected under the provisions of this act
66 shall provide by ordinance for the registration of all persons
67 entitled to vote at each subsequent municipal election and primary
68 election, and the city council shall appoint the registrars, specify
69 the time for making the registration, and cause all persons entitled
70 to vote in the city to be registered. The laws in force in the state
71 of West Virginia for registering persons who are entitled to vote
72 at a general election held in the state shall in so far as applicable
73 govern the registration of persons entitled to vote at municipal
74 elections, and the duties imposed by the general laws of the state
75 upon county courts and clerks thereof shall be discharged re-
76 spectively by the city council and the city clerk.

77 All commissioners and clerks selected to conduct elections, and
78 all registrars, and all challengers, shall take the oath prescribed by
79 law before entering upon the discharge of their respective duties.

Corporate Powers.

Sec. 9. All corporate powers of the city shall be vested in and
2 exercised by the council except as hereinafter conferred upon the
3 water board. Each councilman shall have a right to vote on all
4 questions coming before the council. Five or more members of the
5 council shall constitute a quorum, and the affirmative vote of at
6 least a majority of the members of the council shall be

7 necessary to adopt any motion, resolution or ordinance,
8 or pass any measure.

9 The city manager, hereinafter provided for, shall preside at all
10 meetings of the council when present, and in his absence, the coun-
11 cil shall select a presiding officer. The city manager or other
12 presiding officer shall have no power to veto any measure, resolu-
13 tion or ordinance, and shall be entitled to vote upon the passage
14 of the same only in the case of a tie. But every resolution, ordi-
15 nance or franchise passed by the council must be signed by the city
16 manager and the city clerk or recorder and must be published and
17 recorded before the same shall be effective, unless otherwise pro-
18 vided in this act.

Powers of the Council.

Sec. 10. The council of said city shall have and are hereby
2 granted power to have said city surveyed; to open, vacate, broaden,
3 change grade of, grade and pave streets, sidewalks and gutters
4 for public use, and to alter, improve, embellish and ornament and
5 light the same, and to construct and maintain public sewers and
6 laterals, and shall in all cases except as to lighting have power
7 and authority to assess upon and collect from the property bene-
8 fitted thereby all, or such part of the expense thereof, as shall be
9 fixed by ordinance, except as hereinafter provided; to have con-
10 trol of all streets, avenues, roads, alleys and grounds for public
11 use in said city, and to regulate the use thereof and driving
12 thereon, and to have the same kept in good order and free from
13 obstruction, pollution or litter on or over them; to have the right
14 to control all bridges within said city and the traffic passing there-
15 over; to change the name of any street, avenue or road within said
16 city, and to cause the re-numbering of houses on any street, ave-
17 nue or road therein; to regulate and determine the width of
18 streets, sidewalks, roads and alleys; to order and direct the curb-
19 ing and paving of sidewalks and footways for public use in said
20 city to be done and kept clean and in good order by the owners of
21 adjacent property; to enter into a contract with any internal im-
22 provement company for the joint ownership of any bridge by the
23 city and such company, upon such terms as may be prescribed in
24 the contract, but such bridge shall be a public highway; to pro-
25 hibit and punish the abuse of animals; to restrain and punish
26 vagrants, mendicants, beggars, tramps, prostitutes, drunken
27 or disorderly persons within the city, and to provide for their

28 arrest and manner of punishment; to prohibit by ordinance the
29 bringing into the city of any person or animal afflicted with con-
30 tagious or infectious disease, and to punish any violator of said
31 ordinance who knows or has reason to believe such person
32 or animal to be so afflicted; to suppress disorderly houses
33 of prostitution or ill-fame, houses of assignation, and gaming
34 houses or any part thereof, and to punish gaming; to prohibit
35 within said city or within three miles thereof slaughter houses,
36 soap or glue factories and houses of like kind; to control the con-
37 struction and repair of all houses, basements, walls, bridges, cul-
38 verts and sewers, and to prescribe and enforce all reasonable reg-
39 ulations affecting the construction of the same, and to require
40 permits to be obtained for such buildings and structures, and
41 plans and specifications thereof to be first submitted to the
42 city council; to control the opening and construction of ditches,
43 drains, sewers, cess-pools and gutters and to deepen, widen
44 and clear the same of stagnant water or filth, and to prevent
45 obstructions therein, and to determine at whose expense the
46 same shall be done: and to build and maintain fire station
47 houses, police stations and police courts, and to regulate the
48 management thereof: to acquire, lay off, appropriate and control
49 public grounds, squares and parks, either within or without the
50 city limits as herein defined; to purchase, sell, lease or contract
51 for and take care of all public buildings, and structures and real
52 estate, including libraries and hospitals, deemed proper for use
53 of such city; and, for the protection of the public, to cause the re-
54 moval of unsafe walls or buildings, and the filling of excavations;
55 to prevent injury or annoyance to the business of individuals
56 from anything dangerous, offensive or unwholesome: to define,
57 prohibit, abate, suppress and prevent all things detrimental to
58 the health, morals, comfort, safety, convenience and welfare of
59 the inhabitants of the city, and all nuisances and causes thereof,
60 and to that end and thereabout to summon witnesses and hear
61 testimony; to declare and enforce quarantine against the intro-
62 duction of any contagious or infectious disease prevailing in any
63 other state, county or place, and of any and all persons and things
64 likely to spread such contagion or infection; to regulate the keep-
65 ing of gun powder and other combustible or dangerous articles;
66 to regulate, restrain or prohibit the use of firecrackers, or other
67 explosives, or fireworks, and all noises or performances which
68 may be dangerous, annoying to persons or tend to frighten

69 horses or other animals; to provide and maintain proper places
70 for the burial of the dead and to regulate interments therein
71 upon such terms and conditions as to price and otherwise as may
72 be determined; to provide for shade and ornamental trees and the
73 protection of the same; to provide for the making of division
74 fences; to make proper regulation for guarding against danger
75 or damage from fires; to provide for the poor of the city, and to
76 that end may contract with the proper authorities of Harrison
77 county to keep and maintain the poor, or any number thereof,
78 upon terms to be agreed upon; to make suitable and proper reg-
79 ulations in regard to the use of the streets and alleys for street
80 cars, railroad engines and cars, and to regulate the running and
81 operation of the same so as to prevent injury, inconvenience or
82 annoyance to the public; to prohibit prize fighting, cock and dog
83 fighting; to license, tax, regulate or prohibit theatres, circuses,
84 the exhibition of showmen and shows of any kind and the exhi-
85 bition of natural or artificial curiosities, caravans, menageries,
86 pictures, motion pictures and musical exhibitions and per-
87 formances; to regulate the construction, height and material
88 used in all buildings, and the maintenance and occupancy
89 thereof; to regulate and control the use for whatever purpose. of
90 the streets and other public places; to create, establish, abolish and
91 organize employments and fix the compensation of all employees.
92 (except the employees of the water board); to organize and main-
93 tain fire companies and to provide necessary apparatus, engines
94 and implements for the same; to regulate and control the kind and
95 manner of plumbing and electric wiring for the protection of the
96 health and safety of said city; to levy tax on persons, property
97 and licenses; to license and tax dogs and other animals, and
98 regulate, restrain and prohibit them and all other animals and
99 fowls from running at large; to assess, levy and collect taxes for
100 general and special purposes upon all the subjects or objects
101 which the city may lawfully tax; to levy and collect assessments
102 for local improvements; to borrow money on the faith and credit
103 of the city by the issue and sale of bonds in the manner pre-
104 scribed by law; to appropriate the money of the city for all lawful
105 purposes; to create, provide for, regulate and maintain all things
106 in the nature of public works and improvements; to adopt rules
107 for the transaction of business and for its own regulation and gov-
108 ernment; to promote the general welfare of the city and to protect
109 the persons and property of citizens therein; to regulate and pro-

110 vide for the weighing of produce and other articles sold in said
111 city and to regulate the transportation thereof, and other things
112 through the streets, to have the sole and exclusive right to grant,
112-a refuse or revoke any and all licenses for the carrying on of any
113 business within said city on which the state exacts a license tax;
114 to establish and regulate markets and to prescribe the time for
115 holding the same, and what shall be sold in such market, and to
116 acquire and hold property for market purposes; to regulate or
117 prohibit the placing of signs, bill-boards, posters and advertise-
118 ments, in, on or over the streets, alleys, sidewalks and public
119 grounds of said city; to preserve and protect the peace, order and
120 safety and health of the city and its inhabitants, including the
121 right to regulate the sale and use of cocaine, morphine, opium
122 and poisonous drugs; to make, enforce and provide local police,
123 sanitary and other regulations, and fully exercise all lawful
124 police powers; to appoint and fix the places of holding city elec-
125 tions; to erect, own, lease, authorize or prohibit the erection of
126 gas works, telephone plant or electric light works in or near the
127 city, and to operate the same and sell the products or services
128 thereof, and to do any and all things necessary and incidental to
129 the conduct of such business; to provide for the purity of milk,
130 meats and provisions offered for sale in the said city, and to that
131 end provide for a system of inspecting the same and making and
132 enforcing rules for the regulation of their sale, and to prohibit
133 the sale of any unwholesome or tainted milk, meats, fish, fruit,
134 vegetables, or the sale of milk containing water or other things
135 not constituting a part of pure milk; to provide for inspecting
136 dairies and slaughter houses, whether in or outside of the city,
137 where the milk and meat therefrom are offered for sale within
138 said city; to prescribe and enforce ordinances and rules for the
139 purpose of protecting the health, property, lives, decency, mor-
140 ality and good order of the city and its inhabitants, and to pro-
141 tect places of divine worship in and about the premises where
142 held, and to punish violations of such ordinances even if the of-
143 fense under and against the same shall constitute offenses under
144 the law of the state of West Virginia or the common law; to pro-
145 vide for the employment and safe keeping of persons who may
146 be committed in default of the payment of fines, penalties or
147 costs under this act, who are otherwise unable or fail to discharge
148 the same, by putting them to work for the benefit of the city
149 upon the streets or other places provided by said city, and to use

150 such means to prevent their escape while at work as the council
151 may deem expedient; and the council may fix a reasonable rate
152 per day as wages to be allowed such person until the fine and
153 costs against him are thereby discharged; to compel the attend-
154 ance at public meetings of the members of the council; to prevent
155 any person, association or corporation from polluting in any
156 manner any pond, lake, basin, reservoir, stream, spring, creek, or
157 other body of water from which the city shall take water to be
158 used for domestic purposes by the inhabitants thereof, or from
159 casting into any such body of water, or on the bank thereof or in
160 such proximity thereto that the same may enter therein, any
161 filthy, unwholesome, or obnoxious substance, object, or liquid, or
162 anything whatsoever, injurious to the health of the people of the
163 city; to exercise all other powers that now are or hereafter may
164 be granted to municipalities by the constitution or the laws of the
165 state of West Virginia: and all such powers, whether expressed
166 or implied, shall be exercised and enforced in the manner pre-
167 scribed by this charter, or when not prescribed herein, in such
168 manner as shall be provided by the ordinances or resolutions of
169 the council.

170 The enumeration of particular powers of this charter shall
171 not be held or deemed to be exclusive, but in addition to the
172 powers enumerated herein, impliedly thereby, or appropriate to
173 the exercise thereof, the council shall have and exercise all other
174 powers, which, under the constitution and laws of the state of
175 West Virginia it would be competent for this charter specifically
176 to enumerate.

177 The council shall provide for the enforcement of all ordi-
178 nances by reasonable and proper penalties, consisting of fines or
179 imprisonment, or fines and imprisonment, with suitable rules
180 and regulations for the enforcement of such penalties. For all
181 such purposes the jurisdiction of the city shall, when necessary,
182 extend for one mile beyond the corporate limits of said city, ex-
183 cepting any other municipal corporation, or part thereof, within
184 said one mile limit. In order to prevent the pollution of the
185 waters from which the people of the city take water for domestic
186 uses, the jurisdiction of the city shall be co-extensive with the
187 location and extent of the water from which supply is taken.
188 except that in no event shall such jurisdiction of the city of
189 Clarksburg exist within any other incorporated city or town:
190 *Provided, however,* that in no event shall imprisonment for a

191 longer period than sixty days or a greater fine than one hundred
192 dollars, or both, be imposed for any one offense.

Appointive Offices.

Sec. 11. For the administration of the affairs of the city and of
2 the powers conferred upon the city council, there are created the
3 following municipal offices:

4 City manager, city clerk or recorder, police court judge,
5 city collector and treasurer, city attorney, city engineer, who
6 shall be *ex-officio* street supervisor, city physician, chief of police,
7 and chief of the fire department.

8 The city council shall have power to create additional adminis-
9 trative offices and to abolish any of the offices by it
10 created.

11 The city council shall at its first meeting in the month of May
12 following a municipal election, or as soon thereafter as practicable,
13 appoint by a majority vote, a city manager, and shall by a like
14 vote, at any regular or special meeting of the council, fill any
15 vacancy in said office.

16 The city manager shall, by and with the advice and consent
17 of the city council, appoint a city clerk or recorder,
18 a police court judge, a city collector and treasurer, a
19 city attorney, a city engineer, who shall be *ex-officio* street super-
20 visor, a city physician, a chief of police and a chief of the fire
21 department, and officers to fill any other administrative offices
22 which the council shall create. Any vacancy in any of said offices
23 shall be filled by the city manager with the consent of the council.
24 The assent of the council in all cases shall be entered of record
25 in the book containing the proceedings of the council.

26 The city manager shall hold office during the pleasure of the
27 council, and may at any time be removed from office by the affirma-
28 tive vote of two-thirds of all of the members of the council.

29 The administrative officers named in this section and any ad-
30 ministrative officers appointed to fill any administrative offices
31 which council may hereafter create shall hold office at the will and
32 pleasure of the city manager and may be removed from office at
33 any time by the city manager: *Provided, however,* that any such
34 officer who shall be removed from office by the city manager may
35 be reinstated by the affirmative vote of two-thirds of all the mem-
36 bers of the city council.

37 The council shall by ordinance or resolution prescribe, fix and
38 limit the number of city policemen to be employed by the city,
39 and the number of employees in the fire department.

Qualifications.

Sec. 12. No person shall be elected or remain a member of
2 the city council who does not reside in the ward from which
3 he is elected and who is not a freeholder of record in the city of
4 Clarksburg.

5 No person shall be appointed police court judge,
6 who is not a resident of the city of Clarksburg
7 and a member of the Harrison county bar in good
8 standing.

9 No person shall fill any other elective or appointive office except
10 that of city manager who is not a resident of the city of Clarksburg
11 and entitled to vote for members of the city council.

12 Any officer of the city who shall become or be directly or in-
13 directly interested in any contract or in the profits to be derived
14 therefrom with the municipality shall forthwith forfeit his office;
15 and in addition thereto, any such contract shall be void and un-
16 enforceable against the city; and the acceptance by any officer of
17 any interest in such contract or of any gift or gratuity from any
18 person, firm or corporation dealing with the city which might
19 influence the officer in the discharge of any duty shall disqualify
20 the person forever from holding any office or employment in the
21 government of the city of Clarksburg; and in addition, such per-
22 son shall be subject to criminal prosecution under any ordi-
23 nances of the city or laws of the state of West Virginia.

Compensation.

Sec. 13. Each member of the city council shall receive a fee
2 of five dollars for each regular or special meeting which he shall
3 attend: *Provided, however,* that he shall not receive total com-
4 pensation of more than one hundred and fifty dollars for any
5 year.

6 The city manager and other administrative officers holding the
7 offices created by section 11 of this act, or which shall
8 hereafter be created by the city council, the members of the
9 city police, the employees of the fire department, and laborers
10 employed by the city, except those employed by the water board,
11 shall receive such salary, compensation and wages as the city

12 council shall from time to time by ordinance or resolution fix
13 and prescribe.

City Manager.

Sec. 14. The city manager shall occupy an office for the
2 transaction of the public business in the building or buildings
3 occupied by the city government, which office shall be kept open
4 on all secular days except legal holidays for the transaction of
5 the public business. He shall devote all of his time to the
6 discharge of his official duties, and while holding the office
7 shall not engage in any other business or employment or hold
8 any other office. In addition to all other powers which may be
9 conferred upon the city manager by the city council or by the laws
10 of the state of West Virginia, he shall exercise the following
11 powers:

12 (a) Supervise, control and direct the affairs and business of
13 all of the administrative offices created in section eleven
14 of this act, or which shall hereafter be created by the coun-
15 cil under the authority therein contained, except the police de-
16 partment.

17 (b) Appoint and remove in the manner herein provided all
18 administrative officers and employ and discharge at will all other
19 employees of the city, except employees in the police department
20 and in the water department.

21 (c) Enforce in favor of the inhabitants of the city all terms
22 and conditions in their favor contained in any public utility fran-
23 chise and require the faithful discharge of obligations of all pub-
24 lic utilities.

25 (d) Attend and preside at all meetings of the coun-
26 cil with the right to take part in the discussion of all
27 measures.

28 (e) Recommend to the council for adoption such measures
29 and resolutions as he may deem expedient.

30 (f) Act as budget commissioner and keep the city council fully
31 advised as to the financial condition and needs of the city.

32 (g) Determine and decide on the plan and program for pav-
33 ing, sewerage and otherwise improving the different streets and
34 alleys in the city and fix and determine the order of time in which
35 such streets and alleys shall be paved, sewerage and otherwise im-
36 proved.

37 (h) Determine and decide upon the kind and character of
38 pavements, sidewalks, curbs, sewers and other improvements which
39 shall be constructed and made upon and in any of the streets and
40 alleys of the city.

41 (i) Employ competent experts to advise with him in plan-
42 ning the improvements of city streets and alleys, in specifying
43 the kind and character of pavements, sidewalks, curbs and sewers,
44 which shall be laid and constructed, and to supervise the perform-
45 ance of the work in paving, sewerage, and improving any street
46 or streets, and alley or alleys; and by contract to specify and fix
47 the compensation which any expert so employed by the city man-
48 ager shall receive for his services, which contract shall not be-
49 come binding or effective until approved by the city council and
50 the fact of such approval entered of record.

51 (j) Authenticate all ordinances and resolutions passed by the
52 council and sign the minutes of all meetings of the council. Im-
53 mediately upon the meeting of the council the minutes of the pre-
54 ceding meeting shall be read and corrected if they contain any er-
55 rors, and they shall be signed by the city manager and city clerk
56 before the council proceeds to the transaction of any business.

57 (k) Act as purchasing agent and purchase all supplies and
58 material for all departments of the city government except the
59 water department; and make sale of all property of the city not
60 needed or suitable for the public use in such manner as the council
61 may direct: *Provided, however,* he shall not make any contract
62 or purchase involving an expenditure in excess of five hundred dol-
63 lars without first obtaining the assent of the council so to do. All
64 supplies to be used by the city and all material purchased by the
65 city for construction of any public improvement shall be purchas-
66 ed on competitive bids. All proposals for such shall be upon pre-
67 cise specifications, and notice of the requirements of the city shall
68 be given to dealers in supplies and materials of the kind required
69 who by reason of location are best able to furnish the same at the
69-a lowest price. All offers to sell supplies and materials to the city
70 shall be attached to the accepted offer and filed and preserved in
71 the office of the city clerk. All purchases shall be audited by the
72 city council and only on approval of the council shall payment be
73 made: *Provided, however,* that limited quantities of supplies and
74 materials may be purchased in cases of emergency without the
75 delay necessary to secure competitive bids or offers to supply the
76 same.

77 (l) Make and execute on behalf of the city all writings, con-
78 tracts, deeds, and agreements, the making of which shall be au-
79 thorized by the council, or by any ordinance, resolution or stat-
80 ute, except contracts pertaining to the water department.

81 (m) The city manager shall exercise any and all other powers
82 conferred by the present laws of the state of West Virginia upon
83 mayors of cities, towns or villages, or which shall be conferred
84 upon such officers by any law hereafter enacted, not in conflict
85 with the provisions of this act, except the powers herein, or in any
86 such law, contained relating to the preservation of order and the
87 enforcement of penal ordinances and statutes, which powers in this
88 act are vested in the police court judge.

The City Clerk.

Sec. 15. The city clerk shall keep a complete record of all
2 ordinances, resolutions and acts of the city council. He shall
3 enter in a separate volume all ordinances of a general nature, a
4 violation of which shall subject any person to any penalty, and
5 carefully index the same. All ordinances providing for the is-
6 suing of bonds, the creation of a debt, the construction of any
7 public improvement, or of any local or temporary nature shall
8 be entered in a separate volume by the city clerk, and carefully
9 indexed. He shall keep complete books of account showing all
10 financial transactions of the city and of each department, all re-
10-a ceipts, expenditures made by the city, the sources of all in-
10-b come and the purposes of all expenditures. He shall enter in
11 the municipal assessment docket all special assessments made
12 for public improvements, showing the name of the owner of the
13 property, the particular property on which the assessment is lev-
14 ied, the date of the entry, and the minute book and page showing
15 the entry of the ordinance or resolution creating the assessment,
16 and the maturing time of the assessment. When and as the in-
17 stallments upon principal and interest on each assessment shall
18 be paid, he shall enter such payments showing the amount paid
19 upon principal, the amount of interest, under the heading and in
20 the account of such special assessment. When the special assess-
21 ment, principal and interest, shall have been paid in full, he shall
22 make an entry in red ink on the face of the account showing that
23 the special assessment is fully satisfied and paid. He shall make
24 out all vouchers and pay-rolls of the city, and shall do and per-

25 form all other duties which may be required of him by the council
26 by any ordinance or resolution.

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

30 He shall prepare and cause to be served all notices required to
31 be given to any person, firm or corporation, and after proper
32 service and return thereof of any notice, he shall file and preserve
33 the same.

34 He shall file in convenient form so as to be readily accessible all
35 correspondence carried on by the city or by any department
36 thereof, except the water department, and, as custodian of all the
37 books, records and proceedings of the council, he shall make and
38 certify copies thereof whenever required and affix the corporate
39 seal of the city to any paper required to be sealed and to any cer-

40 tified copy of any paper, order or proceeding which he may make.
41 A copy of any record, paper, entry, order, ordinance, resolu-
42 tion or proceeding made by the council, or by the police court
43 judge when properly certified under the seal of the city shall be
44 admissible as evidence in any court in the state in any proceeding
45 in which the original paper or record, if present, would be admis-
46 sible.

47 Unless otherwise provided by council, the office of the city clerk
48 shall be kept open by the city clerk or by some deputy or assist-
49 ant, on each secular day from nine A. M., until five P. M., for the
50 transaction of the public business.

51 The city clerk shall not be required to perform any duty, make,
52 preserve or keep a record or paper, or give any notice of or re-
53 lating to any of the proceedings of the water board or the water
54 department.

Police Court Judge.

Sec. 16. The police court judge shall perform and
2 discharge all duties and exercise all powers which shall
3 be conferred upon him by ordinance or resolution of
4 the city council, and in addition, he shall exercise the following
5 powers:

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

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

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

14 (d) Supervise and control the police department and by and
15 with the consent of the council appoint all members of the police
16 force, except the chief of police, and require of all members of the
17 police force, including the chief, the proper discharge of their re-
18 spective duties.

19 (e) Try all offenders brought before him and punish by fine
20 or imprisonment or by fine and imprisonment any person con-
21 victed for any offense, and his jurisdiction in that regard shall
22 extend one mile beyond the city limits generally; and for the vio-
23 lation of any ordinance or law prohibiting the pollution of the
24 water or waters from which the city of Clarksburg obtains water
25 for domestic use his jurisdiction shall be co-extensive with the
26 water or waters from which such supplies are drawn: *Provided*,
27 that he shall not exercise jurisdiction over any offense committed
28 within the corporate limits of any other city, town or village.

29 (f) Keep a record of all warrants issued by him, of all per-
30 sons arrested and brought before him, and of all trials, fines or
31 sentences imposed, or judgments entered by him, in a well-bound
32 book to be known as the police court docket. A record of the en-
33 tries made each day in said docket shall be signed by the police
34 court judge at the close of the day. An appeal shall lie to the
35 circuit court or to the criminal court of Harrison county from
36 all judgments of the police court judge wherein and in the man-
37 ner an appeal from the judgment of a mayor of a city is allowed
38 by law.

39 (g) Exercise the power to punish within the limits prescribed
40 by the ordinances of the city or by the laws of the state of West
41 Virginia applicable to the city and not in conflict with this act.

42 (h) Exercise all of the powers and discharge all of the duties
43 for the enforcement of the criminal or penal ordinances and laws
44 conferred or imposed upon the mayors of cities, towns or villages
45 by this act, or by any law of the state of West Virginia, or by
46 any law which may hereafter be enacted by the law making body
47 of said state not in conflict with the provisions of this act, except
48 that he shall not be *ex-officio* a justice of the peace, or exercise the
49 powers of a justice of the peace.

50 (i) In the discharge of his duties and in the trial of cases,
51 the police court judge shall, in so far as practicable, follow the
52 rules of proceeding of the courts of the state of West Virginia
53 which exercise jurisdiction in criminal cases and any person put
54 upon trial for any offense shall be entitled to the assistance of
55 counsel. All cases shall be tried by the police court judge with-
56 out a jury.

57 (j) Discharge any members of the police force except the
58 chief of police: *Provided, however,* that council may reinstate
59 any member discharged by an affirmative vote of two-thirds of all
60 of the members elected to the council.

61 (k) The city council may by resolution or ordinance provide
62 that the police court judge shall be assistant to the city manager
63 and assistant to the city attorney, and that he shall devote all of
64 his time to the discharge of the duties of his office, and shall not
65 while holding said offices engage in any other business or employ-
66 ment or in the practice of law, except in assisting the city attorney
67 in conducting the civil litigation and business in which the city
68 as a party may be engaged.

The City Collector and Treasurer.

Sec. 17. 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 thereto;
4 and shall collect and receive, and shall disburse, upon warrants
5 issued by the proper authority, all public moneys. He shall keep
6 an accurate account of all moneys in his custody, or collected, re-
7 ceived or paid out by him, showing the sources from which the
8 same were received and the purposes for which disbursed. The
9 council may prescribe by ordinance or resolution the manner
10 in which a warrant for the payment of money shall be issued,
11 executed and authenticated. He shall be subjected to the su-
12 pervision and control of the council in all things, and perform all
13 duties prescribed by the council.

14 The city collector shall keep a record of all taxes assessed and
15 levied and shall extend said levies and make out tax bills and re-
16 cepts to be delivered to the tax payers upon the payment of taxes.
17 He shall collect all assessments made against property or prop-
18 erty owners for local benefits and give receipts therefor.

19 He shall keep separate the accounts and funds of all levies and
20 assessments for specific purposes and shall disburse the same only
21 for the purposes for which the levies and assessments were made.

22 He shall pay promptly to the sinking fund trustees hereinafter
23 named all moneys coming into his hands for the account of
24 any sinking fund and shall take receipts for the same.

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

28 If the legislature shall enact a law generally referred to as
29 the "county treasurer law", which shall provide for a county
30 treasurer who shall collect and discharge all taxes, including taxes
31 levied by municipal corporations, the office of city collector and
32 treasurer shall thereby be discontinued and abolished.

City Attorney.

Sec. 18. The city attorney shall be a member of the bar of
2 Harrison county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be conferred
4 upon him by any ordinance or resolution of the city council, and,
5 in addition, he shall exercise the following powers:

6 (a) Be the legal adviser of and attorney and counsel for the
7 city and for all of the administrative officers thereof, (except the
8 water department), in respect to their official duties.

9 (b) Prosecute and defend all suits for or against the city and
10 prepare all contracts, bonds or other writings in which the city
11 is concerned, and endorse on each his approval of the form and
12 correctness thereof.

13 (c) Be prosecuting attorney of the police court and prosecute
14 all cases brought before such court, and perform the same duties
15 so far as they are applicable thereto as are required of the prose-
16 cuting 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 ques-
19 tion of law involving their respective powers and duties and he
20 shall furnish the same in writing.

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

27 (f) When an obligation or contract made on behalf of the city
28 granting a right or easement, or creating a public duty, is evaded

29 or violated, the city attorney shall require the specific perform-
30 ance of the duty by any administrative officer by application for
31 a writ of mandamus to a court of competent jurisdiction.

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

City Engineer and Street Supervisor.

Sec. 19. 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 exercise
5 the following powers:

6 (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 the
10 work is being performed.

11 (b) Supervise the construction of all buildings, the erection
12 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 (e) Make complete maps of all streets, alleys, lanes, parks
16 and public property owned by the city and keep the same on file
17 in his office, and furnish a copy thereof to the city manager. He
18 may make recommendations as to the kind of improvements re-
19 quired or suitable for any street, alley, lane, or locality in the
20 city.

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

24 (g) General supervision of the work of repairing and keeping
25 in repair all pavements, sidewalks, curbs and sewers in the city.

City Physician.

Sec. 20. 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 in
8 a thoroughly sanitary condition.

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

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

18 (d) Institute and prosecute proceedings before the city council
19 for the supervision, prevention or abatement of nuisances and in
20 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 food
23 stuffs, the regulation and inspection of weights and measures, and
24 the collection and disposal of all waste and garbage.

25 (f) In time of epidemic or threatened epidemic, he shall en-
26 force such quarantine and isolation rules and regulations as are
27 appropriate for the emergency.

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

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

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

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

Chief of Police.

Sec. 21. The chief of police shall discharge such duties as may
2 be required of him by any ordinance or resolution of council and
3 he shall act under the orders of the police court judge in admin-
4 istering the police department.

Chief of the Fire Department.

Sec. 22. 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 or-
5 ders of the city manager at all times in the administration of the
6 fire department. He shall make such inspection as may be re-
7 quired of buildings and property throughout the city in relation to
8 the matter of fire risks.

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

Public Utility Franchises.

Sec. 22-a. The city council may by ordinance grant permission
2 to any individual, firm or corporation to construct and operate a
3 public utility in, over and under the streets, alleys and public
4 grounds of the city under the provisions of law applicable thereto;
5 but no franchise shall be considered an emergency measure. It
6 may by ordinance renew any franchise to construct and operate a
7 public utility in, over and under the streets, alleys and public
8 grounds of the city, or may grant to any individual, firm or cor-
9 poration operating a public utility the right to extend the appli-
10 ances and service of such utility; but the right to use and maintain
11 any such extension shall expire with the original grant to the
12 utility or of any renewal thereof. It shall control the distribu-
13 tion of space in, over or across all streets or public grounds oc-
14 cupied by public utility fixtures. All rights hereafter granted for
15 the construction and operation of public utilities shall be subject
16 to the continuing right of the council to require such re-construc-
17 tion, re-location, change or discontinuance of fixtures and appli-
18 ances used by the utility in such streets, alleys or public grounds
19 as the council shall deem necessary for the public convenience:
20 *Provided*, that no franchise shall be granted for a period exceeding
21 fifty years, and no renewal thereof shall exceed a like period.

22

Ordinance Enactment.

23 Each proposed ordinance or resolution shall be introduced in
24 written or printed form, and shall not contain more than one sub-
25 ject, which shall be clearly stated in the title; but the general appro-
26 priation ordinances may contain the various subjects and accounts
27 for which moneys are to be appropriated. The enacting clauses
28 of all ordinances passed by the council shall be "Be it ordained
29 by the city of Clarksburg:"

30 No ordinance, unless it be declared an emergency measure shall
31 be passed on the day on which it shall have been in-
32 troduced.

33 No ordinance or resolution or section thereof shall be revised or
34 amended, unless the new ordinance or resolution contain the entire
35 ordinance or resolution or section revised or amended and the or-
36 iginal ordinance, resolution, section or sections so amended shall
37 thereby be repealed.

38 The record shall show whenever the vote is unanimous. In all
39 other cases the yeas and nays shall be called and recorded. No
40 member shall vote on any matter in which he has a personal in-
41 terest other than as a tax-payer of the city. Unless excused by a
42 vote of the council all qualified members present shall vote on
43 all roll calls. Any such member refusing to vote shall be re-
44 corded as voting nay.

Financial Statement. Audit.

Sec. 23. At the end of each year the council shall cause a full
2 and complete audit of all the books and accounts of the city to
3 be made by the state tax commissioner, and shall make public
4 the result of such examination. At the end of the year there
5 shall be published a financial statement of the city covering the
6 transactions of the preceding fiscal year, in the manner required
7 by law.

Budget.

Sec. 24. The council shall have the right to make up an es-
2 timate of the proposed improvements for any year and a budget
3 covering the same, at such time as may be deemed most suitable
4 without regard to the requirements of a general statute, and it
5 may from time to time prepare and adopt additional estimates
6 and budgets during the current year whenever in the judgment
7 of the council the public interests will be promoted thereby.

Levies for Roads and Keeping the Poor.

2 Sec. 25. The city council shall provide for caring for the
3 poor in a proper manner. But if the county court shall levy a
4 **tax** upon the taxable property in the city applicable to keeping
5 the poor of the county, the county court shall out of the revenues
6 derived from such taxes care for and keep the poor of the city.
7 If no such tax be levied within the city by the county court,
8 the city council shall provide funds for caring for and keeping
9 the poor of the city, and may enter into contracts with the
10 county court of the county to have the poor of the city kept,
11 housed and provided for at the county alms-house at the ex-

12 pense of the city.
13 No tax shall be levied on the property within or the residents
14 of the city of Clarksburg by the county court of Harrison county
15 for constructing, repairing or maintaining any road, bridge, or
16 culvert in the county of Harrison without the consent of the
17 city council to the making and laying of such levy expressed by
18 a resolution adopted by the city council.

19 The city council is authorized to assent to the making or lay-
20 ing of any levy upon the taxable property within the city by
21 the county court of Harrison county for constructing, improv-
22 ing, repairing and maintaining the roads and bridges in and
23 throughout the county, either including or excluding the roads
24 and bridges within the city, and for the laying of levies to pay
25 the interest upon and discharge the principal of any bonds which
26 may hereafter be issued by the county court as the obligations
27 of the magisterial districts adjacent to the city, or of any num-
28 ber or combination of magisterial districts in the county, the
29 making and issuing of which bonds shall have been authorized
30 by the vote of three-fifths of all of the electors, voting on the
31 question, within the magisterial districts creating the debt, in-
32 cluding the voters residing within the city of Clarksburg, on the
33 question of issuing such bonds. The assent of the city once
34 given to issue such bonds and make such levy on the taxable
35 property within the city together with the taxable property with-
36 in the magisterial districts creating the debt shall not be re-
37 voked until the bonds issued under the authority of such assent
shall have been paid off and discharged.

Pollution of Water Supply of the City.

Sec. 26. In order to preserve the health and insure the comfort of the inhabitants of the city of Clarksburg by preventing the pollution of the water and water supply of the city for domestic use, it shall be unlawful for any person, firm, or corporation to deposit, discharge, throw or cause to be thrown, into the West Fork of the Monongalia river above the water station of the city, or into any tributary, brook, or stream which falls or flows into said river above said point, any dead carcass of any animal, fowl, or fish, any sewage or sewage effluent, or the content of any privy or privy vault, or any offal from any slaughter-house or butcher establishment, or any spoiled fish, meat, cheese, lard, molasses, grain, or any obnoxious vegetable, mineral, or animal substance, or any tins in which foods or liquids have been preserved, or any crude oil, refined oil, petroleum, or any compound or mixture of oil or filth from any oil well, oil tank, oil vat or place of deposit of crude or refined oil, or any other vegetable, mineral or animal substances, or waters charged and polluted with minerals, or combination of two or more of such substances, which of itself or in connection with other matter will or might corrupt, pollute, or impair the quality of the water in said river and streams; or to throw or deposit, cause to be thrown or deposited, or permit to be thrown or deposited upon any premises owned by him or them, upon or near to the margin of said river, creeks and streams, in such proximity as to permit the obnoxious substances to be washed or carried into said river or streams by rains, flooding and drainage; but all liquid substances, the discharge of which into said stream or streams is inhibited, shall be discharged or deposited in the fields at a distance from the margin of any said streams so that they will be thoroughly filtered and cleansed before reaching the streams.

Any person convicted of violating any of the provisions of this section by a court of competent jurisdiction shall be fined not more than one thousand dollars and imprisoned in the county jail of the county for not more than one year.

Sec. 27. No person shall locate or permit to remain located any privy, water closet, pig pen, slaughter-house, chicken-house, stable or barn so that the drainage therefrom will enter any of the waters described in section 26 of this act.

Sec. 28. No person shall bathe his person, swim, or wash
2 or cleanse clothing in any storage reservoir in the West Fork
3 river which is constructed or maintained for the city of Clarks-
4 burg for storing water for domestic use, or at any point in said
5 river above the intake or point from which the water for the
6 supply of the inhabitants of the city of Clarksburg is drawn
7 not in a storage dam within five miles from such point of intake.
8 Any person violating any of the provisions of this section shall,
9 on conviction therefor in a court having jurisdiction, be fined
10 not more than one hundred dollars and imprisoned in the county
11 jail not more than sixty days.

Sec. 29. In addition to the penalties provided for violations
2 of the provisions of sections twenty-six, twenty-seven and twenty-
3 eight, of this act, any such violation shall be and construed as
4 a public nuisance, and the commission or continuance thereof
5 may be enjoined by the circuit court of the county in which the
6 act is committed, and the court may by proper orders completely
7 abate any such nuisance and prevent the repeated commission
8 or further continuance thereof.

Contracts—Cost Plus Work.

Sec. 30. Public improvements of all kinds may be made,
2 either by direct employment of the necessary labor and the pur-
3 chase of the necessary supplies and materials, with separate
4 accounting as to each improvement so made, or by contract duly
5 let after competitive bidding, either for a gross price, or upon
6 a unit basis for the improvement; or by contract containing a
7 guaranteed maximum and stipulating that the city shall pay with-
8 in such maximum the cost of labor and materials, plus a fixed
9 percentage of profit to the contractor. The council, by reso-
10 lution, shall determine by which of the foregoing methods any
11 improvement shall be made. Contracts may provide a bonus
12 per day for completion of the contract prior to a specified date,
13 and liquidated damages to the city to be exacted in like sum for
14 every day of delay beyond a specified date.

Changes in Contracts.

Sec. 31. When it becomes necessary in the prosecution of
2 any work, or improvement under contract, to make alterations
3 or modifications in such contract, such alterations or modifica-
4 tions shall be made only upon resolution of the council. No

5 such order shall be effective until the price to be paid for the
6 work and material, or both, under the altered or modified con-
7 tract, shall have been agreed upon in writing and signed by the
8 contractor and the city manager under authority of the council.

Lot Sub-Divisions.

Sec. 32. Any owner of lots or grounds within the city who
2 sub-divides or lays them out for sale, shall cause to be made an
3 accurate map or plat of such sub-division, describing with cer-
4 tainty all grounds laid out, or granted for streets, alleys, ways,
5 commons, or other public uses. Lots sold or intended for sale
6 shall be numbered by progressive number, or described by the
7 squares in which situated, and the precise length and width shall
8 be given of each lot sold or intended for sale. Such map or plat
9 shall be subscribed by the owner and lien holders, acknowledged
10 before an officer authorized to take the acknowledgment of deeds,
11 approved by the city manager, and recorded in the office of the
12 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 for the uses and purposes in the instrument set forth, ex-
18 pressed, 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 or-
25 dered to be opened and improved.

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

Motor Vehicles.

Sec. 32-a. The city council shall have power to license and
2 regulate by ordinance all taxi-cabs, automobiles and vehicles of
3 like motive power engaged in the transportation of passengers

4 or freight for hire over the streets and alleys of the city, and
5 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.

Code of Laws.

Sec. 33. The council may enact laws, by-laws and ordinances
2 which when adopted shall be printed in book form, or the same
3 may be adopted as a whole after they are printed, and such code
4 shall be the laws and ordinances of the city and shall be received
5 as such in all courts of the state, and the laws, ordinances, and
6 rules as printed therein shall be *prima facie* proof of their own
7 correctness.

8 No ordinance, law, or by-law imposing any penalty or for-
9 feiture upon an inhabitant shall be valid or of any effect until
10 recorded in the ordinance book of the city.

Continuance of Contracts.

Sec. 34. All contracts entered into by the city or for its
2 benefit prior to the taking effect of this act shall, if valid, con-
3 tinue in full force and effect. All public work commenced prior
4 to the taking effect of this act shall be continued and performed
5 thereunder. The municipal corporation herein created shall suc-
6 ceed to all the rights and be subject to all of the liabilities of
7 the municipal corporation which it succeeds, or of which it is but
8 a continuation.

Service of Notices.

Sec. 35. Whenever any notice is required to be given by the
2 city or any department thereof, or any summons, warrant or
3 other process is required to be served or otherwise executed un-
4 der the provisions of this act, it shall be sufficient if such notice,
5 summons, warrant or other process be served or executed and re-
6 turn thereof be made by any member of the police force of said
7 city in the same way or manner in which the laws of the state
8 provide for serving and executing notices, summons and war-
9 rants by state officers, unless otherwise provided in this act.

Assessments for Removing Snow, Weeds, etc.

Sec. 36. The city council shall have power to provide by ordinance for assessing against the abutting property the cost of removing from sidewalks all accumulations of snow and ice and for assessing against the property the cost of removing rubbish and the cutting and removing of noxious weeds from any lot or grounds in the city.

Eminent Domain.

Sec. 37. The city of Clarksburg as herein created or continued shall have the right under the power of eminent domain to condemn, acquire and appropriate any property and acquire the fee simple title or any lesser estate or easement therein for any public use, whether said property be located within or outside of the corporate limits of said city, including the right to acquire property for opening and widening streets, alleys and public places, and for the construction and maintenance of sewer lines, sewage disposal plants, water lines and mains, pump stations, reservoirs or reservoir sites, dams for storing water, and the right to create storage reservoirs by flooding adjacent properties, and for every other purpose required in the construction, maintenance and operation of water systems and plants for the purpose of supplying water to the public. The proceedings to acquire such lands, estates, or easements shall be the same as provided by general laws of the state of West Virginia for condemning and appropriating private property for a public use.

The Clarksburg Water Board.

Organization.

Sec. 38. The water board of the city of Clarksburg in existence when this act goes into effect shall be continued, and the administrative officers and employees of the water board shall continue in their respective offices and employments until removed and superseded by the water board. At its first regular meeting after each regular election, or as soon thereafter as practicable, the water board shall appoint a general manager for the water works plant, who shall *ex-officio* become secretary and treasurer of the water board and shall devote all of his time to the public service of the city of Clarksburg, and while holding

11 such office shall not be engaged in any other business or accept
12 any other employment. They may create and discontinue such
13 other administrative offices and employments as in their judg-
14 ment the needs of the department shall require, and fill by ap-
15 pointment all such administrative offices. They shall fix, pres-
16 cribe and limit the compensation to be paid to the general man-
17 ager and to all other administrative officers and employees of
18 the water board and the time and manner of making such pay-
19 ment. The general manager and other employees of the de-
20 partment shall hold their respective offices and employments at
21 the pleasure of the board.

Meetings of the Board.

Sec. 39. Regular meetings of the board shall be held monthly
2 on a day designated by resolutions of the board, and special
3 meetings may be called at any time by any member of the board
4 or by the secretary. It shall require at least two members of
5 the board to constitute a quorum for the transaction of business.

Compensation.

Sec. 40. The members of the water board shall receive such
2 compensation as they shall from time to time fix by resolution,
3 which shall not exceed three hundred dollars a year for each
4 member. The compensation shall be payable in such manner
5 as the board by resolution may prescribe. The board shall pro-
6 vide by resolution for the election of one of its members as
7 president of the board and shall specify the period or term of
8 the presidency, and at the last regular meeting before the expir-
9 ation of the term of the presidency of the board, they shall elect
10 a successor to the office. They may fill a vacancy in the presi-
11 dency caused by death, resignation or otherwise at any regular or
12 special meeting.

General Powers.

Sec. 41. The water board shall have and exercise all of the
2 powers conferred upon municipalities by the laws of the state
3 of West Virginia now in effect or which shall hereafter be enact-
4 ed for the construction, operation and management of municipi-
5 pal-owned water plants, and without any limitation upon such
6 general powers they shall exercise the following.

7 (a) Fix, regulate and change rates and charges for water
8 supplied to all consumers, and adopt and prescribe reasonable

9 rules and regulations which shall be observed and obeyed by all
10 consumers in reference to the use and consumption of water taken
11 from the city mains; the terms and conditions upon which con-
12 nections to the said mains shall be permitted, and the place and
13 manner of making the same; fix penalties by way of additional
14 charges for failure to pay water rents promptly, and to this
15 end may discontinue the supply of water to any consumer who
16 fails to pay for the same as required; require all users of water
17 for temporary purposes to pay for the privilege in advance; re-
18 fuse to furnish water to any building or habitation in the city
19 unless the owner thereof shall assume liability for the payment of
20 the charges for the water so furnished; charge the cost of in-
21 stalling water service lines from the curb line to the mains against
22 the land owner, and require the payment in advance for in-
23 stalling such line and making connection with the water main.

24 (b) The powers of the water board to fix and charge rates
25 for water and water service contained in paragraph (a) shall
26 be subject to such supervision, regulation and control by the
27 public service commission of the state of West Virginia as that
28 body is now or shall hereafter be authorized by the laws of the
29 state to exercise over municipal-owned public utilities or mu-
30 nicipal officers operating the same.

31 (c) Whenever the city council shall determine to pave or re-
32 pave any street in the city, the water board is authorized to make
33 a proper connection and lay a water service line from the main
34 to the curb for each and every lot or for any part of a lot under
35 separate ownership, although no water service may at the time
36 be necessary or required for any such lot or part of lot, and to
37 charge the cost of making such connection and laying such water
38 service lines against the owner of the property and the cost of
39 laying such water service lines and making such connections
40 shall in every instance be a lien upon the lot or part of lot to
41 be benefitted thereby, and the water board shall have the right
42 in the name of the city to institute and prosecute any proper suit
43 in the circuit court of Harrison county, West Virginia for the
44 collection of such charges by a sale of the property on which
45 the same constitutes a lien.

46 (d) The board shall have power from time to time to repair,
47 extend and amplify the water works' plant and system, and to
48 make such additions to the pumping station, filtration plant

49 and water mains and lines as may at any time and from time to
50 time, be deemed necessary for the proper operation of this sys-
51 tem.

52 (e) The water board shall require the general manager to
53 examine the sources of water supply for the city of Clarksburg
54 and to report to the water board from time to time whether the
55 waters are being polluted in violation of the provisions con-
56 tained in this act, and the water board may, in the name of the
57 city of Clarksburg, institute and prosecute in any court having
58 jurisdiction, any suits or proceedings necessary to prohibit any
59 and all persons, firms, or corporations from polluting said waters
60 in any manner in violation of the provisions of this act and in
61 violation of any ordinance which the council of the city of
62 Clarksburg may, pursuant to any authority contained in this
63 act, hereafter adopt.

64 (f) The water board is herein specifically authorized to pay
65 the interest upon, and by payments into the sinking fund, to pay
66 and discharge, all of the bonds heretofore issued by each of the
67 several municipalities included in the city of Clarksburg hereby
68 created, the proceeds of which were expended by said municipal-
69 ity in the construction and installation of water works systems
70 and plants therein.

71 (g) The board shall cause to be prepared accurate and com-
72 plete maps, plans and specifications of any improvements, ex-
73 tensions or additions to the water system, which they may de-
74 sire to make and they shall have the authority to cause said work
75 to be done either by the employment of labor and the furnishing
76 of material, or by entering into a contract for the performance of
77 the labor and for the material. All contracts for furnishing ma-
78 terial or the performance of any work shall be let on competi-
79 tive bids in the manner provided by the laws of the state of
80 West Virginia, and notice of any letting may be given as pro-
81 vided in section sixty-eight of this act. Any change or alter-
82 ation in a contract after it is entered into shall be made only
83 upon resolution passed by the water board, and shall not be
84 effective until the price to be paid for the work and material, or
85 both, under the altered or modified contract, shall have been
86 agreed upon in writing and such agreement signed by the con-
87 tractor, the president of the water board and the general manager.

General Manager.

2 Sec. 42 (a) Subject at all times to the control of the water
3 board, the general manager shall have charge of all the water
4 works plant and system, and shall exercise supervision and con-
5 trol over all of the employees of the water board. He shall en-
6 force all ordinances, rules and regulations heretofore adopted,
7 or which may hereafter be adopted by the water board, and all
8 laws of the state of West Virginia applicable to the water works
9 system or plant, except that any ordinances or laws subjecting
10 any person to a fine or imprisonment for the violation thereof
11 shall be enforced by the police court judge. He shall have gen-
12 eral supervision of the pumping plants and stations and fil-
13 tration plant, and shall collect and preserve all moneys payable
14 to the water board, and shall pay the same out only upon the
15 order of the water board in such manner as it may by rules and
16 resolutions prescribe. He shall attend all meetings of the water
17 board and shall keep in a well-bound book a complete record
18 of all proceedings of said board, and shall, with the president
19 of the board, authenticate with his signature the record of the
20 proceedings of each meeting. He shall keep, or cause to be
21 kept, full and accurate books of account covering all the business
22 and transactions of the water works department of the city,
23 charging the water board with all moneys received from every
24 source, and crediting the same with all expenditures and dis-

25 (b) As treasurer of the water board he shall be responsible
26 for the safe keeping of the moneys, property, books and records
27 of the board. He shall pay out the moneys of the board only
28 for the purposes authorized by law and upon vouchers drawn
29 by him and countersigned by at least two members of the board.

30 (c) Shall cause to be made and kept on file for public in-
31 formation at the office of the board, complete maps, plans and
32 details showing the dams, pumping stations, reservoirs, tanks,
33 pipes, valves, connections, water lines, fire hydrants, and all
34 other data necessary for a complete exhibition of the physical
35 properties of the water works plant or system, which maps or
36 plats shall be from time to time revised and extended.

37 (d) The general manager shall be the purchasing agent for
38 the water board, and shall purchase all material for the con-
39 struction, improvement, or repair of the water system and all

40 supplies needed in the operation of the water plant or system
41 and except in cases of emergencies, all such purchases shall be
42 upon competitive bids. Dealers in supplies and materials of the
43 kind required shall be notified by him by letter of the require-
44 ments of the city and asked to submit propositions for furnish-
45 ing the same, and the offer most advantageous to the city, tak-
46 ing into consideration the quality, time of delivery, and all other
47 conditions, shall be accepted.

48 All offers to furnish material and supplies shall be attached
49 to the accepted offer and shall be filed and preserved with the
50 records of the department.

51 (e) He shall also recommend to the board from time to time
52 the additions, changes, repairs and improvements to the water
53 works system or plant that he may deem necessary; and shall
54 keep the board fully advised as to the financial condition and
55 the needs of the department. He shall perform all other duties
56 that may from time to time be required of him by the board,
57 or by any law of the state of West Virginia.

58

Audit.

59 The general manager shall, at the close of any fiscal year,
60 cause a complete audit to be made of all the books and records
61 of the department for the preceding year, by the state tax com-
62 missioner or supervisor of public accounting for the state of
63 West Virginia, and he shall cause to be published, the report
64 made by the auditor, together with such other report and in-
65 formation concerning the operation of the department as may
66 be deemed necessary for the information of the public. A report
67 of the auditor shall be published once in the two principal news-
68 papers of opposite politics published in the city of Clarksburg,
69 and the same shall constitute the financial statement of the de-
70 partment, the publication of which is required by general law.

Issuing of Water Works Bonds.

Sec. 43. The city of Clarksburg is authorized to issue in
2 the manner prescribed by law bonds for the purpose of raising
3 funds to improve, extend, add to, or replace the water works
4 plant, or any part thereof, or to refund any bonds of the city,
5 the proceeds of which were expended in constructing, extending,
6 repairing or maintaining the water works plant or any part

7 thereof. Any bonds issued for any of the purposes stated in this
8 section shall contain in the title or sub-title thereto the words,
9 "Water Works Bonds," in order to identify the same, and shall
10 be of the form, denomination and maturity, and shall bear the
11 rate of interest fixed by resolutions of the water board. The
12 city council may provide for issuing bonds for other lawful pur-
13 poses of the city in the same ordinance in which provision shall
14 be made for issuing bonds authorized under this section. The
15 water board shall pay all of the costs and expenses of any elec-
16 tion which shall be held to authorize the issue of water works
17 bonds only. The expenses of holding an election to authorize the
18 issue of water works bonds and bonds for other municipal pur-
19 poses shall be paid by the water board and the city council res-
20 pectively in the proportion that the water works bonds bear to
21 the total amount of bonds authorized.

22 Whenever the council of the city, and the requisite majority
23 of the voters thereof, shall authorize in the manner provided by
24 law, the issuance of bonds for the purpose of improving, replac-
25 ing, extending, or adding to the water works system of said city,
26 or for refunding any outstanding bonds, the proceeds from which
27 were applied to any of said purposes, by the city of Clarksburg,
28 or any of the existing municipalities which are hereby included
29 in the city of Clarksburg herein created, said bonds shall be
30 issued and delivered to the water board to be by them sold in
31 the manner provided by law, and the proceeds paid into the
32 treasury of the water board, and the same shall be applied and
33 utilized by the water board for the purposes prescribed by the
34 ordinance authorizing the issuance of such bonds. In any or-
35 dinance for the issuance of bonds for such purposes, it shall be a
36 sufficient statement of the purposes for creating the debt, to
37 specify that the same is for the purpose of improving, extend-
38 ing, replacing or adding to, the water works system or plant of
39 the city of Clarksburg, without specifying the particular im-
40 provements, extensions replacements or additions contemplated;
41 but an ordinance for refunding bonds shall designate the issue
42 and number of bonds which it is proposed to refund.

Application of Funds.

Sec. 44. All revenues derived from the operation of said water
2 works system or plant, or from the sale of bonds issued for re-

3 pairing, improving, enlarging, extending or adding to said water
4 works plant shall be applied to the payment of the cost of opera-
5 tion and of making such improvements, to the payment of inter-
6 est upon any bonds and the sinking fund to pay off and discharge
7 the same, which the water board is herein authorized to assume
8 and pay, whether said bonds were heretofore or may be hereafter
9 issued. Out of the revenues derived from the operation of said
10 water works, the board is authorized to pay all salaries and ex-
11 penses which may be incurred by it in the exercise of any power
12 herein conferred or the performance of any duty herein imposed,
13 or by general law conferred or imposed, upon the water board.

Supply Water Outside of City.

Sec. 45. The water board may in their discretion supply, sell
2 and furnish water for consumption and use outside of the city, or
3 for use in industries located adjacent to the city and to afford fire
4 protection for the same. All water so supplied and services
5 rendered shall be upon such conditions and terms as the water
6 board may prescribe or require, and reasonable charges over and
7 above the rate charged within the city for water and like service
8 may be made for all water supplied and services rendered outside
9 of the city.

10 The board may discontinue supplying water or furnishing ser-
11 vice to persons, firms or corporations outside of the city whenever
12 in the judgment of the members of the board such discontinuance
13 is advisable in order to adequately supply the needs of water con-
14 sumers in the city and to afford proper protection to property
15 therein.

Eminent Domain Exercised.

Sec. 46. The power of eminent domain herein conferred upon
2 the city may be exercised by the water board in the name of the
3 city for the purpose of acquiring title to land or any estate, ease-
4 ment or interest therein for the use of the water board in con-
5 structing, extending, replacing, repairing or maintaining the
6 water works plant, or for securing, storing and transporting water.
7 The city council shall pass and adopt any orders, resolutions or
8 ordinances required by the water board to facilitate the exercise
9 of eminent domain by the water board. The cost and expenses
10 of exercising the right of eminent domain by the water board shall
11 be paid by that body out of the revenues of the water department.

Employment of Counsel.

Sec. 47. The water board may employ counsel to assist and
2 advise them in the discharge of their duties and to institute, prose-
3 cute and defend for the water board in the name of the city suits,
4 proceedings and prosecutions to enforce the proper authority and
5 obligations of the water board, and to defend them in their rights,
6 and to enable them to adequately discharge their duties; the cost
7 of any litigation conducted by the water board, as well as all fees
8 and compensation for counsel employed by it shall be paid by the
9 water board out of the revenues of the department.

Licensing Plumbers.

Sec. 48. The water board may require all persons who engage
2 in the business of plumbing to pass an examination and obtain a
3 license or certificate for such purpose. For this purpose there
4 is hereby created a board of examiners of four persons to consist
5 of the president and the general manager of the water board and
6 of two other persons selected by them, one of whom shall be a
7 master plumber and the other a journeyman plumber. The
8 license shall be for such term or period as may be prescribed by
9 the examining board. The president and the general manager
10 of the water board shall not receive any compensation for serving
11 on the board of examiners, but the additional members shall be
12 entitled to a sum not exceeding five dollars a day for each day
13 of actual service, to be paid out of the funds of the water board.
14 The general manager of the water board shall be *ex-officio* secre-
15 tary of the board of examiners and he shall make out and certify
16 and the president of the board shall countersign, all certificates or
17 licenses, and said secretary shall keep and preserve all papers and
18 records relating to the work of said board. The board of examiners
19 shall be governed by any ordinance in force in the existing city of
20 Clarksburg when this act goes into effect, or which may be passed
21 by the council of the city of Clarksburg hereby created.

Bonds of Owners and Employees.

Sec. 49. Each officer and employee of the city in each and all
2 of the departments of the city government into whose custody or
3 control shall come any of the moneys or funds belonging to the
4 city shall before receiving any such money or funds enter into bond
5 conditioned for the faithful discharge of his duties and for the

6 faithful accounting for all moneys coming into his hands, custody
7 or control, by reason of his office or employment, and otherwise
8 conditioned according to law. Such bond shall be in the penalty
9 sufficient to secure the city against any loss, the amount thereof
10 to be fixed by ordinance of the city council, or if required in the
11 water works department, by resolution of the water board. All
12 such bonds shall be payable to the city of Clarksburg, a municipal
13 corporation, and all suits for the enforcement of the penalty of
14 any bond shall be in the name of the city of Clarksburg. All
15 bonds required shall be of the form and tenor prescribed by the
16 city attorney and shall be approved by the city attorney as to the
17 sufficiency of the sureties thereon, and such approval as to the
18 form and tenor of the bond and the sufficiency of the sureties
19 shall be endorsed on each bond and certified and signed by the
20 city attorney. All such bonds when executed and approved shall
21 be recorded in a book kept for that purpose by the city clerk, and
22 the original bonds shall then be delivered to the city attorney who
23 is hereby made custodian of all such bonds. At the annual
24 audit required to be made by the state tax commissioner or super-
25 visor of public accounting for the state of West Virginia, the
26 auditor shall report to the city council and to the water board
27 respectively whether or not the bonds required and taken by said
28 city council and said water board are in any respect insufficient,
29 or not properly executed, and may require of any official or em-
30 ployee of the city a new bond or additional bond, and any new
31 or additional bond so required by the auditor of any official or
32 employee shall be given within thirty days after notice of such
33 requirement, and a failure to give such bond shall at the expira-
34 tion of thirty days forfeit the office or employment of the official
35 or employee failing to give the same.

Sinking Fund Trustees.

Sec. 50 The sheriff of the county of Harrison, the city manager
2 of the city of Clarksburg, and the treasurer of the water board of
3 the city of Clarksburg at the time holding said respective offices and
4 employments, are hereby created trustees for the sinking fund or
5 sinking funds payable by the city of Clarksburg and by the water
6 board of said city for the discharge of any bonds heretofore issued
7 by the city of Clarksburg, or which may hereafter be issued by the
8 city of Clarksburg as herein created, the bonds here-
9 tofore issued by the town of Broad Oaks, the town of

10 Stealey Heights, the town of Adamston and the town
11 10-a of North View. Said trustees shall have control of all sums
12 which have heretofore been paid into the sinking fund for the
13 discharge of any such bonds issued by the city of Clarksburg,
14 or either of the said municipalities which are included in the city
15 of Clarksburg, as well as all payments which shall be made into
16 the sinking fund hereafter by the city of Clarksburg as hereby
17 created. The trustees shall invest, preserve, keep, apply and ac-
18 count for the moneys constituting such sinking fund or sinking
19 funds in the manner now or hereafter provided by law. The trus-
20 tees of the sinking fund for the city of Clarksburg are author-
21 ized and empowered to designate as a city depository or deposit-
22 ories of public moneys any bank, banks, trust company or trust
23 companies, located in the city of Clarksburg, which might qualify
24 as a county depository under the provisions of chapter eighty-four
25 of the acts of the West Virginia legislature, regular session nine-
26 teen hundred and fifteen. Any bank, or trust company designated
27 as a depository for the city of Clarksburg shall give bond or
28 deposit securities and qualify in all respects before receiving any
29 city deposits as a county depository is required to qualify under
30 the provisions of the act of the said legislature, chapter eighty-four,
31 regular session nineteen hundred and fifteen: *Provided, however,*
32 no city depository shall be required to pay interest upon city
33 moneys deposited with it subject to check or upon checking ac-
34 counts at a rate greater than two per centum upon the daily cash
35 balances, the rate to be paid to be agreed upon by and between
36 the depository and the said trustees from time to time. Any
37 duty required to be performed by the county court by the pro-
38 visions of said chapter eighty-four of the acts of the legislature,
39 session 1915, shall be performed by the city council,
40 or the water board, and any duties required by the clerk
41 of the county court, or prosecuting attorney of said county,
42 by the terms of said act, shall be performed by the city clerk
43 and the city attorney for the city of Clarksburg, or the secretary
44 or attorney of the water board in carrying out the provisions of
45 this present act. Any interest paid upon any fund by any depository
46 shall be credited to the particular fund upon which the same ac-
47 crues.

48 When a city depository or depositories shall have been designated
49 and shall have qualified under this act, all public moneys be-
longing to the city of Clarksburg, no matter from what source

50 derived, shall be deposited and kept on deposit until expended by
51 the said city of Clarksburg, in the depository or one or more of
52 the depositories authorized to receive deposits and designated as
53 aforesaid.

Political Belief; Assessments and Activity.

Sec. 51. No person in the service of the city of Clarksburg,
2 or seeking admission thereto, shall be appointed, reduced or re-
3 moved, or in any way favored or discriminated against because
4 of political opinions, affiliations; or because of race, color or re-
5 ligious belief. No officer or employee of the city shall directly
6 or indirectly solicit or receive, or be in any manner concerned,
7 in soliciting or receiving any assessment, subscription or con-
8 tribution for any party or political purpose whatever. Any
9 person violating the provisions of this section shall be guilty of
10 a misdemeanor, and upon conviction thereof shall be fined fifty
11 dollars.

Improvements and Assessments.

Local Improvements.

Sec. 52. Council shall have power by ordinance to provide for
2 widening, grading, paving, repaving, curbing, sewerage and other-
3 wise improving in a permanent manner with suitable materials any
4 street or alley, or part thereof, in the city, either by contract or
5 directly by the employment of labor, and to provide for the pay-
6 ment of all or any part of the costs of any such improvement by
7 levying and collecting special assessments upon abutting, adjacent
8 and contiguous or other specially benefited property. Any part
9 or all of the property which is to be ultimately sewered or drained
10 by a trunk line or main sewer or sewer system, may be assessed for
11 the construction of the same. No property shall be exempt from
12 assessment for local improvements because of the ownership or
13 uses to which such property is devoted; except property of the
14 United States. The amount assessed against the property special-
15 ly benefited to pay for such local improvements shall not exceed
16 the amount of benefits accruing to such property. The city man-
17 ager and the city engineer shall determine the particular proper-
18 ties to be assessed with the cost of constructing any sewer.

Method of Assessments.

Sec. 53. Special assessments upon the property deemed benefited by a public improvement shall be by any one or more of the following methods:

(a) By a percentage of the value of the property as assessed for taxation.

(b) In proportion to the benefits which may result from the improvement.

(c) By the foot frontage of the property bounding or abutting upon the improvement.

If the latter method is used the property shall be divided into certain classes by city blocks, or otherwise, so that all of the property in any class shall be as nearly as practicable of the same value a front foot, and the total amount to be raised by special assessments shall be apportioned among the several classes into which the properties may be divided in proportion to the values of the respective classes.

The assessment a front foot upon any lot may be apportioned between or among the respective owners of the property to an entire lot depth in proportion to values as well as in proportion to the benefits received from the improvement.

Preliminary Resolutions.

Sec. 54. When it is deemed necessary to make any improvement to be paid for in whole or in part by special assessments, the council shall declare the necessity therefor by resolution, and such resolution shall designate the street or streets, alley or alleys to be improved, and the method of assessment and mode of payment, and the number of annual installments, together with the total estimated cost of the improvement. Such resolution shall be certified to the city manager who shall thereupon proceed to make an assessment report in accordance with the method of assessment provided in the resolution, which report shall be filed with the council and shall show the lots and lands assessed and the amount of the assessment as to each, together with the amount of benefit or damage to each lot or parcel of land to be assessed, and also an estimate of the life of the improvement, and the number of annual installments in which the assessment shall be paid shall be fixed, but in no case shall they be greater in number than the estimated years of the life of the improvement.

Plans for Improvements.

Sec. 55. At the time of the passage of the resolution provided 2 for in section fifty-four, there shall be on file at the office of the 3 city manager plans, specifications, estimates and profiles of the 4 proposed improvements, giving full information in detail of the 5 work or improvement and of the kind and character of materials 6 to be used therein, and the same shall be open to inspection by the 7 public.

Notices Served.

Sec. 56. Upon the filing of such report the city clerk shall cause 2 written notice to be served upon the owner of each lot or parcel 3 of land to be assessed, or otherwise affected, or upon the persons 4 in whose names the same may be assessed for taxation upon the 5 tax duplicate. Said notice shall be served in the manner pro- 6 vided for service of summons in civil actions; and as to all non- 7 residents and persons not found within the city publication of 8 such notice shall be made at least once in a daily newspaper of 9 general circulation in the city.

10 Said notice shall contain a statement of the character of the pro- 11 posed improvements, the fact that such assessment report has 12 been filed with the council, the name or names of such assess- 13 ments, the amount of the assessments, the number of installments, 14 the total estimated cost of the improvement, the amount of benefit 15 or damage to such lot or parcel of land, and shall state a time 16 and place when complaints and claims will be heard before the 17 board of revision of assessments.

Board of Revision of Assessments.

Sec. 57. The city manager, city attorney and city engineer shall 2 constitute the board of revision of assessments which shall organize 3 and meet at times and places to be provided by its rules, and shall 4 hear all claims and objections as to the character of all improve- 5 ments to be paid for in part or in whole by special assessments, 6 the necessity therefor, and the equity of the assessments as pro- 7 vided in the assessment report. A majority of those constituting 8 the board of revision of assessments shall have power to determine 9 all complaints and objections submitted to it; and as to each im- 10 provement the board shall, after such hearing, approve, amend, 11 equalize or adjust the assessment reported in every detail and

12 shall report its findings as to the necessity for the improvements
13 and any amendment it directs in the assessments, the estimate of
14 benefit and allowance of damages, to the council.

Claims for Damages.

Sec. 58. An owner of a lot or of land bounding and abutting
2 upon a proposed improvement, claiming that he will sustain dam-
3 age by reason of the improvement, shall present such claim to the
4 board of revision of assessments within two weeks after the service
5 of notice or the completion of the publication hereinbefore pro-
6 vided. Such claim shall be in writing and shall set forth the
7 amount of damages claimed, with a general description of the
8 property with respect to which it is claimed the damage will ac-
9 crue, and shall be filed with the board of revision of assessments.
10 Any owner who fails so as to do shall be deemed to have waived
11 any such damages and shall be barred from filing a claim or in-
12 stituting any suit for damages. This provision shall apply to all
13 damage which will obviously result from the improvement, but
14 shall not deprive the owner of his right to recover damages aris-
15 ing, without his fault, from wilful or negligent acts of the city or
16 of its agents. If, subsequent to the filing of such claim, the owner
17 sells the property, or any part thereof, the right of damages, if
18 any, shall follow the ownership of the land without other trans-
19 ference of the claim. The board of revision of assessments shall
20 report to the council all such claims for damages filed with it.

Final Assessment.

Sec. 59. Whenever the board of revision of assessment shall
2 have made its final report to the council as to any improvement,
3 the council, if it determine that the improvement shall proceed,
4 shall pass an ordinance levying the assessment as reported by the
5 board of revision of assessments and directing that the improve-
6 ment proceed. In such ordinance it shall be sufficient to de-
7 scribe the lots and lands abutting upon the improvement and to
8 be assessed therefor, as all the lots and lands bounding and abut-
9 ting upon such improvement between and including the termini
10 of the improvement; and in describing lands which do not abut,
11 it shall be sufficient to describe the lots by their appropriate lot
12 numbers, and the lands by metes and bounds; and this rule of

13 description shall apply in all proceedings in which lots and lands
14 are to be charged with special assessments.

Damages Assessed.

Sec. 60. At the time of the passage of the ordinance determin-
2 ing to proceed with the improvement as hereinbefore provided, the
3 council shall determine whether the claims for damages so filed
4 shall be allowed and paid or judicially inquired into either be-
5 fore or after the completion of the proposed improvement. If
6 it decides that the damages shall be assessed before commencing
7 the improvement, the city attorney shall file a petition in the cir-
8 cuit court of Harrison county, West Virginia, in order to have
9 such damages assessed, and the court shall thereupon empanel a
10 jury of freeholders and try the question of whether said property
11 shall be damaged, and if damaged, the amount of damages to
12 which the owner is entitled. When the council decides not to
13 have the damages assessed before the completion of the improve-
14 ment for which a claim for damages has been filled as hereinbe-
15 fore provided, the property owner may at any time within six
16 months after the completion of the improvement institute a suit
17 for such damages in a court of competent jurisdiction. No such suit
18 shall be maintained unless instituted within six months from the
19 time of the completion of the improvement.

Lands Unallotted or Not on Duplicate.

Sec. 61. When special assessments are levied by the per-
2 centage of tax value of the property assessed or by the foot front-
3 age of the property bounding and abutting upon the improvement,
4 and there are lands subject to such assessment which are not
5 assessed for taxation, the city manager shall fix, for the purpose
6 of such assessment, the value of such lots as they stand and of
7 such lands at such depths as the city manager considers a fair
8 average of the depth of lots in the neighborhood, so that it will
9 be a fair average of the assessed value of other lots, in the neigh-
10 borhood. Where lands are not subdivided into lots, but are
11 assessed for taxation, the city manager shall fix the value and the
12 depth in the same manner; but the above rule shall not apply
13 in making a special assessment according to benefits.

Included in Costs of Improvements.

Sec. 62. There shall be included in the cost of improvements 2 which may be assessed against properties benefitted the cost and 3 expense of preliminary and other surveys, of making and pre- 4 paring plats, plans and specifications, and of printing and pub- 5 lishing notices, ordinances and resolutions required to be published 6 in relation thereto, the cost of supervising the work and the 7 damages caused to abutting property, as well as the cost of con- 8 struction; and there shall be excluded the cost of improving and 9 paving intersections of streets and alleys, the cost of land ac- 10 quired, and any amount which any street car or other railway 11 company may be required to contribute toward such work. Any 12 street car or other railway company occupying any street or alley 13 with its tracks or railway shall pay the cost of paving the space 14 between the rails and for two feet additional outside of each rail, 15 unless otherwise provided in the franchise of such street car or 16 other railway company which was granted prior to the passage 17 of this act, in which case the cost of that part of the pavement 18 or other improvement which can lawfully be charged against such 19 street or other railway company under its franchise shall be 20 assessed against and paid by it. The city shall pay out of the 21 general fund the cost of paving and improving the intersection 22 of streets and alleys, except such part thereof as may be assessed 23 against a street car or other railway company as above set forth.

Specifying Time of Payment.

Sec. 63. If the council shall decide to pay for the work 2 of 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 times 6 as are necessary to provide funds for payment for the improve- 7 ments as the work progresses, and upon the completion of the 8 same. And in that event if any installments shall not be paid 9 when due, there shall be added interest thereon from the time due 10 and payable at the rate of six per centum per annum, and a penalty 11 of five per centum of the installment not paid when due.

What Included in Assessment.

Sec. 64. The work undertaken may include widening, grading, 2 paving, re-paving, curbing, sewerage and otherwise improving a

3 street or streets, alley or alleys, and a part of the cost of sewer-
4 ing the street or streets, alley or alleys, may properly be assessable un-
5 der this act upon property against which no assessment may be
6 made for the other improvements upon such street or streets, alley
7 or alleys, and in that event the cost charged against any lot or par-
8 cel of land which may properly be charged with a part of the cost
9 of the entire improvement including the sewerage shall be in-
10 cluded in a single assessment.

Time of Payment When Bonds are Issued.

Sec. 65. If the council shall decide to provide funds for widening,
2 ing, grading, paving, re-paving, improving, curbing or sewerage
3 any street or alley by the issue and sale of bonds in anticipation of
4 collection of the special assessments hereinbefore authorized, they
5 shall, in the ordinance making such special assessments, pro-
6 vide that the same shall become due and payable in equal annual
7 installments not to exceed ten in number, and each installment
8 shall bear interest at the rate of six per centum per annum from
9 the date of the final assessment, and there shall be added to and
10 collected with each installment not paid at maturity a penalty of
11 five per centum of the amount of such installment: *Provided,*
12 *however,* that any property owner and any street car or other
13 railway company against whose property an assessment shall have
14 been made shall have the right at any time after such assessment
15 shall have been docketed, or shall have been certified
16 to the person authorized to collect the same at maturity, to anti-
17 cipate any or all of such assessments and to pay the same at the
18 face amount with interest to the time of payment.

Lien for Special Assessment.

Sec. 66. The special assessments, together with the interest
2 and penalties aforesaid to pay for widening, grading, paving, curb-
3 ing, sewerage or any of said improvements, shall be a lien upon
4 the lots or fractional parts of lots or lands, (and in the case of a
5 street car or other railway company upon its tracks and fran-
6 chises, for the distance of said improvement) from the date
7 thereof, and said lien shall have priority over all other liens ex-
8 cept those for taxes due to the state, and shall be on a parity with
9 the taxes and assessments due the city; *provided, however,* such

10 assessments shall, after six months from the date of the acceptance
11 of said work, cease to constitute liens against said property as
12 against creditors of the owners thereof, or purchasers thereof for
13 value without actual notice of such liens, unless within said period
14 of six months a statement of said liens shall be filed for record in
15 the office of the clerk of the county court of Harrison county. Said
16 statement shall be made up and certified before the expiration of
17 said six months period by the city clerk to the clerk of said
18 county court as to all assessments which shall remain unpaid four
19 months after the acceptance of the work, and said statement shall
20 describe the assessments generally as for street improvements,
21 give the names of the property owners assessed, the location of
22 the real estate affected, date of acceptance of the work by the
23 city, and the amount of each assessment; and it shall be a sufficient
24 description of the location of said real estate to describe it as
25 abutting upon the particular street or alley so improved included
26 between the termini of the improvement, or by the description
27 whereby said real estate appears upon the land books of Harrison
28 county. The county clerk shall record said statement in the trust
29 deed books in his office, and index the same in the name of the
30 city and also in the name of each person against whose property
31 said assessments appear therein, and for such recordation the
32 county clerk shall be paid at the same rate for each one hundred
33 words as provided by law for recording deeds of trust.

Docketing and Collecting Assessments.

Sec. 67. The city clerk shall also, so soon as such assessments
2 have been made by the council, enter the same of record in the
3 "municipal assessment docket", and when due make out bills
4 therefor against the property owners assessed, and certify the
5 same for collection to the city collector or other person authorized
6 to collect taxes for the city, who shall thereupon be charged with
7 said accounts. And upon default being made in the payment of
8 any assessment or installment thereof aforesaid, the same shall be
9 immediately reported to the council, and the council shall forth-
10 with refer the same to such officer as it may deem expedient for
11 collection; and payment of said delinquent assessments or in-
12 stallments, with the interest and penalties aforesaid, may be en-
13 forced in all respects as provided for the collection of city taxes,
14 or the lien aforesaid may be enforced by a suit in equity in the

15 name of the city in any court having jurisdiction thereof, and
16 the said delinquent assessments or any installment thereof, may
17 be collected from the person against whom the same were assessed
18 by action at law before any court or a justice of the peace having
19 jurisdiction thereof. In addition to all other remedies for the
20 collection of said delinquent assessments or installments, the city
21 may cause a certified copy of the assessment to be filed in the
22 office of the clerk of the circuit court of Harrison county, West
23 Virginia, and after ten days notice by personal service, or after
24 two weeks publication of a notice in all cases in which personal
25 service cannot be had upon the owner of any lot on which said
26 assessment constitutes a lien, said court shall, on motion of the
27 city of Clarksburg, order the sale of the lots or property on which
28 the assessment or installment constitutes a lien to be made by the
29 city treasurer at the front door of the court house of Harrison
30 county on such terms as to payment as the court in its order may
31 prescribe. The city treasurer shall advertise the time, terms and
32 place of such sale by notice published once a week for two suc-
33 cessive weeks in some newspaper published and of general cir-
34 culation in the city of Clarksburg, and by posting a copy of such
35 notice at the front door of the council chamber for at least two
36 weeks before the day fixed for such sale.

37 The city treasurer shall report any sale made hereunder to said
38 court for confirmation, and upon the confirmation of the sale, the
39 court shall authorize the city treasurer to execute and deliver to
40 the purchaser a deed for the property so sold, which shall divest
41 all the estate and interest therein of the former owner and of
42 all persons claiming under him and of all lienholders against the
43 property, and vest all such estate and interest in the purchaser
44 thereof. Out of the proceeds of any such sale the court shall allow
45 to the city treasurer all costs and expenses incurred in making
46 the sale and reasonable compensation for his services and a fee
47 of five dollars for making the deed to the purchaser, and shall
48 order to be paid out of the proceeds, if sufficient, all unpaid assess-
49 ments or installments of assessments against said property thereto-
50 fore made by the city of Clarksburg, with all accrued interest
51 thereon and costs and expenses of the proceeding, including an at-
52 torney's fee of ten dollars. The residue of the purchase money
53 shall be paid to the former owner of the lot, his personal repre-
54 sentative, heirs or assigns.

55 Before making any sale of real estate in any such proceeding,
56 the city treasurer shall execute a bond in like manner as required
57 by the laws of the state of West Virginia of a special commis-
58 sioner.

Proceeding With Work.

Sec. 68. In any case where the city council has decided to pay
2 for any such improvements out of the funds of the city treasury not
3 otherwise appropriated in anticipation of the collection of special
4 assessments, they shall, in the same or a supplemental ordinance
5 or resolution, direct the city manager to proceed with said work
6 either directly by the purchase of material and employment of
7 labor, or by advertising for bids and proposals for furnishing
8 material and for making said improvements. If the work shall
9 be done on contract the city manager whenever in his judgment
10 it will be to the advantage of the city shall divide the work into
11 allotments or parts and advertise for contracts for the work in
12 such allotments or parts, and for the work as a whole, and the city
13 council and city manager shall, in awarding the contract, adopt
14 the method which shall in their judgment be most advantageous
15 to the city. In any case in which council has decided to procure
16 money for paying for such work or improvement by the issuance
17 and sale of bonds of the city in anticipation of the collection of
18 special assessments as in this act authorized, the city council shall,
19 as soon as practicable after the issuance of such bonds shall have
20 been authorized by a vote of the electors of the city as in this
21 act provided, by resolution direct the city manager to proceed to
22 make said improvements in the same manner as in this section
23 provided for making improvements to be paid for out of moneys
24 in the treasury not otherwise appropriated.

25 The notice for bids or proposals for street improvements or the
26 construction of sewers, shall be published for at least fifteen days
27 in two daily newspapers. Said notice shall state where and how
28 the bids or proposals shall be made; and whether so stated in the
29 notice or not, the city may reject any and all bids for such pro-
30 posed work, before advertising for bids on the work, the council
31 shall approve and adopt plans and specifications therefor, and the
32 advertisement for bids, and the contract awarded thereon, shall
33 refer to such plans and specifications.

Application of Assessments.

Sec. 69. Where provision is made to pay for any work or improvement out of the funds in the treasury not otherwise appropriated in anticipation of collection of special assessments, all such assessments and interest and penalties collected thereon from the specially benefited property owners, as well as all sums collected from any street car or other railway company, shall be applied and paid on account of the cost of such improvements (either to the contractor, if it be unpaid, or to the city in re-payment of said appropriation, or such part thereof as may have been paid by it thereon out of other funds in the treasury) until the whole cost or that part of the cost of such improvement and any interest paid thereon, to pay which special assessments were made against specially benefited property, has been paid in full. In any case in which the council shall decide to issue and sell bonds in anticipation of the collection of said special assessments to pay for an improvement, all such special assessments, interest and penalties collected thereon shall be applied only to the payment of the interest and principal of such bonds and to reimbursing the city to the extent of any sum which it may have paid out of other funds upon the interest and principal of such bonds which are to be paid out of special assessments. Funds derived from special assessments shall be paid out only for the purposes in this section authorized and specified.

Sidewalks.

Sec. 70. The city council is hereby authorized and empowered to cause to be put down a suitable sidewalk and curb of brick, stone or other material along and for the footways and sidewalks of the public street and alleys of said city, and to order and cause the grading, laying or relaying or repair of sidewalks and gutters, of such material and width as the council may determine; and to require the owners or occupiers of the lot or lots or parts of lots facing upon said streets and alleys to keep such sidewalks clean and in good repair. The owners or occupiers of the lots or fractional parts of lots abutting upon such streets and alleys shall not grade or lay any such sidewalk, curb or gutter, unless specially requested to do so by resolution adopted by the council, and then only of the kind prescribed by the council; but the city may lay such sidewalks, curb or gutter and grade therefor, or may let said work by contract,

15 and in either case the total cost of said work shall be charged upon
16 and assessed against the lots or fractional parts of lots abutting
17 upon the streets and alleys so improved, or specially benefited by
18 said work, in proportion to the number of feet frontage thereon
19 of each such lot or part of lot, and shall be and remain a lien
20 thereon from the date of the acceptance of the work by the city,
21 and said lien shall have priority over all other liens except those
22 for taxes due to the state, and shall be on a parity with the taxes
23 and assessments due the city, and shall bear interest from the
24 date of acceptance of the work by the city, or from the completion
25 thereof when done by the city, and shall become due and payable
26 when declared final by the council; and to each such assessment re-
27 maining unpaid thirty days after maturity there shall be added and
28 collected by the city a penalty of five per centum of the amount of
29 such assessment in addition to the interest. The amount so
30 assessed against any lot, or fractional part of lot, together with
31 the interest and penalty aforesaid, shall also be a debt against the
32 owner of such lot or part of lot. Immediately upon completion
33 of the work, if done by the city, or upon acceptance of the work
34 if done by contract, the council shall cause the city clerk to serve
35 a notice upon the owners of each lot or fractional part of lots over
36 which such sidewalks are graded, paved, curbed or laid, shall
37 describe such lot or part of lot with reasonable certainty suf-
38 ficient to identify the same, and shall also state the number of
39 feet over each lot or part of lot so graded, curbed or laid with
40 sidewalk, together with the amount assessed against each owner;
41 which notice shall be served as provided for the service of notice
42 of street assessments in this act and shall cite all said owners to
43 appear before the council at a regular meeting to be held within
44 fifteen days following the service of publication thereof and show
45 cause, if any they can, why such assessments should not become
46 final. Protests against said assessments shall be heard and de-
47 termined and said assessments shall become final and be recorded
48 by the city clerk, certified for collection, and the collection thereof
49 enforced against the property assessed and against the owner
50 thereof, and a certificate of said assessments certified to the clerk
51 of the county court for recordation, and recorded in all respects in
52 the same manner and with the same legal effect as provided in the
53 case of assessments for street paving or other local improvements in
54 this act. And all of the assessments, interest and penalties thereon

55 so collected from the abutting lot owners on account of the grading
56 and curbing and laying of said sidewalks shall be applied to the
57 cost of making the improvement for which said assessments were
58 laid, and to no other purpose.

Supplementary Assessments and Rebates.

Sec. 71. If in any case any special assessment shall be illegal
2 or void, either in whole or in part, a new assessment may be made
3 in the same manner as nearly as may be as other special assess-
4 ments are authorized by this act to be made to pay for the improve-
5 ments, the former assessment for which was illegal or void. Upon
6 the completion of any improvement the city manager shall rebate
7 to the then owner of the property which shall have been assessed to
8 pay for such improvement any surplus or excess remaining unex-
9 pended for the purpose for which such assessment was made. In
10 the event of there being a deficit in the fund provided for the
11 making of any such improvement, the city manager shall report to
12 the council a supplementary assessment within the limitations in
13 this act provided, which supplementary assessment shall be made
14 by ordinance of the council and certified and collected in the man-
15 ner provided in the original assessment for the collection of the
16 same.

Limitation of Assessments.

Sec. 72. No assessment herein authorized against or upon any
2 property for any local improvement shall, in the first instance
3 exceed in amount twenty-five per centum of the value of such
4 property after the improvement is completed. And all assess-
5 ments for local improvements which may be made against any
6 property during the fifteen years next ensuing after the first
7 assessment shall have been made, including the first assessment,
8 shall not exceed at any time in the aggregate one-third of the
9 value of such property. And during any succeeding period of
10 fifteen years the total assessments against any property for im-
11 provements shall not exceed in the aggregate one-third of the
12 value of the property together with the improvements.

Release of Liens.

Sec. 73. Whenever any assessments for sidewalks, street
2 paving, grading, sewerage or other improvements hereinabove

3 provided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying the
5 same a proper release of the lien of such assessment, which re-
6 lease shall be substantially in the form prescribed by section two
7 of chapter seventy-six of the code of one thousand nine hundred
and thirteen of this state, (serial section number three thousand eight
9 hundred and fifty-nine) for the release of the lien of judgments
10 and decrees.

Remedies Saved.

Sec. 74. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred upon
3 said city of Clarksburg shall not be exclusive or in derogation of
4 any other right or remedy which it does or shall possess under
5 any law or under the constitution of the state to enforce in any
6 court of law or equity any such power, right or authority.

Issuing Bonds.

Sec. 75. If and when the city council shall have decided to
2 carry on any work of improvement and shall have assessed all or
3 any part of the cost thereof against property specially benefited,
4 and provided that such assessments shall be paid in equal annual
5 installments, it is hereby authorized to issue and sell its bonds
6 in order to provide funds for widening, grading, paving, curbing,
7 sewerage, or otherwise improving the streets and alleys of the city
8 in anticipation of the collection of the special assessments made
9 against the property which will be specially benefited by such
10 work. The bonds shall be for such an amount as will suffice to
11 pay the entire cost of such improvements, or the entire amount
12 which is to be assessed against property specially benefited, in-
13 cluding any amount which a street or other railway company
14 occupying any of the streets with its tracks shall be required to
15 pay. Such bonds shall be payable in equal annual installments
16 and shall bear interest at not to exceed the rate of six per centum
17 per annum, payable annually; the number of annual installments
18 shall be the same as the number of installments in which the
19 special assessments against property specially benefited have been
20 ordered to be paid, and the bonds maturing each year shall be ap-
21 proximately equal in amount to the aggregate amount of the in-
22 stallments becoming payable on assessments each year. In the
23 issuance and sale of such bonds the city shall be governed by all

24 restrictions and limitations of the constitution of this state, and
25 in so far as not in conflict with the provisions of this act, by the
26 restrictions and limitations of the laws of the state, with respect
27 to the issuance and sale of bonds. All assessments with the inter-
28 est thereon, and all penalties collected thereon, in anticipation of
29 the collection of which bonds shall have been issued as herein pro-
30 vided, shall be applied only to the payment of the interest on the
31 bonds, and the principal thereof, as they severally mature, and to
32 that end they shall be paid to the city treasurer to be credited
33 to the sinking fund of the city and shall be invested to the best
34 advantage of the city in the manner provided by law, by the
35 sinking fund trustees. The city shall not, by the sale of bonds
36 or otherwise, become indebted in amounts in the aggregate to
37 exceed five per centum of the value of the taxable property in the
38 city. The city shall not make, issue and sell its bonds without at
39 the same time providing for the levying of a certain annual tax
40 sufficient to pay annually the interest on such bonds and the prin-
41 cipal thereof within and not exceeding the time fixed for the
42 maturing of said bonds, if said bonds are issued against assess-
43 ments for local improvements to be liquidated by such assessments;
44 and within not to exceed thirty-four years if issued for any other
45 purpose. All of the assessments, interest and penalties collected
46 under the provisions of this section shall be applied annually to the
47 payment of the interest of any debt created for a local improvement
48 and upon the principal within and not exceeding the time in
49 which the same shall mature, and in the event that the assessments,
50 interest and penaltites so collected shall not amount to a sum suf-
51 ficient to pay such annual interest and discharge the bonds at
52 maturity, then only shall the council provide for the collection of
53 so much of the authorized levy as will pay the residue of the inter-
54 est on such bonds and the residue of the principal upon the
55 maturity thereof.

Bond Election.

Sec. 76. No bonds shall be issued under the provisions of this act
2 until and unless the question of issuing such bonds shall have first
3 been submitted to the vote of the people of the city and shall have
4 receive three-fifths of all of the votes cast at said election for or
5 against the same. When the council shall have made provision for
6 paying for any work of improvement authorized in this act out of
7 funds derived from the sale of bonds in anticipation of the collec-

8 tion of special assessments against property specially benefited and
9 shall have made such assessments in the manner provided in this
10 act, it shall cause to be held a special election, at which shall be
11 submitted to the vote of the people the question of issuing said
12 bonds. The ordinance providing for the election need not specify
13 in detail the location of the improvements contemplated or the cost
14 thereof, or the amount of the special assessments made, and not-
15 withstanding the provisions of sections two, three and six of
16 chapter forty-seven-a of the Code of 1916, it shall be a suf-
17 ficient description of the purposes for which said election is to
18 be held if the ordinance directing the same shall recite that it
19 is to authorize the council to issue bonds for the purpose of widen-
20 ing, grading, paving, re-paving, curbing, sewerage, or otherwise
21 improving the streets and alleys of the city.

22 Provision may be made in the same ordinance authorizing the
23 issuing of bonds as in this section above provided, or the issuing
24 of bonds to provide funds for any other municipal improvement.

25 Any bonds authorized to be issued to raise funds for improving,
26 extending, adding to, or replacing the water works plant shall be
27 issued and delivered to the water board and by said board shall be
28 sold as provided by law, and the proceeds of any bonds issued
29 under the authority of this act shall be expended only for the
30 purposes for which the creation of the indebtedness and issuing of
31 said bonds were authorized.

32 The provisions of chapter forty-seven-a of the code, edition
33 1916, concerning bond elections, together with any amendments
34 thereof, shall, so far as they are not in conflict with the provisions
35 of this section, apply to and control all bond elections called or
36 held under the provisions of this act.

37 Any water works bonds as in this act described and defined
38 which shall hereafter be issued shall be signed by the city of
39 Clarksburg by the president and secretary of the water board, and
40 the corporate seal of the city shall be affixed unto such bonds by
41 the city clerk. All other bonds which shall be issued by the city
42 for any purpose shall be signed by the city manager and the city
43 clerk and the corporate seal of the city shall be affixed to such
44 bonds by the city clerk.

Sec. 77. Whenever the city council shall have decided to carry
2 on any work of improvements upon a street or alley in the city

Assessment Certificates.

3 and shall have assessed the property that will be specially bene-
4 fited by the construction of the work and made provision that
5 the assessment shall be paid in annual installments as in this act
6 authorized, they may, in order to procure funds to pay for such
7 work, issue and sell to the contractor or persons doing the work,
8 or to any other persons, assessment certificates for the amount
9 of the several assessments against the respective property owners.
10 Such certificates shall bear interest at a rate not to exceed six
11 per centum per annum, payable annually, and shall mature and
12 become payable in the same manner and at the same times that
13 the assessments are payable. The city in negotiating and selling
14 such certificates shall not be held liable as endorser or guarantor
15 or in any other way for the payment thereof, except upon a resolu-
16 tion entered of record by the council assuming such liability be-
17 fore such sale. Assessment certificates shall be paid by the
18 owners of the lots or land assessed for the cost of such improve-
19 ments. The amount specified in each assessment certificate shall
20 be a lien as in this act provided in the hands of the holder thereof
21 upon the lands, lot or part of lot so assessed, and shall also be a
22 debt against the owner of such real estate and shall draw interest
23 at the rate and from the date specified in the certificate. The pay-
24 ment of the sums represented by assessment certificates may be
25 enforced by the holder in his own name, or in the name of the
26 city, in the manner provided in this act for the collection of assess-
27 ments, and as provided herein or by general laws for the enforce-
28 ment of liens.

29 All assessment certificates which may be issued under the pro-
30 visions of this act shall be made payable at the office of the city
31 treasurer who shall receive payment thereof when due if tendered,
32 and the interest thereon from the date of such payments shall
33 cease. The treasurer shall keep a separate and special account of
34 all moneys received by him upon assessment certificates and shall
35 hold the same in trust for the owner who thereafter shall de-
36 liver the assessment certificates to him for cancellation if paid in
37 full, or to have credited thereon the amount paid if not paid in
38 full; but the owner of assessment certificates shall not be entitled
39 to interest on the sums represented by the same after the date
40 of payment thereof to the treasurer. If and when the whole

41 amount of any assessment certificate shall have been paid to the
42 treasurer, or the treasurer shall have knowledge that the same
43 has been paid in full to the owner, he shall, when required by
44 the land-owner, execute a release of the lien of assessment and
45 certificates in the manner as in this act provided for releasing
46 liens of assessments for which no certificates may have been issued.
47 If the city shall have no treasurer, any other officer designated by
48 the council by resolution or ordinance shall discharge the duties
49 required of the treasurer in this act.

50 Assessment certificates shall be in such form and of such tenor
51 as the council shall by resolution provide and they shall have at-
52 tached thereto interest coupons for the annual interest thereon.

53 At any time before a sale of the assessment certificates the
54 property owner shall have the right, if he elects so to do, to antici-
55 pate and pay the full amount of the assessment with interest
56 to date of payment, and thereupon the assessment certificates
57 against his property shall be cancelled and the lien of the assess-
58 ment thereon released as in the manner provided in this act.

59 The proportion of the cost of any such improvement to be paid
60 by any street car or other railway company shall be due and pay-
61 able and shall be paid upon the completion of the work and if not
62 paid when due the same shall be collected with interest thereon at
63 the rate of six per centum per annum from the date payable, and
64 in addition thereto a penalty of five per centum of the amount
65 payable shall be collected.

Publication.

Sec. 78. All ordinances, resolutions and notices of every
2 kind, the publication of which is required by any provision of
3 this act, shall be published for the period of time in each par-
4 ticular instance specified, but in all cases in which the time the
5 publication is to run is not specially provided, such publication
6 shall be once a week for two consecutive weeks. In all cases the
7 manner of publication shall be by causing the same to be inserted
8 in the two principal newspapers published in the city of Clarks-
9 burg of opposite political opinions and affiliations; if the owner
10 of either of such newspapers will not publish such notices in any
11 instance at the rate herein provided to be paid, or if only one
12 such newspaper for any period be published in the city of Clarks-

13 burg, then, by inserting such notice in the paper that will publish
14 the same at the rate hereinafter provided, or in any newspaper
15 published in the city of Clarksburg. If no newspaper published
16 in said city will in any instance publish any notice required, at
17 the rate of compensation hereinafter provided, then and in every
18 such case it shall be sufficient publication thereof to post a copy
19 of such notice at the front door of the building in which the
20 city council holds its meetings, for a period of two weeks. Every
21 such publication or posting shall be held and deemed to be
22 equivalent to personal service in every case. The certificate of
23 the printer or manager of the paper publishing any notice herein
24 required, or the affidavit of the party posting any notice that
25 may be served by posting, shall be accepted as *prima facie* evi-
26 dence of the publication of the notice. Such certificate and
27 affidavit shall be filed with the city clerk and preserved as a part
28 of the records of his office.

29 The rates charged for the publication of any notice hereiu
30 required to be given shall not exceed the rate prescribed by the
31 laws of the state of West Virginia for the publication of notices
32 required to be published in suits in chancery in the circuit courts
33 of the state.

34 It shall not be necessary to publish any resolution, order,
35 assessment, or ordinance providing for carrying on any work of
36 improvement of any street, alley or sidewalk, in any case wherein
37 provision is made in this act for serving notice upon the parties to
38 be charged with the cost of, or directly interested in such im-
39 provement.

Work Contracted For in Adamston.

Sec. 79. The city council elected under this act shall as
2 speedily as possible complete the work of paving a certain street
3 therein which was commenced by the town of Adamston now in-
4 cluded within the city of Clarksburg under an ordinance author-
5 izing the said town of Adamston to assess the cost of said pave-
6 ment against the properties to be specially benefited thereby and
7 for which certain bonds were issued in anticipation of the collec-
8 tion of such assessments. The assessments shall be made and col-
9 lected as in said ordinance provided for the entire cost of improv-
10 ing said street, and the moneys derived therefrom shall be appli-
11 cable to the payment of the bonds already issued for procuring

12 money to carry on said work and to pay any cost of said work in
13 addition to the amount paid by the proceeds derived from said
14 bonds: *Provided, however,* that no interest on the bonds so issued
15 or moneys appropriated to pay for said work shall be included in
16 the cost thereof or assessed against the owners of the properties
17 specially benefited.

Work Contracted by Clarksburg.

Sec. 80. The city of Clarksburg heretofore provided for im-
2 proving certain streets therein and for paying for the work of
3 such improvements out of the proceeds of bonds issued in antici-
4 pation of the collection of special benefits against the properties
5 to be specially benefited by the work and issued and sold bonds
6 for said purpose, and has contracted for a part of the work
7 authorized by said ordinance, but has not yet made assessments for
8 the cost thereof against the specially benefited properties. The
9 council taking office under this act shall proceed with and complete
10 the work already contracted for authorized by the ordinance last
11 referred to and shall as soon as practicable assess against the prop-
12 erties to be specially benefited by such work the cost thereof. In
13 the time and manner of making such assessments, the apportion-
14 ment of the cost of the work among different classes of properties,
15 the determination of the properties to be assessed with the cost of
16 the work, the collection of the assessments and the application of
17 the moneys derived therefrom, the council shall conform in so far
18 as practicable to the provisions of this act.

Debt Limitation.

Sec. 81. The city of Clarksburg herein created shall not
2 become indebted in any manner or for any purpose to an
3 amount, including existing indebtedness, in the aggregate
4 exceeding five per centum of the value of the taxable
5 property in said city as ascertained by the last as-
6 sessment for state and county taxes made previous to the in-
7 curring of any indebtedness. For the purpose of this act
8 the existing indebtedness of the city shall be determined as
9 follows, either,

10 (a) By including all bonds and obligations of the city of every
11 character whatsoever and ascertaining the total amount thereof,
12 except that bonds issued in anticipation of the collection of special
13 assessments representing the cost of paving or other permanent

14 improvements of streets and alleys, or the construction of sewers,
15 and which are to be paid and discharged out of the assessments
16 made against the specially benefited properties, or by the owners
17 thereof, shall not be included. From the total so ascertained
18 there shall be deducted the amount in any sinking fund or sinking
19 funds, in cash or invested as provided by law, created and applica-
20 ble for the payment of any of the bonds or obligations included in
21 such total, as well as the amount of any current revenues or
22 assets of the city available for the payment of any such obliga-
23 tions, or,

24 (b) By ascertaining the total of all bonds and obligations of
25 the city of every character whatsoever, including the bonds issued
26 in anticipation of the collection of special assessments representing
27 the cost of paving or other permanent improvements of streets
28 and alleys or the construction of sewers, which are to be paid out of
29 the assessments made against the specially benefited properties, or
30 by the owners thereof, and deducting from the total sum so ascer-
31 tained, the amount of all special assessments made against prop-
32 erty specially benefited for paying and discharging the said
33 bonds, the amount of current revenues of the city available for
34 the payment of its obligations and the amount in any sinking
35 funds, in cash or invested as provided by law, created and appli-
36 cable for the payment of any of the bonds or obligations included
37 in such total.

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

Emergency Measures.

Sec. 82. Emergency measures may be passed at the same meet-
2 ing of council at which they are introduced. An emergency
3 measure within the meaning of this act is an ordinance or reso-
4 lution providing for the immediate preservation of public peace,
5 property, health or the safety of the community, or for the usual
6 daily operation of a municipal department, in which the emergency
7 is set forth in the preamble thereof. Ordinances and resolutions
8 providing for improving streets and alleys, making assessments,
9 appropriating moneys, and all matters incident to such improve-
10 ments may be passed as emergency measures. No ordinance or
11 measure making a grant, renewal or extension of a franchise or
12 other special privilege, or regulating the rate to be charged for its

13 service by a public utility, or creating any office or employment,
14 shall ever be passed as an emergency measure.

Removal of Elective Officers.

Sec. 83. Any elective officer may be removed at any time by
2 the circuit court of Harrison 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 respects
6 with the proceeding to remove a county officer. On the hearing
7 of any such proceeding no person called as a witness shall be
8 excused from answering any question or giving any testimony
9 because the answer or testimony might incriminate or tend to
10 incriminate him, or render him liable to prosecution for an of-
11 fense. But no witness called to testify in any such proceeding
12 shall thereafter be prosecuted in any court in the state for any
13 act concerning which he is required to testify or disclose by his
14 testimony. Any person who shall be removed from office under
15 the provisions of this section shall not thereafter hold any office
16 or employment in the city of Clarksburg.

Succeeding to Duties of Officers.

Sec. 84. The duties in this act or by any other law provided
2 to be discharged by any officer elected or appointed under the pro-
3 visions of this act shall be discharged and performed by any officer
4 under whatever title who shall hereafter succeed any officer or
5 office herein created and be charged with the performance of the
6 duties and obligations entrusted to and imposed upon the holder
7 of any office herein created.

Not to Be Published in Code of Laws.

Sec. 85. There shall not be included or published in the code of
2 municipal laws any ordinance or resolution providing for any
3 public improvement, making assessments, appropriating moneys, or
4 anything incident thereto, or any traffic ordinances or regulations
5 or any other ordinance of a temporary character and not of general
6 interest, but all such ordinances shall be recorded in the ordinance
7 books as herein provided, and all traffic ordinances and regulations
8 shall be published in pamphlet form convenient for general distri-
9 bution and furnished to any person requesting a copy of the same.

Act Construed.

Sec. 86. All provisions contained in this act in respect to making improvements shall be liberally construed by the council and by the courts. Immaterial and technical objections shall be disregarded; all special benefits ascertained and not contested before the board of assessment review within ten days from the ascertainment thereof shall be deemed conclusive, and in any contested case the ascertainment by said board of special benefits shall be conclusive. The purpose of the provisions of the act referred to in this section is to enable the public to make needed and essential public improvements and in all cases where feasible the act shall be construed in furtherance and aid of that general purpose.

Sec. 87. The act of the legislature, chapter eighty-nine, regular session 1919, is hereby repealed; the act of the legislature, chapter one hundred and twenty-three, regular session 1917, except section twenty-five thereof, is hereby repealed. All other acts and parts of acts in conflict with the provisions of this act are, for the purposes of this act only, repealed.

CHAPTER 7

(House Bill No. 332—Mr. Midelburg, by request.)

AN ACT to incorporate the city of Dunbar, in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers, rights and duties of said city of Dunbar, and of the officers and citizens of same.

[Passed April 19, 1921. In effect from passage. Approved by the Governor May 4, 1921.]

- SEC.
1. "City of Dunbar."
 2. Corporate limits.
 3. Voting precincts.
 4. Municipal powers; of whom consists; additional officers elected and appointed; salaries; vacancies, how filled.
 5. A body corporate; powers.
 6. Election and registrations; qualifications of voters.
 7. Committee appointed, duties, regarding general elections.
 8. Election of officers; when held, etc.
 9. Nominations.
 10. Elections held every two years.
 11. Officers appointed to serve at voting precincts; ballots prepared by commission; a copy of certi-

- SEC.
1. Senten, ballots, tally sheets and registration books to be returned to clerk; results of voting to be published, recorded, etc.
 12. Council to appoint registration officers, duties of; persons not permitted to vote unless registered beforehand; notice of council meetings held for said purpose; publications; voting precincts arranged by council; general and special elections; registration books preserved by county clerk.
 13. Officers; when to enter upon duties; extent of term; council to decide tie, etc.
 14. Elections; regular or special.
 15. Council; of whom composed; eligibility of.

- SEC.
16. Mayor shall be presiding officer of; right to vote in case of tie; duties; act as substitute, etc.
17. Council; right to demand all papers of city's interest, from officials.
18. Council; provide for auditing of all books and accounts annually; public records.
19. Removal of officials by mayor or council; conditional.
20. Council; to make proper rules and regulations.
21. Council meetings; time and place.
22. Special meetings called.
23. Contested elections; council to conduct same.
24. Oaths of office; qualifications; duties.
25. Bonds of officers required; council may require additional bonds; sum of approval, city clerk shall be custodian; exception of.
26. Quorum; council to compel attendance of absent members; penalties.
27. How vote taken.
28. City clerk shall keep minutes of its meetings; open for inspection.
29. No officer of the city to hold two offices at the same time.
30. Failure of appointment by mayor, to be made by council.
31. Vacancy; how filled.
32. Malfeasance of members of council.
33. Attendance of witnesses; punishing contempts, etc.
34. Absence of officers, by whom filled; temporarily; permanently after period of sixty days.
35. Mayor and other officers; term of; qualifications; eligibility of; mayor's salary; whom he may appoint, duty, fees, etc.
36. City manager appointed; salary, duties.
37. Franchises and ordinances; conditions for granting.
38. All such ordinances shall protect the interest of city and shall contain conditions, compensations or limitations as council may prescribe.
39. Council; to appoint committee; power and authority of.
40. Styles of ordinances.
41. No ordinance shall be passed; exceptions.
42. Recordation of ordinances; code of laws of ordinances.
43. Officers to be conservators of the peace.
44. Police judge; duties.
45. Same; qualifications, age; city clerk to act in his absence.
46. Prisoners may give bond; exceptions; duty of officers to accept bond; giving bail, etc.
47. Nuisances; city manager; authority to require removal of same.
48. Manager to require all occupants of property to.
49. Laying of sidewalks, etc.; procedure on refusal to do so.
50. Taxes; total expenditures; levies, limit of taxation.
- SEC.
51. Council; authority; collect taxes; impose licenses on, etc.
52. Direct annual tax; how collected; power of city collector.
53. City collector; power; exceptions.
54. All goods, etc., liable for said tax.
55. Licenses; assessments; penalties.
56. Licenses for city taxes and attendant penalties may be enforced by certifying same to clerk of county court, etc.
57. No taxes to be collected for support of poor when city provides for same; exclusive jurisdiction of city over roads, etc.; within corporate limits; exception as to bridge over Kanawha river; and as to hard road therefor authorized through said city.
58. Depositing city funds; treasurer; duty of.
59. Municipal building; buying and building water works and other public utilities; paving streets, constructing sewers, etc.
60. City; authorized to sell bonds for city improvements, etc.
61. Council; rights to let contracts for paving, etc. to lowest bidder; city to pay for same; duty regarding assessments, etc., penalty on.
62. Sewerage assessments; reports examined; records; liens; abatement of nuisance.
63. Council to provide for paving, etc.; specifications, etc., open for inspection; method of paying for; assessments; publications, etc.
64. Notice of the passage of the resolution to be served upon owners of property; manner provided for; publication; infants and insane persons.
65. City to pay cost of paving intersection of cross streets, etc.; provisos.
66. City to sell bonds; for cost of improvements; additional taxes; total indebtedness.
67. Council to sit; when; ordinances; abutting property.
68. Special assessments; invalid; sewers.
69. Public improvements; regulations; voice of council.
70. Proper arrangements for the payment for erection of public buildings, grounds, etc. authorized by council.
71. Assessments made for the cost of all improvements.
72. Damages to property owners; statement of damages, when to be filed.
73. Proceedings liberally constructed by courts; collection of assessments.
74. Council may provide by ordinance for annual election.
75. Hospitals libraries, etc.
76. Civil service board; examinations.
77. Same; fire department.
78. Members of fire department not to engage in elections, etc.
79. Same; council to hear charges.
80. Serving notice.
81. City clerk; duties.

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| <p>SEC.
82. Policemen; appointed and discharged by mayor; duties; to report certain conditions of city, etc.</p> <p>83. Members of council; paid for meetings attended; amount; duties; vacancy; how filled.</p> <p>84. Reports: to be made by manager to council, showing names and employes of; expenditures; purchases, etc.; same to be public record; officers also to make report.</p> <p>85. Additional method of paving; liens; assessments against owners of lots between cross street, etc.; certificate when due, how paid, etc.</p> <p>86. Constructing sewers, sidewalks, etc. duty of council; assessments; certificates, etc.; provisions regarding same.</p> <p>87. Miscellaneous provisions; council has right to reserve or reject all bids, etc.; liens; cost of permanent improvement shall be borne by owners of land abutting upon sidewalks etc.; payment; how made.</p> <p>88. County assessor; to furnish city clerk a transcript of real and personal property.</p> <p>89. Police Judge, mayor and city clerk;</p> | <p>SEC.
90. authority over violations of city ordinances; vacancy, how filled. When ordinances passed by council shall take effect; publication; requirements.</p> <p>91. Health commissioner; shall be a physician; duty; regarding general health and sanitation; appointment of; salary.</p> <p>92. Police matron; appointment by mayor; qualifications of; salary; requirements.</p> <p>93. Council; to contract for the codifying and indexing of ordinances, same to be bound in book form; code adopted, etc.</p> <p>94. City to provide cemetery; permission of city obtained before burial of bodies; penalties; lots sold, said money must be spent for improvements of same, upkeep, etc; condemning property for.</p> <p>95. Building inspector; competent for; duties; restrictions; laws enforced.</p> <p>96. Council; shall have power to buy, sell or exchange any real estate found necessary or convenient in the opening and construction of public ways, etc.</p> <p>97. This act to become effective from passage.</p> <p>98. All inconsistent acts repealed.</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
2 Kanawha as is within the bounds prescribed by section two of this
3 act, and their successors, shall be and remain, and they are hereby
4 made and constituted a body politic and corporate by the name of
5 "The City of Dunbar," and as such shall have perpetual succession
6 and a common seal, and by that name shall sue and be sued, plead
7 and be impleaded, purchase, lease and hold real estate and personal
8 property, and do all other things necessary for the purposes of said
9 corporation.

Corporate Limits.

Sec. 2. The corporate limits of said city shall be as follows:
2 Beginning at a stone monument on the south side of county road
3 at stop twelve on the Dunbar car line; thence to top of ridge 729
4 feet to a stake; thence west 2,200 feet to a black oak tree; thence
5 80 degrees, 32 minutes west to a black oak tree on the west point of
6 ridge; thence across a hollow, north 60 degrees, 19 minutes west,
7 250 feet to a stake on Reservoir Hill; thence north 82 degrees 43
8 minutes west 376 feet to a stake 19 feet north of the northwest
9 corner of reservoir property; thence north 42 degrees 12 minutes
10 west, 628 feet to the northwest corner of J. A. Munday property;

11 thence north 74 degrees, 35 minutes west, 689 feet to a stake on
12 point of ridge; thence north 52 degrees, 04 minutes west, 170 feet
13 to a beech tree; thence across hollow at head of Smith street, north
14 51 degrees, 55 minutes west, 930 feet to a black oak tree on the
15 edge of plateau; thence along edge of plateau, north 57 degrees,
16 37 minutes west, 549 feet to an iron pipe on the west point of
17 plateau, thence north 29 degrees, 30 minutes west, 624
18 feet to a stake on the east side of Dutch hollow; thence
19 north 48 degrees, 25 minutes, west 478 feet to a sycamore tree on
20 the east side of creek in Dutch hollow; thence from sycamore tree
21 in Dutch hollow west to top of hill 450 feet to an iron pipe; thence
22 south 373 feet to a stake on the south side of county road; thence
23 along south side of county road north 35 degrees, 06 minutes, west
24 93 feet; thence north 41 degrees, 10 minutes west 211 feet; thence
25 north 29 degrees, 5 minutes west 52 feet to east line of lower
26 Guthrie tract; thence with the same south 34 degrees, no min-
27 utes west 3490 feet to Kanawha river; thence following the low
28 water mark of Kanawha river in an easterly direction 11,840
29 feet to a stake; thence, northeast 420 feet to a place of beginning.
30 All measurements included in the above description are surface
31 measurements.

Voting Precincts.

Sec. 3. The said city shall be divided into such voting precincts
2 as the council thereof may by ordinance prescribe.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Dunbar shall
2 consist of a mayor, city treasurer, and six councilmen, who
3 shall be elected by the qualified voters of such city, and such officers
4 shall, for the assessment year preceding their respective elections as
5 hereinafter provided, have been assessed with and paid taxes in
6 the city of Dunbar upon a valuation of at least five hundred
7 (\$500.00) dollars worth of real estate or personal property therein,
8 and any person elected to any one of such offices who has not been
9 assessed with and paid taxes on such amount of property shall not
10 qualify or enter upon the performance of the duties thereof, but
11 such office shall thereby become vacant and shall be filled by a
12 qualified person, as provided herein for other vacancies.

13 In addition to the municipal authorities mentioned in this sec-
14 tion above, the city may have a police judge, manager, city clerk,
15 city auditor, health commissioner, building inspector, lockup
16 keeper, humane officer or officers, and such number of policemen as
17 council by ordinance or resolution may direct.

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

Corporate Powers.

Sec. 5. All the corporate power of said city shall be vested in
2 and exercised by council or under its authority, except as other-
3 wise provided in this act.

4 The council of said city shall have, and is hereby granted power
5 to have city surveyed, to lay out, open, vacate, straighten, broaden,
6 change grade of, grade, re-grade, curb, widen, narrow, repair,
7 pave and re-pave streets, alleys, roads, squares, plots, sidewalks
8 and gutters for public use, and to alter, improve, embellish, orna-
9 ment and light the same, and to construct and maintain public
10 sewers and laterals, and shall, in all cases, have power and author-
11 ity to assess upon and collect from the property benefited thereby
12 such part of the expense thereof as shall be fixed by ordinance,
13 except as hereinafter provided; to have control of all streets,
14 avenues, roads, alleys and grounds for public use in said city,
15 and to regulate the use thereof and driving thereon, and to have
16 the same kept free from obstructions, pollutions or litter on or
17 over them; to have the right to control all bridges within said
18 city, and the traffic thereover; to change the name of any street,
19 avenue or road within said city, and to regulate and cause the
20 numbering and re-numbering of houses on any street, avenue or
21 road therein; to regulate the naming of streets, avenues and pub-
22 lic places; to regulate and determine the width of streets, side-
23 walks, roads and alleys; to order and direct the curbing, re-curb-
24 ing, paving, repaving and repairing of sidewalks and footways for
25 public use in said city to be done and kept clean and in good order

26 by the owners of adjacent property; to prohibit and punish the
27 abuse of animals; to restrain and punish vagrants, mendicants,
28 beggars, tramps, prostitutes, drunken or disorderly persons within
29 the city, and to provide for their arrest and manner of punish-
30 ment; to prohibit and punish by fine the bringing into the city by
31 steamboat, railroad or other carriers, of paupers, dangerous or
32 objectionable characters or persons afflicted with contagious dis-
33 eases; to control and suppress disorderly houses of prostitution
34 or ill fame, houses of assignation, and gaming houses or any
35 part thereof; to punish those engaged in gaming and to sup-
36 press all gaming or gambling houses, and all places where
37 gambling or betting is in any way carried on or permitted,
38 and to punish all persons in any way connected therewith; to
39 prohibit within the city, or within one-half mile thereof, slaugh-
40 ter houses, soap or glue factories, and houses and places of like
41 kind, and any other thing or business dangerous, unwholesome,
42 unhealthy, offensive, indecent or dangerous to life, health, peace
43 or property; to provide for the entry into and the examination of
44 all dwellings, lots, enclosures, buildings and structures, cars,
45 boats and vehicles of every description, and to ascertain their con-
46 ditions for health, cleanliness or safety; to regulate the building
47 and maintenance of party walls, partition fences or lanes, fire
48 walls, fire places, chimneys, boilers, smoke stacks and stove pipes;
49 to provide for and regulate the safe construction, inspection and
50 repairs of all public and private buildings, bridges, basements,
51 culverts, sewers or other buildings or structures of any descrip-
52 tion; to take down and remove, or make safe and secure, any and
53 all buildings, walls, structures or super-structures at the expense
54 of the owners thereof, that are or may become dangerous, or to
55 require the owners or their agents to take down and remove
56 them or put them in safe and sound condition at their own ex-
57 pense; to regulate, restrain or prohibit the erection of wooden or
58 other buildings within the city; to regulate the height, construc-
59 tion and inspection of all new buildings hereafter erected, and the
60 alteration and repair of any buildings already erected or here-
61 after erected in said city, and to require permits to be obtained
62 for such buildings and structures and plans and specifications
63 thereof to be first submitted to the building inspector; and to
64 regulate the limit within which it shall be lawful to erect any
65 steps, porticos, bay windows, show windows, awnings, signs,

66 columns, piers or other projection or structural ornaments of any
67 kind for the houses or buildings fronting on any street of said
68 city; to establish fire limits and to provide the kind of buildings
69 and structures that may be erected therein, and to enforce all
70 needful rules and regulations to guard against fire and danger
71 therefrom; to require, regulate and control the construction of
72 fire escapes for any building or other structures in said city, to
73 control the opening and construction of ditches, drains, sewers,
74 cess-pools and gutters, and to deepen, widen and clear the same
75 of stagnant water or filth, and to prevent obstruction therein, and
76 to fill, close or abolish the same and to determine at whose ex-
77 pense the same shall be done; and to build and maintain fire
78 station houses, crematories, jails, lockups, and other buildings,
79 police stations and police courts, and to regulate the manage-
80 ment thereof; to acquire, establish, lay off, appropriate, regulate,
81 maintain and control public grounds, squares, parks, hospitals,
82 market houses, city buildings, libraries, and other educational
83 or charitable institutions, within the city limits; and
84 when the council determines that any real estate in
85 the city is necessary to be acquired by said city for
86 any such purpose, or for any public purpose, or is necessary in
87 the exercise of its powers herein granted, the power of eminent
88 domain is hereby conferred upon said city, and it shall have the
89 right to institute condemnation proceedings against the owner
90 thereof, in the same manner, to the same extent, and upon the
91 same conditions as such power is conferred upon public corpora-
92 tions by chapter forty-two of the code of West Vir-
93 ginia of the edition of one thousand nine hundred and
94 thirteen, and is now or may be hereafter amended; to
95 purchase, sell, lease or contract for and take care of
96 all public buildings, structures, and real estate deemed
97 proper for the use of such city; and for the protection of
98 the public to cause the removal of unsafe walls, structures or
99 buildings, and the filling of excavations; to prevent injury or
100 annoyance to the business of individuals from anything danger-
101 ous, offensive or unwholesome; to abate or cause to be abated all
102 nuisances and to that end and thereabout to summon witnesses
103 and hear testimony; to regulate or prohibit the keeping of gun-
104 powder and other combustible or dangerous articles; to regulate,
105 restrain or prohibit the use of firecrackers or other explosive

106 fireworks, and all noises or performances which may be danger-
107 ous, indecent or annoying to persons or tend to frighten horses
108 or 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 on such terms and conditions as to price
111 and otherwise as may be determined; to provide for shade and
111-a ornamental trees, shrubbery, grass, flowers and other
112 ornamentation, and the protection of the same; to provide for
113 the poor of the city; to make suitable and proper regulations in
114 regard to the use of the streets, public places, sidewalks, and
115 alleys by street cars, foot passengers, animals, vehicles, motors,
116 automobiles, traction engines, railroad engines and cars, and to
117 regulate the running and operation of the same so as to prevent
118 obstruction thereon, encroachment thereto, injury, inconvenience
119 or annoyance to the public; to prohibit prize fighting, cock and
120 dog fighting; to license, tax, regulate or prohibit theatres,
121 moving pictures, circuses and exhibitions of showmen and shows
122 of any kind, and the exhibition of natural or artificial curiosities,
123 carnivals, menageries and musical exhibitions and performances,
124 and other things or business on which the state does or may
125 exact a license tax; to organize and maintain fire companies and
126 departments and to provide necessary apparatus, engines and
127 implements for the same, and to regulate all matters pertaining
128 to the prevention and extinguishment of fires; to make proper
129 regulations for guarding against danger and damage from fires,
130 water and other elements; to regulate and control the kind and
131 manner of plumbing and electrical wiring, air ships, balloons,
132 wireless stations, and other appliances for the protection of the
133 health and safety of said city; to levy taxes on persons, property
134 and licenses; to license and tax dogs and other animals, and to
135 regulate, restrain and prohibit them and all other animals and
136 fowls running at large; to provide revenue for the city and ap-
137 propriate the same to its expenses to adopt rules for the trans-
138 action of business of its own regulation and government; to
139 promote the general welfare of the city, and to protect the per-
140 sons and property of citizens therein; to regulate and provide for
141 the weighing of produce and other articles sold in said city and
142 to regulate the transportation thereof and other things, through
143 the streets, alleys and public places; to have the right to grant,
144 refuse or revoke any and all licenses for the carrying on of any

145 business within said city on which the state exacts a license tax;
146 to establish and regulate markets and to prescribe the time for
147 holding the same and what shall be sold in such market, and to
148 let stalls or apartments and regulate the same; to acquire and
149 hold property for market purposes; to regulate the placing of
150 signs, bill boards, posters and advertising, on or over the streets,
151 alleys, sidewalks, and public grounds of said city; to preserve
152 and protect the peace, order and safety and health of the city
153 and its inhabitants, including the right to regulate the sale and
154 use of cocaine, morphine, opium and poisonous or dangerous
155 drugs; to appoint and fix the place of holding city elections; to
156 erect, own, lease, authorize or prohibit the erection of gas
157 works, electric light works, or water works, ferry boats, in or
158 near the city, and to operate the same, and to sell the product or
159 services thereof and to do any and all things necessary and inci-
160 dental to the conduct of such business; to provide for the purity
161 of water, milk, meats and provisions offered for sale in said city,
162 and to that end provide for a system of inspecting the same and
163 making and enforcing rules for the regulation of their sale, and
164 to prohibit the sale of any unwholesome or tainted milk, meats,
165 fish, fruit, vegetables, or the sale of milk, containing water or
166 other things not constituting a part of pure milk; to provide for
167 inspecting dairies and slaughter houses, whether in or outside
168 of the city, where the milk and meat therefrom are offered for
169 sale within said city, and to prohibit the sale of any articles
170 deemed unwholesome, and to condemn the same or destroy or
171 abate it as a nuisance; to provide for the regulation of public
172 procession so as to prevent interference with public traffic, and
173 to promote the good order of the city; to prescribe and enforce
174 ordinances and rules for the purpose of protecting the health,
175 property, lives, decency, morality, cleanliness and good order of
176 the city and its inhabitants, and to protect places of divine
177 worship in and about the premises where held, and to punish
178 violations of all ordinances, if the offense under and against the
179 same shall also constitute offense under the laws of the state of
180 West Virginia or the common law; to provide for the employment
181 and safekeeping of persons who may be committed in default of
182 the payment of fines, penalties, or costs under this act, who are
183 otherwise unable to discharge the same, by putting them to
184 work for the benefit of the city upon the streets or other places

185 in or out of the city provided by said city, and to use such
186 means to prevent their escape while at work as the council may
187 deem expedient; and the council may fix a reasonable rate per
188 day as wages to be allowed such person until the fine and costs
189 against him are thereby discharged; to compel the attendance at
190 public meetings of the members of the council; to have and
191 exercise such additional rights, privileges and powers as are
192 granted to municipalities by chapter forty-seven of the code of
193 West Virginia, as amended.

194-198 And the council shall have the right to establish, construct
199 and maintain public markets, landings, ferries, wharves and docks
200 on any ground which does or shall belong to said city, or which
201 it shall acquire, by purchase or otherwise, and to sell, lease,
202 repair, alter or remove any public markets, landings, ferries,
203 wharves, dikes, buildings or docks, which have been or shall be
204 so constructed, to levy and collect reasonable duty on vessels and
205 other craft coming to or using said landings, ferries, wharves,
206 dikes, docks, and buildings, and to preserve and protect the
207 peace and good order at the same, and regulate the manner in
208 which they shall be used; and to have the sole right, under state
209 laws and in the same manner as now control county courts; to
210 establish, construct, maintain, regulate and control all such
211 wharves, docks, ferries and landings within the corporate limits
212 of said city.

213 To carry into effect these enumerated powers and all other
214 powers conferred upon said city expressly or by implication in
215 this and other acts of the legislature, the council of said city
216 shall have the power, in the manner herein described, to adopt
217 and enforce all needful orders, rules and ordinances not contrary
218 to the laws and constitution of this state; and to prescribe, im-
219 pose and enforce reasonable fines and penalties, including im-
220 prisonment in the city lock-up, jail, or station house, and to
221 work prisoners found guilty, as the council may prescribe, and
222 market the product of such labor, and with the consent of the
223 county court of Kanawha county entered of record, shall have the
224 right to use the jail of said county for any purpose necessary to
225 the administration of its affairs.

Elections and Registration and Qualification of Voters.

Sec. 6. Every person qualified by law to vote for members of
2 the legislature of this state (and who shall have been a resident of
3 said city for sixty days preceding the day of election, and a *bona*
4 *fide* resident of the election precinct in which he offers to vote.)
5 shall be entitled to vote at all elections in said city by or under
6 the authority and control thereof.

Sec. 7. For the purposes of the first election to be held under
2 this act on the seventh day of June, one thousand nine hundred
3 twenty-one, the committee heretofore appointed by the mass meet-
4 ing held in the city of Dunbar on the ninth day of December, one
5 thousand nine hundred and twenty, consisting of Chales Gebbert,
6 George M. Robinson and J. B. Lohan, which committee was ap-
7 pointed for the purpose of framing a suitable charter for said city,
8 shall exercise all the functions relating to said first election and
9 the conventions preliminary thereto, which are vested by the pro-
10 visions of this act in the council of said city for the conduct of
11 city election generally; and the clerk of said committee shall dis-
12 charge for the purposes of said first election the functions therein
13 assigned to the city clerk.

Sec. 8. On the first Tuesday in June, one thousand nine hun-
2 dred twenty-one and every two years thereafter, there shall be
3 elected by the qualified voters of the said city a mayor, a treasurer
4 and six (6) councilmen; all of whose terms of office shall be for
5 the period of two years, beginning on the first day of July next
6 after their election, and until their successors shall be elected and
7 shall have qualified.

Sec. 9. All nominations for office and all elections shall be
2 made and held according to the laws of West Virginia relating to
3 such subjects at the time when so done, except where it is herein
4 otherwise ordered.

Sec. 10. The first election under this act shall be held on the
2 first Tuesday in June, in the year one thousand nine hundred
3 twenty-one, and on the same day every two years thereafter.
4 Such election and all subsequent elections shall be held in such
5 manner as is or shall be prescribed by law.

Sec. 11. The council shall on the first Monday in May, fix
2 the places within said town where said election shall be held;
3 shall appoint three commissioners and two clerks for each voting
4 precinct at which said election is to be held, and shall appoint

5 one member of said council to act with the city clerk as ballot com-
6 missioner, which commission shall have the ballots prepared and
7 ready to deliver to the election officers on the day before said
8 election, and said election commissioners and clerks so appointed
9 by council shall hold and conduct said election in such manner
10 as is or may be prescribed by law; they shall open the polls at
11 sunrise and close the same at sunset, shall tabulate the vote at
12 each voting precinct and certify to council the result of the vote of
13 the precincts, respectively, at which they are serving as such elec-
14 tion officers, and shall return to the city clerk a copy of such
15 certificate, together with the ballots, tally sheets, and registration
16 books, all of which shall be sealed in one envelope or other con-
17 tainer.

18 Said council shall meet on the first Monday following said elec-
19 tion and canvass the vote and shall ascertain, publish and declare
20 the result thereof; it shall keep a record of its proceedings at such
21 meeting, and shall take down, record and receive any evidence,
22 motion or objection and any paper filed or offered by any candi-
23 date, which record shall be open to the public, and shall be kept
24 in the custody of the city clerk.

Sec. 12. The council shall, on the first Monday in May, one
2 thousand nine hundred twenty-one, and every two years thereafter,
3 appoint such registration officers as it deems necessary to register
4 all the legal voters within the corporate limits of said city, and
5 shall furnish to the election officers hereinbefore provided for a
6 list of all the said voters entitled and qualified to vote at said city
7 election, and said election officers shall not permit any person to
8 vote at said election unless his name appears upon the registration
9 book, or list of qualified voters made by such registrars.

10 The council may, at a meeting to be held for that purpose prior
11 to the date of said election, register any legal voter or voters whose
12 names have been omitted by said registrars, and said council shall
13 give at least five days' notice of said meeting, by publication in
14 some newspaper of general circulation in said city, which notice
15 shall state the time and place of said meetings, and its intention to
16 correct the registration of voters of said city, and the said registrars
17 so appointed by the council in correcting said registration at
18 said meeting.

19 *Provided*, that if the county court of the county of Kanawha
20 shall adopt the voting precincts which shall be fixed by the council

21 of said city, as herein provided for, as voting places for state and
22 county officers before another city election is held, then the regis-
23 tration of voters shall be the registration of voters for all city
24 general elections, with such additions as hereinbefore provided for;
25 *provided, further*, that it shall not be necessary to have a special
26 registration of voters for any special election, but the preceding
27 registration of voters for the regular municipal election, with such
28 additions as are herebefore provided for, shall be the proper
29 registration for such special election.

30 In case the registrations made under the general law are used
31 as aforesaid, it shall be the duty of the city clerk to make or have
32 made copies of the registration books on file in the office of the
33 clerk of the county court of Kanawha county at least sixty (60)
34 days before any regular city election, and such copies, with such
35 additions and changes as may be made by the city registrars, shall
36 be used for all special elections that may be held between said regu-
37 lar elections as well as for the regular elections. And the county
38 clerk of Kanawha county shall carefully preserve in his office the
39 registration books of each general election for all the precincts of
40 the city of Dunbar, and shall permit copies to be made of such reg-
41 istration books by any proper officer of the city of Dunbar.

Sec. 13. The first officers elected under the provisions of this act
2 shall enter upon their official duties on the first day of July, one
3 thousand nine hundred twenty-one, and shall serve for a term of
4 two (2) years and until their successors are elected and qualified,
5 unless sooner disqualified, impeached or dismissed.

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

Sec. 14. All city elections, regular or special, shall conform as
2 nearly as possible to the election laws contained in chapter three
3 of the code of West Virginia.

Council and Mayor.

Sec. 15. The city of Dunbar shall have a council which shall
2 be known and styled as the "Council of the City of Dunbar" and
3 shall be composed of six (6) members, all of whom shall be nomi-
4 nated, voted for and elected in the manner herein provided.

5 Only citizens entitled to vote and having property qualifications
6 hereinbefore provided shall be eligible to be elected to the office
7 of councilman, and each councilman so elected shall continue to
8 be a resident of the city of Dunbar, during his entire term of
9 office.

Sec. 16. The mayor shall be the presiding officer of the council
2 and be a member thereof, with the right to vote in case of tie, the
3 same as any other member of said council, and the city clerk shall
4 be *ex-officio* clerk of the council, and also perform the duties of
5 clerk of the police court; and the mayor and the clerk shall each
6 perform such other duties as the council may require of them. The
7 council shall, at its first meeting after each election, select one
8 of its body as president *pro tempore*, who shall, in the absence of
9 the mayor, preside as chairman of the meeting of the council, and
10 in the absence of both 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. 17. The council shall exercise all of the legislative functions
2 of the city government, and shall have the right to demand of
3 any city official, or employee, information, explanations, facts, de-
4 tails, correspondence, or other papers affecting the city's interests;
5 and it shall be deemed misfeasance and neglect of duty for any
6 such official or employee to fail or refuse to comply with such
7 demands.

Sec. 18. 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 employ a reputable certified account-
4 ant for such purpose, and such audit shall show the complete
5 financial condition of the city at the time thereof, and the re-
6 cepts and disbursements of all the moneys during such year. The
7 council shall also provide by ordinance for the publication of
8 the report of the accountant on the financial condition of the
9 city at least once in each year, and such report of the accountant
10 shall be spread upon the records of the council and be a public
11 record for all purposes.

Sec. 19. 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 im- 5 morality. 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 record 8 by the council, and a summons shall thereupon be issued by the 9 city clerk containing a copy of the charges and requiring the 10 officer named therein to appear and answer the same on a day to 11 be named therein, which summons may be served in the same man- 12 ner as a summons commencing an action may be served, and the 13 service must be made at least five days before the return day 14 thereof, and it shall require the affirmative vote of two-thirds of 15 all the members elected to council to remove any such official. 16 The circuit court of Kanawha county shall have concurrent juris- 17 diction with the council for any of the causes herein mentioned. 18 The mayor, or any other city official having the power of 19 appointment, shall have the right to remove any of his appointees 20 and appoint another qualified person in his place, but such re- 21 moval shall be made by means of a writing served upon such 22 official so removed; and all the rights and powers of such official 23 shall cease and end from the time of such service, *provided* that 24 the person so removed shall have the right of appeal to council, 25 which may over-rule the action of the mayor, or other official.

Sec. 20. The council shall make proper rules and regulations 2 for its own government and the conduct of its business, which 3 rules shall not be contrary to, or inconsistent with, any of the 4 provisions of this act, and such rules shall be duly entered of 5 record and shall be published by the council in any municipal 6 code or other publication made by the council of this act and the 7 ordinances of said city. The council shall cause a record of its 8 meetings to be kept and recorded by the city clerk in a well bound 9 book provided by the council for that purpose, which book shall 10 remain in the custody and at the office of the city clerk, and all 11 such books and all city records shall at reasonable hours and in 12 a reasonable manner be open to the inspection of the public.

Sec. 21. The council shall hold regular meetings on the first 2 and third Mondays of each month, and the hour and place of 3 such meetings shall be fixed by the council in the rules adopted 4 by it.

Sec. 22. Special meetings of the council shall be held when
2 called by the mayor or four (4) members thereof. In either
3 case, the call therefor shall be in writing and signed by the
4 mayor or members issuing it, and shall state the time and place
5 of meeting and business to be considered thereat; and a copy
6 thereof shall be served upon each member of the council then in
7 the city. No business other than that stated in such call, shall
8 be considered at such meeting.

Contested Elections.

Sec. 23. All contested elections shall be heard and determined
2 by the council and such contests shall be made and conducted in
3 the same manner as provided for in the case of contests for
4 county and district officers; and the council shall conduct its
5 proceedings in such cases as nearly as practicable in conformity
6 with the proceedings of the county court in such cases, and there
7 shall be the same right of appeal, in the same way, to the cir-
8 cuit court of Kanawha county.

Oaths of Officers.

Sec. 24. All officers elected and appointed under this act shall
2 before taking their seats or performing any of the duties of their
3 respective offices to which they shall have been elected or ap-
4 pointed, take and subscribe an oath or affirmation that they pos-
5 sess, respectively, the qualifications prescribed by this act to hold
6 such office and are not subject to any of the disqualifications
7 prescribed herein; that they will support the constitution of the
8 United States and the constitution of this state, and honestly dis-
9 charge the duties of the offices to which they are elected or ap-
10 pointed, respectively, to the best of their skill and judgment.

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

Bonds of Officers.

Sec. 25. The mayor, manager, city clerk, treasurer, city solicitor, city collector, police judge, health commissioner, chief of police, and chief of fire department, each, shall, before entering upon the discharge of their respective duties, give an official bond, conditioned for the faithful performance of such duties as are prescribed in this act or any ordinances now or hereafter passed, in the amounts of five hundred (\$500.00) dollars, each.

The council may require additional bond from any of said officers, and may likewise require bond in whatever sum they may fix, of any other officer or employee. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be *prima facie* proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds, except that given by him, and as to it, the city treasurer shall be custodian. All bonds, obligations or other writings taken in pursuance of any provisions of this act, shall be made payable to "The City of Dunbar" and the respective persons, and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on said bonds, obligations and other writings, for the purpose of enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of Kanawha, that collectors of county levies and their sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Quorum.

Sec. 26. A majority of the whole number of members elected to the council shall be necessary for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members, in such manner and under such penalties as it may by rules provide.

How Vote Taken.

Sec. 27. 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 unan-
4 imous vote of the members present, the vote shall be taken by
5 roll call of the members and made a part of the minutes of the
6 meeting, and when the vote is unanimous the minutes shall so
7 state.

Minutes of the Meetings.

Sec. 28. The city clerk shall be *ex-officio* clerk of the council
2 and shall keep detailed minutes of its meetings and proceedings
3 in a well bound book for that purpose, which shall remain in the
4 custody of the city clerk at his office and open to public inspec-
5 tion. The minutes of every meeting after being corrected, shall
6 be signed by the mayor and city clerk; and, if thus recorded and
7 signed, they shall be admitted as evidence in any court of record
8 in this state.

Sec. 29. 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. All officers, except those under
5 civil service, shall hold their respective offices for a term of
6 two years.

Sec. 30. Whenever the mayor or other officer shall fail to make
2 any and all appointments under him, or required to be made by
3 him, for a period of thirty days from the time such appointment
4 should have been made after having been requested by the council
5 by resolution so to do, such appointment may be made by council.

Sec. 31. Whenever a vacancy for any cause whatever shall
2 occur in the office of mayor or treasurer, the council shall elect
3 some qualified person to fill said vacancy until the next city
4 election, and until his successor shall have been elected and quali-
5 fied; and when such vacancy shall occur in the office of any ap-
6 pointive officer, his successor shall be appointed by the person
7 making the original appointment, or his successor in office, as
8 hereinbefore provided; and all elective and appointive officers of
9 said city shall hold their respective offices until their successors
10 are elected, or appointed, and qualified, unless sooner removed.

Sec. 32. Any members of council or any officer of, or con-

2 connected with, the city government pursuant to any law of this
3 state or ordinance of the city now or hereafter passed, who shall,
4 in his official capacity or under color of his office, knowingly or
5 wilfully, or corruptly vote for, assent to or report in favor of,
6 or allow, or certify for allowance, any claim or demand against
7 the city, which claim or demand shall be on account or under
8 color of any contract or agreement not authorized by or in pur-
9 suance of the provisions of this act, or the ordinances of the city,
10 or any claim or demand against the city and which claim or de-
11 mand or any part thereof shall be for work not performed for and
12 by authority of said city or for supplies or materials not actually
13 furnished thereto pursuant to law or ordinances, and every such
14 member or officer as aforesaid, who shall knowingly vote for,
15 assent to, assist or otherwise permit, or aid in the disbursement
16 or disposition of any money or property belonging to the city
17 to any other than the specific use or purpose for which such money
18 or property shall be or shall have been received or appropriated
19 or collected or authorized by law to be received, appropriated or
20 collected, shall, upon conviction thereof, be punished by imprison-
21 ment in the county jail for a period of not less than sixty (60)
22 days nor more than one year, or by a fine of not less than sixty
23 (\$60.00) dollars, or more than two thousand (\$2,000) dollars, or
24 by both.

Attendance of Witnesses—Punishing Contempts, etc.

Sec. 33. 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 of
4 witnesses, the production of books and papers, and the power to
5 administer oaths in the same manner and with like effect, and
6 under the same penalties, as notaries public, justices of the peace,
7 and other officers of the state authorized to administer oaths under
8 state laws; and said council shall have the same power to punish
9 for contempt as is conferred on county courts by section thirteen
10 of chapter thirty-nine of the code. All process necessary to en-
11 force the powers conferred by this act on the council shall be
12 signed by the mayor, (or acting mayor), and may be executed by
13 any member of the police force.

Absence of Officers.

Sec. 34. Whenever for any reason the mayor shall be absent 2 from the city, or unable to attend to the duties of his office tem- 3 porarily, the president *pro tem* of the council shall perform them 4 during such absence or inability; and in the absence or inability 5 of the manager to attend to the duties of his office temporarily, 6 the mayor shall designate some one to perform such duties, pro- 7 vided that such temporary absence or inability shall not exceed 8 thirty (30) days; but, if such absence or inability shall exceed 9 thirty (30) days, then such appointment or designation shall be 10 submitted to the council, for confirmation or rejection. In the 11 absence or inability of any other appointive city officials to per- 12 form the duties of his office, the person or body making the or- 13 iginal appointment, or his successor in office, shall designate some 14 one to fill such office temporarily; or, if such absence or inability 15 extends over a period of sixty (60) days, he may appoint some 16 one to fill such office permanently.

Mayor and Other Officers.

Sec. 35. There shall be a mayor, six (6) members of council, 2 and a treasurer elected, for the term of two years, and their suc- 3 cessors shall be elected every two years thereafter, and their terms 4 of office shall begin on the first day of July of the year in which 5 they shall be elected.

6 Only citizens possessing the qualifications hereinbefore pre- 7 scribed for councilmen, shall be eligible to be elected to the office 8 of mayor or treasurer, and the mayor and treasurer, respective- 9 ly, when elected, shall continue to be residents of the city of 10 Dunbar during their entire terms of office.

11 The mayor's salary shall not be less than one thousand (\$1,000) 12 dollars, nor more than one thousand five hundred (\$1,500.00) 13 dollars per annum, and shall be fixed by council.

14 The mayor may appoint the police judge, city solicitor, the 15 chief of police and all policemen, humane officer or officers, build- 16 ing inspector, collector, city auditor, engineer, health commis- 17 sioner, lockup keeper, and the chief of the fire department; and 18 these appointments shall require confirmation by the council. The 19 mayor shall have the full and complete power of the removal 20 thereof, subject to appeal to council. The mayor shall appoint 21 the manager, by and with the advice and consent of the council.

22 The mayor shall appoint or employ such persons as the or-
23 dinances of the city may require or the council may authorize
24 by proper resolution. All such officers shall be appointed for the
25 term of two years and until their successors are appointed and
26 qualified, unless they are removed in the way and manner in this
27 act provided.

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

30 It shall be the duty of the mayor to see that all of the laws
31 and ordinances of the city are enforced and he shall have a gen-
32 eral oversight of the peace, health and good order of the city.
33 He shall discharge the functions assigned by this act to the po-
34 lice judge and city manager until these officers are appointed.

35 The duties of the city solicitor shall be to attend the sessions
36 of council, and to prosecute all suits in behalf of the city and de-
37 fend all suits against the city, to advise the council and all of
38 the departments of the city, and generally to look after the in-
39 terests of the city when it shall need legal advice, for which he
40 shall receive a salary to be fixed by council.

41 All fees of every kind collected by any officer or employe, in-
42 cluding the police judge, when acting as a justice, shall be paid
43 to the city treasurer.

Sec. 36. The manager may be appointed in the way and man-
2 ner hereinbefore provided and shall receive such salary as council
3 may by ordinance prescribe; and he shall have the right to em-
4 ploy such other help as he may require and as council may from
5 time to time allow.

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

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

Franchises and Ordinances.

Sec. 37. All franchises granting the right of occupancy of 2 any portion of the streets or alleys for works of public utility or 3 service, or granting any right or privilege which the city has the 4 power to grant to individuals, firms, or corporations, in order 5 that the latter may serve the public, may be made, but only upon 6 the following restrictions and conditions: All such franchises, 7 rights and privileges shall be granted by ordinance duly passed 8 by the council.

9 No grant of any such franchise shall be made without, at the 10 time of making it, providing that the grantee shall indemnify 11 the city against all damages caused by construction, maintenance 12 or operation of such works. Additional provisions and condi- 13 tions shall be made for the protection of the public against dam- 14 age or inconvenience by reason of the construction, maintenance 15 or operation thereof.

16 No grant of a franchise for the extension of or addition to any 17 line or work of public service through, over or under any addi- 18 tional street or territory of the city, shall be made for a period 19 extending beyond the time limited for the expiration of franchise 20 of the principal work of which it is an extension and if the 21 franchise of the principal work is one granted before this act 22 goes into effect and not limited as to time, any franchise granted 23 for an extension or addition thereto shall, nevertheless, be made 24 subject to the conditions thereof, including a time limit for a 25 period not exceeding fifty years.

26 No franchise shall be granted without the affirmative vote of 27 two-thirds of all the members elected to said council.

Sec. 38. When any franchise granting the right to use the 2 streets, alleys, or public grounds, shall be applied for, notice of 3 the application or petition shall be advertised in some newspaper 4 of general circulation in said city once a week for four successive 5 weeks before the same shall be heard and determined by the coun- 6 cil.

7 All such ordinances shall protect the interests of the city and 8 shall contain conditions, compensations or limitations, as council 9 may prescribe.

Sec. 39. 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 and

4 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, and
7 may postpone the announcement of any vote to an adjourned
8 meeting or to a future meeting.

Sec. 40. The style of all ordinances enacted by the council
2 shall be "Be it ordained by the council of the city of Dunbar."

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 or printed and presented
4 and read in full by the city clerk. No bill shall be considered
5 for final passage at the meeting at which it was introduced, but
6 at any subsequent meeting of the council such bills may be taken
7 up for consideration and final action. No bill except general
8 appropriation bills which may embrace the various subjects and
9 accounts for and on account of which moneys are appropriated,
10 shall contain more than one subject, which shall be clearly ex-
11 pressed in its title. No bill shall become an ordinance unless
12 its final passage a majority of the council vote in its favor, the
13 vote to be taken by the yeas and nays and the names of the mem-
14 bers voting for and against the same, to be entered of record in
15 the minutes of the proceedings of the council. No ordinance shall
16 be revised or re-enacted by mere reference to the title thereof, but
17 the same shall be set forth at length as if it were an original ordi-
18 nance, nor shall any ordinance be amended by providing that des-
19 ignated words thereof be stricken out and others inserted in lieu
20 thereof, but the ordinance or sections amended shall be set forth
21 in full as amended.

Sec. 42. All ordinances passed, shall be spread in *extenso* upon
2 the records of the council when adopted. The council shall pro-
3 vide a well-bound book in which shall be copied by the city clerk
4 all ordinances in the order in which they are passed, which ordi-
5 nances, when so copied shall be compared with the originals by
6 the mayor, and shall be signed by him when found correct. Such
7 books shall be indexed so as to show in brief form the substance of
8 the ordinance, and shall be received by all courts and justices in
9 this state as evidence, but the council may adopt by ordinance
10 properly designating and describing it, a code of laws and ordi-
11 nances, which when adopted shall be printed in book form, or said
12 council may designate any committee, or attorney or the city

13 solicitor, to prepare a code ordinances for the government of the
14 city of Dunbar, and said council may by ordinance adopt the
15 code so prepared as a whole and when said ordinance adopting
16 said code shall have been passed by the council, the said code
17 shall be and become the law and ordinances of said city and may
18 be printed by order of the council, and the same shall be so received
19 as evidence of what is printed therein, until errors or omissions
20 be affirmatively shown therein.

Sec. 43. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city, and
3 they, and any other officer provided for under this act, may be
4 given authority of police officer by the council.

Sec. 44. The police judge shall be *ex-officio* a justice and a con-
2 servator of the peace, with authority to issue process for all offenses
3 committed within the police jurisdiction of the city of Dunbar, of
4 which a justice of the peace has jurisdiction under the state
5 statutes, and for all violations of any city ordinances, and shall
6 have charge of and preside over the police court of such city;
7 and may commit persons charged with felony or misdemeanor
8 to jail or take bond for their appearance before the grand jury of
9 the circuit, intermediate or criminal courts of Kanawha county;
10 he shall keep an accurate record of all his judicial proceedings in
11 said court, showing the style of each case, which record shall be
12 indexed and numbered. It shall be his duty to hold a session of
13 his said court, at least, twice each week. Before trying any
14 person charged with any violation of any ordinance he shall issue
15 his warrant, specifying the offense or violation charged; he shall
16 render judgment in any case as the law of the state or the ordin-
17 ance of the city applying thereto may require; he shall also
18 have the power to issue executions for all fines, penalties and costs
19 imposed by him and he may require immediate payment thereof,
20 and in default of such payment, may commit the person in default
21 to the jail of the county of Kanawha or some place of imprison-
21-a ment in said city, if there be one, until the fine and penalty and
22 costs shall be paid or satisfied, to be employed during the term of
23 imprisonment, as hereafter provided, but the term of imprison-
24 ment in any such case shall not exceed thirty (30) days,
25 and in all cases where a person is sentenced to imprisonment
26 or to the payment of a fine of ten dollars (\$10.00) or more, such
27 person shall be allowed an appeal from such decision to the

28 intermediate court of said Kanawha county upon the execution
29 of an appeal bond, with surety deemed sufficient by the said
30 police judge in a penalty double the amount of the fine and costs
31 imposed by him, conditioned that the person proposing to appeal
32 will appear before the intermediate court of Kanawha county
33 on the first day of the next term thereof to answer for the offense
34 wherewith he is charged and not depart thence without leave of
35 the court and satisfy all costs and fines imposed against him;
36 and in no case shall judgment for a fine of less than ten (\$10.00)
37 dollars be given by the police judge, if the defendant, his agent
38 or attorney, object thereto. If such appeal is taken, the warrant
39 of arrest, the transcript of the judgment, the appeal bond and
40 other papers of the case shall be forthwith delivered by the said
41 police judge to the clerk of the said intermediate court, and the
42 court shall proceed to try the case as upon indictment or pre-
43 sentment and render such judgment, including that of cost, as
44 the law and the evidence may require.

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

Sec. 45. The police judge, when appointed, shall have attained
2 the age of thirty (30) years and shall have been a resident of this
3 state for a period of five years and of the city of Dunbar previous
4 to the beginning of his term of service for the period of one
5 year. After the appointment of the police judge and in his
6 absence or inability to perform his duties, the city clerk shall act
7 as police judge in his stead, and in the event that neither the
8 police judge nor the city clerk can for any cause perform such
9 duties, then the mayor shall act as police judge.

Sec. 46. In all cases of arrest by the police of the city, except
2 in cases for a felony, the person arrested shall have the absolute
3 right to give a reasonable and proper bond for his appearance
4 at police court for a trial of his case, and the police judge, city
5 clerk, mayor, chief of police, and the desk sergeant or person in
6 charge of police headquarters shall have the power, and it shall be
7 their duty, to accept such bond from such persons so arrested, and
8 upon the giving of such bond he shall be released; and it shall

9 be their further duty to permit such person arrested to communi-
10 cate in any reasonable way with any person or persons with whom
11 he may desire to have communication in reference to his giving
12 bail in order to obtain his release, and each of said officers and
13 all policemen shall render reasonable aid in assisting such per-
14 sons arrested to communicate with any person that he may desire
15 for the purpose of securing such bail.

Nuisances.

Sec. 47. The manager of said city shall have authority to
2 abate and remove all nuisances in said city. He may compel the
3 owners, 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 the
6 council shall by ordinance provide a penalty for the violation of
7 such orders. Council may by ordinance regulate the location,
8 construction, repair, use, emptying and cleaning of all water
9 closets, privies, cesspools, sinks, plumbing drains, yards, lots,
10 areaways, pens, stables and other places, where offensive, unsightly,
11 unwholesome, objectionable or dangerous substances or liquids are,
12 or may accumulate, and provide suitable penalties for the viola-
13 tion of such regulations, which may be enforced against the owner,
14 agents, assignees, occupants or tenants of any premises or struc-
15 ture where such violation may occur. It shall be the duty of all
16 police officers to report to the manager the facts as to the exist-
17 ence of any nuisance known to them.

18 If the owner, agent, tenant, assignee or occupant of any such
19 premises, lot, property, building, or structure, as is mentioned
20 herein, shall fail or refuse to abate or remove any such nuisance,
21 as mentioned herein, or comply with the provisions of any such
22 ordinance and the regulations herein contained, the manager
23 may have said nuisance abated or the provisions of said ordinance
24 or ordinances carried out, after reasonable notice to said owner,
25 occupant, tenant, agent or assignee of his intention so to do, and
26 collect the expenses thereof, with one per centum per month
27 interest added from the date of said notice, from the said owner,
28 occupant, tenant, agent or assignee by distress or sale, in the same
29 manner in which taxes levied upon real estate for the benefit of said
30 city are herein authorized to be collected, and the expense shall
31 remain a lien upon said lot, or part of lot, the same as taxes levied

32 upon real estate in said city; which lien may be enforced by a suit
33 in equity before any court having jurisdiction, as other liens
34 against real estate are enforced. In case of non-resident owners
35 of real estate notice may be served upon any tenant, occupant,
36 assignee, or rental agent, or by publication thereof once a week for
37 not less than two consecutive weeks in a newspaper of general
38 circulation in said city.

39 And in all cases where any tenant, occupant, or agent is required
40 to abate and remove any nuisance under the provisions of this
41 section or comply with the provisions of any such ordinance as
42 is mentioned therein, the expense thereof may be deducted out of
43 the accruing or accrued rent of said property or amount due said
44 owner from said agent, and such tenant, occupant, or agent may
45 recover the amount so paid from the owner, unless otherwise
46 specifically agreed upon.

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

Sec. 48. The manager may require all owners, tenants or
2 occupants of improved property which may be located upon or
3 near any street or alley along which may be extended any sewer
4 or system of sewerage, all privies, ponds, water closets, cesspools,
5 drains or sinks, located upon their respective properties or prem-
6 ises, so that their contents may be made to empty into such sewer
7 or system of drainage.

Sidewalks.

Sec. 49. The council shall have the right and authority to
2 establish the width of any sidewalk on any street, alley or public
3 square, or any portion thereof in said city, to cause to be put down
4 a suitable curb of brick, stone or other material for the footways
5 and sidewalks of the streets, alleys or public squares or portion
6 thereof, and to order the construction, re-laying, and repair of
7 sidewalks and gutters of such material and width, and in such
8 manner as the council may reasonably prescribe by the owners

9 or occupiers of the lots or parts of lots facing upon said streets,
10 alleys and public squares; and in case of a failure or refusal of
11 any such owner or occupier of the lots or parts of lots to construct,
12 re-lay, or repair such sidewalks and gutters, when required, it
13 shall be lawful for the council to have such sidewalks and gutters
14 constructed, relaid, or repaired and levy and collect the expense
15 thereof, with one per centum per month interest added after a
16 demand of thirty (30) days has been made by the treasurer of
17 the city from the said owner, owners, occupier, occupiers, or any
18 of them; and in all cases of such assessment, whether for the
19 construction, re-laying or repairing of sidewalks or gutters, pay-
20 ment thereof shall be made to the treasurer within thirty (30)
21 days after the completion of the work and demand made, and if
22 not so paid the city is hereby authorized to collect or cause to
23 be collected the expense thereof, with one per centum per month
24 interest added after the work has been completed and a demand
25 of thirty (30) days, and they shall have the power to collect,
26 or cause to be collected, the same from said owner, owners, oc-
27 cupier or occupiers or any of them by distress and sale, in the
28 same manner in which taxes levied upon real estate for the ben-
29 efit of the said city are herein authorized to be collected, and in
30 addition there shall be a lien upon the real estate against which
31 such assessment has been levied for the construction, re-laying
32 and repairing of sidewalks and gutters as herein provided, which
33 lien may be enforced by a suit in equity before any court having
34 jurisdiction, as other liens against real estate are enforced, and
35 it shall be the duty of the city clerk to cause to be certified to
36 the clerk of the county court of Kanawha county the order lay-
37 ing an assessment authorized by this section. The clerk of
38 the county court of Kanawha county is hereby required
39 to record and index such assessments in the proper
40 trust deed book in the name of persons against whose property
41 assessments appear therein. *Provided, however,* that a reasonable
42 notice shall first be given to said owners or occupiers or their
43 agents, that they are required to construct, re-lay, or repair such
44 sidewalks or gutters. In case of non-residents who have no known
45 agents in said city, such notice may be given by publication
46 for a period of not less than once a week for two consecutive
47 weeks in any newspaper printed in said city; and in all cases
48 where a tenant shall be required to construct, re-lay or repair

49 sidewalks or gutters in front of the property of his or her oc-
50 cupancy, the expense of such construction or re-laying or re-
51 pairing may be deducted out of the accruing rent of said prop-
52 erty, and he may recover the amount so paid from the owner,
53 unless otherwise specially agreed upon. The laying or construc-
54 tion of any such sidewalks by said city shall be *prima facie* proof
55 that the said notice to the owner (resident or non-resident) or
56 occupier, or their agent, was given as herein required.

Taxes.

Sec. 50. The council shall ascertain the total expense of the city
2 to be provided for by levy for the fiscal year in which said levy is
3 made, and it shall make a detailed itemized estimate of the sum
4 of money necessary to pay interest accruing on the bonded in-
5 debtedness of said city, the amount required for the several sink-
6 ing funds for the reduction of the principal thereof, the amounts
7 necessary for the support of the various departments of the city
8 and for the improvements of its streets, alleys, avenues, and pub-
9 lic grounds, real and personal property, contingent expenses and
10 other expenses, together with an itemized statement of the es-
11 timated receipts other than that to be derived by the annual levy;
12 and after receiving such estimates, and before making the levy,
13 it shall apportion the rate thereof, including the estimated re-
14 ceipts, from licenses and all other sources among the several funds
15 so ascertained and provided for, which apportionment shall be
16 spread upon the records of this city, and in making said estimate,
17 providing for the revenue for the fiscal years, etc., it shall be the
18 duty of the council to strictly observe all the provisions of chap-
19 ter nine of the acts of the legislature, one thousand nine hundred
20 and eight, entitled "An act to regulate the rate and manner of
21 laying levies for taxation in counties, magisterial and school
22 and independent school districts, and municipal corporations,
23 and to provide penalties for the illegal expenditure of public
24 moneys, incurring of illegal obligations and the laying of
25 illegal levies by any tax levying body, and for the distribution
26 of a portion of the school fund," and all amendments thereto,
27 except where last named act shall be inconsistent with this act
28 as to limit of taxation.

Sec. 51 The council shall have authority to levy and collect
2 an annual tax on real estate and personal property in said city,

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

Sec. 52. The city taxes levied annually by the council shall
2 be collected as follows: Immediately after the annual levy for
3 city taxes is laid the council shall direct the proper officer of
4 the city to extend the same on the property books made out by
5 him, including therein the proper capitation tax; he shall make
6 out therefrom proper tax tickets in the following manner: That
7 is to say, instead of a single ticket for the whole amount charged
8 to any person, firm or corporation, there shall be two tickets each
9 for one-half of said amount; these half tickets shall be severally
10 numbered or designated "first" and "second" and the same, after
11 being examined and compared by the council and found to be
12 correct, shall be turned over to the treasurer of the city in the
13 first day of October following the levy and the treasurer's re-
14 ceipt for the gross amount thereof shall be returned, entered up-
15 on its record and the treasurer charged therewith. The treasurer
16 shall give notice by publication for twenty (20) days in some

17 newspaper of general circulation in said city, that said tax tickets
18 are in his hands for collection, stating the penalty for non-pay-
19 ment thereof and the time and place where the same may be paid;
20 *provided, however*, that the tax payers shall have the right to an-
21 ticipate the payment of the whole or any part of the taxes as-
22 sessed against him.

23 The one-half ticket designated "first" may be paid to the treas-
24 urer of the city any time before the first day of November next
25 succeeding said levy; the one-half ticket designated "second" may
26 be paid to the treasurer of the city at any time before the first
27 day of May next succeeding said levy. To all the half tickets
28 designated "first" remaining unpaid in the treasurer's hands on
29 the said first day of November succeeding said levy, a penalty of
30 ten per cent shall be added and collected from the tax payers.
31 To all half tickets designated "second" remaining unpaid in
32 the treasurer's hands on the first day of May succeeding said levy
33 a penalty of ten per cent shall be added and shall be collected
34 from the tax payers. On said first day of November succeeding
35 said levy, all such half tickets designated "first", and on said
36 first day of May succeeding said levy all such half tickets desig-
37 nated "second" remaining unpaid in the treasurer's hands shall
38 be taken up by the council and settlement had with said treas-
39 urer on said days, respectively, or on the next succeeding days,
40 respectively, if said days shall fall upon Sunday, and thereupon
41 the council shall place said tickets in the hands of the city col-
42 lector for collection and shall take his receipt therefor; *pro-*
43 *vided, however*, that the council shall have the power any year,
44 by resolution, to extend the time within which the tickets may
45 remain in the treasurer's hands and be paid to him without adding
46 the penalty, for a period named therein not exceeding, however,
47 a total of fifteen days.

48 The city collector shall have the power to collect said tickets
49 so placed in his hands, together with the penalties thereon here-
50 inafter provided, to be added thereto, and the compensation of
51 such city collector for making such collection of the taxes afore-
52 said shall be fixed by the council.

53 The city collector shall be charged with the gross amount of
54 said tax tickets so delivered to him for collection, including the
55 penalties allowed, unless on or before the first day of August of
56 each year he makes out and returns to the council a delinquent

57 list of taxes uncollected for such year, with his oath attached
58 thereto, stating that such list is correct and just and that he has
59 received no part of the taxes mentioned therein, and that he
60 has used due diligence to find property liable to distress for taxes,
61 has found none, and that he could not collect the same.

62 Neither the treasurer nor the city collector shall take or col-
63 lect anything but money for payment of taxes.

Sec. 53. The city collector shall have the power to collect the
2 city taxes except as otherwise provided in this act, and he shall
3 also have power to collect the city claims which may be placed
4 in his hands by the council for collection, except that fines im-
5 posed by the police judge shall not be collected by him.

Sec. 54. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any taxes, whether the same
3 be a capitation tax or a tax upon real estate or personal prop-
4 erty, or an assessment on personal property, or an assessment for
5 paving or other improvements, shall be liable for said tax, and
6 may be distrained therefor in whosoever's possession they may be
7 found and the city collector shall have the same power to collect
8 said tax or assessment from any person owing a debt to or having
9 in his possession any estate belonging to a person assessed with
10 any tax or assessment of any kind that the sheriff has to collect
11 state taxes in such cases. The city collector may distrain and sell
12 for all city taxes and assessments and in all respects have the
13 same power to enforce the collection thereof as the sheriff has
14 to enforce the collection of state taxes.

Sec. 55. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of April of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record in Kanawha county; *provided*, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Dunbar as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens,
13 except those for taxes due this state.

Sec. 56. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county
3 court of Kanawha county for certification to the state auditor,
4 and the same may be certified down by said auditor, and sold
5 for taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate
7 is sold for taxes, interest, damages, cost and commissions due
8 the state thereon, which officer shall account therefor on settle-
9 ment with the city and pay over the same to the treasurer of the
10 city.

Sec. 57. No taxes or levies shall be assessed upon or collected
2 from the taxable persons or property within the corporate limits
3 of said city, for the construction, improvement or keeping in re-
4 pair of roads, for the support of the poor of Kanawha county,
5 outside of corporate limits, for any year in which it shall appear
6 that said city shall at its own expense provide for its own poor
7 and keep its own roads, streets and bridges in good order. And
8 neither the county court of Kanawha county nor the authorities
9 of the district in which said city is situated, shall have or
10 exercise jurisdiction within the corporate limits with relation
11 to the roads, streets, alleys, bridges, wharves, docks or ferries,
12 but the same shall be and remain under the exclusive jurisdiction
13 and control of the municipal authorities of said city; and said
14 city shall be liable only for the construction, improvement, re-
15 pair and good order of the roads, streets, alleys, wharves and
16 bridges in its corporate limits, except that the county of Kanawha
17 may become the joint owner and controller with the city of
18 Dunbar in a bridge or bridges across Kanawha river; *provided*,
19 that nothing in this act contained shall be so construed as to inter-
20 fere with the construction by the county court through said city
21 of the hard road for the construction of which and other roads,
22 an issue of bonds in the amount of one hundred and sixty thou-
23 sand (\$160,000.00) dollars has heretofore been authorized by
24 the voters of Union district; and the said county court shall
25 construct the said hard road along the route originally laid out
26 through said city, in all respects as if the said city were not yet
27 incorporated; and all the property within said city shall continue
28 to be liable for its proportionate part of the levies laid by the
29 county court from year to year for the purpose of paying the
30 said bonds and the interest thereon, as well as any other district
31 bonds now outstanding against the said district of Union.

Depositing City Funds.

Sec. 58. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks, within said city, which
3 shall pay interest on such deposits and which shall pay interest
4 on the average daily balance of such funds in all accounts of
5 the per cent equal to that paid by state depositories on all funds
6 of the state of West Virginia and in the same manner and at the
7 same time. If no bank within the city is willing at any time to re-
8 ceive deposits of the treasurer and to pay such interest thereon,
9 the treasurer shall report this fact to the council, who shall
10 thereupon designate a bank or banks in which he shall deposit
11 said funds for the time being and until some bank in said city
12 will receive such deposits on such terms. Before receiving such
13 deposits such bank or banks shall give bond in such penalty as
14 the council shall prescribe, and with sureties to be approved by
15 said council, conditioned for the prompt payment, whenever law-
16 fully required, of all the city moneys or parts thereof which may
17 be deposited with them, which bond shall be renewed at such
18 time as the council may require.

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

Sec. 59. The city of Dunbar is hereby authorized to issue and
2 sell bonds of said city for the purpose of buying and building
3 electric light plants, water works, gas lines and fields and other
4 public utilities, and for buying and building municipal buildings,
5 jails, and fire stations; and such bonds shall be sold for not less
6 than par, and be payable within a period not to exceed thirty-four
7 years, and shall bear interest, not to exceed six per centum per
8 annum; and in the issuance and sale of said bonds the city shall
9 be governed by all the restrictions of the constitution of this state
10 and the statutes of this state, with respect to the issuance and sale
11 of other bonds, *provided*, that said city shall not, by the sale or
12 issue of bonds for the purposes above mentioned, cause the aggre-
13 gate of its indebtedness, of every kind whatever, to exceed five per
14 centum of the value of the taxable property therein, but may for
15 the above purpose issue bonds to the maximum limit of said five
16 per cent; nor shall said city make such issue and sale of bonds
17 without, at the same time, providing for the collection of a direct

18 annual tax sufficient to pay annually the interest on the same,
19 and to create a sinking fund to pay the principal within the time
20 for which said bonds shall be issued.

Sec. 60. The city of Dunbar is hereby authorized to issue and
2 sell the bonds of the said city for the purpose of providing for
3 grading, paving and otherwise improving the streets and alleys
4 of said city, of constructing sewers for the proper draining of
5 same in anticipation of special assessments to be made upon the
6-7 property abutting upon the streets and alleys so improved, or
8 property so sewerred or drained, and such bonds may be in such an
9 amount as shall be sufficient to pay the entire estimated cost and
10 expense of said improvements for which such special assessments
11 are levied; *provided*, that the price for which said bonds are sold
12 shall not be below par value thereof; said bonds may be payable
13 in groups of one-fifth of the whole issue payable in two, four, six,
14 eight, and ten years, respectively, and all payable in not to exceed
15 ten years from the date of issue thereof, and shall bear interest at
16 a rate not exceeding six per centum per annum, payable annually;
17 and in the issuance and sale of said bonds, the city shall be gov-
18 erned by all the restrictions and limitations of the constitution of
19 this state with respect to the issuance and sale of other bonds,
20 and the assessments as paid and provided for in this act shall be
21 applied to the liquidation of said bonds and the interest thereon;
22 and if by reason of the penalties collected with the delinquent
23 assessments, there be any balance after the payment of said bonds
24 and all accrued interest and costs, the said balance shall be turned
25 into the city treasury to the credit of the interest and sinking fund
26 of the city.

27 *Provided*, that the city shall not by the sale or issue of such
28 bonds cause the aggregate of its debt of every kind whatsoever to
29 exceed five per centum of the value of the taxable property therein;
30 and *provided, further*, that nothing contained shall be con-
31 strued as authorizing said city to become indebted in any other
32 manner or for any other purpose, to an amount including the ex-
33 isting indebtedness in the aggregate exceeding two and one-half
34 per centum on the value of the taxable property therein (as pro-
35 vided in chapter fifty-one of the acts of one thousand nine hundred
36 and five) except for the purpose of grading, paving, sewerred and
37 otherwise improving the streets and alleys of said city and as
38 provided for in this act, and except for the purpose of buying or

39 building electric light plants, water works, gas lines and fields,
40 and other public utilities and municipal buildings, nor shall they
41 make such issue and sale of bonds for grading, paving, sewerage
42 and improving the streets and alleys of said city without, at
43 the same time, providing for the collection of a direct annual tax
44 sufficient to pay annually the interest on such debt and principal
45 thereof within a period not exceeding ten years.

46 All assessments, interest and penalties thereon, collected from
47 the abutting property owners, on account of grading, paving,
48 sewerage or otherwise improving the streets and alleys of such city
49 under the provisions of this act, shall annually be applied to the
50 annual tax required to pay the interest on such debt and such
51 principal within and not exceeding said period of ten years; and
52 in the event that the assessments, interest and penalties so col-
53 lected do not amount to a sum sufficient to pay annually the
54 interest on such debt and the principal thereof within and not
55 exceeding ten years, said city shall collect so much of said levy as
56 will pay annually the interest on such debt, and the principal
57 thereof within and not exceeding ten years.

Sec. 61. Whenever the council of said city shall deem it ex-
2 pedit to cause any street or alley in said city or portion thereof
3 to be paved, curbed, or macadamized, or otherwise improved in a
4 permanent manner, it shall order the work done in the following
5 manner and upon the following terms: The contract for such
6 paving or other improvements shall, after due advertisement in
7 which the council shall reserve the right to reject any and all bids,
8 be let to the lowest responsible bidder. The contractor shall
9 look only to the city for the payment of the work, and in no
10 sense to the abutting land owners, except as hereinafter provided.
11 The total cost of grading and paving or otherwise improving any
12 such street or alley (with the exception that where a street is
13 occupied by the street car tracks or other railways, such cost of
14 opening or otherwise improving the distance between the rails and
15 two additional feet outside of each rail, shall be borne and paid
16 entirely by the street car or other railway company operating such
17 street or other railway, unless otherwise provided by the franchise
18 of such street car or other railway company granted previously to
19 the passage of this act), shall be borne by the owners of the land
20 abutting upon said street, alley or portion thereof, according to
21 the following plan, that is to say: Payment is to be made by all

22 land owners on either side of such portion of a street or block so
23 paved or improved in such proportion of the total cost, less the
24 portion, if any, chargeable to such street or other railway company,
25 as the frontage in feet on his land so abutting bears to the total
26 frontage of all lands so abutting on such street, alley or portion
27 thereof so paved or improved as aforesaid. The cost of such paving
28 or improvement chargeable to the abutting owners under this
29 section is not to include any portion of the amount paid for paving
30 of squares at intersection of streets, which shall be borne and paid
31 by the city, except as otherwise herein provided.

32 When the paving of any street, alley or portion thereof shall
33 have been let to contract and the work done as hereinbefore pro-
34 vided, it shall be the duty of the engineer of said city to cause the
35 several frontages abutting thereon to be measured, and to calculate
36 the assessment upon each and every land owner so abutting and to
37 certify the same to the council showing the proper amount to be
38 determined, as provided in the foregoing plan. It shall be the
39 duty of the council to examine and compare such assessment,
40 amounts and names so certified to it, and thereupon give notice by
41 publication once a week for two consecutive weeks in some news-
42 paper of general circulation in said city, that an assessment under
43 this act is about to be laid against the abutting property for paving
44 or improvements done on said streets or alleys, describing the loca-
45 tion of such paving or improvements, and any owner or owners
46 thereof shall have the right to appear before said council, within
47 two weeks from the first publication thereof, and move to correct
48 an apportionment or assessment excessive or improperly made as
49 charged, which correction said council shall have the power to
50 make according to the intent of this act, and if found to be correct
51 or when corrected by the council as aforesaid, it shall enter the
52 same, together with a description of the lots of land as to location,
53 frontage, depth and ownership so far as the same may be ascer-
54 tained, upon its records and shall enter in its records that such
55 owners and lots be assessed and chargeable with the amount so
56 ascertained to be borne by them respectively; and when so ap-
57 proved, certified and entered on record the same shall be and con-
58 stitute an assessment against said owners and lots for such re-
59 spective amounts. And it shall be the duty of the council to imme-
60 diately certify such assessment to the treasurer for collection as
61 herein provided, and a copy of said order shall be certified by the

62 city clerk to the clerk of the county court of Kanawha county,
63 who shall record and index the same in the proper trust deed book
64 in the name of each person against whose property assessments ap-
65 pear therein. The amount so assessed against said abutting land
66 owners shall be paid in ten payments, as follows: That is to say,
67 one-tenth of said amount, together with interest on the whole
68 assessment, shall be paid into the city treasury, before the first day
69 May next after said work is completed, and said assessments have
70 been certified to the county clerk. And a like one-tenth, together
71 with interest for one year upon the whole amount remaining un-
72 paid on or before the first day of May in each succeeding year
73 thereafter until all has been paid, and each of said installments of
74 one-tenth beginning with the first shall bear interest on the amount
75 of said installments at six per centum per annum from the date of
76 record of same in the county clerk's office until paid; *provided,*
77 *however,* that any abutting property owner so liable for any
78 portion of the cost of such paving shall have the right at any time
79 after the same is certified as aforesaid to the treasurer for collection
80 to anticipate the payment of any or all of said assessments and
81 shall be allowed to pay the face of said assessment with interest at
82 six per cent per annum only from the time of recordation to the
83 time of payment. To each of such installments of assessments
84 remaining unpaid in the treasurer's hands on the day herein speci-
85 fied for the payment thereof, a penalty of ten per centum on the
86 principal sum shall be added and any assessment so remaining
87 unpaid in the treasurer's hands on such date, shall be taken up on
88 such settlements had with the treasurer on such dates, and there-
89 upon such assessments shall be placed with the penalty added
90 thereto, in the hands of the city collector to be treated and con-
91 sidered, and payment thereof enforced in all respects as herein-
92 before provided for the collection of taxes due the city, and they
93 shall be a lien upon the property liable therefor the same as taxes,
94 which lien may be enforced in the same manner as provided for
95 taxes. The lien hereinafter provided for shall have priority over all
96 other liens except those for taxes due the state and shall be on a
97 parity with taxes and assessments due the city. Whenever all such
98 assessments for paving, sewerage, macadamizing or other improve-
99 ments shall be paid in full to the treasurer, he shall deliver to the
100 party paying the same a release of the lien therefor, which may be
101 recorded in the office of the clerk of the county court of Kan-

102 awha county as other releases of liens, and whenever any such
103 assessment shall not be in the hands of the treasurer for collection,
104 but the same shall be shown to the satisfaction of the city auditor
105 or other official performing the duties of auditor, to have been
106 paid in full to any officer entitled to receive the same, such auditor
107 or the mayor may in like manner execute such release.

Sec. 62. Whenever the council shall order the construction of
2 any public sewer in said city, the owners of the property abutting
3 upon any street in which such sewer shall be constructed, shall
4 be charged with and liable for sewerage assessments as follows:
5 When said sewer is completed the engineer of said city shall report
6 to the council in writing, the total cost of such sewer, and a des-
7 cription of the lots and lands as to the location, frontage, depth
8 and ownership liable for such sewer assessment, so far as the
9 same may be ascertained, together with the amount chargeable
10 against each lot and owner, calculated on the basis of the cost
11 thereof, and any lot fronting on two streets, one in the front and
12 another in the rear of said lot, shall be assessed on both of said
13 streets, if a sewer is constructed on both streets, or if fronting on a
14 street and running back to an alley, shall be assessed on both the
15 street and alley, if a sewer shall be constructed in both street and
16 alley; and thereupon said council shall give like notice by publica-
17 tion as is required in case of street paving assessments, and the
18 same rights shall exist as to the persons and property affected
19 and the same duty as to corrections by said council as are pre-
20 scribed with reference to paving, which report shall in like man-
21 ner be examined by the council; and, if found to be correct or cor-
22 rected, as aforesaid, and such estimated assessments to be a fair
23 and equitable apportionment of the cost of such sewer upon the
24 basis hereinbefore described, it shall enter an order upon its
25 records, setting forth such location, ownership and said amount
26 of such sewer assessments, against each, respectively, calculated as
27 aforesaid, and the entry of such order shall constitute and be an
28 assessment for such proportion and amount so fixed therein
29 against such respective owners and lots, and, if after such adver-
30 tisement, notice and hearing, said council shall find that such
31 apportionment at such rate is unjust or inequitable, and con-
32 trary to the intent of this act, it shall ascertain, fix and assess the
33 costs, thereof among and upon the abutting property owners
34 respectively, justly and equitably and according to the intent

35 hereof, and in like manner, assess and enter the amount so fixed
36 respectively upon its records; and the council shall, in either
37 event, thereupon certify the same to the treasurer for the col-
38 lection, and certify a copy of such order to the clerk of the county
39 court of Kanawha county, who shall record the same in the proper
40 trust deed book, and index the same in the name of each owner
41 of any such lot so charged with such assessment, and such assess-
42 ment made, shall constitute and be a lien upon said lots, respect-
43 ively, which shall have priority over all other liens, except those for
44 *a* taxes due the state, and shall be on a parity with other taxes and
45 assessments due the city. Said amounts so assessed against the said
46 several land owners shall be paid by the parties liable therefor
47 to the said treasurer at all times in the manner and with the atten-
48 dant penalties for the failure to pay promptly at the time pre-
49 scribed in all respects as hereinbefore provided in the case of
50 assessments for paving streets and alleys in a permanent manner,
51 and the parties liable therefor shall, in the same manner, and to
52 the same extent, have the right and be entitled to anticipate any
53 or all of such installments thereon as in such case provided. The
54 owners of, or the tenants, occupants or agents of any lot abutting
55 on or near or adjacent to any street or alley in said city, on which
56 a public sewer is or may hereafter be laid and constructed, upon
57 which lot any business or residence building is or may hereafter be
58 erected, or upon which any water stands not connected with a
59 public sewer, may be required and compelled to connect any such
60 building or lot with such sewer. Notices to connect may be given
61 to the owner, lessee, or occupant of such building. Each day's
62 failure to comply with such notice and connect with such sewer
63 by such owner or owners, ten days after such notice is given shall
64 be a misdemeanor and a separate and new offense under this sec-
65 tion, and every such offense shall be punishable by fine of not less
66 than five nor more than twenty-five (\$25.000) dollars. The ex-
67 pense incurred by any tenant, occupant or agent in complying with
68 the order of said council to make such sewer connection may be
69 deducted out of the accruing rents as provided for in section 47
70 relating to the abatement of nuisance. Jurisdiction to hear, try,
71 determine and sentence for violation of this section is vested in
72 the police court of such city.

73 The liens herein and hereinbefore provided for street paving,
74 macadamizing and sewerage assessments and assessments for other

74 improvements shall constitute liens upon the real estate upon
75 which they are assessed, as against creditors of the owners thereof.
76 or purchasers for value, and without actual notice of such liens.
77 only from and after the time that the statement thereof certified
78 as aforesaid shall be filed for record in the office of the clerk of
79 the county court of Kanawha county; *provided*, that in case any
80 lot of land so assessed in the name of a particular owner shall
81 have been conveyed by him before the lien thereon shall have been
82 certified and fixed with the clerk of the county court, as aforesaid,
83 the said lien shall nevertheless attach to the land in the hands of
84 the subsequent owner, and the same in all respects as if the assess-
85 ment were made in his name.

Sec. 63. Whenever it is deemed expedient by the council of
2 said city to provide for the grading, paving, sewerage or macad-
3 amizing, or otherwise improving any street or alley therein to be
4 paid for in whole or in part by special assessment, said council
5 shall declare by resolution, by aye and no vote, the necessity of
6 such improvement. At the time of passage of said resolution the
7 said council shall have on file in the office of the city clerk plans,
8 specifications, estimates and profiles of the proposed improvements
9 showing the proposed grade of the street and improvements, after
10 completion, with reference to the property abutting thereon, which
11 plans, specifications, estimates and profiles shall be open for the
12 inspection of all persons interested. Said resolution shall deter-
13 mine the general nature of the improvements, what shall be the
14 grades of the street, alley or other public place to be improved,
15 as well as the grade or elevation of the curb, and said council
16 shall approve the plans, specifications, estimates and profiles for
17 the proposed improvement. The council shall also determine in
18 said resolution the method of paying for the work contemplated
19 in said plans and specifications, whether by an appropriation
20 from the funds in the treasury unappropriated, or whether bonds
21 shall be issued in anticipation of the collection of special assess-
22 ments, to be made against the abutting property owners, as pro-
23 vided for in section sixty of this act. Said resolution shall further
24 show the approximate estimated cost of said proposed improve-
25 ment per front foot, and shall fix a date at some meeting of the
26 council, on which the owners of property to be assessed for such
27 improvement may appear and protest against the same or be other-
28 wise heard in reference thereto. Assessments shall be payable

29 in ten installments as provided for in said sixty and sixty-first
30 sections. The resolution herein provided for declaring the neces-
31 sity for said improvement shall be published at least once a week,
32 for two successive weeks after its adoption, in some newspaper
33 of general circulation in the city and an affidavit of the publisher
34 showing publication for such time together with a copy of said
35 notice attached, shall be filed with the city clerk of the said city
36 and spread upon the record of the minutes of the next meeting of
37 the council, said resolution shall be in effect from and after the
38 first publication thereof as herein provided for.

Sec. 64. A notice of the passage of the resolution required in
2 the last preceding section, embodying a copy of said resolution,
3 shall be served upon the owner of each piece of property to be
4 assessed, said service to be made in manner provided by this act
5 for serving notices herein required; *provided*, that if it appears
6 by the return, in any case, that the owner can not be found, then a
7 notice of the passage of said resolution shall be published in some
8 newspaper of general circulation in said city once a week for two
9 consecutive weeks, and such notice, whether by services or publica-
10 tion, shall be completed at least three days before said improve-
11 ment is begun or the assessment is levied, and the return of the
12 officer serving such notice or a certified copy of said return, or
13 when published, the certificate of the publisher of said newspa-
14 per shall be *prima facie* evidence of the service of the notice as
15 herein required. Notice upon infants may be served on their
16 guardian, and upon insane persons, by their committee.

Sec. 65. The city of Dunbar shall pay the cost of paving inter-
2 sections of all cross streets, except as herein otherwise provided,
3 but not including the places where private alleys or private cross-
4 ings, cross sidewalks, which shall be paved by the owner or
5 owners of said private alleys or crossings at his or their expense.

Sec. 66. It shall be lawful for said city of Dunbar to issue and
2 sell its bonds as provided in this act for the sale of other bonds,
3 to pay the city's part of the cost of said improvements as required
4 by this act, and it may levy taxes in addition to all other taxes
5 authorized by law, to pay such bonds and interest thereon, *pro-*
6 *vided*, that the total indebtedness of the city for all purposes shall
7 not exceed five per centum of the total value of all taxable prop-
8 erty therein.

Sec. 67. At the expiration of not less than three days from
2 the time of the giving and publication of the notices as provided
3 for in section sixty-four the council shall sit at the time and place
4 fixed for the purpose of hearing all property owners to be affected
5 with reference to the proposed improvements and shall hear and
6 consider any objection^e thereto; and council shall thereupon
7 determine whether it will proceed with the proposed improvements
8 or not; and, if it decides to proceed therewith, an ordinance for
9 the purpose shall be passed; said ordinance shall set forth the
10 streets and alleys upon which the abutting property is to be assessed
11 for the improvements and shall contain a statement of the general
12 nature of the improvements, and the character of the materials
13 which may be bid upon therefor, of the mode of payments therefor;
14 a reference to the resolution therefor passed for said improve-
15 ment, giving the date of its passage and a statement of the inten-
16 tion of the council to proceed therewith in accordance with said
17 resolution and in accordance with the plans, specifications, esi-
18 mates and profiles provided for said improvement. In setting
19 forth the lots and lands abutting upon the improvement it shall
20 be sufficient to describe them as the lots and lands bounding and
21 abutting upon said improvements between and including the
22 termini of said improvements, or by the description by which
23 they are described on the land books of the county of Kanawha,
24 and this rule of description shall apply in all proceedings in which
25 lots or lands are to be charged with a special assessment.

Sec. 68. In any case in which special assessments have been
2 made, or shall hereafter be made, upon property for the construc-
3 tion of any improvement authorized by this act or previous statutes
4 and several kinds of material have been named in the ordinance
5 or ordinances providing for the same, and bids have been received
6 for the construction of said improvements with any, either or all of
7 said material, said assessments shall be valid and binding assess-
8 ments, on the property so assessed. In the case of the con-
9 struction of sewers required under the provisions of this act, notice
10 of the passage of said resolution therefor, as provided for in sec-
11 tion sixty-four of this act, shall be given in the manner provided
12 for in said section of this act.

Sec. 69. No public improvement, the cost or part of the cost of
2 which is to be especially assessed on the owners of property, shall
3 be made without the concurrence of three-fourths of all the mem-

4 bers of council, unless the owners of a majority of the front foot-
5 age to be assessed petition in writing therefor, in which event the
6 said council shall be authorized by the affirmative vote of a ma-
7 jority thereof to proceed with the improvement in the manner
8 herein provided for.

Sec. 70. When the whole or any portion of the improvement
2 authorized by this act passes through or by a public wharf, market
3 space, park, cemetery, structure for the fire department, water
4 works, school building, infirmary, market house, work house, hos-
5 pital, house of refuge, bridge, gas works, public prison, court
6 house, church or any other public structure or public grounds
7 within said corporation and belonging to said corporation or to
8 the county, state or any church, association, or eleemosynary in-
9 stitution, the council may authorize the proper proportion of the
10 estimated cost and expense of the improvement to be certified to
11 the clerk of the county court of Kanawha county, and it shall be
12 the duty of these persons having charge of the fiscal affairs of any
13 such property or institution to make proper arrangements for the
14 payment of such assessments when due and payable.

Sec. 71. The cost of any improvements contemplated in this
2 act and for which assessments may be made, shall include the cost
3 and expense of the preliminary and other surveys, and of printing
4 and publishing of all notices required to be published, and serv-
5 ing the notices upon the property owners and the cost of construct-
6 ing and inspection.

Sec. 72. No person shall bring any action whatever in any
2 court in this state for damage arising out of improvements or
3 change of grade unless he shall have filed with the council at some
4 time after the publication of the notice provided for in section
5 sixty-four and before the time of the introduction of the ordinance
6 providing for said improvement a statement of the damage which,
7 in his opinion, he will sustain by reason of said improvement or the
8 change of grade therefor, which statement shall be duly sworn to
9 and be spread upon the minutes of said council.

Sec. 73. Proceedings with respect to improvements shall be
2 liberally construed by the courts to secure speedy completion of the
3 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.

Sec. 74. It is especially provided that no bonds shall be issued under the provisions of this act unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fourths of all votes cast at said election for or against the same.

The council may provide by ordinance for an election every year, at which the question shall be submitted to the people, as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this act, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year; but before issuing any bonds the council shall pass separate ordinances for such street or alley to be improved, dealing with all the requirements set forth in section sixty-seven of this act, and notwithstanding the provisions of sections two, three and six of chapter forty-seven of the code, it shall be sufficient description of the purpose for which said election is held if the ordinance providing for said election shall recite that it is to authorize the council of said city to issue bonds for the purpose of grading, paving, sewerage or otherwise improving the streets and alleys of said city, at such times as the council shall deem fit during the ensuing year ending on the day of, 19...., to an amount not exceeding in the aggregate during the year the sum ofdollars; and when the council shall have been once authorized by a vote of the people to issue bonds for the purpose and in a sum not to exceed the amount set forth in the ordinance providing for the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance providing for said election; but the council shall from time to time during said ensuing year, by ordinance, authorize the issue of said bonds, in such sums and for the improvement of such streets or alleys as to it may seem best, providing the requirements of this act are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said ensuing year, unless and except the same be authorized by special election held at a subsequent time in said year and duly called as provided for the calling of the annual bond election.

42 The provisions of chapter forty-seven of the code concerning
43 bond elections, shall, so far as they are not in conflict with the
44 provisions of this act, apply to the annual bond elections and
45 special bond elections herein provided for.

Hospitals, Libraries, Etc.

Sec. 75. The council shall have the authority to erect, buy, sell
2 and lease all buildings necessary for the use of the city govern-
3 ment and to provide for and regulate the same, and to establish
4 and maintain public hospitals, libraries, and reading rooms, and to
5 purchase books, papers and manuscripts therefor, and to receive
6 donations, gifts, or bequests for same in trust or otherwise.

Civil Service Board.

Sec. 76. For the purpose of making examinations of persons
2 applying for offices or positions in the fire department, and pre-
3 scribing rules for their conduct, the council may appoint three
4 discreet persons, who need not be members of council, who shall
5 act and be known as a civil service board, and the city clerk shall
6 shall be *ex-officio* clerk of said board.

7 The civil service board, when appointed, shall adopt rules for its
8 own government and cause the minutes of its members to be
9 recorded in a book especially provided for that purpose, which
10 shall be kept by the city clerk at his office, and open to public in-
11 spection. The civil service board, at least every six month in
12 each year and oftener if it deems it necessary, after ten days'
13 notice published in some newspaper of general circulation in the
14 city and giving the time and place of meeting, shall hold examina-
15 tions for the purpose of determining the fitness and qualifications
16 of applicants for offices and positions in the fire department,
17 which examinations shall be practical and shall fairly test the
18 fitness of the person examined to discharge the duties of the posi-
19 tion to which he seeks appointment and such examinations shall
20 be made with the aim to secure and maintain an honest and effi-
21 cient fire department. Said board shall at once, after each of said
22 examinations, place on record in the journal of the civil service
23 board the results of said examination, giving the names of appli-
24 cants and the positions sought by them and their respective per-
25 centages. In making such examination, size, weight, intelligence,
26 health, physical appearance, habits and moral standing and sur-
27 roundings shall be taken into consideration.

28 All persons examined by said civil service board and receiving a
29 general average of seventy per centum shall be placed upon an
30 eligible list, and thereafter all appointments, whether original or to
31 fill vacancies therein from time to time, shall be filled by the ap-
32 pointment of the applicant who has the highest standing on the
33 eligible list, *provided* that at the time any appointment is to be
34 made from the eligible list, the civil service board, in its discretion,
35 may make another examination of such person before his appoint-
36 ment and may for good cause on such examination change the
37 grade of such applicant.

Sec. 77. All persons appointed to positions in the fire depart-
2 ment except the chief thereof, after the creation of such service
3 board, shall be appointed in the manner provided in section seven-
4 ty-six.

Sec. 78. No member of the fire department or police depart-
2 ment shall actively engage in any primary election, convention
3 or election in which any officer in the city, county or state is to be
4 nominated or elected, nor shall such member, directly or indirectly,
5 give or offer to give, contribute or offer to contribute, any money
6 or thing of value or profit to any political committee or party
7 organization to be expended in behalf of any political party, nor
8 to any candidate or candidates for nomination for or election to
9 any office in the city, county or state. The violation of any of the
10 provisions of this section by any member of the fire department or
11 police department shall be deemed misconduct in office. Any
12 member of the fire department or police department guilty of
13 misconduct shall be dismissed from the service of the city by the
14 head of his department or by council, upon charges preferred and
15 proven by any citizen of said city.

Sec. 79. The council shall hear and determine all charges
2 against any officers of or persons holding a position in the fire de-
3 partment, after ten days' written notice to the accused of the
4 charges preferred against him and of the time and place of hear-
5 ing of said charges and an opportunity shall be given to the ac-
6 cused to be heard. After hearing said charges the council may,
7 by a majority vote of its members sustain the same, and by like
8 vote may reprimand, fine or suspend, dismiss or reinstate said
9 accused person. Upon the making of such charges, and pending
10 trial thereon, the chief of the fire department, when the provoca-
11 tion is great, may suspend the accused officer, and if he be there-

12 after found guilty on the charges preferred, and by reason thereof
13 dismissed, or suspended, he shall draw no salary during the period
14 of his suspension.

Serving Notice.

Sec. 80. When any notice is required to be given, or any sum-
2 mons, warrant or other process is required to be served or other-
3 wise executed, under the provisions of this act it shall be sufficient
4 if such notice, summons, warrant, or other process be executed by
5 an officer of the police department of said city in the same way or
6 manner in which the laws of the state prescribe for executing sum-
7 monses and subpoenas by state officers, unless otherwise provided
8 by this act.

Sec. 81. The city clerk, acting under state laws insofar as they
2 are not in conflict with this act, shall perform such duties relating
3 to all municipal elections held under the municipal authorities of
4 said city as the clerks of the county and circuit courts of Kanawha
5 county perform under state laws in relation to state, county and
6 district elections in said county; and he shall likewise be the custo-
7 dian of all ballots, tally sheets, etc., pertaining to all municipal
8 elections.

Policemen.

Sec. 82. The mayor shall appoint such number of policemen as
2 may be prescribed by the council by ordinance, and the mayor shall
3 have, at his discretion, the absolute right and power to dismiss any
4 policeman and appoint another in his stead. The policeman shall
5 be under the command of the mayor and the chief of police, and
6 shall perform any and all the duties incident to the office of police-
7 men and in addition to the usual and customary duties prescribed
8 by the laws of this state and under the provisions of this act re-
9 quired of them, it shall specially be the duty of each police to re-
10 port to the chief of police, or some one designated by him to re-
11 ceive such report, as often as occasion demands, the condition of
12 all streets, sidewalks, alleys, basements, backyards, buildings,
13 unimproved lots, and all other things within the limits of said
14 city that may come under the notice of such policemen which may
15 relate to the health of the citizens thereof. It shall be the duty
16 of each police officer to perform all duties of humane officer, and
17 to exercise all the functions, power and authority relating thereto
18 which are or may be prescribed by any law of this state or ordin-
19 ance of said city.

Members of Council.

Sec. 83. Each member of the city council shall be paid during
2 his term of office the sum of two dollars and fifty cents (\$2.50)
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 (\$100.00) dollars per annum.
6 It shall be the duty of all councilmen to attend all the meet-
7 ings of the council, and if any member of council shall be absent
8 from its meetings as shown by its record for three consecutive
9 meetings, then his office shall become *ipso facto* vacant, unless
10 the council shall authorize or excuse such absence. If the office
11 of any councilman shall become vacant under the provisions of
12 this section, then the council shall proceed to fill the same as
13 it is herein authorized to do in case of vacancies generally.

Reports.

Sec. 84. It shall be the duty of the manager, not later than
2 the tenth day of any month after his appointment, to make a
3 detailed report to the council for the preceding month. Such
4 report shall show under distinct heads, first, the names and sal-
5 aries of all employes under the control and supervision of the
6 manager; second, all expenditures or disbursements in the sev-
7 eral departments under the supervision of the manager; third,
8 an itemized statement of all purchases, together with the cost
9 thereof, for each and every department; fourth, all such other
10 matters and things as the council may by proper ordinance or
11 resolution require of said manager. Such report shall be entered
12 of record in the minutes of the council and be a public record,
13 open to the inspection of all persons. All officers or employes
14 in any departments under the supervision of the manager shall,
15 whenever required by said manager, make full and complete re-
16 ports of all things done by them as such officers or employes, in
17 connection with the business of the city.

Additional Method of Paving.

Sec. 85. In addition to the method provided for paving streets,
2 by section sixty-one of the charter of the city of Dunbar, the
3 council may order any block, street, avenue, or alley, or portion
4 thereof, to be paved or otherwise permanently improved, and
5 the council may order the mayor and city clerk to issue to the

6 contractor doing the paving, or other permanent improvement, a
7 certificate for each installment of the amount of the assessment
8 to be paid by the owner of any lot or fractional part thereof front-
9 ing on such street, avenue or alley, and the amount specified in
10 said assessment certificate shall be a lien as aforesaid in the
11 hands of the holder thereof upon the lot or part of a lot fronting
12 on such street, avenue or alley and such certificate shall draw
13 interest from the date of said assessment and the payment may
14 be enforced in the name of the holder of said such certificate by
15 proper suit in equity in any court having proper jurisdiction
16 to enforce such lien, and the council shall fix the amount of
17 such assessment, advertise for bid and do all things in con-
18 nection therewith as is provided for paving or permanently im-
19 proving any street or alley or portion thereof in section sixty-
20 one except that in fixing the amount of such assessments the cost
21 of paving the street intersections shall be included and the propor-
22 tionate part thereof shall be assessed against each lot owner;
23 *provided*, that the cost of not more than one intersection shall
24 be assessed against the lots situated between any two cross streets;
25 and such certificates shall be issued in the same number of in-
26 stallments and payable at the same time as other paving or per-
27 manent improvements are provided to be paid for and shall be
28 a lien in the hands of the holder thereof upon the particular
29 lot against which they are assessed in the same way and manner
30 as provided for assessments made under section sixty-one of said
31 charter; and nothing contained in this act or in any general law
32 shall be construed as imposing a time limit upon the enforcement
33 by appropriate suit of any lien for public improvements made
34 hereunder; and, *provided, further*, that no error in the pub-
35 lication of any notice required hereunder shall in any way affect
36 the validity of the certificates herein provided for.

37 Such certificates as may be issued pursuant to the foregoing
38 section shall contain a provision to the effect that in the event
39 of default in the payment of any one of said certificates, when
40 due and such default shall continue for a period of sixty days,
41 then all unpaid certificates shall become due and payable and
42 the holder of said certificates may proceed to collect all of such
43 unpaid certificates in the manner hereinbefore provided.

44 *Provided*, that no street, avenue or alley shall be paved or
45 otherwise permanently improved pursuant to this section except

46 and unless two-thirds of all the members elected to council shall
47 concur therein.

Sec. 86. 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 un-
5 der which such improvements shall have been made, or in case
6 such assessment shall have been made against the wrong person,
7 it shall be the duty of the council, within two years after any
8 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 act,
11 of its intention to lay such assessment against him, and fixing a
12 time and place at which he may appear and show cause, if
13 any, why such assessment should not be laid. Said notice shall
14 be served as provided in this act for the giving of notices in
15 assessment proceedings, or in any other manner provided by
16 law, including by publication, if the person is a non-resident of
17 the city or can not 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 assess-
20 ment for the cost of such permanent improvement in such man-
21 ner as would have been lawful under proper proceedings at the
22 time said improvement was made, unless the person so notified
23 shall show good cause why the same should not be laid, and no
24 further notice of such assessment shall be necessary. The as-
25 sessment so laid shall be a lien upon the property liable therefor,
26 as of the date of the original void, or voidable, assessment, and
27 shall be recorded in the same manner as is hereinafter provided.
28 This section shall apply to assessments made and certificates is-
29 sued under section eighty-five of this act, as well as to other
30 assessments and liens for public improvements.

Miscellaneous Provisions.

Sec. 87. In addition to the method of securing the laying of
2 sidewalks set out in section forty-nine of this chapter, the council
3 of said city may cause any sidewalk to be constructed, laid, re-laid,
4 or otherwise permanently improved in the city of Dunbar in the
5 following manner and upon the following terms: Notice shall first
6 be given the abutting property owners by publication in some

7 newspaper of general circulation in the city, giving location, esti-
8 mated frontage and depth, but no error in said publication shall
9 in any way effect the validity of the certificates hereinafter pro-
10 vided for, or any of them. The contract for same shall, after due
11 advertisement in which council shall reserve the right to reject
12 any and all bids, be let to the lowest responsible bidder and upon
13 completion and acceptance of the work, council shall order the
14 mayor and city clerk to issue to the contractor doing the work a
15 certificate for the amount of the assessment to be paid by the owner
16 of any lot or fractional part thereof fronting on such sidewalk,
17 and the amount specified in said assessment certificate shall be a
18 lien in the hands of the holder thereof upon the lot or part of a lot
19 fronting on such sidewalks and such certificate shall draw inter-
20 est from the date of said assessment, and the payment may be en-
21 forced in the name of the holder of such certificate by a proper
22 suit in equity in any court having proper jurisdiction to enforce
23 such liens, and council shall fix the amount of such assessments
24 and do all things in connection therewith necessary to make them
25 valid and do all other things in connection therewith as is provided
26 for paving or improving streets and alleys and such certificates
27 shall be issued for each abutting lot or portion thereof payable six
28 months from the date of the completion and acceptance of the
29 work and shall be a lien in the hands of the holder thereof upon
30 the particular lot against which they are assessed in the same way
31 and manner as assessments for street paving liens under the other
32 provisions of this act; *provided, however*, that council shall not
33 order any but concrete sidewalks; and *provided, further*, that coun-
34 cil shall not advertise for bids for any one letting of less than five
35 thousand (5,000) square feet; and *further provided*, that council
36 shall not receive any bids or let any sidewalk contract between the
37 first day of October and the first day of March of any years. Noth-
38 ing in this section shall be so construed as to prevent any abutting
39 lot owner from having his own sidewalk put in if done before the
40 advertising hereinbefore mentioned, and provided same is done ac-
41 cording to the lines, grades and specifications of the city engineer,
42 for which no charge shall be made. The total cost of construction,
43 laying, re-laying or otherwise permanently improving any sidewalk
44 or walks shall be borne by the owners of the land abutting upon
45 said sidewalk or sidewalks according to the following plan, that is
46 to say, payment is to be made according to the proportion which

47 the number of square feet in front of any lot or portion thereof
48 bears to the whole letting. The contract for sidewalks referred to
49 in this section need not be for one continuous sidewalk, but the five
50 thousand square feet required for a letting, as aforesaid, may be
51 made up of or composed of any number of sidewalks in any part
52 of the city.

Sec. 88. The county assessor shall furnish to the city clerk a
2 transcript of real and personal property in the city of Dunbar on
3 or about the tenth day of September of each year, and his fee for
4 same shall be not less than one hundred (\$100.00) dollars nor
5 more than four hundred (\$400.00) dollars for such work.

Sec. 89. The police judge, mayor and city clerk shall each have
2 authority to issue process for all offenses committed within the
3 police jurisdiction of the city of Dunbar for all violations of any
4 city ordinances. Any vacancy in the office of police judge shall be
5 filled by appointment by the mayor.

Sec. 90. No ordinance passed by the city council shall take
2 effect until ten days after its final passage and one publication of
3 the caption of title thereof, only, shall be made at some time during
4 said ten days in some newspaper circulated in said city, except an
5 ordinance necessary for the immediate preservation of the public
6 health or public safety. Such caption or title shall distinctly state
7 the full purport of the ordinance so passed and printed.

Sec. 91. The health commissioner shall be a physician of good
2 standing in his profession. It shall be his duty to administer to
3 all charity cases that he may, in his discretion, deem deserving.
4 He shall, in conjunction with the city manager, have charge of the
5 general health and sanitation of the city, and it shall be his duty to
6 carefully investigate all complaints and make a careful detailed
7 duties as the mayor, manager, or council may direct.
8 manager and council, at least once every month. He shall be ap-
9 pointed in the way and manner provided by this act and shall re-
10 ceive such salary as council may by ordinance prescribe. Nothing
11 herein, however, shall be construed as in any way way affecting
12 the police officers of the city relative to their powers and duties in
13 regard to city sanitation contained and set forth elsewhere in this
14 act.

Sec. 92. The mayor may appoint a reputable woman who shall
2 be known as police matron; and such police matron shall have all
3 the qualifications and be subject to all the provisions of chapter

4 18, of the acts of the legislature of one thousand nine hundred
5 eleven. The council of the city of Dunbar may provide a reason-
6 able salary not to exceed twelve hundred (\$1,200.00) dollars there-
7 for, and such matron shall do all of the things required by the
8 council under the provisions of said chapter eighteen, of the acts
9 of the legislature of one thousand nine hundred and eleven, and
10 any amendments thereto.

Sec. 93. The city council may make any contract for the codi-
2 fying and indexing of all the ordinances of the city, and such or-
3 dinances shall include all in force and effect up to the last day pos-
4 sible. Before such work is accepted by the council, it shall be
5 completed in every respect and the council shall then cause it to
6 be properly printed and securely bound in a permanent book. The
7 council may by ordinance adopt the code to be prepared as a whole
8 and when said ordinance adopting said code shall have been passed
9 by the council the said code shall be and become the law and or-
10 dinances of said city up to such time, according to the tenor and
11 effect thereof, and when printed in a book, the same shall be re-
12 ceived as evidence as the ordinances of said city, unless errors or
13 omissions be affirmatively shown therein, and no other publication
14 thereof shall be made or required under the charter, and the coun-
15 cil shall cause all the ordinances of said city, by printing a supple-
16 ment thereof, or otherwise, to be brought up to date within a rea-
17 sonable time after the printing of such ordinances, and in any
18 event such supplement shall be printed, or, if necessary, a new
19 copy of the ordinances shall be printed, at least once every four
20 years; and the council shall cause such number of said books of
21 the ordinances to be printed and sell such number thereof at such
22 prices as may be reasonable, and the number of books printed shall
23 be fixed by the council.

Sec. 94. It shall be the duty of the city of Dunbar to provide
2 suitable and proper places for the burial of the dead, which
3 places may be in or out of the corporate limits of the city. The
4 city shall cause such places to be laid off into cemetery lots in a
5 reasonable and proper way and shall sell said lots for a reasonable
6 price; but it may take into consideration the location of each of
7 said lots in fixing the prices therefor. The city council shall have
8 all the powers and rights of condemnation of any real estate that
9 it may wish for such purpose in the manner provided by law, and
10 it may acquire by means of condemnation any real estate which

11 has already been laid out as a cemetery by any person association
12 or corporation.

13 No burials of the bodies of deceased persons shall hereafter be
14 permitted within the incorporated limits of the city of Dunbar or
15 in any cemetery owned by said city within the space
16 of one mile of such incorporated limits, unless the
17 permission of said city shall be first had and obtained, and the
18 city of Dunbar, through its proper authorities, shall have power
19 to pass all proper ordinances providing suitable penalties to carry
20 out the powers here given said city.

21 No moneys received from the sale of lots in any cemetery so
22 owned, or hereafter owned, by said city shall be used for any other
23 purpose than the proper care and preparation of the ground, up-
24 keep and expenses of said cemetery, the roads and ways to and
25 through the same and for the purchase of additional property
26 for cemetery purposes. *Provided, however,* that nothing herein
27 contained shall in any wise affect any person, firm or corporation
28 now lawfully engaged in the sale of cemetery lots, unless such
29 property be acquired by the city through purchase or condem-
30 nation.

Sec. 95. The building inspector shall be a competent person
2 for the duties of his office. He shall not, during his term of office
3 be engaged in or interested in the building business in any way or
4 manner. The council shall by ordinance fix a proper salary for
5 him. He shall see that the ordinances of the city and laws of the
6 state concerning building are enforced, and perform such other
7 duties as the mayor, manager, or council may direct.

Sec. 96. The council shall have power to buy, sell, or exchange
2 any real estate found necessary or convenient in the opening, con-
3 struction, straightening, widening, or otherwise altering of any
4 street, alley, or public way within the city; and by resolution and
5 proper deed to convey to any person, firm, or corporation any land
6 used or heretofore or hereafter used, for street or other public
7 purpose, when, in the judgment of the council such land shall be
8 no longer needed for such public use.

Sec. 97. This act shall become effective from the passage
2 hereof.

Sec. 98. All acts, or parts of acts, inconsistent with the provis-
2 ions of this act are hereby repealed.

CHAPTER 8

(House Bill No. 164—Mr. Baker.)

AN ACT to amend and re-enact sections two, ten and twenty-eight, of chapter thirty-one of the acts of one thousand nine hundred and eleven, as amended by the acts of one thousand nine hundred and fifteen, relating to the corporate limits of the city of Elkins; the qualification and registration of voters; the powers and duties of the common council; liens for taxes, assessments, re-assessments, etc., for and within said city of Elkins.

[Passed April 19, 1921. In effect from passage. Approved by the Governor May 2, 1921.]

SEC.
2. Corporate limits.
10. Voters; registration.
28. Council; general powers.

Be it enacted by the Legislature of West Virginia:

That sections two, ten and twenty-eight of chapter eighty-one of the acts of one thousand nine hundred and eleven, as amended by chapter twelve of the acts of one thousand nine hundred and fifteen, relating to the charter of the city of Elkins, be amended and re-enacted so as to read as follows:

Section 2. Beginning at the southern abutment of bridge 2 number two of the Western Maryland railway across the Tygarts 3 Valley river, on its Huttonsville branch, being the bridge of said 4 railway situated about one thousand feet south of the juncture 5 of the Belington extension and Huttonsville branch of said rail- 6 way, and running thence down said Tygarts Valley river on the 7 east bank thereof to a stone the southwest corner of the Davis and 8 Elkins College property; thence with six lines thereof S. 60 E. 9 478.5 feet to a white oak; N. 47.30 E. 316.8 feet to a stone; N. 10 48 E. 268.6 feet to a white oak; N. 59 E. 255.5 feet to a stone; 11 N. 21.30 E. 115.5 feet to a stone; N. 68 E. 328 feet to a stone 12 in the west lines of the Beverly and Fairmont Pike; thence with 13 the western line of said pike in a northerly direction 480 feet to 14 a stake; thence N. 62.15 E. 582 feet to a small oak tree; thence 15 N. 38.55 E. 1405 feet to a small oak; thence N. 19.15 E. 957 16 feet to the Woolwine run; thence S. 58 E. 1885 feet to a post in 17 the line between Woolwine and Taylor 40 feet southeast of Jud- 18 son Goddin's corner; thence N. 17 E. 900 feet to a stone, corner 19 to Weese, Woolwine and Taylor; thence N. 26 W. 2662 feet to 20 the southeastern corner of the reservoir lot on the top of Weese

21 hill; thence with the back line of said reservoir lot to the northern
22 corner thereof; the same being an oak; thence by a straight line
23 to a point where the Buffalo and Leading creek pike crosses
24 Cravens run; thence by a straight line to the nearest corner of
25 Maplewood cemetery; thence with the line of said cemetery on the
26 northern boundary thereof to the northwestern corner of the new
27 addition to said cemetery; thence by a straight line due west to
28 a stake in the elongation of Isaac Scott's eastern line; thence with
29 said line S. 13.45 W. to a large chestnut, a corner of said Scott's
30 land; thence with another line of said Scott's land S. 24.30 W.
31 1333.7 feet to the western line of Harrison avenue; thence with
32 the western line of said avenue S. 77 E. 201.8 feet to a stake;
33 thence S. 25 W. 1024.5 feet to a stake; thence S. 65 E. 166 feet
34 to the western line of Robert E. Lee avenue; thence with wes-
35 tern line of said avenue; S. 25 W. 690 feet to a stake standing N.
36 65 W. 30 feet from a stone monument; thence S. 14.40 W. 940
37 feet to the river; thence with a straight line to the beginning.

Sec. 10. Every person residing in said city who has attained
2 the age of twenty-one years and who has been a resident of this
3 state for one year and of said city for four months next pre-
4 ceding any election; and who is not of unsound mind, or a
5 pauper, or under conviction of treason, felony or bribery in an
6 election, shall be entitled to vote at any municipal election of
7 said city, *provided* he is registered in the ward or precinct of
8 said city in which he resides, as herein provided.

9 The clerk of said city shall act as registrar of voters for all
10 municipal elections to be held within said city both general and
11 special, and before proceeding to register any of the voters of
12 said city he shall take an oath to support the constitution of the
13 United States, the constitution of West Virginia, and to perform
14 the duties of registrar for said city to the best of his ability.
15 Said oath shall be filed and preserved by said clerk among the
16 official records of his office. For his services as such registrar,
17 said clerk shall receive such compensation as may be determined
18 by the city council.

19 The city council shall cause to be prepared suitable books
20 and blanks for the registration of voters. Such books shall be
21 so arranged as to admit of the alphabetical classification of the
22 electors, ruled in parallel columns, on which shall be entered
23 *first*, the name of the person registered; *second*, age; *third*, place

24 of birth; *fourth*, place of residence in precinct; *fifth*, time of
25 residence in precinct; and *sixth*, if naturalized, the date of the
26 papers, and the court by which issued. Two of such books shall
27 be furnished to and filled out by the clerk for each of the pre-
28 cincts or wards of said city.

29 After causing to be published, in two newspapers of opposite
30 politics of said city, a notice containing the dates upon which he
31 shall start to register and complete the registration of voters,
32 and the hours of registration, the said clerk shall, on Tuesday
33 of the sixth week, prior to any election, at the office of the mayor
34 of said city, proceed to register such of the voters of said city
35 as make application in person to him for registration in the
36 registration books for the precinct or wards in which such voters
37 have legal residence, and shall continue such registration until
38 and including Tuesday in the second week prior to such election.
39 It shall be the duty of said clerk during such period to keep
40 said mayor's office open as a place for the registration of voters
41 from eight o'clock A. M., until noon, and from one o'clock, P. M.
42 until six o'clock, P. M., each day, and during the last week of
43 such period, he shall also keep said office open from half past
44 seven o'clock P. M. until half past nine o'clock P. M., each day.
45 The notice of registration herein provided shall be pub-
46 lished once during the week preceding such registration,
47 and once each week during said registration period, in the news-
48 papers as aforesaid.

49 No person shall be registered as an elector at any other time
50 or place than in this section designated; and in making regis-
51 tration, every applicant shall answer the inquiries made by the
52 said clerk, having openly and publicly prepared for such regis-
53 tration at the time and place herein appointed, shall proceed
54 as follows:

55 *First.* He shall receive the application for registration of all
56 such persons, residents in the city, as then are, or on the day of
57 election which will next follow, be entitled to vote therein, and
58 who shall personally come before him, and such only. Said clerk
59 may, and if the right of the applicant to be registered be chal-
60 lenged by an elector, shall, administer the following oath, to-
61 wit: "You solemnly swear (or affirm) that you will truly and
62 fully answer such questions as may be put to you touching your
63 place of residence, birth, qualifications as an elector, and your

64 right as such to be registered and to vote under the laws of
65 this state.”

66 *Second.* He shall then examine each applicant as to his
67 residence and qualifications as an elector, and for that purpose
68 may propound the following questions:

69 (a) Are you a citizen of the United States?

70 (b) Are you a native or naturalized citizen? (If the per-
71 son offering to be registered claims to be a naturalized citizen
72 of the United States he shall produce, for the inspection of the
73 clerk, a certificate or other evidence of his naturalization, and
74 also state under oath that he is the identical person named
75 therein; but the production of the certificate shall not be re-
76 quired if the person offering to be registered shall state, under
77 oath, when and where he was naturalized, that he has had a
78 certificate of naturalization, and that against his will the same is
79 lost, destroyed, or beyond his power to produce, or if he states
80 under oath that by reason of the naturalization of his parents,
81 or one of them, he has become a citizen of the United States, and
82 where or when his parents were naturalized.)

83 (c) Will you have resided in this state for one year imme-
84 diately preceding the coming election?

85 (d) Have you been absent from this state within the year
86 immediately preceding the coming election; if so, when?

87 (e) When you left this state did you leave for a temporary
88 purpose with the intention of returning, or for the purpose of
89 remaining away?

90 (f) Did you while absent look upon this state and regard it
91 as your home?

92 (g) Did you while absent vote in any other state?

93 (h) Will you have resided in the city for four months prior
94 to the coming election?

95 (i) When you came to this city did you come for a temporary
96 purpose or for the purpose of making it your home?

97 (j) Did you come into this city for the mere purpose of
98 voting?

99 (k) Did you move into the precinct in which you now reside
100 for the mere purpose of voting in it?

101 (l) Are you an actual resident of that precinct, if so, state
102 the location of your residence?

103 (m) Are you twenty-one years of age, or will you be so at
104 the coming election, to the best of your knowledge and belief?

105 (n) What is your age?

106 Every person shall be registered who will be entitled to vote
107 at the first election after the registration by reason of his arriv-
108 ing at twenty-one years of age before the time or by reason of his
109 having resided for a sufficient length of time in the state and
110 municipality, *provided*, he is otherwise qualified.

111 The clerk shall then, in the presence of the applicant, enter
112 in the registrars, his answers to the questions pertinent to the
113 headings of each column, in their order. In entering his num-
114 ber, the numbers shall be filled up consecutively, leaving no
115 blanks, and in names they shall include his christian name or
116 names in full as well as his surname. In the column as to "resi-
117 dence", shall be stated the name of the street, avenue or alley
118 or way in which his dwelling is located or access to the same is
119 usually had, and the number of the house if it has one. If it
120 has no number, a definite description by which it can be easily
121 found must in every case be given and entered. If there be more
122 houses than one under the number given, or if there be other fam-
123 ilies, tenants or lodgers, in that in which the applicant resides,
124 he must specify in which house, and on which floor, and whether
125 front or rear of such house he resides, and the number or loca-
126 tion of his tenement. In the column as to age, the years and
127 months must be stated, and if the applicant is not at the time
128 twenty-one years of age or more, the words "not of age" must
129 be inserted in the column of remarks. In the column as to
130 "term of residence" the period of the years and months of his
131 residence in the precinct and state must both be stated. In the
132 column as to "naturalization," the answer "yes" or "no" must be
133 given and stated. The column as to "date of registration" must
134 be filled with the date on which the application was actually
135 registered, and none other.

136 The statement of the applicant must be entered by the clerk
137 in both registrars for the precinct in which the applicant resides,
138 and both shall be signed by the applicant. Signatures, when
139 made by mark, must be attested by at least one subscribing wit-
140 ness, who shall be an elector, and the witness may be examined
141 by the clerk under oath as to his knowledge of the person thus
142 attested, and in such case noted by the clerk on the registrars as
143 "sworn" or "affirmed", as the case may be.

144 *Third.* Any elector of said municipality who is absent
145 therefrom, and more than thirty miles distant from such
146 municipality, may appear before the judge or any clerk of any
147 court of record, or notary public, or, if in a foreign country,
148 before any minister, consul or vice-consul of the United States,
149 and make and subscribe an affidavit as to his residence, specify-
150 ing in what ward or precinct he resides, and that he will be
151 necessarily and unavoidably absent from such municipality on
152 all the days allowed or appointed by this chapter for the general
153 registration of electors, and answering and setting forth accur-
154 ately each and all the matters herein required to be set forth in
155 the register of electors, and forward such affidavit, duly authen-
156 ticated, addressed to "municipal clerk" of such municipality. If
157 received by such municipal clerk, it shall entitle such applicant
158 to be entered by said clerk in the proper registers of such pre-
159 cinct; and in place of the signature of such elector, the word
160 "affidavit" shall be inserted, and no further registration of such
161 applicant shall be necessary. Such affidavit shall be filed and
162 preserved by the clerk in his office. But no such affidavit shall
163 be accepted unless the officer before whom it is made shall
164 certify that the affiant is personally known to him to be the
165 person whom he represents himself to be, or proves so to be
166 by a credible person known to him, and whose full name and
167 address must be stated in the certificates; *provided*, that in any
168 case where the application for registration is thus made by
169 affidavit forwarded by mail, if the municipal clerk is not satis-
170 fied that the applicant is a resident of the precinct specified,
171 or that he will be entitled to vote at the next election, the word
172 "challenged" shall be entered in the register opposite his name in
173 the column for remarks, and such affidavit shall be transmitted
174 to the judges of election, and such applicant, if he applies to
175 vote, shall be required to establish his residence and qualifica-
176 tion before voting.

177 Any voter who shall have been registered in any precinct as
178 hereinbefore provided, and shall have removed from such pre-
179 cinct to another precinct within the municipality, may obtain
180 a certificate of transfer from the city clerk and present the
181 same to the commissioners of election of the precinct wherein
182 he resides; and if the commissioners of election be satisfied
183 that such person has a legal residence in the precinct wherein

184 he offers to vote, they shall register such elector and allow him to
185 vote. When such certificate is issued by the clerk, the name of
186 the elector shall be stricken by him from the books from which
187 such certificate is issued, and the words "transferred" be written
188 opposite his name.

189 *Fourth.* On Tuesday of the first week prior to any election,
190 it shall be the duty of the council of said city to meet in special
191 session as a general registration board for the following pur-
192 poses:

193 (a) To examine all the registration books pertaining to
194 the general registration of the municipality. •

195 (b) To permit registration of electors who were unable to
196 procure registration on the days hereinbefore provided because
197 of sickness or absence from the city and not within reach of
198 any person before whom the affidavit for registration herein
199 provided could be made.

200 (c) To hear and determine the qualifications of electors
201 whose names have been entered upon the registration books and
202 who shall appear not to be entitled to vote; and if said council
203 be satisfied that persons have been registered who are not en-
204 titled to vote they shall cause such names to be stricken from
205 the list of voters; but in no case shall the council erase the name
206 of any voter until he shall have due notice of the time and place
207 of taking evidence to prove his qualification, which evidence
208 he shall have the right to rebut, and shall have his name restored
209 to such list if improperly stricken therefrom.

210 (d) To approve said registration books and attest the same
211 as being correct and a true list of the qualified voters of the
212 respective precincts described in said municipality.

213 The municipal clerk shall furnish one complete copy of regis-
214 tration to the election commissioners of the respective pre-
215 cincts with the ballot boxes and other election supplies for use
216 by them in conducting the election in said voting precinct.

217 All registers when not in official use of the clerk, the city
218 council and the commissioners of election, shall at all times be
219 deposited and locked up in the office of the city clerk, subject
220 to be produced by him for public inspection at all times.

221 If the said clerk shall wilfully and maliciously register the
222 name of any person not a qualified voter of any election pre-
223 cinct, or reject from registration the name of any qualified

224 voter of any precinct, contrary to the provisions of this chapter,
225 he shall be deemed guilty of a felony and upon conviction
226 thereof shall be confined in the state penitentiary not less than
227 one nor more than five years; or confined in the county jail not
228 more than twelve months, or fined not less than fifty nor more
229 than five hundred dollars, at the discretion of the court.

230 No person shall be allowed to vote in any election hereafter
231 held in the city of Elkins unless he shall have been registered
232 as herein provided; and the commissioners of every election
233 shall allow only those to vote whose names appear on the regis-
234 tration books returned by the clerk of said city; and any com-
235 missioner who shall wilfully violate any of the provisions of this
236 chapter shall be deemed guilty of a felony and upon conviction
237 thereof shall be confined in the state penitentiary not less than
238 one nor more than five years, or confined in the county jail not
239 more than twelve months, or fined not less than fifty dollars nor
240 more than one hundred dollars, or imprisoned not less than ten
241 nor more than ninety days in the county jail, or both, at the
242 discretion of the court, for every offense.

243 The commissioners of election, within three days after any
244 election, shall return the registration books of such election
245 precinct, together with the ballot boxes, ballots, etc., to the
246 municipal clerk, taking his receipt therefor. Any failure to do
247 so shall be deemed a misdemeanor, and the offender, upon con-
248 viction, shall be fined not less than twenty-five nor more than
249 one hundred dollars, and in addition thereto may be confined
250 in the county jail for a period of thirty days, at the discretion of
251 the court.

252 If for any reason the city clerk of said municipality is dis-
253 qualified or unable to act as registrar for the whole or any part
254 of the period allowed for the registration of the voters in this
255 section, it shall be the duty of the council to appoint some elector
256 of said city who shall act as registrar during such time as the
257 clerk is disqualified or unable to act as such registrar. Such
258 elector shall immediately qualify as registrar by taking the same
259 oath, and shall perform the same duties, and be liable to the
260 same penalties for breach of duty as herein provided for said
261 clerk in acting as such registrar.

262 *Provided, further,* that notwithstanding any of the herein-
263 before provisions of this section, the city clerk, or person acting

264 in his stead, shall transfer from the last registration books all
265 of the names appearing thereon to the new registration book
266 without it being necessary for said voters to appear and be reg-
267 istered as herein provided, but in making said transfer the
268 said clerk shall omit and not transfer the name of any person
269 whom he knows to have ceased to be a qualified voter within
270 the city of Elkins. But if any name is so dropped or not trans-
271 ferred of any person who is in fact a qualified voter, and that fact
272 is proven to the commissioners of election, and such voter's
273 name was in fact on the old registration books next prior to the
274 registration books for the election then being held, then said com-
275 missioners shall permit such person to vote and enter his name
276 on the new registration books. *Provided, further,* that in all
277 cases herein wherein anything is required to be done within a
278 certain time, or notice to be given for a certain length of time,
279 if the election is a special election, the council may modify
280 the time specified herein so as to meet the necessities of the case.

Sec. 28. The council of said city shall have the following gen-
2 eral powers, and may provide by ordinance and resolutions for the
3 exercise and enforcement of the same, namely:

4 To lay off, open, close, vacate or maintain public grounds,
5 parks and public places, and name and re-name the same.

6 To regulate the planting, trimming and preservation of shade
7 trees by persons and corporations in streets, alleys, roads, public
8 grounds and places, and to provide for the planting, removal,
9 trimming and preservation of such trees and other ornamental
10 shrubbery by the municipality.

11 To declare as public nuisances any trees, shrubbery, etc.,
12 growing on private property within said city, the roots of which
13 clog or choke any public sewer belonging to said city, or dam-
14 age the streets or sidewalks of said city, and provide for the
15 removal or destruction of said trees or shrubbery.

16 To establish, maintain and regulate free public libraries and
17 reading rooms, and to purchase books, papers, maps, and manu-
18 scripts therefor, and receive donations and bequests of money
19 or property for the same, in trust or otherwise, and to provide
20 for the rent and compensation for the use of any existing free
21 public libraries established or managed by private corporations
22 or associations organized for that purpose.

23 To protect divine worship in or about the premises where held.
24 To locate, lay off, close, open, alter, grade, straighten, widen,
25 narrow, vacate, pave, repave, construct and keep in repair
26 bridges, viaducts, under-grade crossings, roads, streets, alleys,
27 sidewalks, cross-walks, drains and gutters for the use of the
28 public, or any of the citizens thereof, and to improve and light
29 the same, and keep them clean and free from obstruction on or
30 over them; *provided*, the municipality shall not be liable for
31 or respond in damages for injury to persons or property caused
32 by or from a defect or obstruction in or on the plat of ground
33 between the gutter or curb of any street and the paved or plank
34 sidewalk extending there along, or between any such sidewalks
35 and the property lying next adjacent thereto, unless the muni-
36 cipality had actual notice of such defect or obstruction prior to
37 the time of the injury complained of.

38 To enter into a contract with any internal improvement com-
39 pany for the joint ownership of any bridge erected by the
40 municipality and such improvement company, upon such terms
41 as may be prescribed in the contract between them, but such
42 bridge or bridges shall be in a public highway and the interest
43 of the company shall only be such proportionate part thereof
44-45 as it may pay for, or that may be named in the contract.

46 To regulate the width of sidewalks and streets, and the width
47 and care of public grounds or grass plots abutting thereon, and
48 to order the sidewalks, footways, cross-walks, drains and gutters
49 to be curbed and paved, or repaved and kept in good order,
50 free and clean, and to provide for the removal of ice and snow
51 therefrom and for sprinkling the same, by the owners or occu-
52 pants of the real estate next adjacent thereto.

53 To regulate the use of walks, highways and bridges and the
54 rate of speed or travel thereon, and to prevent and punish for
55 fast driving or riding thereon of any horse, bicycle, wheeled
56 vehicle, wagon, steam or electric or traction engine, motor car
57 or automobile, and to prevent injury to or waste on such streets,
58 alleys, roads or highways from overloaded or improperly loaded
59 vehicles, and to regulate the speed of engines, trains or street
60 cars, within the corporate limits and to require the employment
61 of conductors on all such street cars.

62 To regulate the making of division fences and party walls
63 by the owners of adjoining and adjacent premises and lots, and

64 to regulate or require drainage by the owner of such lots or
65 other real-estate by the proper drains, ditches and sewers, and
66 to fill and cause to be filled any lot below the established eleva-
67 tion or grade.

68 To regulate or prohibit street carnivals, street fairs, or street
69 parades, advertising exhibitions or other exhibitions thereon,
70 or the exhibition of natural or artificial curiosities thereon.

71 To regulate or prohibit the ringing of bells, blowing of steam
72 whistles, or use of hand organs or other musical instruments
73 of an annoying character or other music of itinerant performers
74 in the streets, roads, parks or public places of the municipality.

75 To license, regulate or prohibit auctioneering.

76 To license or prohibit the sale of goods, wares, merchandise,
77 drugs or medicines on the streets or other public places.

78 To impose a license tax on persons keeping for hire automo-
79 biles, carriages, hacks, buggies, wagons or for carrying for hire
80 persons or baggage in such vehicles, and to regulate the charge
81 for such services within the corporate limits of said city.

82 To regulate the operation of automobiles and other vehicles
83 within said city, and to that end it shall have power to pro-
84 hibit any person from driving or operating any automobile or
85 other vehicle on the streets and alleys of said city, when in
86 the opinion of said council, such person is not qualified to drive
87 or operate the same.

88 To establish and regulate hack stands and stands for auto-
89 mobiles, coaches, cabs and omnibuses kept on the streets for hire.

90 To regulate, assess and collect license fees for the use of the
91 municipality on anything, or business, for which the said li-
92 cense is required; and shall have power and authority, in its
93 discretion, to reject and refuse to grant any such licenses, and
94 shall have power to revoke any such license for good cause after
95 the same has been granted; and no other license shall authorize
96 the doing of any such thing or conduct of any such business
97 without said municipal license having been obtained as herein
98 provided. *Provided, further,* that where the council prohibits
99 the exercise of anything within the corporate limits, requir-
100 ing a license therefor as herein provided, then it shall have
101 authority to prohibit the exercise of any such thing within
102 one mile of the corporate limits of said city, and for that purpose
103 the police authority of the city shall extend for one mile be-
104 yond the corporate limits so as to enforce this provision.

105 To establish, locate and keep in repair market places and
106 market houses, and regulate markets, prescribe the time for
107 holding the same and to authorize the seizure thereat and des-
108 truction of any and all such foods and drink products as shall
109 be found unwholesome, dangerous or offensive, and without re-
110 course against the municipality for its cost or value.

111 To regulate the sale of all food or drink products, milk,
112 fresh meats, fish and vegetables, and provide for inspection of
113 the same.

114 To appoint market masters and invest them with power to
115 make arrests for the violation of the municipal ordinances or
116 regulations.

117 To regulate and provide for the weighing of hay, coal, and
118 other articles for sale in the markets.

119 To prevent injury or annoyance to the public or individuals
120 from anything dangerous, offensive or unwholesome, and to
121 prevent and regulate the distribution by canvassers, agents or
122 other persons of sample packages of drugs, medicine, powders,
123 paint, or other articles which may be dangerous or unwholesome
124 for children.

125 To regulate or prohibit the keeping, handling and transporta-
126 tion of explosives and dangerous combustibles within the mu-
127 nicipality.

128 To regulate or prohibit the erection or maintenance of, in
129 what council deems an improper locality within the municipal-
130 ity, any blacksmith shop, livery stable, cow house, cattle pen,
131 poultry house, pig pen, privy, bill board, sign board, gas or other
132 engine, or the use of walls and walks for signs, and to abate by
133 summary proceedings whatever in the opinion of the council is
134 a nuisance.

135 To regulate or prohibit the distribution of hand-bills, cir-
136 culars and other advertisements of like kind on the streets,
137 roads, alleys and public places, or in private yards or buildings,
138 without first having procured the consent of the owner or oc-
139 cupier thereof.

140 To prohibit, within the municipality or within one mile
141 of its corporate limits, the erection or maintenance of any
142 slaughter house, soap factory, glue factory, lampblack factory,
143 tannery or other house, shop or factory, of like kind or char-
144 acter.

145 To establish, regulate and maintain baths and bath houses,
146 drinking fountains, water troughs and public toilet stations
147 and free public band concerts, and to regulate the time and place
148 of bathing in pools, streams and public waters within the police
149 jurisdiction of the municipal corporation.

150 To prevent hogs, cattle, sheep, horses and other animals and
151 fowls of all kinds from going at large in the municipality and
152 to establish and maintain places for their detention; to make
153 regulations respecting the keeping and sale of same, and to ap-
154 point a pound master and define his duties.

155 To arrest, convict and punish any person for keeping an as-
156 signation house, house of ill-fame, or for leasing or letting to
157 another person any house or other building for the purpose of
158 being used or kept as an assignation house or house of ill-fame,
159 or for knowingly permitting any house owned by him or under
160 his control to be used as an assignation house or house of ill-
161 fame; or loafing, boarding, or loitering in a house of ill-fame
162 or frequenting the same. And no such house shall be kept or
163 leased as herein provided within one mile of the corporate lim-
164 its of said city of Elkins, and for the purpose of enforcing this
165 provision the police powers of said city shall extend to one mile
166 beyond the corporate limits of said city.

167 To arrest, convict and punish any person for importing, print-
168 ing, publishing, selling or distributing any book, picture or de-
169 vice, or other thing containing obscene language or picture, or
170 making indecent representations.

171 To restrain and punish vagrants, mendicants, beggars, tramps,
172 common prostitutes and their associates, and drunken and dis-
173 orderly persons within the municipality, and to provide for
174 their arrest and manner of punishment.

175 To establish a board of health and invest it with the neces-
176 sary power to attain its object.

177 To establish quarantine and to erect and maintain pest houses
178 and places of detention, and to make and enforce necessary
179 orders for controlling or preventing the spread of infectious
180 and contagious diseases, and for abating pestilence.

181 To prohibit and punish by fine the bringing into the cor-
182 porate limits by railroads or other carriers, persons who are
183 paupers, or persons afflicted with contagious diseases, or to
184 punish by fine, or by fine and imprisonment, any persons so

185 bringing within the corporate limits such pauper or diseased
186 person.

187 To provide for the poor of the municipality, and to that
188 end the municipality may contract with the county court of
189 Randolph county for keeping such poor at the county poor house
190 at a price and on such terms as may be agreed upon between
191 the county court and such municipal authorities.

192 To authorize the taking up and provide for the safe keeping
193 and education, for such periods of time as may be deemed ex-
194 peditent, of all children who are destitute or are without proper
195 parental or other care and who are growing up in mendicancy,
196 ignorance, idleness or vice.

197 To arrest, convict and punish any person for cruelty, un-
198 necessarily or needlessly beating, torturing, mutilating, kill-
199 ing or overloading, overdriving or wilfully depriving of neces-
200 sary sustenance, any horse or other domestic animal.

201 To restrain fraudulent practices within the municipality.

202 To arrest, convict, and punish any person for gambling or
203 keeping any gaming table, commonly called faro bank, table
204 and chips used in playing such game; crap table or chips used
205 in playing such game; or roulette or the wheel or chips used in
206 playing such game; or keno table or table of like kind or device
207 used in playing the same; or table of like kind under any de-
208 nomination, whether the game or games be played with cards,
209 dice or otherwise, or any person who shall be a partner, or
210 concerned in interest in the keeping or exhibiting of such gaming
211 table, faro bank table, or chips, roulette table or chips, crap
212 table or chips, keno table or devices, or keeping or maintaining
213 any gambling house or place, or betting or gambling for money
214 or anything of value, and to destroy such gambling parapher-
215 nalia as may be found in use on any such premises.

216 To restrain all felons and persons guilty of offense against
217 this state or the United States and deliver them over to the
218 authorities or court having jurisdiction of the offense whereof
219 such person is accused.

220 To apprehend and punish any person who, without a state
221 license therefor, is guilty of carrying about his person within
222 the municipality any revolver or other pistol, dirk, bowie knife,
223 slungshot, razor, billy, metallic or other false knuckles, or any
224 other dangerous or deadly weapons of like kind and character,

225 as provided by chapter fifty-one of the acts of the legislature
226 of one thousand nine hundred and nine, and the punishment
227 therefor, whether for the first or other offense, shall be that
228 prescribed by said chapter for any such person guilty under
229 the misdemeanor clause provided therein; but the place of con-
230 finement of such guilty person may be in the jail or lockup of
231 the municipality, in lieu of the county jail; *provided*, that the
232 mayor of the municipality or other person exercising the func-
233 tions of his office, may, in his discretion, decline to inflict the
234 punishment herein mentioned, and instead thereof may re-
235 quire or hold such guilty person to answer an indictment by
236 the grand jury of Randolph county for the violation of such
237 law; and it shall be the duty of the prosecuting attorney of
238 said county, when requested by the mayor of the municipality,
239 to appear and prosecute such offending person before such
240 mayor; *provided, further*, that regularly appointed police offi-
241 cers of the municipality, whose services are rendered to and
242 paid for by the municipality, shall not be required to give bond,
243 or any bond provided by said chapter fifty-one of the acts of
244 the legislature of one thousand nine hundred and nine.

245 To provide in or near the corporate limits of the munici-
246 pality a cemetery or other place for the burial of the dead,
247 and to regulate interments therein, and to guard and police
248 the same, and to provide for the cremation and incineration
249 of dead human bodies when from the nature of the malady or
250 pestilence from which death ensued, the municipal board of
251 health may direct.

252 To regulate the erection, construction, alteration and repair
253 of dwelling houses, buildings and other structures within the
254 municipality and to compel the numbering of the same by the
255 owners or occupants thereof.

256 To regulate by license and otherwise, plumbers, electricians,
257 sewer tappers and vault cleaners.

258 To regulate the hanging of doors and construction of stair-
259 ways, elevators and fire escapes in theatres, churches, school
260 buildings, factories and other places where many persons are
261 received at one time, and to require the construction of fire
262 escapes in such buildings.

263 To establish fire limits, and to regulate the construction of
264 buildings and designate material to be used in the construction
265 of buildings within such limits.

266 To regulate the building of fire walls, fire places, chimneys,
267 boilers, smoke stacks and stove pipes.

268 To take down and remove, or make safe and secure, any and
269 all buildings hereafter erected and require the alteration and
270 repair of any by the owners thereof, that are or may become
271 dangerous, or to require the owners or the agents to take down
272 and remove them or put them in a safe and sound condition at
273 their own expense.

274 To regulate the height, construction and inspection of all
275 new buildings hereafter erected, and the alteration and repair
276 of any buildings now or hereafter erected in the municipality;
277 and to require permits to be obtained of the municipality for
278 such buildings and structures, and the repair and alteration
279 thereof, and that plans and specifications thereof be submitted
280 to the council or some person designated by it.

281 To regulate the limits within which it shall be lawful to
282 erect any steps, porticos, bay windows, bow windows, show win-
283 dows, awnings, signs, columns, piers, or other projection, or
284 structural ornaments of any kind for the houses or buildings
285 on any street.

286 To provide for the prevention and extinguishment of fires,
287 and for this purpose to organize, equip and govern fire com-
288 panies, and to prescribe the powers and duties of such com-
289 panies and department, and of the several officers thereof; and
290 to impose on those who fail to obey any lawful command of
291 the officers in charge of such company any penalty which the
292 council is authorized to impose for the violation of an ordinance;
293 and to give authority to such fire officer to direct the pulling
294 down of any building or the destruction of any fence, wall,
295 building or other thing, if such officer deem it necessary to
296 prevent the spreading of fire.

297 To protect the persons and property within the corporate
298 limits, and to preserve the peace and good order therein; and
299 for this purpose to appoint, when necessary, a police force and
300 such other officers as may be deemed necessary.

301 To prescribe the powers and define the duties of the officers
302 appointed under corporate authority, fix their term of service

303 and compensation, if not otherwise prescribed in this chapter,
304 and to require and take from them bonds, when deemed neces-
305 sary, payable to the state of West Virginia, or the city of El-
306 kins, with such securities and in such penalties as may be pre-
307 scribed, conditioned for the faithful discharge of their duties.

308 To erect, authorize and prohibit the erection of powder plants,
309 heating plants, gas works, electric light works or water works
310 in the municipality, and to erect, purchase, own or lease and
311 maintain within or without the corporate limits of the muni-
312 cipality such gas works, electric light, power works, water
313 works and reservoir to supply the municipality or its inhabitants
314 water, light, heat and power; and to prevent injury to the
315 same, or the pollution of the water, or to impair the healthful-
316 ness thereof; and may acquire land for said purposes by pur-
317 chase, lease or condemnation.

318 To grant by ordinance or franchise, for a period not exceed-
319 ing twenty-five years, the use of its streets, roads, alleys and
320 public places; to lay pipes, conduits, manholes, drains, and
321 other necessary fixtures and appliances, to be used for supply-
322 ing the municipality and its inhabitants with steam or hot
323 water, or both, for heat and power purposes, or both, or for
324 illuminating purposes; and to grant by ordinance or franchise,
325 for periods of not exceeding twenty-five years, the use of its
326 streets, roads, alleys and public places for the construction of
327 movable or rolling roads for the conveying or moving of pass-
328 engers, freight and other property; and those in charge of the
329 same, upon such terms and conditions as may be prescribed;
330 *providing*, that no ordinance granting any such franchise shall
331 become effective until approved by a vote of the people at a
332 special general election.

333 To grant by ordinance or resolution, permits for the tem-
334 porary use of its streets, roads, alleys and public places for
335 the construction of moving or rolling roads for the conveying
336 or moving of passengers, freight, vehicles, animals or other
337 property, upon such conditions as may be prescribed.

338 To provide a revenue for the municipality and appropriate
339 the same to its expense; and to cause to be assessed and col-
340 lected in each year an *ad valorem* tax within the limits of the
341 general tax laws of the state, on all property in the municipality
342 subject to state and county taxes, as valued and returned for
343 such taxation by the county assessor.

344 To levy an annual capitation tax, of not more than two
345 dollars, upon each male resident of the municipality who has
346 attained the age of twenty-one years; and from which persons
347 afflicted with bodily injury and those having attained the age
348 of fifty years shall be excepted.

349 To provide for the collection of said capitation tax at the
350 time, and in the manner as the regular capitation tax is col-
351 lected; which may be done either through the county assessor
352 or by any other person designated by the municipality; but
353 if the county assessor or other person than city assessor, he
354 shall give such bond as may be required by the council before
355 making such collection.

356 To issue and sell bonds in the manner provided by general
357 laws governing the same, and in addition to other taxes; to
358 levy for the maintenance of a sinking fund where such bonds
359 have been issued and are unpaid, and to control such sinking
360 fund and to make temporary loans thereof, or to make tem-
361 porary investments thereof, or of any specific fund for the time
362 such fund cannot be advantageously used for the purpose for
363 which it was levied and collected.

364 To provide for the rent and compensation for the use of
365 any existing free public hospital, established or managed by a
366 private association or corporation organized for that purpose.

367 To provide for the removal and abatement of nuisances, and
368 to carry out and enforce sanitary regulations.

369 To compel the attendance at public meetings of the members
370 of the council, or other body exercising their respective func-
371 tions.

372 To buy, lease and operate, either within or without the mu-
373 nicipality, stone quarries, crushers and land for said purposes,
374 for the purpose of furnishing a supply of stone or other ma-
375 terial suitable for macadamizing or paving the streets, side-
376 walks and alleys and improving public property.

377 To regulate the running of steam and electric cars over and
378 across any street or alley, and when deemed proper by the coun-
379 cil, it may by resolution require any railroad company or
380 street car company to provide at its own expense suitable watch-
381 men at any crossing of any street or alley during such hours as
382 may be designated by the council, or otherwise regulate such
383 crossings in order to protect persons walking or driving over
384 them.

385 Whenever, in the opinion and judgment of the council of the
386 municipality, it is necessary, it shall have power to construct
387 such sewers as in its opinion and judgment are needful to the
388 comfort, health, safety and welfare of the inhabitants of said
389 municipality or of the public, and may construct such sewers at
390 such places within or without the corporate limits, and in such
391 manner as in the opinion and judgment of said council may be
392 proper; but so far as practicable, shall construct such sewers
393 under the streets, alleys or roads of the city; and whenever in
394 the opinion and judgment of said council any street or alley of
395 said city should be paved or repaired with brick, or other suit-
396 able substance for paving purposes, the council may cause the
397 same to be graded, paved and constructed in such manner, as
398 in the opinion and judgment of the council is most suitable for
399 the purpose; and, whenever in the opinion and judgment of
400 the council, any sidewalk or foot-walks of stone, brick, cement
401 or other suitable substances are necessary or beneficial and for
402 the best interest of the inhabitants of said city, the council may
403 order the same to be graded and constructed in such manner
404 and of such material, as in the opinion and judgment of the
405 council, are most suitable for the purpose; and for the purpose
406 of paying the expenses and cost of any such sewer, grading,
407 paving, sidewalks or footwalks, the said council may levy a
408 special assessment for the cost thereof against the real estate
409 benefitted thereby which bounds or abuts thereon, and may
410 cause such special assessment, with interest thereon after thirty
411 days from the levying of such assessment, at the rate of six
412 per cent per annum, to be collected as city taxes are collected
413 against real estate in said city, as provided in chapter one hun-
414 dred and fifty-one of the acts of nineteen hundred and one,
415 and as provided for the collection of state taxes assessed
416 against real estate in said city; but in the case of any sewer
417 constructed under and along any street, alley or road, or in
418 case of any pavement, including grading, constructed upon
419 any street or alley, the bounding or abutting real estate on each
420 side of the street or alley shall be held liable to pay one-third
421 of the cost of such sewer and pavement, including grading,
422 and the residue of the cost thereof shall be paid out of the
423 city treasury; and in case of any sidewalks or footwalks, the
424 real estate next adjacent thereto shall be held liable to pay the

425 whole cost of such sidewalks or footwalks. *Provided*, that in
426 case of the construction of any sewer, the amount to be assessed
427 against the abutting property shall be ascertained by taking
428 one-third of the total costs of such sewer, including mains and
429 laterals on all the streets or alleys or through private property
430 which enters into such mains, and together make one complete
431 sewer line, and from one-third of the total cost and total length
432 of such sewer, the cost per foot shall be ascertained. This
433 sum shall then be multiplied by the number of feet any lot
434 abuts thereon which is liable to assessment under this act, and
435 the amount so ascertained shall be assessed against the abutting
436 property as hereinbefore provided, but no lot already having
437 sewer service shall be assessed with any portion of the cost of
438 any new sewer, unless the owner of such lot desires to connect
439 with such new sewer. And, whenever any assessments for
440 the cost of construction of any paving, including grading, on
441 any street or alley of said city, heretobefore or hereafter levied,
442 have been or may hereafter be adjudged by the council of said
443 city, or by any court of this state having jurisdiction, invalid
444 because of any error or irregularity in the mode or manner of
445 assessment, or lack of authority in said city to levy such assess-
446 ments at the time they were levied, or failure of the council
447 of said city to comply with some requirements of the law
448 relative to such assessments, or failure to procure the petition
449 of the property owners provided for in section thirty-four of
450 chapter forty-seven of the code of this state, when such peti-
451 tion was necessary to the validity of such assessments; the
452 council of said city shall have power, at any regular meeting,
453 or special meeting called for the purpose, to re-assess the cost
454 of such paving against the real estate benefitted thereby and
455 abutting thereon, in the same manner and proportion as here-
456 inbefore provided for the assessment of the cost of paving in
457 the first instance; except before proceeding to make such re-
458 assessment it shall be the duty of said council to give notice
459 to all persons interested, by publication for two successive
460 weeks in two newspapers of opposite political faith published
461 in said city, of the time and place of such meeting, and the
462 purpose thereof in relation to such re-assessment, at which meet-
463 ing, after a full hearing, the council may proceed to re-assess
464 against the real estate, as hereinbefore provided, the cost of

465 said paving, which, when so re-assessed, shall be a lien enforce-
466 able against said real estate, and shall be collectable with in-
467 terest thereon at six per cent per annum after thirty days from
468 said re-assessment, as is hereinbefore provided for the enforce-
469 ment and collection of assessments for paving generally; *pro-*
470 *vided*, that nothing herein shall be construed to authorize the
471 said city council to re-assess the cost of any paving which has
472 been constructed and the original assessment therefor levied for
473 more than fifteen years prior to the passage of this act; and
474 unless said city, since the construction thereof, has maintained,
475 and is still maintaining, same at its expense; *provided, further,*
476 that nothing contained herein shall be construed to authorize
477 the council of said city to re-assess, upon any real estate, the
478 cost of any paving, when the original assessment against such
479 real estate was paid by the owners thereof; and whenever any
480 part of the original assessment against any real estate was so
481 paid, the council shall re-assess against such real estate only
482 the residue of its proportionate share of the cost of said pav-
483 ing, after crediting thereon the amount so paid.

484 The said city council is hereby given full right and author-
485 ity to require any person or lot owner in said city to connect
486 a sewer leading from his or her house or lot into any public
487 sewer which is located in any public street or alley adjoining the
488 same, and, if such house or lot owner fails, or refuses so to do,
489 after having been given reasonable notice (said notice may be
490 given either to the owner of said property or the person occupy-
491 ing same, but if the owner or occupant can not be found within
492 the city limits, then notice may be given by posting the same
493 in a conspicuous place on said lot for such time as the council
494 may direct, but, if posted, the same shall not be for less than
495 ten days), said council may enter upon said lot and construct
496 such sewers and may levy the actual cost thereof against the lot
497 upon which the same is built and collect such cost from the
498 owner of such lot in the same manner as city or state taxes are
499 collected, and the cost thereof shall be a lien against said lot.

500 The council shall have the authority to pass all ordinances,
501 not repugnant to the constitution and laws of the United States
502 and of this state, which shall be necessary or proper to carry
503 into full effect and power, authority and capacity, the juris-
504 diction which is, or shall be, granted to, or vested in, the said

505 city, or in the council, or in any officer or body of officers of
506 said city; and to enforce any or all their ordinances by reason-
507 able fines and penalties; and by imprisoning the offender or
508 offenders; and upon failure to pay any fine or penalty imposed,
509 may compel the offender to labor without compensation at, and
510 upon, any of the public works or improvements undertaken, or to
511 be undertaken, by said city; or to labor at any work which the
512 said council may lawfully employ upon at such a reasonable rate
513 per diem as the council may fix, until any fines and costs, imposed
514 upon any such offender by said city have been fully paid and dis-
515 charged, after deducting reasonable charges of support while
516 in the custody of the officers of the city; *provided, however*, that
517 no fine shall be imposed exceeding one hundred dollars and
518 costs, and that no person shall be imprisoned or compelled to
519 labor as aforesaid for more than one hundred days, for any
520 one offense. And in all cases where a fine is imposed for an
521 amount exceeding ten dollars and costs, or a person be imprisoned
522 or compelled to labor as aforesaid for a term greater than ten
523 days, an appeal may be taken from such decision upon the same
524 terms and conditions that appeals are taken from the judgment
525 of a justice of this state. Such fines and penalties shall be
526 imposed and recovered, and such imprisonment inflicted and
527 enforced by, and under, the judgment of the mayor of said
528 city; or, in case of his absence or inability to act, by the clerk
529 of said city; or, if he be unable to act, then by any members of
530 the council to be appointed by the council for that purpose;
531 and for his services in trying cases, whether civil, criminal or
532 infractions of the ordinances of the city, the mayor shall be
533 entitled to receive such fees as are paid to justices of the peace
534 for similar services; but in cases of infractions of the ordin-
535 ances of the city, the mayor shall not be paid such fees unless
536 they are collected from the defendant; and, in all cases the
537 chief of police shall be entitled to receive such fees as are paid
538 to constables for similar services, except that for cases for the
539 infraction of the ordinances of the city, he shall not receive
540 such fees, unless collected from the defendant; and, *provided*
541 *further*, that the fees for making any arrest shall be one dollar,
542 to be paid to the officer making the arrest, whether such officer
543 be the chief of police or other officer, if collected from the de-
544 fendant but not otherwise.

545 I, George Henry, clerk of the city of Elkins, hereby certify
 546 that the foregoing amendments to the charter of the city of
 547 Elkins, were authorized by the council at a regular meeting held
 548 on the sixth day of January, one thousand nine hundred and
 548-a twenty-one, and the same directed to be transmitted to the legis-
 549 lature of West Virginia with the request that they be enacted
 550 into law.

551 Given under my hand and the seal of said city, this twelfth
 552 day of January, one thousand nine hundred and twenty-one.

553

GEORGE HENRY,

554 [SEAL]

City Clerk.

CHAPTER 9

(House Bill No. 232—Mr. Deuley.)

AN ACT to amend and re-enact Section 12-a and by addition of
 section 32-c of the acts of the legislature of West Virginia
 passed February 16th, one thousand nine hundred and fifteen,
 in reference to the charter to the city of Follansbee.

[Passed January 26, 1921. In effect from passage. Approved by the Governor
 January 26, 1921.]

Sec.		Sec.	
12-a.	Candidates; general election; nominated in primary; primary election, when held; judges of elections appointed; candidates to file statement, form; peti- tion accompanying nominating		statement; recorder to print ballots; official ballot; judges of election, duties; who to be candidates in general election; ballot general election.
		32-c.	Councilmen; compensation.

Be it enacted by the Legislature of West Virginia:

That section twelve-a of the charter of the city of Follansbee, passed
 February 16th, one thousand nine hundred and fifteen, be amended
 and re-enacted, and that section thirty-two-a be added thereto, to read
 as follows:

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, city collector and treasurer, and councilmen from each
 4 ward are to be elected under the provisions of this act, shall be
 5 nominated by a primary election, (the said mayor, city attor-
 6 ney, city clerk, chief of police and city collector and treas-
 7 urer shall be nominated and elected at large and the said coun-
 8 cilmen shall be nominated from their respective wards) and no
 9 other names shall be printed upon the general ballot, except those
 10 selected in the manner hereinafter prescribed.

11 The primary election for such nominations shall be held on the
 12 first Tuesday in March preceding the general municipal election.
 13 The judges of election shall be appointed by council for the gen-
 14 eral municipal election, who shall be the judges of the primary
 15 election, but said election officers shall have first been recom-
 16 mended by a majority vote of all candidates at least ten days
 17 preceding the said primary election and all primary and general
 18 elections shall be held at the same place, so far as possible, and
 19 the polls shall be opened and closed at the same hours.

20 Any person desiring to become a candidate for mayor, city at-
 21 torney, city clerk, chief of police, city collector and treasurer
 22 or councilman, shall at least ten days prior to said primary elec-
 23 tion, file with the city clerk (now recorder) a statement of
 24 such candidacy, in substantially the following form:

25 State of West Virginia, Brooke county, ss:

26 I,, being first duly sworn, say that
 27 I reside at street, city of Follansbee,
 28 county of Brooke, state of West Virginia; that I am a qualified
 29 voter therein; that I am a candidate for nomination to the office
 30 of (mayor, city attorney, city clerk, chief of police, city col-
 31 lector and treasurer or councilman from first, second or third
 32 ward) to be voted upon at the primary election to be held on the
 33 Tuesday of 19....., and
 34 I hereby request that my name be printed upon the official pri-
 35 mary ballot for nomination by such primary election for such
 36 office.

37 Signed

38 Subscribed and sworn to (or affirmed) before me by
 39 on this day of
 40 19.....

41 Signed

42 and shall at the same time file therewith the petition of at least
 43 ten qualified voters requesting such candidacy. Each petition shall
 44 be verified by one or more persons as to the qualifications and res-
 45 idence, with street number, of each person so signing the said
 46 petition, and the said petition shall be in substantially the follow-
 47 ing form:

48 *Petition Accompanying Nominating Statement.*

49 The undersigned, duly qualified electors of the city of Follans-
 50 bee, and residing at the places set opposite our respective names

51 hereon, do hereby request that the name of (name of candidate)
 52 be placed on the ballot as a candidate for nomination for (name
 53 of office) at the primary election to be held in said city on the
 54 Tuesday of 19..... We further
 55 state that we know him to be a qualified elector of said city and
 56 a man of good moral character, and qualified, in our judgment
 57 for the duties of such office.

58 Name of qualified Electors Number Street.

59 Immediately upon the expiration of the time of filing the state-
 60 ments and petitions for candidates, the said city clerk (now re-
 61 corder) shall cause the primary ballots to be printed, authenti-
 62 cated with a fac-simile of his signature. Upon the said ballot
 63 the names of the candidates for mayor, arranged alphabetically,
 64 shall first be placed, with a square at the left of each name, im-
 65 mediately below the words "vote for one". Following these
 66 names, likewise arranged in alphabetical order, shall appear the
 67 names of the candidates for city attorney, city clerk, chief of
 68 police, city collector and treasurer, with a square at the left
 69 of each name, and below the names of such candidates shall ap-
 70 pear the words "vote for one"; following likewise arranged, shall
 71 appear the names of the candidates for councilmen in each ward
 72 with a square at the left of each name, and below the names of
 73 such candidates shall appear the words "vote for one or two", ac-
 74 cording to the number of councilmen to be elected in said ward.

75 The ballots shall be printed upon plain, substantial white pa-
 76 per and shall be headed:

77 "Candidates for nomination for mayor, city attorney, city
 78 clerk, chief of police, city collector and treasurer and coun-
 79 cilmen for the wards of the city of Follansbee, at the
 80 primary election," but shall have no party designation or mark
 81 whatever. The ballots shall be in substantially the following
 81-a form.

82 (Place a cross in the square preceding the names of the par-
 83 ties you favor as candidates for the respective offices).

84 *Official Ballot.*

85 Candidates for nomination for mayor, city attorney, city
 86 clerk, chief of police, city collector and treasurer and coun-
 87 cilmen for the ward of the city of Follansbee, at the
 88 primary election.

- 89 For Mayor
 90 Name of candidates
 91 (vote for one)
 92 For City Attorney
 93 Name of candidate
 94 (vote for one)
 95 For City Clerk
 96 Name of candidate
 97 (vote for one)
 98 For Chief of Police
 99 Name of candidate
 100 (vote for one)
 101 For City Collector and Treasurer
 102 Name of candidates
 103 (vote for one)
 104 For Councilman
 105 Name of candidates
 106 (Vote for one or two as the case may be)
 107 Official ballot, attest.
 108 Signature, City Clerk.
- 109 Judges of election shall, immediately upon the closing of the
 110 polls, count the ballots and ascertain the number of votes cast
 111 in such precinct for each candidate, and make return thereof to
 112 the city clerk before nine o'clock A. M. of the following day.
 113 On the day following said primary election the council shall can-
 114 vass said returns so received from all the polling precincts, and
 115 shall make and publish in all the newspapers of said city at least
 116 once the result thereof. Said canvass shall be publicly made.
 117 The two candidates receiving the highest number of votes for
 118 mayor, city attorney, city clerk, chief of police, city col-
 119 lector and Treasurer shall be the candidates and the only candi-
 120 dates whose names shall be placed upon the ballot for said of-
 121 fices at the next succeeding general election, and at the first elec-
 122 tion to be held under this charter, the four candidates receiving
 123 the highest number of votes for councilmen in each ward shall be
 124 the candidates and the only candidates at said first election, and
 125 at all other general elections at which said officers shall be
 126 elected, and the two candidates receiving the highest number of
 127 votes for councilmen in each ward, shall be the candidates and
 128 the only candidates whose names shall be placed upon the ballot

129 for councilmen at such municipal election, unless there should be
 130 two members of council to elect from any of said wards, then the
 131 four candidates receiving the highest number of votes shall be
 132 placed upon the ballot for councilmen at such election. In the
 133 event of the death or resignation of a nominee before the election,
 134 the candidate receiving the next highest number of votes at the
 134-a primary shall be placed on the ticket in his stead.

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

• Sec. 32c. And the members of said Council shall receive as
 2 compensation the sum of two (\$2.00) dollars for each and every
 3 meeting of said common council.

CHAPTER 10

(House Bill No. 192.)

AN ACT to amend and re-enact 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.

[Passed April 4, 1921. In effect from passage. Approved by the Governor April 11, 1921.]

SEC.
 1. "The city of Grafton," a body corporate; power.
 2. Corporate limits.
 3. General and special laws governing; all rights and property preserved; provisions.
 4. Commissioners of finance; public works and mayor elected; expiration of term, vacancy filled.
 5. Elections; general, primary; rules governing; forms of statement to be filed by candidates; petitions accompanying same; ballots; publication.
 6. Council; of whom consists; rights, powers of.
 7. Commission; powers of; departments of; public affairs, streets, finance and revenue; officers and employees of, duties.
 8. Mayor; duty, authority, violations, penalties.
 9. Commission; depository designated; bond with security required, deposits.
 10. Commission; power regarding officers and employees.

SEC.
 11. Mayor and commissioners; office; compensation; salaries of employees.
 12. Commission; meetings, regular, special.
 13. Franchises; time limit; notice.
 14. Officers and employees forbidden to use free passes, etc.; when not applicable.
 15. Commission; to create civil service board; duty of; examinations of applicants of departments.
 16. Same; detailed statements required quarterly; full examination of books and accounts to be made at the end of each year; publications made of expenditures.
 17. Definitions describing "officers", "franchise," "electors" or "voters."
 18. Commission; may cause paving, etc., to be done; bids or proposals therefor; owners of lots to be assessed.
 19. Removal of officers; elections of successors; length of term.

SEC.	SEC.
20. Ordinances, submitted by petition ; adoption.	25. Paving and grading.
21. Same, when to become effective.	26. Levy taxes.
22. Same ; petitions, by whom signed, etc.	27. Commission : defined.
23. Vacancies ; how filled.	28. Street railways ; commission to have authority to regulate.
24. Commission ; general powers and duties.	29. To issue bonds to pay for improvement ; election ; ballot.
	30. When effective.

Be it enacted by the Legislature of West Virginia :

That chapter seventy-nine of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows :

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 and assign, pledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for a 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 the edition of the year one thousand nine hundred and six, and for which provision is not herein otherwise expressly made.

Sec. 2. The corporate limits of said city shall hereafter be as follows :

Beginning at the southeast corner of Roger's mill, thence in a southerly direction to the eastern pier of the boom ; thence crossing the Valley river to a point of the west bank thereof, where the boundary line of the former town of West Grafton intersected

7 said river, at a point near said boom; thence with the former
8 boundary line of the western portion of Grafton, formerly West
9 Grafton, to a spring in Warder's field; thence a straight line to
10 the county road at the southwestern corner of Cobb's lot; thence
11 with the county road to Amos Martin's line, corner of Beaumont
12 addition to the corner of Judkin's land; thence a straight line
13 southwesterly to three service bushes, corner to McWilliams;
14 thence a straight line to Bartlett creek, where the branch railroad
15 built to the box factory crosses said creek; thence with the mean-
16 derings of said creek to the western line of the Atlantic Refining
17 Company's tank property; thence a straight line to a chestnut on
18 the ridge in Willhide's field; thence a straight line to the Tygart
19 Valley River near three linns, corner to St. Clair and Yates;
20 thence with the last mentioned line extending to a point on the
21 opposite side of said Tygart Valley River; thence with the mean-
22 derings of said river, following low water on the eastern side there-
23 of, to a willow on the river edge, corner of the former corporation
24 of Fetterman, below the old Hoffman mill dam; thence following
25 the northerly boundaries of the former corporation of Fetterman
26 to the big spring on the northwestern turnpike; thence in a
27 straight line to the intersection of the county road and said turn-
28 pike, near the old Knotts residence; thence with the southern
29 meanderings of said turnpike to the intersection with the Grafton
30 road near the dwelling of the late John W. Blue; thence in a
31 southerly direction to the railroad bridge at the cut-off; thence
32 with the north bank of Three Fork Creek to the beginning.

Sec. 3. All general and special laws of the state of West Vir-
ginia, governing cities and now applicable and not inconsistent
with the provisions of this act, shall apply to and govern the city
of Grafton. All by-laws, ordinances and resolutions lawfully
passed and in force in the city of Grafton under its former or-
ganization, and not inconsistent herewith, shall remain in force
until altered or repealed by the commission elected under the pro-
visions of this act. All rights and property heretofore vested in
said city are continued and preserved, and no right or liability.
either in favor or against it, existing at the time, and no suit or
prosecution of any kind, shall be affected by any such change
unless otherwise provided for in this act.

Sec. 4. The first regular election under this act shall be held
on the first Tuesday after the third Monday in March, one thou-

3 sand nine hundred and twenty-three, and on the same day in every
4 year thereafter. At the first election held under this act there
5 shall be elected a commissioner of finance, whose term of office
6 shall be for one year, and also elected a commissioner of public
7 works, who shall be elected for the term of two years, and a mayor
8 who shall be elected for the term of three years. Thereafter the
9 term of office of said mayor and said two respective commissioners
10 shall be for three years. The mayor and the commissioners in
11 office when this act takes effect shall continue in said respective
12 offices until their successors are elected, as herein provided.

13 If any vacancy occur in any such office, the remaining members
14 of said commission shall appoint a person to fill such vacancy
15 during the balance of the unexpired term.

16 Said officers shall be nominated and elected at large, and shall
17 qualify, and their terms of office, except as to the two commission-
18 ers elected at the general municipal election to be held in one
19 thousand nine hundred and twenty-three as above provided, shall
20 be three years, and until their successors are elected and qualified,
21 and the term of office of all such officers shall begin the second
22 Monday after the election at which they are elected.

Sec. 5. Candidates to be voted for at all general municipal
2 elections at which a mayor or commissioner is to be elected under
3 the provisions of this act shall be nominated by a primary elec-
4 tion, and no other names shall be printed upon the general bal-
5 lot, except those selected in the manner hereinafter prescribed.
6 The primary election for such nominations shall be held on the
7 second Tuesday preceding the general municipal election. The
8 judges of election shall be appointed by the commission for the
9 general municipal election, and such judges shall be the judges
10 of the primary election, and it shall be held at the same place, so
11 far as possible, and the polls shall be opened and closed at the
12 same hours.

13 Any person desiring to become a candidate for mayor or com-
14 missioner shall, at least ten days prior to said primary election,
15 file with the city clerk a statement of such candidacy, and candi-
16 dates for commissioner shall specify whether they are candidates
17 for commissioner of finance or candidate for commissioner of
18 public works, in substantially the following form:

18-a STATE OF WEST VIRGINIA

18-b COUNTY OF TAYLOR, SS :

19 I,....., being first duly sworn, say that I
20 reside at street, city of Grafton, county of
21 Taylor, state of West Virginia; that I am a qualified voter there-
22 in; that I am a candidate for nomination to the office of (mayor
23 or commissioner) to be voted upon at the primary election to be
24 held on the.....Tuesday of.....19....., and I
25 hereby request that my name be printed upon the official primary
26 ballot for nomination by such primary election for such office.

27 (signed).....

28 Subscribed and sworn to (or affirmed) before me by.....

29 on this.....day of.....19.....

30 (signed).....

31 And shall at the same time file therewith the petition of at least
32 twenty-five qualified voters requesting such candidacy. Each
33 petition shall be verified by one or more persons as to the quali-
34 fications and residence of each of the persons so signing the said
35 petition, and the said petition shall be in substantially the fol-
36 lowing form:

37 Petition Accompanying Nominating Statement.

38 The undersigned, duly qualified electors of the city of Graf-
39 ton, and residing at the places set opposite our respective names
40 thereon, do hereby request that the name of (name of candidate)
41 be placed on the ballot as a candidate for nomination for (name
42 of office) at the primary election to be held in such city on the
43 Tuesday of, 19..... We further state that
44 we know him to be a qualified elector of said city and a man
45 of good moral character, and qualified in our judgment for
46 the duties of such office.

47 Name of Qualified Electors. Number Street.

48 Immediately upon the expiration of the time of filing the state-
49 ments and petitions for candidates, the said city clerk shall
50 cause to be published for three successive days in all the daily
51 papers and one time in each weekly paper published in the city,
52 in proper form, the names of the persons as they are to appear
53 upon the primary ballot; and the said clerk shall thereupon
54 cause the primary ballots to be printed, authenticated with a
55 fac-simile of his signature. Upon the said ballots the names
56 of the candidates for mayor or commissioners, arranged alpha-

57 betically, shall be placed with a square at the left of each name
 58 and immediately below, the words "vote for one." The ballots
 59 shall be printed upon plain, substantial white paper, and shall
 60 be headed:

61 "Candidates for nomination for mayor or commissioner, as
 62 the case may be, of the city of Grafton, at the primary election;"
 63 but shall have no party designation or mark whatever. The
 64 ballots shall be in substantially the following form:

65 (Place a cross in the square preceding the names of the
 66 party you favor as candidate.)

67 *Official Primary Ballot.*

68 FOR MAYOR

69 (Names of Candidates)

70 (Vote for one)

70-a Or if a commissioner is to be elected

71 FOR COMMISSIONER

72 (Name of candidates)

73 (Vote for one)

74 Official ballot, attest:

75 Signature

City Clerk.

76 Having caused said ballot to be printed, the said city clerk
 77 shall cause to be delivered at each polling place a number of
 78 said ballots equal at least to twice the number of votes cast in
 79 such polling precinct at the last general municipal election. The
 80 persons who are qualified to vote at the general municipal elec-
 81 tion shall be qualified to vote at the primary election and chal-
 82 lenges can be made by not more than two persons, to be appoint-
 83 ed at the time of opening the polls by the judges of election;
 84 and the law applicable to challenges at a general municipal
 85 election shall be applicable to challenges made at such primary
 86 election. Judges of election shall immediately upon the closing
 87 of the polls, count the ballots and ascertain the number of votes
 88 cast in such precinct for each of the candidates, and make
 89 immediate return thereof to the city clerk. On the day following
 90 the said primary election, beginning at ten o'clock a. m., the
 91 city council shall publicly canvass said returns so received from
 92 all the polling precincts, and shall make and publish in all
 93 newspapers of said city at least once, the result thereof. When
 94 a mayor is to be elected the two candidates receiving the highest
 95 number of votes for mayor shall be the candidates and the only

96 candidates, whose names shall be placed upon the ballot for
97 mayor at the next succeeding municipal election; and when a
98 commissioner is to be elected the two candidates receiving the
99 highest number of votes for commissioner of finance and the two
100 receiving the highest number of votes for commissioner of pub-
101 lic works shall be the candidates, and the only candidates, whose
102 names shall be placed upon the ballot for the respective com-
103 missioner at such municipal election. In the event of the death
104 or resignation of a nominee before the election the candidate
105 receiving the next highest number of votes at the primary shall
106 be placed on the ticket in his stead. *Provided*, that in the event
107 there are not more than two candidates at the primary election
108 for any office to be filled; the one receiving the majority of the
109 votes at such primary shall thereby be elected at such primary
110 election, and in that event no general municipal election shall
111 be held for such office as above provided, but all provisions as
112 to declaring the result of a general municipal election and the
113 taking of the office by said successful candidate shall apply to
114 and be applicable to said primary election.

115 The ballot of such general municipal election shall be in the
116 same general form as for such primary election, so far as ap-
117 plicable, and in all elections in such city the election precincts,
118 voting places, manner of conducting the election and announcing
119 the results, shall be the same as by law provided for election
120 of officers for county officers, so far as the same are applicable
121 to and not inconsistent with the provisions of this act, except
122 that there shall be no registration of the voters. The expense
123 attending the holding of said primary and all other elections
124 shall be borne by the city.

Sec. 6. Said city shall be governed by a council, consisting
2 of the mayor and two commissioners chosen as provided in this
3 act, each of whom shall have the right to vote on all questions
4 coming before the commission. Two members of the commission
5 shall constitute a quorum, and the affirmative vote of two mem-
6 bers shall be necessary to adopt any motion, resolution or or-
7 dinance, or pass any measure. Upon every vote the yeas and
8 nays shall be called and recorded, and every motion, resolution
9 or ordinance shall be reduced to writing and read before the
10 vote is taken thereon. The mayor shall preside at all meetings
11 of the commission; he shall have no power to veto any measure,

12 but every ordinance passed by the commission must be signed by
13 the mayor, or by two commissioners, and be recorded before the
14 same shall be in force.

Sec. 7. The commission shall have and possess, and the com-
2 mission and its members shall exercise all executive, legislative
3 and judicial powers conferred upon the cities, towns and vil-
4 lages by the general law of the state and by this act.

5 The executive and administrative powers, authority and duties
6 in said city shall be distributed into and among three depart-
7 ments as follows:

8 1. Department of public affairs, police, fire, safety and health.

9 2. Department of streets, parks, public improvements, water
10 works, sewers and public utilities.

11 3. Department of finance and revenue.

12 The council shall determine the powers and duties to be per-
13 formed by, and assign them to the appropriate department; shall
14 prescribe the powers and duties of officers and employees; may
15 assign particular officers and employees to one or more of the de-
16 partments; may require an officer or employee to perform duties
17 in two or more departments; and may make such other rules
18 and regulations as may be necessary or proper for the efficient
19 and economical conduct of the business of the city.

Sec. 8. The mayor shall be the executive officer of the city,
2 and shall have direct charge of matters of police supervision, pub-
3 lic safety, the fire department, public health, and shall be police
4 judge and have the power and authority to try and punish per-
5 sons, firms and corporations charged with the violation of the
6 city ordinance, and impose penalties for violations of said or-
7 dinances.

8 The commissioner of finance shall be city clerk and city treas-
9 urer, and shall have custody of all city money, and before as-
10 suming the duties of his office shall execute bond with approved
11 surety in the amount of at least twenty thousand dollars, and
12 in a larger sum if required by the council, conditioned as re-
13 quired by law of county treasurer. Such bond must first be
14 submitted to the city council for approval or rejection, and upon
15 approval filed with the mayor, and upon approval be recorded in
16 the record wherein is recorded the minutes of the meeting of
17 council, and then filed with the mayor, who shall be the cus-
18 todian of said original bond, and shall preserve the same. The

19 treasurer shall make reports to the city council from time to time
20 as required by the council, showing the condition of all city funds.
21 He shall keep separate accounts of all city funds. Payments by
22 the city shall be made only by order authorized at a regular
23 council meeting, and by the issuance of an order directed to
24 the treasurer, naming the particular fund from which payment
25 is to be made, which order shall be signed by the mayor and
26 countersigned by the commissioner of public works. All taxes
27 levied and collected for the purpose of paying either the interest
28 or principal of bonds heretofore or hereafter issued by the city
29 shall be used for the purpose of paying said interest, and retir-
30 ing said bonds, and shall be used for no other purpose.

31 The commissioner of public works shall have charge of the
32 streets and alleys, parks, public improvements, water works, sew-
33 ers and public utilities owned or operated by the city.

34 The commission shall have authority to employ all necessary
35 laborers, clerks or assistants to carry on the work of the city.

36 The commission may, at said first meeting, or as soon as prac-
37 ticable thereafter, elect by majority vote, the following officers:

38 A solicitor, city civil engineer, city physician, police judge,
39 chief of police, chief of fire department, street commissioner, and
40 such other officers and assistants as shall be provided for by or-
41 dinance and necessary to the proper and efficient conduct of the
42 affairs of the city. Any officer, assistant or employee elected, ap-
43 pointed, or employed may be removed at any time by a vote of
44 a majority of the members of the commission, under such regula-
45 tions as the commission may prescribe.

Sec. 9. The commission shall annually during the month of
2 April, by resolution request all of the banks of said city to
3 respectively offer a rate of interest to be paid said city for and upon
4 such money as may be deposited with it by said city for the
5 then ensuing year, and upon the incoming of said offers the
6 commission shall cause the same to be spread upon the record
7 of their proceedings, and the bank or banks offering the highest
8 rate of interest shall thereupon be designated as the depository
9 or depositories for the term of one year for all money accruing
10 to said city from all sources; *provided, however*, that no money
11 shall be deposited with the bank or banks so designated until
12 such bank or banks shall have given a bond, with security to
13 be approved by the commission, in a sum to be fixed by the com-

14 mission, and conditioned that said bank shall account for and
15 pay over all money received by it for the account of said city.
16 If two or more banks offer an equal rate of interest and such
17 rate is the highest offered, the money shall be deposited in said
18 banks in equal proportions, or as nearly so as practicable. The
19 city treasurer shall forthwith deposit in said bank or banks all
20 moneys that may come into his hands, and the money so deposited
21 shall be disbursed only upon orders signed as aforesaid, drawn
22 upon the treasurer and accepted by him.

Sec. 10. The commission shall have power from time to time
2 to create, fill and discontinue offices and employments other than
3 herein prescribed, according to their judgment of the needs of
4 the city, and may by resolution or otherwise, prescribe, limit or
5 change the compensation of such officers or employees.

Sec. 11. The mayor and commissioners shall have an office
2 or offices within the city and their total compensation shall be as
3 follows:

4 The annual salary of the mayor shall be two thousand four
5 hundred dollars, and the salary of each commissioner shall be
6 two thousand one hundred dollars. Such salaries shall be payable
7 in equal monthly installments, and the mayor and commissioners
8 in office when this act takes effect shall receive said salaries
9 until the end of the term for which elected.

10 Every other officer or assistant shall receive such salary or
11 compensation as the commission shall by ordinance provide, pay-
12 able in equal monthly installments.

13 The salary or compensation of all other employees of said city
14 shall be fixed by the commission, and shall be payable monthly
15 or at such shorter periods as the commission may determine.

Sec. 12. Regular meetings of the commission shall be held on
2 the second and fourth Monday of each month, and special meet-
3 ings may be called from time to time by the mayor or two com-
4 missioners. All meetings of the commission, whether regular
5 or special, and to which any person not a city officer is admitted,
6 shall be open to the public.

7 The mayor shall be president of the commission, and preside
8 at its meetings, and shall supervise all departments and report
9 to the commission for its action in any department. The com-
10 missioner of public works shall be vice president of the commis-
11 sion, and in case of vacancy in the office of mayor, or the absence

12 or inability of the mayor, shall perform the duties of the mayor.

Sec. 13. Every ordinance or resolution appropriating money
2 or ordering any street improvement or sewer, or making or au-
3 thorizing the making of any contract, or granting any franchise
4 or right to occupy or use the streets, highways, bridges, or pub-
5 lic places in the city for any purpose, shall be complete in the
6 form in which it is finally passed, and remain on file with the
7 city clerk for public inspection at least one week before the final
8 passage or adoption thereof. No franchise or right to occupy
9 or use the streets, highways, bridges, or public places in said
10 city, shall be granted, renewed or extended, except by ordinance.
11 No franchise shall be granted for a period exceeding thirty years,
12 nor until notice of the application for the same shall have been
13 published in a city newspaper, or posted at the front door of
14 the mayor's office for thirty days prior to the final passage of
15 such franchise, and no amendment or addition thereto shall ex-
16 tend beyond the termination of the original franchise.

Sec. 14. No officer or employee of said city shall accept or
2 receive, directly or indirectly, from any person, firm or corpor-
3 ation operating within the terminal limits of said city, any inter-
4 urban railway, street railway, gas works, water works, electric
5 light or power plant, heating plant, telegraph line or exchange,
6 or other business using or operating under a public franchise,
7 any frank, free pass, free ticket or free service or accept or re-
8 ceive, directly or indirectly, from any such person, firm or
9 corporation, any other service or other gratuity upon terms more
10 favorable than is granted to the public generally. Any violations
11 of this section shall be a misdemeanor, and every such compact
12 or agreement shall be void, and the penalty for a violation of
13 this section shall be a fine of not less than twenty dollars and
14 forfeiture of office. Such prohibition of free transportation shall
15 not apply to policemen or firemen in uniform; nor shall any
16 free service to city officials heretofore provided by any franchise
17 or ordinance be affected by this section.

Sec. 15. The commission shall create, by appointment, a civil
2 service board, consisting of three residents of the city, whose
3 duty it shall be to examine all applicants for position in the de-
4 partment of police, fire and water works and such other de-
5 partments as may be ordained, including the chiefs of such de-
6 partments, and shall define the terms and prescribe the duties of

7 the members of said board. All appointments to said departments
8 shall be made from applicants recommended by said board, and
9 when appointed shall be removed only for cause.

Sec. 16. The commission shall each quarter print in pam-
2 phlet form a detailed statement of all receipts and expenses of
3 the city and a summary of its proceedings during the preceding
4 quarter, and furnish printed copies thereof to the newspapers of the
5 city, and to persons who shall apply therefor at the office of the city
6 clerk. At the end of each year the commission shall cause a full
7 and complete examination of all the books and accounts of the
8 city to be made by competent accountants, and shall publish the
9 result of such examination in the manner above provided for
10 publication of quarterly expenditures.

Sec. 17. In the construction of this act, the following rules
2 shall be observed, unless such construction would be inconsistent
3 with the manifest intent, or repugnant to the context:

4 1. The words "councilman" and "commissioner" shall be con-
5 strued to mean "councilman" when applied to said city.

6 2. The words "council" and "commission" shall be construed
7 to mean "council" when applied to said city.

8 3. When an officer or officers are named in any law referred
9 to in this act, it shall, when applied to said city, be construed to
10 mean the officer or officers having the same function or duties
11 under the provisions of this act, or under ordinances passed un-
12 der authority thereof.

13 4. The word "franchise" shall include every special privilege
14 in the streets, highways, and public places of the city, whether
15 granted by the state or the city, which does not belong to the
16 citizens generally by common right.

17 5. The word "electors" or "voters" shall be construed to mean
18 persons qualified to vote for elective officers at regular municipal
19 elections.

Sec. 18. The commission of the city may cause any street or
2 alley to be paved, between the sidewalks, with cobble stone, brick
3 or other suitable material, and a sewer to be constructed therein
4 from one of said cross streets or alleys to another, or to have
5 such paving done without the construction of a sewer, or a
6 sewer constructed without such paving, under such regulations
7 as shall be fixed by ordinance, upon the lowest and best terms
8 to be obtained by advertisements for bids, or proposals therefor,

9 by the commission as herein provided; and two-thirds of the
10 cost of such paving shall be assessed to the owners of the lots
11 or fractional parts of lots abutting or abounding on that part
12 of the street or alley so paved in proportion to the distance of
13 the frontage owned by each; *provided*, that in paying the cost
14 of paving any street upon which there is constructed any street
15 car, interurban or railway line, the city shall pay one-third of
16 such cost after first deducting the amount paid by the street car,
17 interurban or railway company, and the residue shall be paid by
18 the abutting property owners as above provided. The one-fourth
19 of such two-thirds shall be paid within thirty days after the
20 completion and acceptance of the work, and the remainder in
21 three equal installments, payable respectively at such times as
22 the commission may by ordinance fix at the time of letting the
23 contracts for such work. The other one-third of the cost of said
24 paving shall be borne by the city. The intersection of streets,
25 or of a street and alley, paved or provided with sewer under this
26 section shall be correspondingly paved or sewered at the sole
27 expense of the city.

28 The sum or sums of money thus assessed for paving shall be a
29 lien on the lots or fractional parts of lots upon which they are
30 assessed, which lien may be enforced by a suit in equity in the
31 name of the city in any court having jurisdiction thereof, and
32 the same or any installment thereof may be collected by a suit
33 at law before any court or any justice of the peace having juris-
34 diction thereof.

35 Immediately upon the completion and acceptance of any pav-
36 ing constructed by virtue of this section, the commission shall
37 direct the clerk to cause to be published a notice, which shall
38 name and describe the location of the street or alley upon which
39 said paving shall have been constructed; giving the names of
40 the owners of each lot abutting or abounding upon such street
41 or alley, if known, and if the name or names of the owners of
42 any lot or fractional part of a lot are unknown, such lot shall
43 be described with reasonable certainty in order that the same may
44 be identified. The number of feet that each lot or fractional part
45 of a lot abuts shall be stated; also the amount assessed against
46 each lot or fractional part of a lot. Said notice shall cite all
47 owners of lots or fractional parts of lots, abutting upon the streets
48 or alleys aforesaid to appear before the commission of said city

49 at a regular meeting thereof, within thirty days from the first
50 publication thereof, and show cause, if any they can, why the
51 assessment aforesaid should not become final, which notice shall
52 be published once a week for two successive weeks in one or
53 more newspapers of general circulation, published in said city.
54 The commission shall, upon the request of any one or more of the
55 owners of said lot or fractional parts of lot appoint a day to
56 hear the grievances of said owner or owners and may alter or amend
57 any assessment made against any one or more of said owner or own-
58 ers for good cause to be shown. The clerk shall give notice to all
59 persons claiming to be injured by said assessment, of the
60-61 time and place of holding said meeting, which meeting shall be
62 held within ten days after the expiration of thirty days mentioned
63 in said notice. The commission may adjourn the hearing from
64 time to time. In case any owner or owners of abutting property
65 fail to complain of any grievance or injury they may have suf-
66 fered by reason of the assessment aforesaid, and shall fail to
67 appear for the purpose of having the same corrected, the assess-
68 ment as laid shall be final. The findings of said commission shall
69 be conclusive. The rights conferred by this section are cumulative
70 and shall not be exhausted as to any particular street or alley
71 by reason of having been once exercised.

72 But the lien upon any real estate created by virtue of this sec-
73 tion shall be void as to any purchasers of any such real estate,
74 for value and without notice, who shall have purchased such real
75 estate at any time after a period of twelve months have elapsed
76 after the paving has been accepted by the city, unless an abstract
77 of such assessment, giving the location of the real estate affected,
78 the name of the owner and the date and the amount of the assess-
79 ment shall have been first recorded in the office of the clerk of
80 the county court of Taylor county, in the judgment lien docket.
81 And it is hereby made the duty of said county clerk to record
82 said abstracts; for the recordation of each of which said clerk
83 shall receive a fee of twenty-five cents to be paid by the city.

Sec. 19. The holder of any elective office may be removed at
2 any time by the electors qualified to vote for a successor of such
3 incumbent of an elective office as follows:

4 A petition signed by electors entitled to vote for a successor
5 to the incumbent sought to be removed, equal in number to at
6 least thirty per centum of the entire vote for all candidates for

7 the office of mayor cast at the last preceding general municipal
8 election, demanding an election of a successor of the person
9 sought to be removed shall be filed with the city clerk, which
10 petition shall contain a general statement of the grounds on
11 which the removal is sought. The signatures to the petitions
12 need not all be appended to one paper, but each signer shall
13 add to his signature his place of residence, giving the street and
14 number. One of the signers of each such paper shall make oath
15 before an officer competent to administer oaths, that the state-
16 ments therein made are true as he believes and that each sig-
17 nature to the paper appended is the genuine signature of the
18 person whose name it purports to be. Within ten days from
19 the date of filing such petition, the city clerk shall examine and
20 from the returns of election ascertain whether or not said pe-
21 tition is signed by the requisite number of qualified electors,
22 and, if necessary, the commission shall allow him extra help
23 for that purpose, and he shall attach to said petition his cer-
24 tificate showing the result of said examination. If, by the
25 clerk's certificate, the petition is shown to be insufficient, it
26 may be amended within ten days from the date of said cer-
27 tificate. The clerk shall, within ten days after such amend-
28 ment, make like examination of the amended petition and if
29 his certificate shall show the same to be insufficient, it shall
30 be returned to the person filing the same; without prejudice,
31 however, to the filing of a new petition to the same effect. If
32 the petition shall be deemed to be sufficient, the clerk shall
33 submit the same to the commission without delay. If the pe-
34 tition shall be found to be sufficient, the commission shall order
35 and fix a date for holding said election, not less than thirty
36 days nor more than forty days, from date of the clerk's cer-
37 tificate to the commission that a sufficient petition is filed.

38 The commission shall make, or cause to be made, publication
39 of notice and all arrangements for holding such election, and
40 the same shall be conducted, returned and the result thereof de-
41 clared in all respects as are other city elections. So far as
42 applicable, except as otherwise herein provided, nominations
43 hereunder shall be made without the intervention of a primary
44 election by filing with the clerk at least ten days prior to said
45 election, a statement of candidacy accompanied by a petition
46 signed by electors entitled to vote at said special election, equal

47 in number to at least twenty per centum of the entire vote for all
 48 candidates for the office of mayor at the last preceding general
 49 municipal election, which said statement of candidacy and peti-
 50 tion shall be substantially in the form set out in section five of
 51 this act, so far as the same is applicable, substituting the word
 52 "special" for the word "primary" in such statements and peti-
 53 tion, and stating therein that such person is a candidate for elec-
 54 tion instead of nomination.

55 The ballot for such special election shall be in substantially
 56 the following form:

57

Official Ballot

58 Special election for the balance of the unexpired term of
 59 as

60 For

61 (Vote for one only.)

62 (Names of candidates.)

63

64

65 Name of present incumbent.

66 Official Ballot. Attest:

67 Signature

68 City Clerk.

69 The successor of any office so removed shall hold office during
 70 the unexpired term of his predecessor. Any person sought to
 71 be removed may be a candidate to succeed himself, and unless
 72 he requests otherwise in writing, the clerk shall place his name
 73 on the official ballot without his filing any petition. In any
 74 such removal election, the candidate receiving the highest num-
 75 ber of votes shall be declared elected. At such election, if some
 76 other person than the incumbent receives the highest number of
 77 votes, the incumbent shall thereupon be deemed removed from
 78 the office upon the qualification of his successor. In case the
 79 party who received the highest number of votes should fail to
 80 qualify within ten days after receiving notification of election,
 81 the office shall be deemed vacant. If the incumbent receives
 82 the highest number of votes, he shall continue in office. The said
 83 method of removal shall be cumulative and in addition to the
 84 methods heretofore provided by law.

Sec. 20. Any proposed ordinance may be submitted to the
 2 commission by petition signed by electors of the city equal in

3 number to the percentage hereinafter required. The signatures,
4 verification, authentication, inspection, certification, amendment
5 and submission of such petition shall be the same as provided for
6 petition under section twenty-two hereof.

7 If the petition accompanying the proposed ordinance be signed
8 by electors equal in number to twenty per centum of the votes
9 cast for all candidates for mayor at the last preceding general
10 election, and contains a request that the said ordinance be sub-
11 mitted to a vote of the people, if not passed by the commission,
12 such commission shall either:

13 (a) Pass such ordinance without alteration within twenty
14 days after attachment of the clerk's certificate to the accompany-
15 ing petition; or,

16 (b) Forthwith, after the clerk shall attach to the petition ac-
17 companying such ordinance his certificate of sufficiency, the com-
18 mission shall call a special election, unless the general municipal
19 election is fixed within ninety days thereafter, and at such special
20 or general municipal election, if one is so fixed, such ordinance
21 shall be submitted without alteration to the vote of the electors
22 of said city. But if the petition is signed by not less than ten
23 per centum of the electors, as above defined, then the commission
24 shall within twenty days pass said ordinance without change,
25 or submit the same at the next general election occurring not
26 more than ninety days nor less than thirty days after the clerk's
27 certificate of sufficiency is attached to said petition.

28 The ballot used when voting upon said ordinance shall con-
29 tain these words "for the ordinance," and "against the ordinance,"
30 (stating the nature of the proposed ordinance.) If a majority
31 of the qualified electors voting on the proposed ordinance shall
32 vote in favor thereof, such ordinance shall thereupon become a
33 valid and binding ordinance of the city; and any ordinance pro-
34 posed by petition, or which shall be adopted by a vote of the
35 people, cannot be repealed or amended except by a vote of the
36 people. Any number of proposed ordinances may be voted upon
37 at the same election in accordance with the provisions of this
38 election, but there shall not be more than one special election in
39 any period of six months for such purpose.

40 The commission may submit a proposition for the repeal of
41 any such ordinance or for amendments thereto, to be voted upon at
42 any succeeding general city election; and should such proposition

43 so submitted receive a majority of the votes cast thereon at such
44 election, such ordinance shall thereby be repealed or amended
45 accordingly. Whenever any ordinance or proposition is required
46 by this act to be submitted to the voters of the city at any elec-
47 tion, the city clerk shall cause such ordinance or proposition to
48 be published once in each of the daily or weekly newspapers
49 published in said city; such publication to be not more than
50 twenty nor less than five days before the submission of such prop-
51 osition or ordinance to be voted on.

Sec. 21. No ordinance passed by the commission, except when
2 otherwise required by the general laws of the state or by the
3 provisions of this act, except an ordinance for the immediate
4 preservation of the public peace, health or safety, which shall
5 contain a statement of its urgency, shall go into effect before ten
6 days (and if the same be an ordinance granting a franchise, it
7 shall not go into effect before thirty days) from the date
8 of its passage, and not then unless such ordinance shall have
9 been posted at the front door of the mayor's office for five days
10 prior to the expiration of said ten days, and if the same be
11 an ordinance granting a franchise it shall not go into effect at
12 the expiration of said thirty days, unless within five days from
13 the time of its final passage the same shall have been published
14 in full in some newspaper published and generally circulated in
15 said city. And if during said ten days, if it be an ordinance
16 other than one granting a franchise, and if during said thirty
17 days, if it be an ordinance granting a franchise, a petition signed
18 by the electors of the city, equal in number to at least twenty
19 per centum of the entire vote cast for all candidates for mayor
20 at the last preceding general municipal election at which a mayor
21 was elected, protesting against the passage of such ordinance or
22 franchise, be presented to the commission, the said ordinance or
23 franchise shall thereupon be suspended from going into operation,
24 and it shall be the duty of the commission to reconsider such or-
25 dinance or franchise, and if the same is not entirely repealed,
26 the commission shall submit the ordinance, or franchise as is
27 provided by sub-section (b) of section twenty of this act, to the
28 vote of the electors of the city either at the general election or
29 at a special municipal election to be called for that purpose, and
30 such ordinance or franchise shall not go into effect or become
31 operative unless a majority of the qualified electors voting on the

32 same shall vote in favor thereof. Said petition shall be in all
33 respects in accordance with the provisions of said section twenty-
34 three, except as to the percentage of signers and be examined and
35 certified to by the clerk in all respects as therein provided.

Sec. 22. Petitions provided for in this act shall be signed by
2 none but legal voters of the city. Each petition shall contain, in
3 addition to the names of the petitioners, the street and house num-
4 ber in which the petitioner resides, his age and length of residence
5 in the city. It shall be accompanied by the affidavit of one or
6 more legal voters of the city, stating that the signers thereof
7 were, at the time of signing, legal voters of said city, and the
8 number of signers at the time the affidavit was made.

Sec. 23. In case that the offices of two of the commissioners
2 should be vacant at the same time, for any cause, the remaining
3 member of the commission shall forthwith call a special election
4 to fill vacancies for the unexpired term, and he shall perform
5 all duties incident to such election and devolving upon the com-
6 mission and its several members. Should all members of the
7 commission resign or their offices become vacant, in any manner,
8 the civil service board mentioned in section fifteen shall forth-
9 with call a special election to fill such vacancies for the unexpired
10 term, and said board shall be fully authorized and empowered to
11 perform the duties of the commission until the installation of the
12 officers elected at such special election.

Sec. 24. The commission shall have the right to levy and
2 collect taxes and grant licenses; and shall, in the discretion of
3 the commission, have the exclusive right to grant or to refuse to
4 grant licenses, within said city, for conducting and operating
5 pool and billiard tables and rooms, whether state licenses may
6 have been granted for such purposes or not, and make such pro-
7 vision for the conduct thereof as it deems proper.

8 To lay off, open, close, vacate, or maintain public grounds,
9 parks and public places, in or near the said city, and to guard
10 and police the same; to prohibit or regulate within the municipal-
11 ity or within two miles of its corporate limits or within two
12 miles of any cemetery, public park or place, the erection or main-
13 tenance of any slaughter house, soap factory, glue factory, tan-
14 nery, or other house, shop or factory of like kind or character;
15 to cause to be filled up, raised or drained, by or at the expense
16 of the owner, any town lot or tract of land covered or subject

17 to be covered by stagnant water; to prevent the desecration of
18 the Sabbath day; to regulate the running and speed of engines
19 and cars within said city; to regulate the sale of all foods and
20 drink products, milk and fresh meats, fish and vegetables, and
21 provide for inspection of same; to establish, regulate and main-
22 tain baths, bathing houses, drinking fountains, public toilet sta-
23 tions, and free public band concerts, and to regulate the time and
24 place of bathing pools and streams and public waters, within
25 the police jurisdiction of the city; to prevent gambling and
26 keeping of gambling places; to regulate the running of steam and
27 electric cars and automobiles over and across any streets or alleys,
28 and to require any railroad company or street car company to pro-
29 vide watchmen, gates or both watchmen and gates for any cross-
30 ing; to regulate or prohibit the ringing of bells, blowing of
31 whistles, the use of hand organs and all musical instruments of
32 any annoying character; to regulate or prohibit the distribution
33 of hand bills, circulars, and other advertisements on the streets,
34 roads, alleys, public places and parks, and in private yards,
35 buildings or other structures; to acquire, hold, maintain, control,
36 or dispose of a hospital or a public library, or any property for
37 eleemosynary purposes or any interest therein; to prohibit the
38 carrying about the person of revolvers, billies, false knuckles,
39 dirks, razors, bowie-knives or other dangerous and deadly
40 weapons, and to impose penalties therefor; to punish offenders
41 for all misdemeanors committed within the city limits.

Sec. 25. The commission of the city may cause to be graded
2 and paved with brick, concrete or any other suitable material
3 any sidewalk of any street or alley within the city, and where
4 any such sidewalk has once been paved, and the paving thereof
5 is in bad repair, dangerous or otherwise unfit, the commission
6 may cause such pavement to be removed, and the same replaced
7 with new pavement of brick, concrete or any other suitable ma-
8 terial upon such regulations as prescribed by the commission at
9 the expense of the owners of the lots or fractional parts of the
10 lots abutting or abounding on that part of the sidewalk so paved,
11 and the commission may likewise cause the curb stone along any
12 sidewalk to be placed and set, and may likewise cause any curb
13 stone that has been placed and set, and which has become out of
14 repair, dangerous or otherwise unfit, to be removed and replaced
15 by new curb stone to be constructed of such material as the

16 commission may prescribe, the cost of which shall be paid by the
17 owner of the lot or fractional lots abutting or abounding on that
18 part of the sidewalk for which said curb is so set or replaced;
19 *provided* that the said commission shall first notify the owner
20 of such abutting or abounding lots of its desire to have said
21 sidewalks so paved or the pavement thereon replaced or said curb
22 stone placed or reset, prescribing in said notice the kind of work
23 to be done, and the material to be used, and upon the failure of
24 such owner to so perform the work as required by a date to be
25 specified, the said city may then do said work at the expense of
26 said property owner, and assess the cost thereof against said
27 property owner.

28 The sums of money thus assessed for the grading, paving or re-
29 paving, or setting of the curb, or the replacing of curb, shall be
30 a lien upon the lots or fractional parts of lots upon which are
31 assessed, which lien may be enforced by a suit in equity in the
32 name of the city in any court having jurisdiction thereof, or the
33 same may be collected by a suit at law before any court or any
34 of the justices of the peace having jurisdiction thereof.

35 The findings of said commission shall be conclusive. The
36 rights conferred by this section are cumulative and shall not be
37 exhausted as to any particular street or alley by reason of having
38 been once exercised.

39 But the lien upon any real estate created by virtue of this
40 section shall be void as to any purchaser of any such real estate,
41 for value and without notice, who shall have purchased such
42 real estate at any time after a period of twelve months has
43 elapsed after the paving has been accepted by the city, unless an
44 abstract of such assessment, giving the location of the real es-
45 tate affected, the name of the owner and the date and the amount
46 of the assessment shall have been first recorded in the office of
47 the clerk of the county court of Taylor county, in the judgment
48 lien docket.

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

Sec. 26. The commission shall have authority to levy and
2 collect annual tax for general purposes on the personal property
3 and real estate in said city subject to taxation by said city, not
4 to exceed in any one year fifty cents on each one hundred dollars

5 of the assessed value thereof, and which fund may be used for
6 general purposes, and for any purpose desired by the commission
7 within the scope of their authority. The commission shall have
8 authority to levy and collect annual tax on the personal property
9 and real estate of said city in addition to all other taxes, not to
10 exceed in any one year ten cents on each hundred dollars of the
11 assessed value thereof, and which levy may be in excess of the
12 total levy hereinbefore authorized, and in excess of the levy author-
13 ized by any bond issue, and in excess of the total levy authorized
14 by any general law, but the money so collected shall be used for
15 the purpose of paying its proportion of the cost of paving or
16 repaving streets and alleys, and for constructing sewers in said
17 city in accordance with the provision of section twenty-four of this
18 act and such money shall be used for no other purpose.

Sec. 27. The word commission as used herein shall be con-
2 strued as meaning the "council," the "commissioners," or the
3 governing body of the city.

Sec. 28. . The commission shall have authority and power to
2 cause any street railway company or similar railway company,
3 or any other company operating any street railway or other rail-
4 road in and upon the streets and alleys of the city to keep the
5 crossings in good repair and condition, and shall have the power
6 and authority to require any such company to keep in good repair
7 the pavement between the rails of the track, and to the end of
8 the ties outward on any street traversed by the tracks of such
9 company, and shall have the authority to require any such com-
10 pany to pave any street between the rails and to the end of the
11 ties outward where traversed by such track, and to cause any such
12 company to take up any pavement between the rails and to the
13 end of the ties outward which has become dangerous or in bad
14 repair, and to repave the same with such material as required by
15 the commission, or the commission of the city may cause any
16 street or alley traversed by the tracks of any such company to be
17 paved between the rails of said company, and to the end of the
18 ties outward, with any suitable material, under such regulations
19 as shall be fixed by ordinance upon the lowest and best terms to
20 be obtained by advertisement for bids or proposals therefor, as
21 herein provided, and the entire cost of such paving between the
22 rails and the end of the ties outward, including any necessary
23 grading therefor, shall be assessed to the owner of such street

24 railway or other railway. The one-fourth of such cost shall be
25 paid within thirty days after the completion and acceptance of
26 the work, and the remainder in three equal installments, payable
27 respectively at such times as the commission by ordinance may
28 fix at the time of the letting of the contract for such work, and
29 this provision shall also apply to any pavement between the said
30 rails and to the end of the ties outward which has become dan-
31 gerous or out of repair, and the city commission shall likewise
32 have the power and authority to cause any such pavement to be
33 removed and new pavement constructed, the cost of which, includ-
34 ing any necessary grading, shall likewise be paid by the owner
35 of such street railway track or other railroad.

36 The sum or sums of money thus assessed for such paving or
37 repairing shall be a lien upon all the property of the owner of
38 said street railway, or other railway, within the city of Grafton,
39 which lien may be enforced by a suit in equity in the name of the
40 city in any court having jurisdiction thereof, or the same or any
41 installment thereof may be collected by a suit at law instituted
42 before any justice or in any court having jurisdiction thereof.

43 Immediately upon the completion and acceptance of any such
44 paving, or of any repairing to pavement by virtue of this section,
45 the commission shall direct the clerk to cause a notice to be given
46 to the owner of any such street car track, or other railroad track,
47 which shall name and describe the location of the street or alley
48 upon which such work shall have been done, stating the amount
49 assessed for such work and directing the said owner to appear
50 before the commission at a regular meeting thereof, within thirty
51 days from the date of said notice, on a day to be therein specified,
52 and show cause, if any such owner can, why the assessment afore-
53 said should not be final, and in case any such owner fails to com-
54 plain of such assessment, and shall fail to appear for the pur-
55 pose of having the same corrected, the assessment as made shall
56 be final and binding upon all parties interested, and the findings
57 of said commission upon the said matters shall be conclusive and
58 binding upon all parties interested. The rights conferred by this
59 section are cumulative, and shall not be exhausted as to any
60 particular street or alley by reason of having been once exercised.

61 But the lien upon any such property created by virtue of this
62 section shall be void as to any purchaser of any such property for
63 value and without notice, who shall purchase said real estate at

64 any time after a period of twelve months has elapsed after the
65 paving has been accepted by the city, unless an abstract of such
66 assessment be recorded in the office of the clerk of the county
67 court of Taylor county in the judgment lien docket, and for record-
68 ing such abstract the clerk of the county court shall be entitled
69 to a fee of twenty-five cents for each abstract so recorded.

Sec. 29. Subject to the limitation of sections seven and eight
2 of Article X of the constitution of the state of West Virginia and
3 when in the opinion of the commission the levies provided by law
4 together with any available funds are insufficient to pay the cost
5 of any needed improvement within the city, bonds may be issued
6 in any amount, including existing indebtedness, in the aggregate
7 not to exceed five per centum on the value of all the taxable prop-
8 erty within said city; *provided* that the commission shall first
9 enter an order specifying the proposed improvement in a general
10 way, the estimated cost thereof, stating the existing indebtedness,
11 the amount of the proposed bonds with the interest rate thereof,
12 the number, the amount and the date when said bonds shall become
13 due and payable, the maximum levy required in any year for
14 the retiring of said bonds and the payment of the interest thereon,
15 the value of all the taxable property within said city as ascertained
16 by the last assessment, and shall provide that no part of the pro-
17 ceeds of such bonds or levy shall be used for any other purpose
18 than the improvement specified in such order, but such order
19 need not specify minutely the improvement contemplated but
20 only in a general way, and submitting to the legal voters of said
21 city the proposition of authorizing the issuance of the bonds speci-
22 fied in said order and the laying of a levy to pay the same and the
23 interest thereon not to exceed in any one year the maximum levy
24 specified in said order.

25 The commission shall cause a vote to be taken upon the ques-
26 tion of such bond issue or such levy or both at the several voting
27 places in said city either at the succeeding general municipal
28 election or at any special election called by said commission and
29 provided for in said order.

30 The clerk of the commission shall cause as many copies of
31 such order to be made or printed as may be necessary and sign
32 the same, and he shall forthwith post one in a conspicuous place
33 in his office and one at the front door of the court house of Tay-
34 lor county. The commission shall direct a copy to be published
35 once each week for four consecutive weeks prior to the date of

36 such election in two newspapers of opposite politics if such there
37 be published in the city of Grafton. The commission shall at the
38 time of entering said order providing for said election specify the
39 places where said vote shall be taken and appoint three legal
40 qualified voters as commissioners and two legal qualified
40-a voters as clerks for each of said polling places to hold and
41 conduct said elections, and which polling places and election
42 officers shall be specified in said order as well also the date for
43 the holding of said election which shall not be less than forty
44 days nor more than ninety days next after the entrance of said
45 order.

46 A vote shall be taken and the result ascertained under the regu-
47 lations prescribed for a general election of county and district
48 officers and the result shall be ascertained and certified accord-
49 ing to the regulations prescribed by law for ascertaining and
50 certifying the election of county and district officers except that
51 the same shall be certified and reported to the commission of the
52 city and the commission shall declare by an order entered of record
53 the result of said election.

54 The ballots used in taking such poll shall have written or
55 printed thereon "Election to Authorize a Bond Issue according
56 to the order entered by the Commission of the City of Grafton
57 on the _____ day of _____, 19____" and directly underneath
58 in two separate lines shall be printed the words

59 "For the bond issue and levy payment"

60 "Against the bond issue and levy for payment"

61 with a square to the left and opposite the words "for the bond
62 issue and levy for payment," and with a square to the left and
63 opposite the words "Against the bond issue and levy for pay-
64 ment," and those desiring to vote for the bonds and the levy shall
65 either put an X in the square opposite the words "For the bond
66 issue and levy for payment" or erase the words "Against the bond
67 issue and levy for payment," and those desiring to vote against
68 the issuance of the bonds and the levy shall either place an X
69 in the square opposite the words "Against the bond issue and levy
70 for payment," or strike out the words "For the bond issue and
71 levy for payment."

72 If it shall appear by the result of said election that not less than
73 three-fifths of the voters of the city who voted upon the proposed
74 issue of bonds and the said levy have voted in favor of the same the
75 commission shall thereupon have authority to issue the amount or

76 any part thereof of said bonds and to lay the levy so voted for not
 77 to exceed in any one year the maximum amount of said levy to pro-
 78 vide for the payment of such bonds and the interest to accrue
 79 thereon.

80 The treasurer shall have power when so directed by the commis-
 81 sion by an order entered of record to execute, sell and deliver said
 82 bonds and receive the proceeds therefrom but said bonds shall be
 83 countersigned by the mayor and shall have attached thereto
 84 coupons representing the interest to accrue for the different years,
 85 and when issued in accordance with this section shall be binding
 86 upon the said city and all the property and funds of the city shall
 87 be pledged for the payment of the same.

88 The bonds authorized by this section, including existing indebt-
 89 edness, shall not exceed five per centum of the valuation of the
 90 taxable property within the city as ascertained by the last assess-
 91 ment.

Sec. 30. This act shall be effective unless within thirty days
 2 from the passage thereof, not less than ten percent of the legal
 3 voters of said city of Grafton, as evidenced by the vote cast at the
 4 last city election, petition the commissioners of said city for a ref-
 5 erendum vote when same shall then be submitted to the voters of
 6 the city of Grafton, then living within the territory embraced in
 7 section two hereof, at a special election called for that purpose,
 8 and adopted by a majority of the votes cast for and against the
 9 same at said election. The commissioners of the city of Grafton
 10 shall call such election within thirty days after the presentation
 11 of said petition requesting a referendum vote, and such election
 12 shall be held at all precincts in such city upon notice published
 13 once a week for two weeks in the newspapers published in the
 14 city of Grafton and by notice posted in each precinct in said city
 15 for ten days preceding such election. Said election shall be con-
 16 ducted, officers appointed, returns canvassed and results declared
 17 as any city election in said city is now authorized by law.

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

20 City of Grafton

21 Charter Election

22 Indicate how you desire to vote by a cross in the square.

23 [] "For adoption of new charter."

24 [] "Against adoption of new charter."

CHAPTER 11

(Senate Bill No. 131—Mr. Chapman.)

AN ACT to amend and re-enact chapter two of the acts of the legislature of one thousand nine hundred and nineteen, (municipal charters,) and to repeal certain sections of said chapter of said acts, and to repeal all acts or parts of acts inconsistent with the provisions of this act; and to enlarge the corporate limits of the city of Huntington, and to consolidate into one act the charter of the city of Huntington.

[Passed April 25, 1921. In effect from passage. Became a law without the approval of the Governor.]

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| <p>SEC.</p> <p>1. City of Huntington.</p> <p>2. Corporate limits.</p> <p>3. Wards.</p> <p>3-a. Franchises or right of ways heretofore granted.</p> <p>4. Board of commissioners of city.</p> <p>5. Corporate powers vested in board of commissioners.</p> <p>6. Powers and duties of board of commissioners.</p> <p>7. Citizens, board of city; of whom composed; when and how elected.</p> <p>8. Organization of citizens board; terms of office.</p> <p>9. City clerk; ex-officio clerk of citizens board; duties.</p> <p>10. Citizens board to assume duties.</p> <p>11. Vacancies in citizens board, when and how filled.</p> <p>12. Vacancies in office of president of citizens board, when and how filled.</p> <p>13. Franchise or extension to be approved by citizens board.</p> <p>14. Citizens board has power to remove commissioners.</p> <p>15. Causes for removal of commissioners.</p> <p>16. Records and rules governing citizens' board.</p> <p>17. Powers and duties of mayor.</p> <p>18. List of appointive officers; when and how appointed.</p> <p>19. Who entitled to vote.</p> <p>20. Candidates, when and how nominated.</p> <p>21. Elections.</p> <p>22. Election of commissioners; terms of office.</p> <p>23. Election of members of citizens board; terms of office.</p> <p>24. Eligibility to office of mayor or commissioner.</p> <p>25. Contested elections.</p> <p>26. Provisions governing in case of tie vote.</p> <p>27. Oath of office.</p> <p>28. Bonds of officers.</p> <p>29. Government divided into three departments.</p> <p>30. Appointive officers; terms of office; how removed.</p> <p>31. Salaries of officers and how paid.</p> <p>32. Salaries of appointive officers.</p> <p>33. Laborers, how paid.</p> | <p>SEC.</p> <p>34. Duties of appointive officers.</p> <p>35. Meetings of board of commissioners.</p> <p>36. Special meetings of board of commissioners.</p> <p>37. Manner of voting of board of commissioners.</p> <p>38. Duties of the city clerk.</p> <p>39. Meetings of the citizens board.</p> <p>40. Special meetings, how called.</p> <p>41. Board of commissioners and citizens board have power to enforce attendance of witnesses; power to administer oaths; cause papers and books to be produced; punish for contempt.</p> <p>42. Commissioners and citizens' board, quorum necessary.</p> <p>43. Vacancies in office of mayor or commissioner.</p> <p>44. Temporary vacancies, how filled.</p> <p>45. Members of board of commissioners cannot hold any other office.</p> <p>46. Appointive officers of city cannot hold other offices.</p> <p>47. Board of commissioners to purchase supplies for city.</p> <p>48. Conservators of the peace; police judge <i>ex-officio</i> justice of peace; powers, duties; trial of cases; appeals.</p> <p>49. Franchise; powers of board of commissioners.</p> <p>50. Ordinance; power of city board to veto.</p> <p>51. Same; veto of ordinance; board to notify commissioners.</p> <p>52. Franchise; procedure in case of tie vote on passage.</p> <p>53. Franchise; publication of notice; "franchise" defined.</p> <p>54. Ordinance, style of.</p> <p>55. License; power to grant, refuse or revoke; bond; penalty for failure to pay tax.</p> <p>56. Nuisances; abatement; penalty; expenses, how paid; notice to owner.</p> <p>57. Power of commissioners to compel sewer connections.</p> <p>58. Same; to putting down of curbing, planting trees; in case of failure of owners, city to cause same to be done; expense, charge against property; how collected; time for payment; if work done by con-</p> |
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| <p>SEC.</p> <p>tract; may issue bonds; publication of notice.</p> <p>50. Board of commissioners; to levy taxes; apportionment of rates; publication of notice.</p> <p>60. Same; to assess and collect taxes; limitation of levy of ten cents; additional levy of twenty cents; to create "revolving fund;" purposes.</p> <p>61. Taxes; lien on property; how enforced; duty of city clerk; assessment and collection of fines.</p> <p>62. Taxes; property exempt in certain cases; powers municipal authorities.</p> <p>63. Poll tax; how assessed and collected; how used.</p> <p>64. City treasurer; duties; handling of funds.</p> <p>65. Board of commissioners; powers; to make permanent improvements to advertise before making contracts; cost, how paid; (b) payment by owners; (c) right of petition; (d) city power to do work and collect cost; (e) cost of improving intersections; (f) cost, how paid, if occupied by street car track or railroad; (g) power of commissioners to widen, grade or change avenues, streets and alleys; (h) powers of commissioners, to acquire property for public use; (i) improvements; notice for bids; cost of paving, etc., how paid; (k) board of commissioners; power to lay sewers; to collect costs.</p> <p>66. Issuance of bonds; time to run; how paid; limitations; city not to become indebted; (b) board of commissioners to certify assessments; (c) amount of assessments; how paid; to hear six per cent interest; (d) failure to pay when due; penalty; how enforced; (e) duty of treasurer when assessments paid in full; (f) power of commissioners lay off land into lots.</p> <p>67. Board of commissioners; power to</p> | <p>SEC.</p> <p>contract improvements; to assess cost; report recorded in clerk's office; duties of clerk.</p> <p>68. Same; to order construction of sewer or lateral; cost, how paid.</p> <p>69. Additional provisions; duties of county clerk; fees of clerk; treasurer to keep separate accounts; who to act in lieu of treasurer.</p> <p>70. Power of city to sell bonds; additional levy; limit of total indebtedness; to submit issuance of bonds to vote; three-fifths vote necessary; question, how submitted; purpose of bond issue; provisions of chapter 49-a of code to apply.</p> <p>71. Issuance of bonds to maintain water system; limitation of amount of bonds; interest; provision for payment; application of proceeds of bonds.</p> <p>72. Publication of notices; cost.</p> <p>73. Sufficient description of abutting property improved.</p> <p>74. Board of commissioners to publish notice upon completion of improvements; manner of publication; provision when publication can not be had.</p> <p>75. Examination of persons for officers or position in city departments; how held; result, how ascertained; declaring result.</p> <p>76. Appointive officers; tenure of office.</p> <p>77. Appointment of police and fire departments; how made.</p> <p>78. Terms of office; commissioners to hear charges; manner of dismissal.</p> <p>79. Ordinances, how adopted; to be kept in book form.</p> <p>80. Execution of summons, warrant, notice or other process.</p> <p>81. Certain officers to continue in office; election of successors.</p> <p>82. City clerk custodian of records and papers.</p> <p>83. Election of political committees; duties of committees.</p> <p>84. Inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That chapter two of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen (municipal charters), be amended and re-enacted, and that certain sections of said chapter of said acts be repealed, and that all acts or parts of acts inconsistent with the provisions of this act be repealed, and that the corporate limits of the city of Huntington, be enlarged, and that the charter for the said city of Huntington, as constituted by this act, be incorporated and consolidated into one act to read as follows:

Section 1. That part of the county of Cabell included in the 2 limits hereinafter mentioned in section two, is hereby made a 3 city corporate and body politic by the name of "The City of

4 Huntington," and as such shall have perpetual succession and
5 a common seal, and by that name may sue and be sued, plead
6 and be impleaded, and purchase, lease, sell and hold real and
7 personal property necessary to the purposes of said corporation.

Sec. 2. The corporate limits of the city of Huntington shall
2 be as follows, to wit:

3 Beginning at a stake at low water mark on the Ohio river
4 southerly side thereof about one mile above the mouth of Guyan-
5 dotte river at the west side of the Peck farm, thence southerly
6-8 with the west line of the Peck farm to the top of the river hill;
9 thence westerly with the top of the river hill to the east line
10 of the Southland addition to the city of Huntington, a map
11 or plat of which addition is filed in the county court clerk's
12 office of said county and state; thence with the easterly line
13 of said Southland addition, southerly to the south line of same;
14 thence with the easterly line of said addition extended southerly
15 to the top of the bank on the west side of Pats' branch; thence
16 southwesterly with the west bank of said Pats' branch to the east
17 side of the Guyandotte river at low water mark; thence south-
18 easterly with the low water mark of the Guyandotte river and on
19 the easterly side thereof to a point directly opposite the mouth of
20 Crump branch, a tributary of the Guyandotte river, on the wester-
21 ly side thereof; thence westerly in a straight line and crossing the
22 Guyandotte river to the mouth of said Crump branch: thence
23 southerly with the westerly line of the Isaac Crump lands to what
24 is known as the military line; thence westerly with the said mili-
25 tary line to its intersection with the southeasterly corporation line
26 of the city of Huntington, as heretofore constituted by chapter
27 one hundred and fifty of the acts of the legislature of one thousand
28 nine hundred and one; thence with said corporation line as con-
29-39 stituted by said chapter one hundred and fifty of the acts of the
40 legislature of one thousand nine hundred and one, in a westerly
41 direction to the McCoy road (or eighth street road) thence con-
42 tinuing with said old corporation line a distance of about twelve
43 hundred feet to the northerly bank of the left fork of Hisey creek;
44 thence westerly with the northern bank of the said left fork to
45 its intersection with the right fork; thence westerly with the
46 northerly bank of Hisey Fork of Four Pole creek to where said
47 old corporation line crosses said Hisey Fork; thence in a north-
48 erly direction to the northerly branch of Four Pole creek, as here-

49 tofore constituted by chapter one hundred and fifty of the acts
50 of the legislature of one thousand nine hundred and one; thence
51 in a westerly direction and down Four Pole creek with the north-
52 erly bank thereof to the intersection of said creek with Hisey Fork
53 of said creek; thence with the northerly bank of Four Pole
54 creek westerly and down the same to the intersection of said
55 creek with the southerly line of the right-of-way of the Chesapeake
56 & Ohio railway company; thence continuing westerly with the
57 said southerly line of the right-of-way of said railway company
58 to its intersection with the division line between Wayne and
59 Cabell counties; thence with the division line between Wayne
60 and Cabell counties in a northerly direction to the low water
61 mark of the south side of the Ohio river; thence easterly with
62 the low water mark of the Ohio river on the southerly side
63 thereof to the point of beginning.

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

3 *First Ward*—To include the territory lying south of the main
4 line of the Baltimore & Ohio railroad and east of the division
5 line between Cabell and Wayne counties and west of First street
6 east, projected southerly to the corporation line.

7 *Second Ward*—To include the territory lying north of the main
8 line of the Baltimore & Ohio railroad and east of the division
8-a line between Cabell and Wayne counties, and lying west of First
8-b street east.

9 *Third Ward*—To include the territory lying east of First
10 street and west of Tenth street and between the Ohio river and the
11 right-of-way of the main line of the Chesapeake & Ohio railway
12 company.

13 *Fourth Ward*—To include the territory east of Tenth street
14 and west of Eighteenth street between the Ohio river and the
15 right-of-way of the Chesapeake & Ohio railway company.

16 *Fifth Ward*—To include the territory east of Eighteenth street
17 and west of Twenty-Eighth street between the Ohio river and
18 the right-of-way of the Chesapeake & Ohio railway company.

19 *Sixth Ward*—To include the territory east of the east line of
20 First street projected to the south corporation line and Sixteenth
21 street between the right-of-way of the Chesapeake & Ohio rail-
22 way company main line and the south corporation line.

23 *Seventh Ward*—To include the territory between Sixteenth
24 street and Twentieth street and the extension there, known as
25 Norway avenue, and between the right-of-way of the Chesapeake
26 & Ohio railway company and the south corporation line.

27 *Eighth Ward*—To include the territory east of Twentieth
28 street and the extension thereof, known as Norway avenue, and
29 west of the Guyandotte river and between the right-of-way of the
30 Chesapeake & Ohio railway company and the south corporation
31 line.

32 *Ninth Ward*—To include the territory lying east of Twenty-
33 Eighth street and north of the right-of-way of the Chesapeake &
34 Ohio railway company and west of the Guyandotte river, and also
35 all that territory east of the Guyandotte river.

Sec. 3-a. Any existing franchise or right of way heretofore
2 granted to or for any public service corporation on public streets,
3 avenues, alleys, roads and grounds, in that territory not heretofore
4 a part of the city of Huntington but by this act added to and in-
5 cluded within the corporate limits of said city, shall not be
6 annulled by the passage of this act, but shall remain in full force
7 and effect according to the terms of the granting thereof; and
8 the passage of this act shall not by operation of law, (but may
9 be by action of the city upon application for franchise under
10 the provisions of existing laws relating to the granting of fran-
11 chises), extend rights under existing franchise held by any pub-
12 lic service corporation on and in the public streets within the
13 corporate limits of said city immediately prior to the passage of
14 this act, to such public streets, avenues, alleys, roads and
15 grounds of such new or added territory on and in which a com-
16 peting public service corporation is now operating under a fran-
17 chise.

Sec. 4. The municipal authorities of the city of Huntington
2 shall be two commissioners and a mayor who shall constitute a
3 board of commissioners and shall be known as the "board of com-
4 missioners of the city of Huntington."

Sec. 5. All the corporate powers of said city shall be vested
2 in and exercised by the board of commissioners, or under its au-
3 thority, except as otherwise provided in this act.

Sec. 6. The board of commissioners of said city shall have,
2 and are hereby granted, power to have said city surveyed; to open,
3 vacate, broaden, change grade of, grade and pave streets, side-

4 walks and gutters, for public use, and to alter, improve, embellish
5 and ornament and light the same and to construct and maintain
6 public sewers and laterals, and shall in all cases have power and
7 authority to assess upon and collect from the property benefited
8 thereby such part of the expense thereof as shall be fixed by
9 ordinance, except as hereinafter provided; to have control of all
10 streets, avenues, roads, alleys and grounds for public use in said
11 city, and to regulate the use thereof and driving thereon, and
12 to have the same kept in good order and free from obstruction,
13 pollution or litter on or over them; to have the right to control
14 all bridges within said city, and the traffic passing thereover; to
15 change name of any street, the renumbering of houses on any
16 street, avenue or road therein; to regulate and determine the
17 width of streets, sidewalks, roads and alleys; to order and direct
18 the curbing and paving of sidewalks and footways for public use
19 in said city, to be done and kept clean and in good order by the
20 owner of adjacent property; to enter into a contract with any
21 internal improvement company for the joint ownership of any
22 bridge by the city, and such company, upon such terms as may
23 be prescribed in the contract; but such bridge shall be a public
24 highway, and the interest of the company shall be only such
25 proportionate part thereof as it may pay for; to prohibit and
26 punish the abuse of animals; to restrain and punish vagrants,
27 mendicants, beggars, tramps, prostitutes, drunken or disorderly
28 persons within the city and to provide for their arrest and man-
29 ner of punishment; to prohibit and punish by fine, the bringing
30 into the city by steamboats, railroads, or other carriers, of pau-
31 pers, or persons afflicted with contagious diseases; to control and
32 suppress disorderly houses, houses of prostitution or ill-fame,
33 houses of assignation and gaming houses, or any part thereof,
34 and to punish gaming; to prohibit within said city or within one
35 mile thereof slaughter houses, soap or glue factories and houses of
36 like kind; to control the construction and repair of all houses,
37 basements, walls, bridges, culverts and sewers, and to prescribe
38 and enforce all reasonable regulations affecting the construction
39 of the same and to require permits to be obtained for such
40 buildings and structures, and plans and specifications to be first
41 submitted to a city architect or building inspector; to control the
42 opening and construction of ditches, drains, sewers, cesspools
43 and gutters, and to deepen, widen and clear the same of stagnant

44 water or filth, and to prevent obstruction therein, and to deter-
45 mine at whose expense the same shall be done; to build and
46 maintain fire station houses, police stations, and police courts,
47 and to regulate the management thereof; to acquire, lay off, ap-
48 propriate and control public grounds, squares and parks, either
49 within or without the city limits as hereinbefore defined, and
50 when the board of commissioners determines that any real estate
51 is necessary to be acquired by said city for any such purposes, or
52 for any public purpose, the power of eminent domain is hereby
53 conferred upon said city, and it shall have the right to institute
54 condemnation proceedings against the owner thereof in the same
55 manner, to the extent and upon the same conditions as such power
56 is conferred upon public corporations by chapter forty-two of
57 the code of West Virginia, of the edition of one thousand nine
58 hundred and six, and as now amended; to purchase, sell, lease
59 or contract for and take care of all public buildings and struc-
60 tures and real estate, including libraries and hospitals, deemed
61 proper for the use of said city; and for the protection of the
62 public; to cause the removal of unsafe walls or buildings, and the
63 filling of excavations; to prevent injury or annoyance to the
64 business of individuals from anything dangerous, offensive or un-
65 wholesome; to abate or cause to be abated all nuisances, and to
66 that end and threereabout to summon witnesses and hear testi-
67 mony; to regulate the keeping of gun powder and other com-
68 bustible or dangerous articles; to regulate, restrain or prohibit
69 the use of firecrackers or other explosives or fire-works, and all
70 noises or performances, which may be dangerous, annoying to
71 persons or tend to frighten horses or other animals; to provide
72 and maintain proper places for the burial of the dead, and to
73 regulate interments therein upon such terms and conditions
74 as to price and otherwise as may be determined; to provide for
75 shade and ornamental trees and the protection of the same; to
76 provide for the making of division fences; to make proper
77 regulations for guarding against danger of damage from fires;
78 to provide for the poor of the city, and to that end may contract
79 with the proper authorities of Cabell or Wayne county to keep and
80 maintain the poor or any number thereof, upon terms to be agreed
81 upon; to make suitable and proper regulations in regard to the
82 use of the streets and alleys for street cars, railroad engines
83 and cars, and to regulate the running and operation of the same

84 as to prevent injury, inconvenience or annoyance to the public;
85 to prohibit prize fighting, cock and dog fighting; to license, tax,
86 regulate or prohibit theatres, circuses, the exhibit of showmen
87 and shows of any kind, and the exhibition of natural or artificial
88 curiosities, caravans, menageries and musical exhibitions, and
89 performances, and other things or business on which the state
90 does or may exact a license tax; to organize and maintain fire
91 companies and to provide necessary apparatus, engines, and im-
92 plements for the same; to regulate and control the kind and man-
93 ner of plumbing and electric wiring for the protection of the
94 health and safety of said city; to levy taxes on persons, property
95 and licenses; to license and tax dogs and other animals, and regu-
96 late, restrain and prohibit them and all other animals and fowls
97 running at large; to provide revenue for the city and appro-
98 priate the same to its expenses; to adopt rules for the transaction
99 of business and for its own regulation and government; to pro-
100 mote the general welfare of the city, and to protect the persons
101 and property of citizens therein; to regulate and provide for the
102 weighing of produce and other articles sold in said city and to
103 regulate the transportation thereof, and other things, through
104 the streets; to have the sole and exclusive right to grant, refuse
105 or revoke any and all licenses for the carrying on of any business
106 within said city on which the state exacts a license tax; to
107 establish and regulate markets and to prescribe the time for
108 holding the same; and what shall be sold in such market, and to
109 acquire and hold property for market purposes; to regulate the
110 placing of signs, bill boards, posters and advertisements in, on or
111 over the streets, alleys, sidewalks and public ground of said city:
112 to preserve and protect the peace, order and safety and health
113 of the city, and its inhabitants, including the right to regulate
114 the sale and use of cocaine, morphine, opium, and poisonous
115 drugs; to appoint and fix the places of holding city elections;
116 to erect, own, lease, authorize or prohibit the erection of gas
117 works, telephone plants, electric light works and water works,
118 or ferry boats, in or near the city, and to operate the same, and
119 sell the products and services thereof to the inhabitants and in-
120 dustries of the city, and the inhabitants and industries of the
121 territory outside of the city, under such rules and regulations,
122 and for such compensations as the board of commissioners may
123 from time to time prescribe, and to do any and all things neces-

124-129 sary and incidental to the conduct of such business, to build,
130 hold, purchase, own and operate toll bridges; to provide for
131 the purity of water, milk, meats and provisions offered for sale
132 in said city, and to that end provide for a system of inspecting
133 the same and making and enforcing rules for the regulation of
134 their sale, and to prohibit the sale of any unwholesome or
135 tainted milk, meats, fish, fruit, vegetables, or the sale of
136 milk containing water or other things not constituting a part of
137 pure milk; to provide for inspecting dairies and slaughter
138 houses, whether in or outside of the city; where the milk and
139 meat therefrom are offered for sale within said city; to pre-
140 scribe and enforce ordinances and rules for the purposes of
141 protecting the health, property, lives, decency, morality and
142 good order of the city and its inhabitants, and to protect places
143 of divine worship in and about the premises where held, and to
144 punish violation of such ordinances even if the offense under
145 and against the same shall constitute offenses under the law of
146 the state of West Virginia or the common law; to provide for
147 the employment and safe keeping of persons who may be com-
148 mitted in default of any payment of fines, penalties or costs under
149 this act, who are otherwise unable or fail to discharge the same,
150 by putting them to work for the benefit of the city upon the
151 streets or other places provided by said city, and to use such
152 means to prevent their escape while at work as the board of com-
153 missioners may deem expedient; and the board of commissioners
154 may fix a reasonable rate per day as wages to be allowed such
155 persons until the fine and costs against them are thereby dis-
156 charged; to compel the attendance at public meetings of the
157 members of the board of commissioners; to have and exercise
158 such additional rights, privileges and powers as are granted to
159 municipalities by chapter forty-seven of the code of West Vir-
160 ginia of the edition of one thousand nine hundred and six. For
161 such purposes, except that of taxation, the board of commis-
162 sioners shall have jurisdiction, when necessary, for one
163 mile beyond the corporate limits of said city, excepting any
164 other municipal corporation or part of any other state within
165 said one mile limit; *provided, however,* that nothing herein
166 contained shall be construed as limiting the city from going
167 beyond its territorial limits to lease, purchase or acquire any
168 real estate for public grounds or parks, or for the purpose of

169 erecting, operating and maintaining water plant, or system, or
170 any part thereof, or from furnishing and selling water to con-
171 sumers outside the city.

172 Said city of Huntington, as constituted by this act, shall
173 retain, keep and succeed to all rights, privileges, property,
174 interest, claims and demands heretofore acquired by, vested
175 in or transferred to the said city of Huntington, said city
176 of Central City, the town of Guyandotte, as heretofore con-
177 stituted.

178 And the board of commissioners shall have the right to estab-
179 lish, construct and maintain landings, ferries, wharves, and
180 docks on any ground which does or shall belong to said city, or
181 which it shall acquire, and to sell, lease, repair, alter or remove
182 any such landings, ferries, wharves, buildings, or docks which
183 have been, or shall be so constructed, and to levy and collect
184 reasonable duty on vessels, and other crafts coming to, or using
185 said landings, ferries, wharves, docks and buildings, and to pre-
186 serve and protect the peace and good order at the same, and
187 regulate the manner in which they shall be used; and to have the
188 sole right, under state laws and in the same manner as now con-
189 trol county courts, to establish, construct, maintain, regulate
190 and control all such wharves, docks, ferries and landings within
191 the corporate limits.

192 To the end that the city and its inhabitants and industries
193 may be furnished with an adequate supply of water for all need-
194 ful purposes, the said city is hereby authorized to acquire and
195 hold by gift, purchase, condemnation, or otherwise, such real
196 estate or interest therein or personal property either within or
197 without the city limits, as may from time to time be necessary
198 or convenient for use in connection with such plants, works,
199 structures, pipe lines or other property, in and about leasing,
200 constructing, operating and maintaining a water works and
201 system; which water works and system may also be used to supply
202 water to the inhabitants and industries of such territory out-
203 side the city, as the board of commissioners may from time to
204 time elect, for adequate compensation.

205 The water rates shall be fixed by the board of commissioners
206 on the principle only of producing revenue, and discrimination
207 in rates is prohibited in said city; and the city is hereby given
208 the same power and authority to collect water rents by distress,

209 levy and sale as are conferred upon it from the collection of taxes.
210 And the said city shall have the right and power to receive and
211 hold gifts or bequests of money or property of any sort and to
212 manage and administer the same in accordance with the terms
213 of such gifts or devises or bequests; to establish and manage
214 homes for children or the helpless or indigent; hospitals for sick,
215 invalid or crippled, or destitute, libraries, gymnasiums, athletic
216 park, to take, acquire, hold, keep and administer under proper
217 rules and regulations by the city prescribed, such real estate as
218 may be proper to accomplish any or all of said purposes, and lay
219 such levy as may be needed to maintain in whole or in part the
220 same, and as well to have, hold, maintain or administer such
221 property as it may now have for any or all such purposes.

222 To carry into effect these enumerated powers, and all other
223 powers conferred upon said city expressly or by implication in
224 this act and other acts of the legislature, the board of commission-
225 ers of said city shall have the power in the same manner herein
226 prescribed, to adopt and enforce all needful orders, rules and or-
227 dinances not contrary to the laws and constitution of this state;
228 and to prescribe, impose and enforce reasonable fines and penal-
229 ties including imprisonment: and with the consent of the county
230 court of Cabell county entered on record, shall have the right to
231 use the jail of said county for any purpose necessary to the
232 administration of its affairs.

Sec. 7. The city of Huntington shall have an additional board
2 to be known and styled as the "Citizens Board of the city of
3 Huntington," and shall be comprised of two persons from each
4 ward of the city, who shall be voted for and elected by the voters
5 of each ward, respectively, in the manner hereinafter prescribed.
6 The members of said board shall be allowed the sum of five dol-
7 lars each, for their attendance at each meeting of said board.

Sec. 8. The citizens board shall, at its first meeting after a
2 majority of the newly elected members thereof shall have quali-
3 fied, elect one of its members president of the body, whose term
4 of office shall be for three years, and at the same time shall
5 elect a vice president, who shall have the same term of office
6 and who, in the absence of the president, shall act as such.

Sec. 9. The city clerk shall be *ex officio* clerk of the citizens
2 board, and shall perform such duties pertaining thereto as the
3 board may require of him.

Sec. 10. Whenever a majority of the newly elected members
2 of the citizens board shall have qualified, they shall enter upon
3 the duties of their offices, as a body, and supersede all the former
4 members of said board.

Sec. 11. If any person elected to the citizens board fail to
2 qualify as herein provided within sixty days after his said elec-
3 tion, or shall after having qualified, resign from the board, or
4 move from the city, his office shall be vacated, and the citizens
5 board shall, by a majority vote of the members voting thereon,
6 fill such vacancy for the unexpired term with some person from
7 the same ward and of the same political party as the person whose
8 vacancy of office is being filled.

Sec. 12. The citizens board shall, likewise by a majority of the
2 members voting thereon, fill any vacancy in the office of presi-
3 dent of its body by electing another member of the board to the
4 office of president for the unexpired term.

Sec. 13. No franchise, or extension of franchise, shall be valid
2 unless it shall have been ratified and approved by a majority of
3 all the members elected to the citizens board, and the vote of said
4 board shall be taken by roll call of the members and entered of
5 record in the minutes of the meeting of said board.

Sec. 14. The citizens board shall have the right to hear,
2 consider and act on charges against any member of the board of
3 commissioners, and after having heard proof of such charges,
4 may remove such commissioner and declare his office vacant by
5 two-thirds vote of all the members elected on said board, and the
6 vote thereon shall be by roll call of the members and entered of
7 record in the minutes of the meeting. But before such commis-
8 sioner shall be put to trial on such charges, he shall have at least
9 ten days' written notice of the nature of said charges, and the
10 time and place of the hearing thereon, before said citizens board.
11 If the citizens board, after hearing of said charges, shall remove
12 said commissioner from office thereby declaring a vacancy in his
13 said office of commissioner, it shall, through its president, or oth-
14 erwise, cause its action thereabout to be at once certified to the
15 board of commissioners.

Sec. 15. No commissioner shall be removed from his office
2 except for one of the causes mentioned in section six of article
3 four of the constitution of West Virginia.

Sec. 16. The citizens board shall make proper rules for its
2 government not contrary or inconsistent with any of the provis-

3 ions of this act or the authority vested in the board of commis-
4 sioners; and it shall cause a record of its meetings and proceed-
5 ings to be kept and recorded by its clerk in a well-bound book,
6 which shall remain in the custody and at the office of the city
7 clerk, open to public inspection. The minutes of the meeting
8 and proceedings of said board, after recordation and when signed
9 by its president, shall be admitted as evidence in any court of
10 record in this state.

Sec. 17. The mayor shall be the chief executive officer of the
2 city and shall have and exercise all of the rights, powers and
3 duties of mayor conferred by the constitution and laws of this
4 state, and those conferred by the terms of this act, and it shall
5 be his duty to see that the laws and ordinances of the city and
6 resolutions and orders of the board of commissioners are enforced,
7 and that peace and good order of the city are preserved, and that
8 the persons and property therein are protected. The mayor
9 shall be presiding officer of the board of commissioners and a
10 member thereof, and as such shall have the right to vote on all
11 appointments made by the board of commissioners and on all
12 questions arising before the board. The mayor and the members
13 of the board of commissioners shall perform such other duties
14 not inconsistent with the provisions of this act as the board of
15 commissioners may from time to time prescribe.

Sec. 18. In addition to the municipal authorities mentioned in
2 sections four and seven of this act, said city shall have a city
3 clerk, treasurer, auditor, police judge, city attorney, chief of
4 police, chief of detectives, chief of fire department, city engineer,
5 city building inspector, superintendent of streets and sewers,
6 health officer and such other officers and agents as the board of
7 commissioners from time to time may create and employ; *pro-*
8 *vided, however,* that no new office shall be made or created by the
9 board of commissioners, except by ordinance. The election of all
10 appointive officers named or provided for in this act, shall be
11 vested in the board of commissioners, except that the auditor shall
12 be appointed by the citizens board.

Sec. 19. Every person qualified by law to vote for members
2 of the legislature of the state, and who shall have been a resident
3 of the city for sixty days, preceding the day of election, and a
4 *bona fide* resident of the election precinct in which he offers to
5 vote, shall be entitled to vote at all elections held in said city by or
6 under the corporate authorities thereof.

Sec. 20. Candidates to be voted for at any municipal or general election for mayor or the board of commissioners, or members of the citizens board, shall be nominated on the fourth Monday in April preceding such election in the same manner as candidates for state and county offices shall be nominated under the general election laws of the state.

7 *Provided, however,* that no political party shall nominate more than one candidate for member of the board of commissioners from the same ward.

Sec. 21. All elections, whether primary or general, held under this act, shall be held under the general election laws of the state of West Virginia, as far as applicable hereto and the registration of voters for such election shall be had and proceeded with as prescribed by the general election laws of the state of West Virginia for the registration of voters for such state elections, and in all such elections held for the city of Huntington under the provisions of this act, the citizens board of the city of Huntington shall be known as "the election board" and shall be vested with all the powers and perform all the duties vested in and devolving upon county courts under the general election laws of the state of West Virginia with respect to state elections, and in appointing election officers for any city election, the dominant party shall be entitled to a majority representation on the election boards at each precinct in said city, and the dominant party shall be held to be the party that elected a majority of the board of commissioners voted for at the next preceding election, and the clerk of the said city of Huntington in all elections of said city, held under the provisions of this act, shall be vested with all the powers and perform all the duties vested in and devolving upon the clerk of the county courts and the clerk of the circuit courts under the general election laws of the state of West Virginia, with respect to state elections.

Sec. 22. On the fourth Monday in May, one thousand nine hundred and twenty-two, there shall be elected by the qualified voters of the city, a mayor and two commissioners, who shall hold their offices from the time of their qualification on and from the second Monday in June next succeeding, for the term of three years, and until their successors are elected and a majority thereof shall qualify, and on the same day in every third year thereafter, there shall be elected by the qualified voters of the city, a mayor

9 and two commissioners, who shall hold their office from the time of
10 their qualification on and from the second Monday of June then
11 next succeeding, for the term of three years and until their suc-
12 cessors are elected and a majority of them shall qualify. The
13 present mayor and the two commissioners who were elected on the
14 fourth Monday in May, one thousand nine hundred and nineteen,
15 under the provisions of chapter two of the acts of the legislature,
16 one thousand nine hundred and nineteen, (municipal charters),
17 shall continue in office until the expiration of their term of office
18 as fixed by said act and the two commissioners, Matt Miser and L.
19 D. Newman, who are now holding the office of commissioner, shall
20 remain in office until the expiration of the term for which they
21 were elected, and until their successors shall be chosen in the man-
22 ner provided for in said chapter two of the acts of the legisla-
23 ture of West Virginia, one thousand nine hundred and nineteen,
24 (municipal charters), and the successors to the said two commis-
25 sioners, Matt Miser and L. D. Newman, when chosen in the
26 manner as provided in said act, shall remain in office until the
27 second Monday in June, one thousand nine hundred and twenty-
28 two.

Sec. 23. At the election at which the mayor and commission-
2 ers shall be elected there shall also be elected by the qualified
3 voters of each ward of the city of Huntington, two members of
4 the citizens board from each ward, who shall at the time be resi-
5 dents of the ward from which they are elected, and who shall hold
6 their offices from the time of their qualification on and from the
7 second Monday of the next succeeding June, for the term of three
8 years and until their successors are elected and a majority thereof
9 shall have qualified, and the term of office of the present members
10 of the citizens board shall cease and determine on the second
11 Monday in June, one thousand nine hundred and twenty-two, and
12 they shall be superseded by the persons elected to said board at
13 said election.

14 A majority of the said citizens board shall constitute a quorum
15 for the transaction of business. A full and complete record of
16 all acts, proceedings and orders of said citizens board shall be
17 kept in a well bound book, to be a part of the city records.

Sec. 24. No person shall be eligible to the office of mayor or
2 member of the citizens board unless he be a citizen entitled to
3 vote at the election at which commissioners are elected.

Sec. 25. All contested elections shall be heard and decided by
2 the election board hereinbefore provided for, and the contest shall
3 be made and conducted in the same manner as provided for in such
4 contest for county and district offices, and said election board shall
5 conduct its proceedings in such cases as nearly as practicable in
6 conformity with the proceedings of the county court in such
7 cases.

Sec. 26. If two or more persons for the office of commissioner
2 or member of the citizens board or for the office of mayor receive
3 an equal number of votes at any election for the said office, they
4 shall decide by casting lots as to which of them shall be elected.

Sec. 27. All officers elective, and appointive, shall make oath
2 before some one authorized to administer oaths, that they will
3 support the constitution of this state, and will faithfully and im-
4 partially discharge the duties of their respective offices, to the best
5 of their skill and judgment; that they will not administer their
6 respective offices with the aim to benefit any political party; and,
7 in the case of commissioners, they shall add on their oath that they
8 will not during their term of office become pecuniarily interested
9 directly, in any contract with the city, or the purchase of any
10 supplies therefor. When the officer shall have made such oath
11 in writing and filed the same with the city clerk, and shall have
12 given bond required of and accepted from him, he shall be con-
13 sidered as having qualified for the office to which he was elected
14 or appointed; *provided*, that if any person elected to the office of
15 commissioner shall not qualify for said office as herein prescribed
16 within ten days after he shall have been officially declared elected
17 thereto, said office shall *ipso facto* become vacant, and said vacancy
18 shall be filled in the manner provided for in this act.

Sec. 28. The mayor, each member of the board of commission-
2 ers, the city clerk, treasurer, auditor, police judge, city attorney,
3 chief of police, chief of fire department, city engineer,
4 city building inspector, superintendent of streets and sewers,
5 and health officer, shall, before entering upon the dis-
6 charge of their duties, give an official bond conditioned for the
7 faithful performance of their respective duties as prescribed in
8 this act, or any ordinance now or hereafter passed, in amounts as
9 follows:

10 The mayor and each city commissioner, five thousand dollars.

11 The treasurer, sixty thousand dollars.

12 The auditor, two thousand dollars.

13 The city clerk, police judge, city attorney, chief of po-
14 lice, chief of fire department, city engineer, city building
15 inspector, superintendent of streets and sewers, and health officer,
15-a each one thousand dollars.

16 The board of commissioners may require additional bond from
17 any of said appointive officers, and may likewise require a bond
18 in whatever sum they may fix of any other appointive officer. All
19 bonds of appointive officers shall, before their acceptance, be ap-
20 proved by the board of commissioners, and the bond of the mayor
21 and commissioners shall be approved by the retiring board of
22 commissioners. All other bonds of whatsoever kind shall not be
23 accepted until first approved by the board of commissioners. The
24 minutes of the meeting of the board shall show all matters touch-
25 ing the consideration or approving of all bonds, and when said
26 bonds are approved and accepted they shall be recorded by the city
27 clerk in a well-bound book kept by him at his office for that pur-
28 pose, which book shall be open to public inspection; and the
29 recordation of such bonds as aforesaid shall be *prima facie* proof
30 of their correctness, and they, as so recorded, shall be admitted as
31 evidence in all courts of this state. The city clerk shall be the
32 custodian of all bonds except those given by him, and as to them
33 the city treasurer shall be custodian.

34 All bonds, applications or other writings taken in pursuance
35 of any of the provisions of this act shall be made payable to the
36 city of Huntington, and the respective persons, and their heirs,
37 executors, administrators and assigns bound thereto, shall be
38 subjected to the same proceedings on said bonds, obligations or
39 other writings, or enforcing the conditions of the terms thereof, by
40 motion or otherwise, that collectors of county levies and other
41 sureties are or shall be subject to on their bonds for enforcing the
42 payment of county levies.

Sec. 29. The government of the city of Huntington shall be
2 divided into three departments, to wit:

3 1. Department of fire, police and law.

4 2. Department of finance, taxation, health and charity.

5 3. Department of streets, sewers, public utility, wharf, public
6 buildings and grounds and cemetery.

7 The mayor shall be at the head of the department of fire, police
8 and law, and shall at the first regular meeting of the board of
9 commissioners following their election and qualifications, desig-

10 nate himself as such, and each of the other commissioners at the
11 head of one of the said departments of government, and the said
12 commissioner thus assigned, shall be styled commissioner of that
13 department.

Sec. 30. All appointive officers (except those under civil ser-
2 vice) shall hold for the term of three years (unless sooner re-
3 moved by and at the pleasure of the board of commissioners),
4 and until their successors are appointed and qualified; *provided,*
5 *however,* that the auditor may be removed only by the citizens'
6 board.

Sec. 31. The salary of the mayor shall be six thousand dollars
2 per annum, and the salary of the members of the board of com-
3 missioners shall be five thousand dollars per annum. The salar-
4 ies of officers and city employees shall be paid by city vouchers
5 payable to the order of such officer or employee. *Provided, how-*
6 *ever,* that the board of commissioners shall make all appointments
7 of appointive officers required of them to be made under this act,
8 on or before the first day of July, next following their election
9 and qualification, and if the said board shall fail to make such
10 appointment in the time aforesaid their salaries shall cease until
11 such appointments are made, and the mayor, city clerk, auditor
12 and treasurer shall take official notice of such failure to fill said
13 appointive offices, and shall not issue any order for nor otherwise
14 pay to the mayor or commissioners their salary for the period of
15 their failure to make said appointments.

Sec. 32. The board of commissioners shall by ordinance fix
2 the salary of all appointive officers and members of the police and
3 fire departments, except the salary of auditor which shall be fixed
4 by the citizens' board.

Sec. 33. Laborers by the day and those doing special work
2 may be paid by the board of commissioners without fixing the
3 price therefor by ordinance.

Sec. 34. The duties in addition to those prescribed herein, of
2 all appointive officers named or authorized in this act shall be
3 prescribed by the board of commissioners.

Sec. 35. The board of commissioners shall meet at some place
2 provided for that purpose at least once each week, on a stated day
3 and at an hour fixed by ordinance or rules governing the board.

Sec. 36. Special meetings of the board may be called by the
2 mayor or any two members of the board by personal notice given

3 to the other members thereof, and like notice to the public through
4 and by at least one publication in two daily newspapers of the
5 city of opposite politics, stating the time and object of the meet-
6 ing; and no business, except that stated in said notice, shall be
7 considered or acted upon at said meeting. All meetings of the
8 board shall be open to the public.

Sec. 37. The vote upon any question or motion before the
2 board of commissioners may be *viva voce* when unanimous, but if
3 the question or motion does not receive the unanimous vote of the
4 members present, then the vote shall be taken by roll call of the
5 members and made a part of the minutes of the meeting; and
6 when the vote is unanimous the minutes shall so state.

Sec. 38. The city shall be *ex-officio* clerk of the board of
2 commissioners. Said board shall cause detailed minutes of its
3 meetings and proceedings to be kept by the city clerk in a well-
4 bound book for that purpose, which shall remain in the custody
5 of the city clerk at his office and open to public inspection. The
6 minutes of every regular or special meeting shall be read publicly
7 at the next regular meeting of the board, and, after being correct-
8 ed, shall be signed by the mayor and city clerk, and, if thus record-
9 ed and signed, they shall be admitted as evidence in any court of
10 record in this state.

Sec. 39. The citizens' board shall meet on the first Monday of
2 each month at an hour and at the place to be fixed by it by the
3 rules governing its body.

Sec. 40. Special meetings of the citizens' board may be called
2 by its president, or any five members thereof, or by the board of
3 commissioners, or by the mayor, by notice published in two
4 daily newspapers of the city of opposite politics, for three suc-
5 cessive days, stating the time and object of the meeting. The
6 holding of a special meeting of the citizens' board shall be *prima*
7 *facie* evidence that the said notice required therefor was given as
8 prescribed in this section.

Sec. 41. The board of commissioners and the citizens' board in
2 the exercise of their respective powers and the performance of
3 their respective duties, as prescribed by this act and by the laws of
4 the state, shall have the power to enforce the attendance of wit-
5 nesses, the production of books and papers, and the power to ad-
6 minister oaths in the same manner and with like effect, and under
7 the same penalties as notaries public, justices of the peace and

8 other officers of the state authorized to administer oaths under
9 state laws, and said board of commissioners and said citizens'
10 board shall have such power to punish for contempt as is conferred
11 on county courts by section thirteen of chapter thirty-one of the
12 code. All process necessary to enforce the powers conferred by
13 this act on the board of commissioners and citizens' board shall
14 be signed by the mayor (or acting mayor) and the president of the
15 citizens' board, respectively, and shall be executed by any member
16 of the police force.

Sec. 42. A majority of the members of the board of commis-
2 sioners and a majority of the members of the citizens' board shall
3 be necessary for the transaction of business before said respective
4 boards.

Sec. 43. If there shall occur at any time a vacancy in the office
2 of mayor or in the office of a commissioner, the citizens' board
3 shall fill such vacancy by appointment, and for that purpose said
4 citizens' board shall immediately convene and fill such vacancies
5 for the unexpired term; but the person or persons so appointed to
6 fill such vacancies, shall be of the same political party as the mayor
7 or commissioner whose office was vacated, and is being filled. The
8 person so appointed shall take and subscribe to the oath of office
9 required by this charter, and execute any bond that may be re-
10 quired by law.

Sec. 44. When any member of the board of commissioners or
2 any appointive officer of the city shall from sickness or other cause
3 be unable, for a short space of time, to attend to the duties of his
4 office, the board of commissioners, in case of the absence of a com-
5 missioner, may designate another commissioner to attend to the
6 duties of such absent commissioner in addition to the duties al-
7 ready devolving upon him in the capacity of commissioner; and, in
8 case of the absence of any appointive officer, the board may ap-
9 point some other officer of the city or other person to perform the
10 duties of such officer, during his absence, either with or without
11 the salary, in whole or in part, of such absent officer.

Sec. 45. The members of the board of commissioners cannot
2 hold any other city office, except as prescribed in this act, nor
3 be an employee of the city in any other capacity with a com-
4 pensation, nor hold any other office or position, with or without
5 compensation, which may interfere with the faithful discharge of
6 their duties as commissioner.

Sec. 46. No appointive officer of the city shall hold two official
2 offices with the city at the same time, nor become the employee
3 of the city in any other capacity, without first having the consent
4 of the board of commissioners.

Sec. 47. The board of commissioners shall purchase all the
2 supplies for the departments of the city government at the lowest
3 price possible considering the quality and grade of the supplies
4 desired. When practicable, the board shall advertise by reason-
5 able notice in at least two daily newspapers of opposite politics,
6 for bids on supplies to be furnished, and shall award contract
7 thereon (unless all bids are rejected) to the lowest bidder, taking
8 from such bidder a written contract and bond therein, to be ap-
9 proved by the board, for the faithful performance of said con-
10 tract. *Provided, however,* that no supplies shall be purchased
11 until the auditor has made requisition for same, which shall also
12 be approved by the mayor.

Sec. 48. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city, and
3 they, and any other officer provided for under this act, may be
4 given authority of police officers by the board of commissioners.
5 The police judge shall be *ex-officio* a justice of the peace, with
6 authority to issue warrants or other process for all offenses com-
7 mitted within the police jurisdiction of the city of Huntington of
8 which a justice of the peace has jurisdiction under the state laws,
9 and for all violations of any city ordinances, and as such shall
10 have the authority to impose such costs and collect such fees as
11 justices of the peace are authorized to do under the state law. In
12 order to preserve the peace and good order of the city, and pro-
13 tect the persons and property therein, riotous and disorderly
14 persons in the city may be arrested and detained before issuing any
15 warrant therefor. The police judge may, with the same fees
16 or other compensation allowed justices of the peace, commit per-
17 sons charged with felony or misdemeanor to jail, or take bond for
18 their appearance before the grand jury of the court
19 having jurisdiction thereof, and he shall have power to issue
20 execution for all fines, penalties and costs imposed by him. And
21 he may require the immediate payment thereof, and, in default
22 of such payment, may commit the person so in default to jail
23 until the fine and penalty and costs shall be paid or satisfied, and
24 to be employed during imprisonment as provided by this act. If

25 any person is sentenced to imprisonment, or any person or corpora-
26 tion is assessed with a fine of ten dollars or more, such person or
27 corporation shall be allowed an appeal from said decision of the po-
28 lice judge to the common pleas court of Cabell county, upon the
29 execution of an appeal bond, with surety deemed sufficient by the
30 police judge, in a penalty double such fines and costs, conditioned
31 that the person proposing to appeal will perform and satisfy any
32 judgment which may be recorded against him by the appellate
33 court on such appeal, and in no case shall a fine of less than ten
34 dollars be given by the police judge if the defendant, his agent
35 or attorney demand that such fine be made as much as ten dollars.
36 If such appeal be taken the warrant of arrest, the transcript of the
37 judgment, the appeal bonds and other papers of the case shall
38 be forthwith delivered by the police judge to the clerk of the
39 appellate court which shall proceed to try the case as
40 upon indictment or presentment and render such judgment,
41 including that of cost, as the law and evidence may demand.

Sec. 49. No franchise or ordinance shall be passed, and no
2 contract shall be awarded nor any money appropriated for any one
3 purpose in a greater sum than twenty-five dollars, and no ap-
4 pointment of any officer shall be made, nor any vacancy in office
5 declared, without the affirmative vote of at least two members of
6 the board of commissioners.

Sec. 50. If any ordinance passes the board of commissioners it
2 shall become and remain effective as therein prescribed unless
3 vetoed by the citizens' board at its next regular meeting time,
4 or special meeting called to act on said ordinance.

Sec. 51. When the citizens' board shall express its veto of
2 any ordinance passed by the board of commissioners (except a
3 franchise), it shall, not later than the second day thereafter,
4 cause such ordinance, with its veto thereof, and its written reasons
5 therefor, addressed to the board of commissioners, to be trans-
6 mitted to the city clerk, and the city clerk shall submit the same
7 to the board of commissioners at its regular meeting or special
8 meeting called for that purpose, which shall be noted in the min-
9 utes of said meeting, but a failure to transmit such ordinance
10 within said time shall not render such veto void. If the said
11 ordinance shall be changed and again passed by the board of com-
12 missioners, it shall be treated as a new or original ordinance and
13 subject to the veto power of the citizens' board.

Sec. 52. If there shall be a tie vote on the passage of any franchise before the board of commissioners, the mayor shall at once transmit such franchise, with written statement that the vote on the same before the board of commissioners was a tie, to the president of the citizens' board, who shall lay the same before said citizens board at its next regular meeting time thereafter, or prior special meeting time called for that purpose. If upon consideration of said franchise by the citizens' board a majority of all the members elected to said citizens' board shall vote for the passage of said franchise as transmitted from the board of commissioners, it shall be considered passed and adopted, and shall become effective, as prescribed by the terms thereof.

The citizens' board, through its president or otherwise, shall at once transmit the same, with the action of the citizens' board, addressed to the board of commissioners, to the city clerk, who shall call the same to the attention of the board of commissioners, at their next regular meeting, or special meeting called for the purpose, at which shall be noted in the minutes the action of the citizens' board on said franchise.

Sec. 53. Publication of notice to present franchise and other preliminaries prescribed by the laws of the state relating thereto, shall be had in the manner prescribed by state laws, before the board of commissioners shall act on any such franchise; but the passage of any franchise shall be *prima facie* proof that such notice was given as prescribed by law.

The word "franchise," whenever used in this act, shall include every special privilege in, under and over the streets, highways and public grounds of the city which does not belong to the citizens generally by common right.

Sec. 54. The style of any ordinance enacted by the board of commissioners shall be, "Be it ordained by the board of commissioners of the city of Huntington."

Sec. 55. Concerning anything for which a state license is required to be done within the said county, the board of commissioners may require a city license therefor, and may impose a tax thereon for the use of the city; and the board of commissioners shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts, wagons, drays and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon and to subject the

9 same to such regulations as the interest and convenience of the
10 inhabitants of said city, as in the discretion of the board of com-
11 missioners, may be required. The board of commissioners shall re-
12 quire from the person so licensed a bond, with approved security,
13 payable to said city in such penalty and with such conditions as
14 it may think proper, and may revoke such license at any time
15 if the condition of the bond is broken; and the board of com-
16 missioners shall have authority to subject any person or persons,
17 who without having paid the tax imposed by the board of com-
18 missioners for the privilege shall do any act or follow any em-
19 ployment of business in the said city upon which the said board
20 is or shall be authorized to impose a tax to any fine or impris-
21 onment which it is or may be authorized to impose or inflict for
22 the enforcement of its ordinances.

Sec. 56. The board of commissioners of said city shall have
2 authority to abate and remove all nuisances in said city. It may
3 compel the owners, agents, assignees, occupants or tenants of any
4 lot, 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 of
7 such orders.

8 Said board of commissioners may also by its own officers, ap-
9 pointees and employees abate and remove nuisances. It may by
10 ordinance regulate the location, construction, repair, use, empty-
11 ing and cleaning of all water closets, privies, cesspools, sinks,
12 plumbing, drains, yards, pens, stables, and other places, where
13 offensive or dangerous substances or liquids are, or may accumu-
14 late, and provide suitable penalties for the violation of such regu-
15 lations, which may be enforced against the owner, agents, as-
16 signee, occupant or tenant, of any premises or structure where
17 such violation may occur.

18 If the owner, agent, tenant, assignee or occupant of any such
19 premises, lot, property, building or structure as is mentioned here-
20 in, shall fail or refuse to abate or remove any such nuisance as
21 mentioned herein, or to comply with the provisions of any such
22 ordinance, and the regulations herein contained, the said board
23 of commissioners may have said nuisance abated or the provis-
24 ions of said ordinance or ordinances carried out, after reasonable
25 notice to said owner, occupant, tenant, agent or assignee of its
26 intentions so to do, and collect the expense thereof, with one per

27 centum per month interest added from the date of said notice,
28 from the said owner, occupant, tenant, agent or assignee, by
29 distress or sale, in the same manner in which taxes levied upon
30 real estate for the benefit of said city are herein authorized to be
31 collected, and the expense shall remain a lien upon said lot, or part
32 of lot, the same as taxes levied upon real estate in said city; which
33 lien may be enforced by a suit in equity before any court having
34 jurisdiction as other liens against real estate are enforced. In
35 case of non-resident owners of real estate such notice may be served
36 upon any tenant, occupant, assignee, or rental agent, or by pub-
37 lication thereof for not less than two consecutive weeks in two
38 newspapers of opposite politics, published in said city.

39 And in all cases where any tenant, occupant or agent is required
40 to abate and remove any nuisance under the provisions of this
41 section, or comply with the provisions of any such ordinance
42 as is mentioned herein, the expense thereof may be deducted out
43 of the accruing or accrued rent of said property, or amount due
44 said owner from said agent, and such agent, occupant or agent
45 may recover the amount so paid from the owner, unless other-
46 wise especially agreed upon.

47 Any expense incurred by the board of commissioners as herein
48 provided, in the manner aforesaid, may be collected in the man-
49 ner herein provided, notwithstanding the imposition of any other
50 penalty or penalties upon any of the persons named herein, under
51 any of the provisions of this act. The abatement or removal of
52 any such nuisance by the board of commissioners at the expense
53 of said city, as herein provided, shall be *prima facie* proof that the
54 said notice to the owner, occupant, tenant, agent or assignee, was
55 given as herein prescribed.

Sec. 57. The board of commissioners may require all owners,
2 tenants and occupants of improved property which may be located
3 upon or near any street or alley along which may extend any
4 sewer or system of sewerage, which the said city may construct,
5 own or control, to connect with such sewer or system of sewer-
6 age, all privies, water closets, cess-pools, drains, or sinks located
7 upon their respective properties or premises so that their contents
8 may be made to empty into such sewer or system of sewerage.

Sec. 58. The board of commissioners are authorized and em-
2 powered to cause to be put down a suitable curb of brick, stone
3 or 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 gut-
6 ters of such material and widths as the board may determine;
7 and the planting or replanting of and caring for shade trees
8 along said avenues, streets and roads at such points and in such
9 manner as the board may determine; and to require the owners
10 or occupiers of the land or lots or parts of lots facing upon said
11 avenues, streets, roads, or alleys to keep such sidewalks clean
12 and in good repair, and to grade the plot of ground on either
13 side of the sidewalks between the street curb and the property
14 line and keep the same sodded with grass and free of weeds and
15 obstructions, and otherwise in good condition and repair. The
16 owners or occupiers of the land or lots abutting upon such avenues,
17 streets, roads or alleys shall not lay any sidewalks, curb or gut-
18 ter, or plant any such shade trees, unless specially required to
19 do so by resolution adopted by said board, and then only in the
20 manner prescribed by said board; but said city may lay such
21 sidewalks, curb or gutter, and plant or replant and care for said
22 shade trees, or may let said work to contract, and in either case
23 the total cost of said work or such part thereof as the board may
24 direct shall be charged upon and against the land or lots abut-
25 ting 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 enforced
28 by a suit in equity before any court having jurisdiction as
29 other liens against real estate are enforced. The amounts so
30 assessed against any land or lot shall also be a debt against the
31 owner of such land or lot, which may be collected as other debts
32 are collected, in any court having jurisdiction, and shall be due
33 and payable in ninety days from the completion and acceptance
34 of such work as certified to by the board of commissioners, with
35 six per cent. interest thereon from the date of such record ac-
36 ceptance. And in ascertaining the amount to be assessed
37 against any corner lot for the cost of laying any such sidewalk
38 and planting trees in front or alongside thereof, the board may
39 assess the total cost of laying such sidewalks, and planting
40 trees, in front or alongside said lot and extended to the curb
41 or gutter of the intersections of the avenues, streets, roads or
42 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 pay-
47 ment, when tendered, of the amount of said assessment with in-
48 terest to the date of payment, and unless said assessment shall
49 have been paid within ninety days from the date of such assess-
50 ment, then a copy of such report shall be certified by the city
51 clerk to the clerk of the county court of the county of Cabell, 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 commissioners shall cause to be
56 enforced the payment of said assessment and interest in all re-
57 spects as herein provided for the collection of taxes due the city;
58 and said assessments shall be a lien upon the property liable
59 therefor, the same as for taxes, which lien may be enforced in
60 the same manner as provided for the sale of the property for the
61 non-payment of taxes and tax liens; and the liens herein pro-
62 vided for shall have priority over all other liens except those for
63 taxes due the state and the county, and shall be on a parity with
64 taxes and assessments due the city. When such assessments shall
65 have been paid in full, and a lien therefor shall be of record in the
66 county clerk's office, the treasurer shall execute and deliver to the
67 owner of said property a release of said lien, which may be
68 recorded in the office of the county clerk as other releases or
69 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 provided
74 for paying certificates, in this act; *provided*, the city in negotia-
75 ting and selling such certificates shall not be held as guarantor or
76 in any way liable for payment thereof, except upon the direct
77 action of the board of commissioners as expressed by resolution
78 of record before such sale. Said certificates, to be signed by the
79 mayor or clerk or other person or persons designated of record
80 by the board, shall bear date as of the time when such work is
81 accepted and certified by the board of commissioners, and shall
82 be due and payable in ninety days from date thereof, with six

83 per cent. interest. When the board shall have received said
84 work, it shall at the same time make said assessment upon writ-
85 ten report; and at the end of ninety days from date thereof, upon
86 the demand in writing filed with the city clerk, of the holder or
87 holders of the unpaid certificates issued to cover said assess-
88 ments, said clerk shall certify a copy of said report, only insofar
89 as it relates to the owners against whom said exhibited certi-
90 ficates remain unpaid, to the clerk of the county court of Cabell
91 county, who shall record and index the same as other liens of the
92 like kind are recorded and indexed, and the same shall be and
93 remain a lien upon the real estate against which said assessments
94 are made, as set out in said certified report, and said lien may be
95 enforced, in the name of the holder of such certificate in the same
96 manner as set out in this act.

97 Before letting such work to contract, the board shall advertise
98 the same once a week for two successive weeks in two newspapers
99 of opposite politics published in the city of Huntington, or in
100 one paper in case publication cannot be had in two such papers,
101 setting out the time and place for receiving proposals for such
102 work and referring to the plans and specifications made thereof;
103 and the city reserves the right whether stated in such notice or
104 not, to refuse any and all bids for the work. On refusal of said
105 papers to publish said notice at reasonable rates, the board may,
106 by resolution, direct how such notice may be given. The fact
107 that such contract shall be awarded for said work shall be *prima*
108 *facie* proof that said notice was given as required herein. Such
109 lien, as represented by certificates, may be released of record in
110 the office of the county clerk in the same manner as paving liens,
111 represented by certificate, are released of record as provided for
112 in this act; and in no event shall such assessment be and remain
113 a lien of record for a longer period than one year from the date
114 set out in said certified report so recorded in the office of the
115 county clerk unless at the end of said one year period a suit
116 shall be pending for the enforcement of said lien, or the amount
117 thereof, shall, in some way, be involved in a suit pending at
118 the end of said one year period.

119 . All such work, whether done by the city direct, or through con-
120 tractors, shall be under the supervision of the street department
121 of the city or some person designated for that purpose by the
122 board of commissioners.

123 If the owner or occupier of any such lot or land shall be re-
124 quired by the board to lay, or relay, clean or repair any such side-
125 walk between the street curb and the property line, and keep
126 the same sodded and free from weeds or obstruction, and other-
127 wise in good condition and repair, written or published notice
128 shall be given to such owner or occupier in the manner provided
129 by ordinance or resolution adopted by the board, and the neglect
130 or refusal of such owner or occupier to do the work, in the
131 manner and within the time required by the board, as set out or
132 referred to in said notice, shall be an offense and may be punished
133 as provided by ordinance; and after the expiration of the time
134 set out in said notice for the doing of said work, and the same
135 remains undone, the board may do, or cause to be done, said work
136 and assess and collect the cost thereof in the manner, upon either
137 plan, and to the full extent as set out in this section. The board
138 of commissioners are authorized and empowered to require the
139 owners and occupiers of any lot or tract of land to keep the same
140 free from weeds and other vegetation which may be unsightly
141 or noxious, and to that end, may pass suitable ordinances with
142 penalties to be inflicted on the owners and occupiers of such lots
143 who may fail to comply with the provisions of such ordinances;
144 and in addition thereto, upon the failure of such owners and
145 occupiers of said lots to comply therewith, the city may do the
146 work necessary in keeping said lots or lands free from weeds and
147 other vegetation which may be unsightly or noxious, and charge
148 the total costs thereof against the owner of such lots or lands,
149 which amount or amounts shall be a debt against such owner,
150 with which he is charged, with interest thereon, from the time
151 of the completion of said work, and the expense shall remain a
152 lien upon said lots or lands, or any part thereof, the same as
153 taxes levied upon real estate in said city, and which lien may be
154 enforced by a suit in equity before any court having jurisdic-
155 tion, as other liens against real estate are enforced, and in addi-
156 tion thereto, such costs or expense, with interest, may be col-
157 lected from the owner, occupant, tenant, agent or assignee, by
158 distress or sale in the same manner in which taxes levied against
159 real estate are herein authorized to be collected. And the costs
160 or expense, with interest thereon, for the cleaning of said lots
161 or land of weeds and other noxious vegetation, as well as the

162 costs or expense, with the interest thereon, for the laying of
163 sidewalks, planting of trees, etc., as set out in section sixty of this
164 act which may remain unpaid at the time of the making out of
165 tax tickets covering the taxes due in any year by such owner of
166 said lots or lands, shall be placed on the tax ticket for that year
167 along with the statement of other taxes due by such owner, and
168 the treasurer shall collect such amounts at the time and in the
169 same manner as the other taxes are collected by him from such
170 owner, but without allowing any discount thereon, and up-
171 on failure to pay the same on or before the last day of that year,
172 there shall be added thereto the same interest penalties which are
173 provided for the failure to pay other taxes assessed at such time
174 against such owner; and the treasurer, upon the failure to pay
175 said amounts, shall return the real estate, against which said
176 amount is a lien, delinquent for the non-payment of taxes for
177 such year the same as in the case of returning such lands delin-
178 quent for the non-payment of other taxes assessed against such
179 owners and such real estate, and said real estate may be sold, at
180 the time and in the manner, provided for in the case of delin-
181 quent lands for the non-payment of taxes; and these remedies,
182 when applicable, are in addition to all other remedies provided
183 for in section sixty.

184 Notices to owners and occupiers of lots or lands requiring
185 them to clean said premises of weeds and other noxious vegeta-
186 tion, may be given in the same way and to the same effect as pro-
187 vided in section sixty; and tenants and agents shall have the same
188 rights and remedies against such owners as therein provided.

Sec. 59. The board of commissioners shall annually, before
2 the laying of taxes provided for and authorized by this act, ascer-
3 tain the total expense of said city to be provided for by levy for
4 the fiscal year in which said levy is made, and it shall ascertain
5 the sum of money necessary to pay interest accruing on the bonded
6 indebtedness of said city, and what amounts it shall expend for
7 the support of its various departments and for the improvements
8 of its streets, alleys, avenues, and public grounds, or for its con-
9 tingent expense; and before making such levy it shall apportion
10 the rate thereof among the several funds so ascertained and pro-
11 vided for, which apportionment shall be spread upon the records
12 of said board and a copy of a statement thereof shall be annually
13 published by direction of said board as soon as the same is re-

14 corded, in at least two newspapers of said city of opposite politics.

Sec. 60. The board of commissioners shall have authority to
2 levy and collect an annual tax on real estate and personal prop-
3 erty in said city, and to impose a license and assess a tax thereon
4 on wheeled vehicles for public hire, and upon 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 taxes shall be
7 uniform with respect to persons and property within the juris-
8 diction of said city, and shall only be levied on such property, real,
9 person and mixed, and on capital, on which the state imposes
10 a tax; *provided*, that no greater levy shall be laid by said board
11 of commissioners, except the levy authorized by section seventy
12 of this act and the ten cents levy authorized by section seventy-
13 one of this act, on the taxable property of said city than is now
14 permitted to be laid under the state law relating to municipali-
15 ties, except, however, that the said board of commissioners may, by
16 the unanimous vote of its members, by ordinance, lay an additional
17 levy not to exceed twenty cents on the one hundred dollars of all
18 the taxable property within said city; but said ordinance laying
19 said additional levy shall not become effective or operative of one-
20 half of all the members elected to the citizens' board shall express
21 a veto to said ordinance, in the manner prescribed by this act.

22 For the purpose of creating a revolving fund by and with which
23 to promote and expedite permanent street and sewer improve-
24 ments, the city is authorized and empowered to levy and collect,
25 for a period not longer than ten years including the year one
26 thousand nine hundred and twenty-one, a special annual tax, in
27 addition to all other taxes, during all or any part of said period,
28 nor exceeding ten cents on each one hundred dollar valuation, on
29 all taxable property in said city, and which levy shall also be
30 in addition to that now permitted by state law relating to muni-
31 cipalities. Such levy shall not be laid except by ordinance duly
32 adopted by the unanimous vote of all of the members of the board
33 of commissioners, and which ordinance must also be approved and
34 ratified by the citizens' board by a majority vote of all of its
35 members.

36 No part of said revolving fund shall be used for any purpose
37 other than to pay for permanent improvements of streets, ave-
38 nues, roads, alleys and public grounds, and the construction of

39 sewers, and only then by the purchase of street or sewer improve-
40 ment bonds provided for in section sixty-nine or assessment cer-
41 tificates provided for in sections seventy and seventyone of this
42 act, and for which assessments against real estate are made to
43 cover the amount of such bonds or certificates as provided in said
44 sections; and when and as such bonds or certificates so purchased
45 out of this revolving fund shall be paid, the amount thereof shall
46 be and become a part of such revolving fund, and thereby prevent
47 any diminution of the fund.

48 When said fund, or any considerable part thereof is not being
49 used, or in contemplation for immediate use, the city shall keep
50 the same invested to the best advantage in securities of the kind
51 permitted by state law for the investment of sinking funds, or, in
52 the discretion of the board of commissioners, the same may be
53 deposited, for a fixed time, at the highest rate of interest and to
54 the best protection of the city, in some bank or banks, or may
55 be directed by the commissioners to be deposited in the manner
56 set out in section sixty-six for the deposit of other funds of the
57 city.

Sec. 61. All taxes assessed upon the real estate within the said
2 city, shall remain a lien thereon from the time the same are so
3 assessed, which shall have priority over all other liens, except for
4 taxes due the state, county or district, and all taxes whether as-
5 sessed upon realty or personalty or otherwise may be enforced and
6 collected in the same manner and by the same remedies as is now
7 or may hereafter be provided by law for the enforcement of liens
8 and levies for state and county taxes, or in such manner as the
9 board of commissioners may by ordinance prescribe. And in levy-
10 ing taxes and collection thereof, and the return of property delin-
11 quent for non-payment of taxes, the duties of the city clerk shall be
12 similar to the duties of the county clerks of the state in that
13 behalf; the duties of the treasurer in the collection of taxes,
14 licenses and money due the city and accounting for the same and
15 the return of property delinquent for the non-payment of taxes,
16 shall be similar to the duties of the sheriffs of the state; ex-
17 cept the board of commissioners may make such regulations and
18 ordinances prescribing the duties of the city clerk and city treas-
19 urer and their manner of performance as the board may deem
20 necessary. And the board shall, through itself and such officers
21 and employees as it may appoint or employ under such regula-

22 tions and ordinances as it may enact (not contrary to the laws
23 of this state), have such authority and power as may be neces-
24 sary for the levying and collection of taxes, tithables, fines, li-
25 censes, sewer and paving assessments owing the city with power
26 and authority to enforce the collection of such fines by imprison-
27 ment in the city or county jail.

Sec. 62. No taxes or levies shall be assessed upon or collected
2 from the taxable persons or property within the corporate limits
3 of said city, for the construction, improvement or keeping in re-
4 pair of roads or the building, leasing, repairing of school houses,
5 or the purchase of lands for the same, or for the support of the
6 schools, or for the support of the poor of Cabell county, outside
7 of said corporate limits, for any year in which it shall appear
8 that said city shall at its own expense provide for its own poor
9 and keep its own roads, streets and bridges in good order. And
10 the county court of Cabell county, and the authorities of the dis-
11 trict in which said city is situated, shall not have or exercise
12 jurisdiction within the corporate limits with relation to the
13 roads, streets, alleys, bridges, wharves, docks, ferries, schools, or
14 schoolhouses, but the same (except schools, schoolhouses and
15 school properties which shall remain under the exclusive juris-
16 diction of the several independent school districts, and school
17 district as heretofore existing and as they are now determined by
18 law), shall be and remain under the exclusive jurisdiction and
19 control of the municipal authorities of said city.

Sec. 63. There shall be a tax of two dollars annually assessed
2 on each and every male inhabitant of said city, over twenty-one
3 and under fifty years of age, by the board of commissioners, and
4 the same shall be set out and included in the personal property
5 book against every such inhabitant, and shall be collected by the
6 city treasurer or other officer of the city acting in lieu thereof and
7 under the authority of the board of commissioners, at the time
8 of collecting other levies and taxes. All money collected under
9 this section shall go into the street and wharf fund, or like fund,
10 to be expended upon the roads, streets, and alleys, sidewalks, cross-
11 walks, drains, gutters, wharves and bridges of said city.

Sec. 64. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks within said city which
3 shall pay two per cent. or more per annum interest on such de-
4 posits, payable quarterly, based on the average daily balance of

5 such funds in all accounts. If no bank within said city is willing
6 at any time to receive deposits of the treasurer and to pay such
7 interest thereon the treasurer shall report this fact to the board
8 of commissioners who shall thereupon designate a bank or banks
9 in which he shall deposit said funds for the time being and until
10 some bank in said city will receive such deposits on such terms.
11 Before receiving any such deposits said bank or banks shall give
12 bond in the penalty prescribed by the board of commissioners, and
13 with sureties to be approved by said board, conditioned for the
14 prompt payment, whenever, lawfully required of all the city
15 money, or parts thereof which may be deposited with them, which
16 bonds shall be renewed at such times as the board of commis-
17 sioners may require.

Sec. 65. The board of commissioners of the city of Hunting-
2 ton may order and cause any avenue, street, road or alley therein
3 to be graded, or curbed or recurbed with stone, concrete or other
4 suitable material, or paved or repaved, between curbs, with brick,
5 wooden blocks, asphalt or other suitable materials, or to be graded
6 and curbed or recurbed and paved or repaved as aforesaid, or to
7 to be macadamized or to be otherwise permanently improved or re-
8 paired, under such supervision as may be directed by ordinance
9 or resolution, upon the best bid to be obtained by advertising for
10 proposals therefor, except the city may do the work without
11 letting it to contract as hereinafter provided in (d) of this sec-
12 tion; and may purchase or condemn land for opening or widening
13 avenues, streets, roads and alleys. The entire cost, or any part
14 thereof designated by the board of commissioners, of such grad-
15 ing, curbing and paving or macadamizing, or other permanent
16 improvements, of any of the avenues, streets, roads and alleys as
17 aforesaid, from and including the curb of either side thereof to
18 the middle thereof and the cost, or any part thereof, of purchas-
19 ing or condemning land as aforesaid for street purposes, may be
20 assessed to and required to be paid by the owners of the land,
21 lots or fractional parts of the lots fronting or bounding on such
22 avenue, street, road or alley so improved, except as otherwise
23 provided in (g) of this section.

24 (b) Payment is to be made by all land owners on either side
25 of such portion of any avenue, street, road or alley so paved,
26 opened, widened, or improved in such proportion to the total
27 cost (less the portion, if any, chargeable to the street or other

28 railway company) as the frontage in feet of his abutting land
29 bears to the total frontage of all the land so abutting on said
30 avenue, street, road or alley or portions thereof opened, widened,
31 paved or improved as aforesaid; but the cost of such paving
32 or improvement on said avenue, street, road or alley (not in-
33 cluding opening or widening) shall not include any portion or
34 amount paid or the paving or improvement of intersections of
35 avenues, streets, roads or alleys, unless the work be done, and
36 the payment made therefor, as especially provided herein, as
37 follows, to-wit:

38 (c) Upon petition in writing of the owners of not less than
39 one-half in lineal feet of property abutting upon any avenue,
40 street, road or alley in said city, asking the city to grade, curb,
41 pave or macadamize, or otherwise to permanently improve, such
42 avenue, street, road or alley, and offering in said petition to have
43 their property so abutting as aforesaid assessed not only with
44 their part of the cost of such improvement abutting upon their
45 property, as herein otherwise provided, but also offering to have
46 their said property proportionately assessed with the total cost
47 of the the paving, grading and curbing, or macadamizing, or
48 other permanent improvements, of the intersections of the avenue,
49 street, road or alley so paved or otherwise permanently im-
50 proved, as petitioned for, the board of commissioners may order
51 such work to be done, as heretofore provided in this section, and
52 the total cost thereof, including cost of intersection, to be charged
53 to and paid by the owners of the property abutting on such
54-63 avenue, street, road, or alley.

64 (d) The city itself may do such work and charge and collect
65 the cost thereof in the manner set out in this act. The de-
66 cision of the city to do such work may be without notice or
67 after the publication of the notice mentioned in this section, or
68 after the rejection of all bids for the doing of this work.

69 (e) The cost of grading, curbing and paving, or otherwise
70 improving, the intersections, or parts of intersections, of ave-
71 nues, streets, roads or alleys, on the plans adopted by the board
72 of commissioners for such work, shall be paid by the city, ex-
73 cept as otherwise provided in (c) of this section.

74 (f) And if any such avenue, street, road or alley be occupied
75 by street car track or tracks of other railroads, the cost of said
76 improvements of the space between the rails and two additional

77 feet outside of each rail shall be assessed to and borne and paid
78 entirely by the person or company owning or operating such
79 street car or other railway line, unless otherwise provided by the
80 franchise of such street car or other railway company granted
81 previous to the passage of this act.

82 (g) *Provided*, the board of commissioners, if they so elect,
83 may order and cause any avenue, street, road or alley, public
84 park or public place to be widened, graded or changed in grade
85 and curbed or recurbed, and paved or repaved, with brick, con-
86 crete, asphalt or any other suitable materials, or macadamized, or
87 otherwise permanently improved, including the construction of
88 retaining walls, sewers, drains, water pipes, water dams and water
89 courses, in connection therewith, and may purchase land, or con-
90 demn land as provided in this act, for any public avenue, street,
91 road or alley, or part thereof or park or other public purposes;
92 and the board may assess all other or any part of the entire cost
93 of such improvements (or taking of land, or both) upon the
94 abutting, adjacent, contiguous and other lots or land especially
95 benefited by such improvement; *provided, however*, that the
96 owner of any real estate whose property is to be charged for the
97 paving of any street or alley of said city, or for the laying of any
98 sewer therein, may object to the paving thereof, or the laying of
99 such sewer, which objection shall be filed with the said board of
100 commissioners, and when such objections are so filed, and the
101 said board of commissioners shall order the said paving to be
102 done, or said sewer to be laid, the said party so objecting shall
103 have the right of appeal from such order to the citizens' board
104 of said city, and no further proceedings under such order shall
105 be had until such citizens' board shall have passed on such appeal,
106 and the citizens' board in passing on such appeal shall have
107 the power to ratify or reject and shall ratify or reject the said
108 order of the board of commissioners as to such paving or sewer,
109 and if such order of the board of commissioners is set aside by
110 said citizens' board, the same shall be invalid, and upon such
111 appeal and a vote taken to ratify said order of the board of com-
112 missioners a majority of all members elected to said citizens'
113 board must vote to ratify said order of the board of commis-
114 sioners, or the said appeal shall be held sustained and the said
115 order rejected and thereby rendered invalid and annulled.

116 The board of commissioners, when they decide to order the
117 improvements under this plan shall, by ordinance or resolution,
118 before doing the same, fix the total amount of the special bene-
119 fits to be derived from such improvements to the abutting ad-
120 jacent, contiguous and other specially benefited land or lots so
121 assessed, setting out the names of the owners, the amount of the
122 special benefits, and the approximate amount of the total cost
123 of the proposed improvements; and the board may, in fixing
124 such assessments, take into consideration the assessed value of
125 the lots or land as fixed, for the last assessment year, for state
126 and county purposes.

127 (h) When the board of commissioners shall deem it expe-
128 dient and proper to cause any avenue, street, road or alley, or
129 any portion thereof, in such city, to be graded, or graded and
130 paved, curbed or macadamized, or otherwise permanently im-
131 proved, or land to be acquired or taken for street purposes, as
132 provided in (a) of this section, or shall deem it expedient and
133 proper to cause the construction of any public sewer in or under
134 such avenue, street, road, or alley, or land or easement therein
135 to be acquired or take therefor, or elsewhere, as provided in this
136 act, they shall by ordinance or resolution, order the work done,
137 stating the method of payment thereof, and, if it be let to con-
138 tract, notice shall be in the following manner, to-wit:

139 (i) The notice for the bids or proposals for doing such im-
140 provements, either for street improvements or the construction
141 of sewers, shall be published for at least fifteen days in two
142 newspapers of opposite politics, or in one newspaper if two such
143 newspapers be not published in the city. If the publication of
144 the notice cannot be procured in any newspaper in said city at
145 reasonable rates, then said notice may be given in the manner
146 directed by the board. Said notice shall state when, where and
147 how the bids or proposals shall be made; and whether so stated
148 in the notice or not, the city may reject any and all bids for such
149 proposed work. Before advertising for bids on the work, the
150 city shall approve and adopt plans and specifications therefor,
151 and the advertisement for bids, and the contract awarded thereon,
152 shall refer to such plans and specifications. The fact that such
153 contract shall be let for said work shall be *prima facie* proof
154 that the notice mentioned above was given as required herein.

155 (j) The cost of said paving, macadamizing or otherwise

156 permanent improvement may be paid in either one of the two
157 ways provided for in this act (to be specified by ordinance by the
158 board of commissioners).

159 (k) If the abutting land on any such avenue, street, road
160 or alley sought to be improved as aforesaid, or in which a sewer
161 is ordered laid, is not laid off into lots by a map of record, the
162 board of commissioners may, for the purpose of making the assess-
163 ments provided for in this section and other sections herein, lay
164 off said land into lots of such sizes as the board deems advisable
165 for the purpose of laying the proper assessment against such
166 land.

Sec. 66. Said city of Huntington 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 of
5 said city, or acquiring ground for opening public avenues,
6 streets, roads, alleys or parks, or constructing main and lateral
7 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 be
10 in such an amount as shall be sufficient to pay the entire costs
11 and expenses of said improvements for which such special assess-
12 ments are to be levied; and said city is authorized to sell said
13 bonds, but not below the par value thereof. The amount for
14 which said bonds are to be issued may be made of five bonds,
15 payable in two, four, six, eight and ten years, respectively, from
16 the date of their issue, and shall bear interest not to exceed
17 six per cent per annum, payable annually; or may be of four
18 bonds, payable in one, two, three and four years, respectively,
19 from the date of their issue, and shall bear interest not to ex-
20 ceed six per cent. per annum, payable annually, and the date
21 of said four year bonds, when issued, shall conform, as near
22 as can be, to the date of assessment laid against real estate
23 for the purpose of procuring revenue to retire said bonds; *pro-*
24 *vided*, the city shall have the right to redeem and pay off, at
25 any interest paying period, all or any number of said undue
26 bonds of the said four year issue of bonds provided for in this
27 section. In the issuance and sale of said bonds the said city
28 shall be governed by the restriction and limitations of the con-
29 stitution of this state, and the restriction and limitations of the

30 state laws of this state relating to the issuance and sales of bonds,
31 so far as such state laws are not in conflict with the provision
32 of this act; and the assessments as provided for and required
33 to be paid herein shall be applied to the liquidation of said
34 bonds and interest thereon, and if, by reason of the penalties
35 collected with the delinquent assessments, there be any balance
36 after the payment of the bonds and all accrued interest and
37 costs, it shall be turned in to the city treasury to the credit of
38 the interest and sinking fund of the city.

39 But said city shall not become indebted in any manner or for
40 any purpose to an amount, including existing indebtedness, in
41 the aggregate exceeding two and one-half per centum on the
42 value of all the taxable property therein, as provided in chapter
43 fifty-one of the acts of the legislature of one thousand nine hun-
44 dred and five, except for the purpose of grading, curbing, pav-
45 ing, macadamizing, or otherwise permanently improving the ave-
46 nues, streets, roads and alleys therein, or constructing sewers
47 therein or elsewhere, or acquiring or taking land or easement
48 therein for street and sewer purposes, as provided for in this
49 act, and for that purpose in estimating "existing indebtedness,"
50 special assessment bonds representing the cost of paving or other
51 improvements of streets, roads or alleys, or the construction of
52 sewers, or acquiring or taking land for such purposes, and cost
53 of which is assessed against the abutting property on such
54 avenues, streets, roads, alleys or parks, or specially benefited
55 property adjacent thereto, or on such owner, shall not be in-
56 cluded; and likewise the amount in any sinking fund, or the
57 amount invested therefor as provided by law, for the payment
58 of outstanding bonds, shall not be included in the estimate of
59 existing indebtedness, *provided*, that the aggregate of its debt
60 of every kind whatsoever, including such special street permanent
61 improvement bonds, or sewer bonds, shall not exceed five per
62 centum of the value of all taxable property therein.

63 (b) And it shall be the duty of the board of commissioners
64 to immediately certify such assessments to the treasurer for
65 collection, as herein provided; and for the purpose of facili-
66 tating the collection of such assessments against the properties
67 herein, the board of commissioners may issue assessment cer-
68 tificates, with the interest coupons attached thereto, to be deliv-
69 ered to and charged against the city treasurer who shall collect

70 the same, and as such certificates and coupons are paid he shall
71 deliver the cancelled certificates to the party paying the same.
72 A copy of the said order shall be certified by the
73 city clerk to the clerk of the county court of the
74 county, who is hereby required to record and index the
75 same in the proper trust deed book in the name of each person
76 against whose property assessments appear therein.

77 (c) The amount so assessed against said lots and owners
78 thereof, respectively, if assessed for the liquidation of the five
79 bonds payable in two, four, six, eight and ten years, respectively,
80 after date, shall be paid in ten payments as follows: that is
81 to say, one-tenth of said amount, together with the interest on
82 the whole assessment for one year, shall be paid into the treasury
83 of the city before the first day of the following January; and
84 a like one-tenth part, together with the interest for one year on
85 the whole amount remaining unpaid, shall be paid before the
86 first day of January of each succeeding year thereafter, until
87 all shall have been paid; and the amount so assessed against
88 said lots and owners thereof, respectively, if for the liquidation
89 of the four bonds payable in one, two, three and four years,
90 respectively, after date, shall be paid in five payments, as fol-
91 lows: that is to say, one-fifth of said amount, with interest,
92 shall be paid in thirty days from date of assessment; and one-
93 fifth of said amount, together with interest on the whole unpaid
94 assessment, shall be paid into the treasury of the city before one
95 year from date of such assessment; and a like one-fifth part,
96 together with the interest on the whole amount remaining un-
97 paid, before two years from the date of such assessment, and a
98 like amount in each succeeding year thereafter, until all shall
99 have been paid. All of said installments shall bear interest at
100 six per centum per annum, payable annually from the date of
101 assessment. *Provided, however,* that the owner of any land, so
102 assessed for the cost of any of the permanent improvements herein
103 mentioned, shall have the right at any time to anticipate and
104 pay the whole of such undue assessment and interest thereon
105 until the day on which the next undue assessment shall become
106 due, and have the lien against the property so assessed released
107 as hereinafter provided.

108 (d) If any assessment shall not be paid when due, then a
109 penalty of four per cent. per annum shall be added and collected

110 on the amount of such assessment after it is due until its pay-
111 ment, and such two per cent. penalty shall be in addition to the
112 six per cent. interest which the assessment carries, and shall be
113 a lien the same as the assessment, and the board of commis-
114 sioners shall cause to be enforced the payment of said assess-
115 ment and interest and penalty in all respects as herein provided
116 for the collection of taxes due the city; and said assessments
117 shall be a lien upon the property liable therefor the same as
118 for taxes, which lien may be enforced in the same manner as
119 provided for the sale of property for the payment of taxes and
120 tax liens; and the liens herein provided for shall have priority
121 over all other liens except those for taxes due the state and the
122 county, and shall be on a parity with taxes and assessments due
123 the city.

124 (e) When all of said assessments shall be paid in full to the
125 treasurer, he shall deliver to the owner of said property a re-
126 lease of the lien therefor, which may be recorded in the office
127 of the clerk of the county court as other releases of liens are
128 recorded.

129 Under this plan for the payment of the cost of such per-
130 manent improvements of avenues, streets, roads and alleys, and
131 the construction of sewers, the contractor (if the work is let
132 to contract) shall look only to the city for the payment of the
133 work, and in no sense to the abutting land owners.

134 (f) If the abutting land on any such avenue, street, road
135 or alley sought to be improved as aforesaid, or in which a sewer
136 is ordered laid, is not laid off into lots by a map of record, the
137 board of commissioners may, for the purpose of making the
138 assessments provided for in this section and other sections herein,
139 lay off said land into lots of such size as the board deems advisable
140 for the purpose of laying the proper assessment against such
141 land.

Sec. 67. The board of commissioners may contract for such pay-
2 ing (including grading and curbing), or other said improve-
3 ments, to be done as aforesaid, and may acquire or take land for
4 street and park purposes, as aforesaid, and may if the board so
5 elect stipulate that the costs thereof, in whole or in part, shall be
6 paid in installments by the abutting property owners, as provided
7 in (a) of section sixty-seven, or specially benefited property own-
8 ers, as provided in (g) of said section, in five equal or nearly

9 equal innstallments, (making four in terms of dollars only and
10 when practical in multiples of five, the cents and odd amounts
11 to be covered by the first certificate, except as hereinafter pro-
12 vided in this section, to be evidenced by five certificates issued
13 therefor, payable in thirty days, and one, two, three and four
14 years, respectively, after the date of their issue, which date, in
15 case of permanent improvements of streets, shall be the day on
16 which the city receives said work from the contractor, and shall
17 bear interest not to exceed six per centum, per annum, which
18 certificates, to be signed by the mayor and clerk, or other person
19 or persons designated of record by the board, may be sold, either
20 to the contractor doing the paving or other said improvements, or
21 to any other person, and which shall cover the entire cost of such
22 work, or the cost of acquiring or taking land for street or park
23 purposes and including the cost of surveys, notices and other
24 things pertaining therto; *Provided*, when the entire amount to
25 be assessed against any lot or piece of ground under the pro-
26 visions of this section does not exceed fifty dollars, then such
27 amount shall be covered by only one certificate payable thirty
28 days after date of its issue; if over fifty and not more than one
29 hundred dollars, then such amount shall be covered by only two
30 certificates of equal amounts, payable in thirty days and one year,
31 respectively, after date; if over one hundred and not more than
32 one hundred and fifty dollars, then such amount shall be covered
33 by only three certificates of equal amounts, payable in thirty
34 days, one year and two years, respectively, after date; if over
35 one hundred and fifty and not more than two hundred dollars,
36 then such amount shall be covered by only four certificates of
37 equal amounts, payable in thirty days, one year, two years and
38 three years, respectively, after date; *provided, further*, the city
39 in negotiating and selling such certificates, shall not be held as
40 guarantor or in any way liable for payment thereof, except upon
41 the direct action of the board of commissioners as expressed by
42 resolution of record before such sale. And the certificates cov-
43 ering the amount of the assessment shall be paid by the owner
44 of the land, lot or fractional part thereof, so assessed for the
45 cost of said improvement on such avenue, street, road or alley
46 so paved or improved, or land acquired or taken, as aforesaid.
47 The amount specified in said assessment certificates shall be a
48 lien aforesaid in the hands of the holder thereof upon the lands,
49 lot or part so assessed, and shall also be a debt against the owner

50 of such real estate, and said amount shall draw interest from the
51 date of said certificates, payable annually, and if said amount
52 shall not be paid when due, then there shall be added a penalty
53 for such failure of four per centum per annum on said amount
54 from the time it is due until paid, and shall be a lien the same
55 as the assessment; and the payment of the debt may be enforced
56 as provided by law for the collection of other debts, or such lien
57 may be enforced as provided in this act in the name of the holder
58 of such certificates.

59 After a contract has been made by the board to pave or other-
60 wise permanently improve any public road, avenue, street or alley
61 in said city under this act, and the paving or other permanent
62 improvements, or stipulated part thereon, has been completed, or
63 the cost of acquiring or taking land as aforesaid, has been ascer-
64 tained, the board shall assess the amount each lot shall bear and
65 shall make a written report, stating the number of lots, and the
66 blocks or tracts of land, when not laid off into lots, the names
67 of owners of such lots of land when known, and the amount
68 assessed thereon; and when the said board approves said re-
69 port, or modifies it and then approves it, a copy of said report, so
70 adopted by the board, when certified to by the city clerk of said
71 city, shall be recorded in the clerk's office of the county court of
72 Cabell county, in a trust deed book and shall be
73 a continuing tax lien upon the lot or ground against which the
74 assessment is made until the certificates as aforesaid are paid;
75 except as otherwise provided in this act, and the clerk shall index
76 the same in the name of each lot or land owned mentioned there-
77 in. *Provided*, any property owner shall have the right to pay the
78 whole amount of any such assessment against his property as
79 soon as the same shall have been ascertained, but before the day
80 on which the city enters such assessments of record after the two
81 weeks notice provided in section seventy-seven of this act; and
82 such payment shall be made to the city clerk, who shall give
83 proper receipt therefor, and such assessment, so paid
84 shall not be included in the report to be recorded in the office of
85 the county clerk as set out in this section; and the amount so
86 paid to the clerk shall forthwith be paid to the contractor or
87 other person entitled thereto, which shall operate as full dis-
88 charge of the amount of such indebtedness of such property
89 owner.

Sec. 68. The board of commissioners of said city are authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, a public sewer, 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 provision of (i) section sixty-seven 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 land 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 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 amount of said sewer assessments there against, calculated in the same way as provided for street paving in (g) of section sixty-seven herein. The entry of such order shall constitute and be an assessment for such proportionate amounts so fixed therein against respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of commissioners may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall

41 collect the same, and as such certificates and coupons are paid
42 he shall deliver the cancelled certificates to the party paying the
43 same; and the city clerk shall file a certified copy of said order
44 with the clerk of the county court of Cabell county,
45 who shall record the same in the proper trust deed
46 book, and index the same in the name of each owner, or any
47 lot or land thus charged with said assessment, and the assess-
48 ments so made shall constitute and be a lien upon said lots or land,
49 respectively, which shall have priority over all other liens except
50 those for taxes and assessments due the city.

51 The amounts so assessed against said abutting lots or land, or
52 lots or lands specially benefited, and which shall be a lien there-
53 against, shall be collected in the manner provided in this act for
54 the collection of paving liens. Said assessments shall be divided
55 into five installments, each for one-fifth of the amount thereof,
56 as near as practicable (making four in terms of dollars only, and
57 when practicable, in multiples of five, the cents and odd amounts
58 to be covered by the first certificate), the first due and payable
59 in thirty days, the second in one year, and a like amount each suc-
60 ceeding three years thereafter from the time of receiving said
61 sewer, (except as hereinafter provided in this section), all bearing
62 interest at six per cent. per annum from such date, interest pay-
63 able annually; and upon failure to pay any such assessment when
64 due a penalty of two per centum per annum shall be added and
65 collected on the amount thereof until paid, which penalty shall
66 be a lien on the real estate, the same as the assessment itself; and
67 the board of commissioners may issue sewer certificates thereon
68 as of such date, as further evidence of said indebtedness and lien
69 therefor, and said certificates may be sold or negotiated, at not
70 less than par and without any kind of discount to the contractors
71 doing such work, or other person, if the board deem it expedient;
72 *Provided*, the city in negotiating and selling such certificates shall
73 not be held as guarantor or in any way liable for payment thereof
74 except upon the direct action of the board of commissioners as ex-
75 pressed by resolution of record before such sale. But the owner
76 of the land or lot so assessed may at any time anticipate and pay
77 such assessment or certificate with accrued interest thereon until
78 the day on which the next undue assessment shall become
79 due. If such assessment shall not exceed fifty dollars the assess-
80 ment and certificate issued thereon shall be in one amount, due

81 and payable in thirty days; if over fifty and not more than one
82 hundred dollars, then such amount shall be covered by only two
83 certificates of equal amounts, payable in thirty days and one year,
84 respectively, after date; if over one hundred and not more than
85 one hundred and fifty dollars, then such amount shall be covered
86 by only three certificates of equal amounts, payable in thirty days,
87 one year and two years, respectively, after date; if over one hun-
87-a dred and fifty dollars, and not more than two hun-
88 dred dollars, then such amount shall be covered by only four cer-
89 tificates of equal amounts, payable in thirty days, one year, two
90 years and three years respectively; and if more than two hundred
91 dollars, then in five certificates of equal amounts as hereinbefore
92 set out; and the term "equal amounts" herein shall mean as
93 nearly equal as practicable, that is, four certificates being ex-
94 pressed in terms of blank dollars each, and, when practical, in
95 multiples of five, the cents and odd amounts being covered by the
96 first certificate.

97 *Provided*, the board of commissioners may, if they so elect,
98 order and cause the construction of any such sewer, and may ac-
99 quire or take land or easement therein, either in or outside said
100 city, or both, for said sewer purposes, and assess all or any part
101 of the cost thereof upon and against the abutting, adjacent, con-
102 tiguous and other lots or land specially benefited by the construc-
103 tion of such sewer, and said assessments shall be a lien upon such
104 lots or land, and a debt against the owners thereof for the amount
105 so charged against them respectively, which debt may be collected
106 as provided by law for the collection of other debts of like kind,
107 and which lien may be enforced in the same manner as provided
108 for the enforcement or paving lien in this act; and the city shall
109 have exclusive ownership and control of that part of any such
110 sewer constructed outside of said city, unless otherwise provided
111 by some ordinance of the city.

112 The board of commissioners, when they decide to order the con-
113 struction of a sewer under this plan, shall, before doing the same,
114 fix, by ordinance or resolution, the total amount of the special
115 benefits to be derived from such improvements to the abutting, ad-
116 jacent, contiguous, and other specially benefited land or lots so
117 assessed, setting out the names of the owners, the amount of the
118 special benefits, and the approximate amount of the total costs of
119 the proposed sewer, and the board may, in fixing such assessment,

120 take into consideration the assessed value of the lots or land as
121 fixed, for the last assessment year, for state and county purposes.

Sec. 69. 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 else-
4 where set out in this act, on the presentation by the
5 land or lot owner of any of the certificates issued as
6 aforesaid against him or his predecessor in the title to such
7 lot, the clerk of the county court shall mark upon the margin
8 of the trust deed book at which said certified report is recorded,
9 that the lien is released to the land or lot mentioned in such cer-
10 tificate to the extent of the amount of the certificates thus ex-
11 hibited; and the county clerk shall thereupon write across the
12 face of each of said certificates the date of their production to
13 him for the release of lien, and shall sign his name thereto in
14 his official capacity, for which he shall receive in advance a fee
15 of twenty-five cents for each certificate so marked, from the per-
16 son demanding the release of the lien aforesaid; but if more
17 than one of the serial certificates against the land or lot or lots
18 shall be produced at the same time, the fee of the county clerk
19 shall not exceed twenty-five cents for the release of the liens as
20 to all of the certificates thus produced and relating to the same
21 real estate.

22 *Provided*, that the owner of any lot or land against which any
23 paving or sewer certificate is an unreleased lien of record shall
24 make and produce to the county clerk, or some person for such
25 owner shall make and produce such affidavit, setting out there-
26 in that such certificate (or certificates) has been paid in full,
27 and after diligent search, cannot be found, said county clerk
28 shall upon the payment of a fee of twenty-five cents, file and
29 preserve said affidavit as a public document and shall forthwith
30 note the release of said lien to the extent of said lost certificate
31 (or certificates) and the lots or land against which it is a lien
32 upon the margin of the trust deed book, as aforesaid, and noting
33 therewith the filing of said affidavit, which shall operate as a re-
34 lease of such lien to the extent of such marginal notation. If
35 the affidavit so filed be false, the person making oath and sub-
36 scribing thereto shall be guilty of a felony, and upon conviction
37 thereof shall be fined not to exceed five hundred dollars, or sen-
38 tenced to be confined in the penitentiary for a term of not more

39 than one year, or both, in the discretion of the court passing
40 sentence.

41 *Provided, further,* that any paving or sewer lien, which may
42 be created in consequence of the provisions of this act, or a
43 lien which may have heretofore been created in consequence
44 of an act of which this is an amendment for an assessment, the
45 last payment of which is not yet due, shall not, under any cir-
46 cumstances, be a lien against the lot or land or fractional part
47 of the lot or land, against which it may have been assessed and
48 made a lien, for a longer period than one year after the last
49 assessment or certificate of the same date and group, repre-
50 senting such lien, shall have become due and payable, unless
51 some suit or action, at the termination of said one year period,
52 shall be pending for the enforcement of such lien, or unless
53 the amount of the lien or some part thereof is in some way
54 involved in a suit or action pending at the end of said one year
55 period.

56 All of the assessment certificates, which may be issued under
57 the provisions of this act, shall be made payable at the office
58 of the treasurer, who shall receive payments thereon when due,
59 if tendered to him, and interest thereon from the date of such
60 payments shall cease. The treasurer shall keep a separate and
61 special account of all said sums of money received by him,
62 and he shall hold said money in trust for the person who there-
63 after delivers to the treasurer for cancellation any and all
64 certificates on which said treasurer has received full payment
65 as aforesaid; but the owner of said certificates shall not be
66 entitled to interest on said sum after the date of payment
67 thereof to the treasurer. When the whole amount of any such
68 assessment lien shall have been paid to the treasurer as afore-
69 said, or the treasurer shall be convinced that all of the paving
70 or sewer certificates against any land, lot or fractional part of
71 lot, shall have been paid in full, he shall when demanded, ex-
72 ecute a release of said lien in the manner hereinbefore pro-
73 vided for the release of paving liens. If the city shall have
74 no person for treasurer, the clerk, unless some other person is
75 designated by ordinance, which the board of commissioners
76 is hereby authorized to enact, shall perform the duties here
77 required to be performed by the treasurer.

Sec. 70. It shall be lawful for said city of Huntington 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 the paving or other permanent
5 improvements of streets and alleys, as required by this act;
6 and said city may levy taxes, in addition to all other taxes, au-
7 thorized by law, to pay such bonds and interest thereon; *pro-*
8 *vided*, 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 is-
13 suing said bonds shall have first been submitted to a vote of
14 the people of said city and shall have received three-fifths of
15 all votes cast at said election for and against the same. The
16 board of commissioners of said city may provide by ordinance
17 for submitting to the people at any regular election, or special
18 election called for that purpose, the question whether or not said
19 city 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 aggregate 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 commissioners
27 may 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 the provisions of sections two, three and
30 six of chapter forty-seven of the code, it shall be sufficient de-
31 scription of the purpose for which said election is held for the
32 ordinance calling the same, or submitting said question to a vote
33 at any general election, if it shall recite that it authorizes the
34 board of commissioners to issue bonds for the purpose of grading,
35 paving, curbing, sewerage, or otherwise permanently improving
36 the streets, roads, and alleys of said city, or the leasing, pur-
37 chasing, erecting, maintaining and operating the water works
38 system authorized by this act, at such time as the board of com-
39 missioners shall deem fit or expedient.

40 The provisions of chapter forty-seven-a of the code, concern-
41 ing bond elections shall, so far as they are not in conflict with
42 the provisions of this chapter, apply to the bond election and
43 special election herein provided for.

Sec. 71. For the purpose of leasing, purchasing or erecting,
2 owning, maintaining and operating a system of water works for
3 the city and the inhabitants and industries thereof, and the
4 inhabitants and industries of any territory adjacent to the
5 territory of the city of Huntington which the board of commis-
6 sioners may from time to time agree to supply from the city water
7 works, as provided for in this or any other act of the legislature,
8 said city of Huntington is hereby authorized to issue and sell its
9 bonds, which shall bear interest not to exceed six per cent. per
10 annum, interest payable annually, by which to procure funds for
11 such purpose; and for said purpose the city may issue and sell
12 its bonds to an amount equal to two and one-half per centum
13 on the taxable property therein in addition to the aggregate of
14 its debts for all other purposes and of every kind whatsoever, and
15 especially in addition to the bonds, and other debt provided for
16 and referred to in section sixty-six of this act. *Provided*, that
17 the total indebtedness of said city for all purposes shall not ex-
18 ceed five per centum of the total value of all taxable property
19 therein.

20 But said city shall not make such issue and sale of bonds
21 without at the same time providing for the collection of a di-
22 rect annual tax sufficient to pay annually the interest on such
23 debt and the principal thereof within and not exceeding thirty
24 years, and for the purpose of aiding in the payment of any bonds
25 issued under the provisions of this act, to enable the city to lease,
26 purchase, own, operate and maintain a water works and system,
27 the commissioners of the city are hereby authorized to lay a levy
28 of not exceeding ten cents on the one hundred dollars valuation
29 on all taxable property in the city, which said levy may be in
30 addition to the aggregate of all other levies, authorized by law;
31 and any revenue derived from said water works over and above
32 the expenses of operating and maintaining the same, shall be ap-
33 plied to the payment of the bonds issued therefor.

Sec. 72. The cost of any improvement contemplated in this
2 act and for which assessments may be made, shall only include
3 the cost of printing and publishing all notices required to be pub-
4 lished, and cost of construction.

Sec. 73. In setting forth the lots and lands 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 improvement, or by the
5 description by which they are described on the land books of the
6 county, and this rule of description shall apply in all proceed-
7 ings in which lots or lands are to be charged with special
8 assessment.

Sec. 74. When work shall have been completed on any avenue,
2 street, road or alley or part thereof, as provided in section fifty-
3 eight or section sixty-five, or the construction of any sewer or other
4 work shall have been completed on any avenue, street, road or
5 alley, or part thereof, or elsewhere, as provided in section sixty-
6 eight, and said assessments there against shall have been calculated
7 as provided in this act, the board of commissioners shall give
8 notice, by publication at least once a week for two successive weeks
9 in two newspapers of opposite politics, published in said city, or in
10 one newspaper if two such papers be not published in said city, that
11 an assessment under this act is about to be made against the prop-
12 erty so assessed and the owners thereof, mentioning the kind of
13 work and the location thereof; and the owners of said property
14 shall have a right to appear before said board, either in person or
15 by attorney or agent, at any regular or special meeting called for
16 that purpose within two weeks of the first publication thereof, and
17 move the board to correct any apportionment of the assessment
18 excessive or improperly made: and the board shall have the power
19 to make any such corrections before it enters the same, as correct-
20 ed, upon the records. If the publication in the newspapers afore-
21 said cannot be had at reasonable rates, the notice may be given in
22 some other manner designated of record by the board. The fact
23 that said assessments shall have been entered of record, as provided
24 by this act, shall be *prima facie* proof that the notice mentioned
25 herein was given as prescribed in this section.

Sec. 75. For the purpose of making examinations of persons for
2 officers or positions in the police and fire departments, excluding
3 the chiefs thereof, and prescribing rules for their conduct, ten
4 members of the citizens' board appointed by the president thereof,
5 one from each ward of the city, shall act and be known as the civil
6 service board. The president of the citizens' board shall be the
7 presiding officer of said board, a majority of which shall constitute

8 a quorum for business, but shall have no part in the deliberation
9 of the said board, except in case of tie, and the city clerk shall be
10 *ex-officio* clerk of the said board. The civil service board shall
11 adopt rules for its own government, and cause the minutes of its
12 meetings to be recorded in a book provided for that purpose, which
13 shall be kept by the city clerk at his office, and open to public in-
14 spection. The civil service board shall meet at least once a year,
15 and oftener if it deem it necessary, or if called by the presiding
16 officer, after ten days notice to the public published in two daily
17 newspapers of opposite politics giving the time and place of meet-
18 ings, hold examinations for the purpose of determining the fit-
19 ness and qualifications of applicants for positions in the police de-
20 partment and the fire department, which examination shall fairly
21 test the fitness of the persons examined to discharge the duties of
22 the position to which they seek appointment, and such examina-
23 tions and declarations of the result thereof shall be made with the
24 aim to secure and maintain an honest and efficient police force
25 and fire department. Said board shall at once after each of such
26 examinations place on record in the journal of the civil service
27 board the result of such examination, giving the names of ap-
28 plicants and positions sought by them and their respective per-
29 centages based on one hundred. In making such examinations
30 the size, health, physical appearance, habits and moral surround-
31 ings shall be taken into consideration and the result of such ex-
32 amination shall be by the board certified to the commissioners and
33 all appointments to the police and fire departments, except the
34 chiefs thereof, shall be made from the list so certified, except as
35 otherwise provided in this act.

Sec. 76. Except as otherwise provided in this act, all appointive
2 officers shall hold their positions at the pleasure of the board of
3 commissioners, except those appointed under the civil service rules,
4 and they may be removed for cause by the board of commissioners,
5 and the members of the police and fire department under civil
6 service rules shall take no part in elections except to vote, and any
7 violation of this provision by members of either department shall
8 be deemed misconduct and shall render such person or persons sub-
9 ject to dismissal by the board of commissioners after trial and
10 conviction of such person or persons therefor, as provided for in
11 this act.

Sec. 77. Appointment to the police department and the fire department, whether original or to fill vacancies therein, from time to time shall be made by the respective chiefs thereof, by and with the advice and consent of the board of commissioners, but such appointments shall be made from the applicants for said respective positions who under said civil service examinations received an average grade of sixty or more, giving preference to the applicant receiving the highest grade, and whose said grade certificate is the oldest. When the list of names of applicants who are eligible as prescribed in this section shall have been exhausted, then such appointments may be made from the list of persons who may apply therefor, disregarding those applicants who stood civil service examination and received thereon a grade below sixty.

Sec. 78. All persons appointed to a position in the police department and fire department under this act (except the chief of police and the chief of fire department) shall hold their offices or positions during good behavior. The board of commissioners shall hear and determine all charges against any officer or employee of said city after ten days' notice to the accused of the charges preferred against him, and the time and place of hearing on such charges, and an opportunity to the accused to be heard at such meeting in his defense. After thus hearing such charges the board of commissioners, by a majority vote of the members elected, may sustain the same and dismiss said accused from the service of the city. The mayor, or the chief of the fire department, or the chief of the police department, as the case may be, pending the trial on any such charges, may suspend the accused officer or employee without pay, and if he shall finally be dismissed from the service he shall receive no pay, but if the charges against such officer or employee are not sustained, he shall be paid the salary during such period of suspension.

Sec. 79. The board of commissioners may adopt, by ordinance, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and said code shall be the law and ordinances of said city, and shall be received as such in all the courts of this state, and the laws, ordinances, franchises, and rules when printed therein shall be *prima facie* proof of their correctness.

Sec. 80. Whenever any notice is required to be given, or any 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 be
5 executed by an officer of the police department of said city in the
6 same way or manner in which the laws of the state prescribe for
7 executing summons and subpoenas by the state officers, unless
8 otherwise provided by this act.

Sec. 81. The mayor and members of the board of commis-
2 sioners, members of the citizens' board as now constituted, and
3 all the officers of the city of Huntington, and their successors,
4 shall continue in their respective offices until their successors
5 have been elected and qualified as provided in this act, and shall
6 exercise their rights, powers and duties in the city of Hunting-
7 ton in the same manner and to the same effect as if this act
8 had not been passed, and shall continue in their said office and
9 perform such duties as are required of them under chapter two
10 of acts of the legislature of West Virginia, (municipal charters),
11 for the year one thousand nine hundred and nineteen, until their
12 successors have been elected and qualified, or appointed and quali-
13 fied, under the provisions of this act; and all ordinances, laws and
14 resolutions now in force shall remain in force, except such as are
15 in conflict with this act; *provided, however,* that the nomination
16 of candidates for mayor, members of the board of commissioners,
17 and members of the citizens' board, to be elected at the general
18 city election to be held on the fourth Monday in May, one thou-
19 sand nine hundred and twenty-two, and the election of such offi-
20 cers shall be made and conducted as provided for in this act.

Sec. 82. The city clerk, except as may be otherwise prescribed
2 by the board of commissioners, shall be the custodian of all the
3 records and papers pertaining to the city of Huntington, and the
4 citizens' board, and said records and papers shall be kept by him
5 at his office open to public inspection.

Sec. 83. Each political party shall at the general elections held
2 under this charter elect a political committee consisting of one
3 member from each ward; said committee shall elect a chairman
4 and secretary at large, and the chairman and secretary of said
5 committee shall be members of the committee and entitled to vote,
6 and shall continue in office until their successors are elected. The
7 said committee shall perform all the duties required by the pro-
8 visions of this act and the general laws of the state of West Vir-
9 ginia relating to elections.

Sec. 84. All other acts and parts of acts coming within the 2 purview of this act, and inconsistent herewith, and not included 3 in the provisions of this act, are hereby repealed.

CHAPTER 12

(Senate Substitute for House Bill No. 310.)

AN ACT to amend and re-enact the act of the legislature of West Virginia, passed on the sixth day of March, one thousand nine hundred and seven, creating the municipal corporation of "The city of Logan," in the county of Logan, and to also re-enact chapter eighty-eight of the acts of the legislature of the year one thousand nine hundred and nine, and chapter eighty-two, acts of the legislature of one thousand nine hundred and thirteen, and amending said act incorporating "The city of Logan."

[Passed April 21, 1921. In effect from passage. Approved by the Governor May 2, 1921.]

- | SEC. | SEC. |
|---|---|
| 1. "The city of Logan," a body corporate; powers. | ceedings etc.; mayor to act as municipal judge; power and authority of; municipal judge; powers; duties; exceptions; provisions providing salary of; "police docket." |
| 2. Corporate boundaries. | 21. City solicitor; to be attorney at law; authorized to be legal advisor; to prosecute and defend, additional duties, fees allowed. |
| 3. Board of commissioners; of whom composed, authority; mayor how elected; authority, same; to appoint officers, vacancies, how filled. | 22. Chief of police; powers, rights, privileges. |
| 4. Extent of terms. | 23. Chief of fire department appointed by said board, other firemen; duties, compensation, rules and regulations. |
| 5. Eligibility of officers. | 24. City engineer; provided by board; duty, regarding city improvements. |
| 6. Oath of officers. | 25. Superintendent of streets, appointed by board, duty of. |
| 7. Salaries; members paid for regular meetings. | 26. City health officer; duties. |
| 8. Treasurer to execute bond with approved securities thereon; penalty; duties; bond filed with board of commissioners. | 27. Board to lay levy to pay current expenses of the city; special levy on dogs. |
| 9. Elections; general, special, when held; how conducted. | 28. Lien on city real estate for all assessments; delinquent taxes, rules regarding. |
| 10. Board of commissioners; to appoint all officers, except officers herein provided to be elected. | 29. Board may impose special license tax; exceptions; regulations, fees of. |
| 11. Vacancy, how filled. | 30. City shall construct, keep in repair and maintain its own roads, etc.; not required to pay district or county road levies, exceptions. |
| 12. Removal of officers. | 31. City shall provide for and maintain, all poor persons and paupers within city limits; therefor being relieved of paying county or district levy for same. |
| 13. Mayor; duties, power. | |
| 14. Board meetings; quorum. | |
| 15. Board; power, privileges, authority. | |
| 16. Board; to require "City Clerk" to keep "Minute Book;" "Ordinance Book," "Record of Bonds." | |
| 17. City clerk; duties, etc. | |
| 18. Assessor; duties regarding animal license tax, etc; powers, penalties. | |
| 19. Treasurer; to receive assessments; collect taxes; discount allowed; when; levies and sale of personal property; further duties upon expiration of term. | |
| 20. Municipal court to have exclusive jurisdiction of all criminal pro- | |

<p>SEC. 32. City authorized to issue bonds for certain indebtedness.</p> <p>33. Duty of board to provide for city improvements and repairs.</p> <p>34. Property owners required to lay sidewalks, etc.; procedure in refusal to do so.</p> <p>35. Board to have right to institute and prosecute proceedings on condemnation of real estate for public purposes.</p>	<p>SEC. 36. Public utility franchises granted; violation of.</p> <p>37. Board of city; power, authority.</p> <p>38. Same; power to make all needful ordinances, etc.; enforce same.</p> <p>39. Liabilities.</p> <p>40. All ordinances, etc. to continue in force until amended or repealed.</p> <p>41. Invalid.</p> <p>42. Inconsistent acts repealed.</p> <p>43. City limits.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of Logan county in the State of West Virginia, included within the boundary described in section two of this act, now a municipal corporation existing and known as "The City of Logan," shall continue to be a body politic and corporate under the same name, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; acquire property for municipal purposes in fee simple, or lessor interest or estate, by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase, either within or without the city limits, subject to the rights of other affected municipal corporations; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution which may be required to carry out fully all provisions or any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; after the first election under this charter, may acquire, construct, own, lease and operate light, heat, power and water plants, and regulate all other public utilities; may grant public franchises to be exercised within the city; may assess, levy and collect taxes for general and special purposes on all the subjects or objects within its boundaries which the city may lawfully tax; may borrow money for permanent improvements and public works on the faith and credit of the city by the issue or sale of bonds or notes of the city, and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution and laws of the state relating to the issuance and sale of bonds, so far as said state laws are not in conflict with the provisions of this act; may pave, repave, curb grade, regrade, sewer, resewer, or otherwise permanently improve any street, alley, or roadway within the city limits, and assess the entire cost thereof, excluding the cost of intersections, with

33 interest, or any part thereof, against the owners of the abutting
34 or benefited properties in accordance with an ordinance that
35 shall permit the payment of said assessments in annual install-
36 ments, and may in anticipation of the levying of said assessments,
37 issue and sell its bonds, as hereinbefore provided, to the estimated
38 amount of the cost of said improvements, and apply said assess-
39 ments as same are paid to the liquidation of said bonds and in-
40 terest thereon; may appropriate the money of the city for all law-
41 ful purposes; may create, provide for, construct, regulate, and
42 maintain all things of the nature of public works and improve-
43 ments: may direct the laying out of lots and opening of streets
44 roadways; may license and regulate persons, corporations and as-
45 sociations engaged in any business, occupation, profession or
46 trade; may define, prohibit, abate, suppress and prevent all things
47 detrimental to the health, morals, comfort, safety, convenience
48 and welfare of the inhabitants of the city, and all nuisances and
49 causes thereof; may regulate the construction, height and ma-
50 terials used in all buildings and structures of every kind, and the
51 maintenance, occupancy and use thereof; may regulate and
52 control the use, for whatever purpose, of the streets and other
53 public places; may make and enforce local police, sanitary and
54 other regulations, and prescribe, impose and enforce reasonable
55 fines and penalties including imprisonment, and shall have the
56 right to use the jail of said county when necessary; and may
57 pass such ordinances and resolutions as may be expedient or neces-
58 sary for maintaining and promoting the peace, good government
59 and welfare of the city, and for the performance of the functions
60 thereof. The city of Logan as constituted by this act, shall re-
61 tain, keep and succeed to all rights, privileges, property, interest,
62 claims and demands heretofore acquired by, vested in or transfer-
63 red to the said city as heretofore constituted and shall have all
64 powers that now are or hereafter may be granted to municipali-
65 ties by the constitution or laws of West Virginia; or that are
66 herein by implication conferred, or are necessary to or con-
67 sistent with the purposes of this act; and all such powers, whether
68 expressed or implied, shall be exercised and enforced in the man-
69 ner prescribed by this act, or when not prescribed herein, in such
70 manner as shall be provided by ordinances or resolutions of the
71 governing body herein provided for.

Sec. 2. The corporate boundaries of said city shall be as follows:
2 Beginning at a stake in the center line of the Guyan Valley
3 Railroad at the Bill Ellis hollow; thence north 17 degrees 33'
4 East 854.65 feet to a dead sugar tree in the Bill Ellis hollow;
5 thence north 29 degrees 39' west 7019 feet to a stake in the center
6 line of the Guyan Valley railroad at the mouth of Varney branch;
7 thence north 78 degrees 29' west 528.07 feet crossing Guyandotte
8 river to a stake at high water mark and on the lower edge of the
9 county road; thence with the high water mark of said river to
10 the mouth of Island creek, a distance of about one-half mile,
11 thence with the right hand side of said creek (as you ascend the
12 same), to the right of way of the county road at the county bridge
13 across Island creek, thence crossing Island creek to a line parallel
14 with said bridge to the right of way of the county road and thence
15 with the right of way of the county road to Guyandotte river and
16 crossing Guyandotte river on a line parallel with the county
17 bridge across said river to high water mark on the left hand side
18 of said river (as you ascend the same), on the lower side of the
19 public road or street, and thence with said high water mark to
20 the upper line of the street or public road at the point where the
21 county bridge crosses Guyandotte river, and thence re-crossing
22 Guyandotte river on a line parallel with the line of the county
23 bridge across Guyandotte river to high water mark on the right
24 hand side of said river (as you ascend the same) to a point
25 opposite Bill Ellis hollow, and thence crossing Guyandotte river
26 at the mouth of the Bill Ellis hollow and running up the bank
27 to the center of the railroad right of way, the place of beginning.
28 For all purposes, except taxation, herein enumerated or im-
29 plied, the city authorities shall have jurisdiction for one mile be-
30 yond the city limits.

Sec. 3. All the corporate powers of said city shall be vested
2 in and exercised by a board of commissioners, or under its au-
3 thority, which board of commissioners shall be composed of four
4 members, two of whom shall be elected from the political party
5 casting the largest vote for Governor in said city at the last pre-
6 ceding general election, and the other two from the political
7 party casting the next largest vote in the city for governor at
8 the said last preceding general election.

9. The commissioner receiving the largest vote at said city election
10 shall be elected mayor. In case two or more of said candidates for

11 commissioner receive the same number of votes, the commis-
12 sioners shall elect the mayor from those so tied at their first
13 meeting. The following officers may be appointed by the board
14 of commissioners; municipal judge; city clerk, city assessor and
15 city treasurer. The appointive offices shall be as nearly equally
16 divided between the two said political parties as possible and
17 shall be appointed as follows, to-wit; two of said commissioners
18 belonging to the same political party shall appoint one; then the
19 other two commissioners belonging to the same political party
20 appoint one, and continue thus alternating until all of said city
21 appointments are made. Should a vacancy occur in any of said
22 appointive offices the same shall be filled by the commissioners
23 entitled to fill the same under the provisions of this chapter.
24 And such persons appointed to fill such vacancy shall be of the
25 same political party as the person who formerly held said posi-
26 tion.

27 Each of said political parties mentioned in this act shall at least
28 fifteen days before any municipal election nominate four com-
29 missioners to be voted upon at said city election. From the eight
30 candidates thus nominated the two from each of said political
31 parties receiving the largest vote shall be declared elected.

32 Should a vacancy occur in said board of commissioners, said
33 vacancy shall be filled by the other commissioners, but from the
34 same political party to which the commissioner causing the
35 vacancy belongs and said appointment shall be made under the
36 provisions herein set out; *provided*, that if the city executive com-
37 mittee of that party recommend in writing within five days from
38 the time such vacancy occurred some person to be appointed, then
39 it shall be the duty of said commissioners making said appoint-
40 ment to appoint such person.

41 The board of commissioners shall be referred to in this act as
42 "The Board." In case of a vacancy in the office of mayor, the
43 commissioners shall select one among their number to fill out the
44 unexpired term as mayor but he shall belong to the same political
45 party to which said mayor belonged. In no case shall the mayor
46 vote on any question more than once.

Sec. 4. The term of each of the officers herein provided for
2 shall be two years, and until their successors are elected or ap-
3 pointed, and qualified, except all officers appointed to fill an un-
4 expired term shall be appointed only for the unexpired portion

5 of the term of the officers in whose stead they are appointed,
6 and shall likewise hold their offices until their successors are
7 elected or appointed and qualified. Officers of this city now in
8 office shall continue therein until September first, one thousand
9 nine hundred and twenty-one, or until the officers first elected
10 hereunder shall qualify.

Sec. 5. No person shall be eligible to the office of commissioner
2 unless he or she is a qualified voter residing within said city, and
3 entitled to vote at the last preceding election in said city, nor
4 unless he or she has resided therein for at least one year next
5 before his or her election.

Sec. 6. Every person elected or appointed to any office under
2 this charter before proceeding to exercise the authority, or dis-
3 charge the duties thereof, shall make oath or affirmation, that
4 he or she will support the constitution of the United States and
5 the constitution of this state, and that he or she will faithfully
6 discharge the duties of his or her said office to the best of his
7 or her skill and judgment, and no other oath, declaration or
8 test shall be required.

Sec. 7. The officers of the city shall be paid a monthly salary,
2 the amount of which shall be fixed by said board at the meeting
3 of the board at which levies are required to be laid under the
4 general laws of this state except the members shall be paid the
5 sum of five dollars for each regular monthly meeting of the
6 board actually attended and shall receive nothing for special
7 meetings not attended, and such members of the board shall not
8 receive any further salary.

Sec. 8. The treasurer of the city shall, before receiving any
2 of the funds of the city, execute a bond with approved securities
3 thereon in the penalty of at least ten thousand dollars, and con-
4 ditioned for the faithful performance of his other duty as treas-
5 urer of the city, and to pay over all monies and to deliver all
6 funds coming into his or her hands by virtue of his or her office
7 as required by this charter, the board of commissioners or by
8 the general law of the state of West Virginia, which bond shall
9 be filed with the board of commissioners and approved by them,
10 and the chief of police and each member of the police force shall
11 likewise before entering upon the discharge of their duties, exe-
12 cute and deliver to the said board a bond in the penalty of at
13 least three thousand five hundred dollars, conditioned as required

14 by the general law to be executed by a police officer before said
15 police officer is authorized to carry a pistol or other weapon.

16 Said bonds and all bonds, contracts and documents entered into
17 by and with said city shall be in the name of "The city of Logan."

Sec. 9. The first election under this charter shall be held on
2 the first Thursday in August, one thousand nine hundred and
3 twenty-one, and all subsequent general election of officers shall be
4 held on the first Thursday in April each second year thereafter.
5 The commissioners elected under this charter at the first elec-
6 tion hereunder shall take their office on the first day of Septem-
7 ber following, and those elected at all subsequent elections on
8 May the first following.

9 The special elections authorized hereunder shall be held as
10 provided by the said board in the order calling the same. Said
11 election shall be held at the voting precincts into which the city
12 is now or may hereafter be divided for general elections of state
13 and county officers.

14 At each election in said city all persons, both male and female,
15 who are entitled to vote under the constitution and laws of the
16 United States, and the constitution and the laws of the State of
17 West Virginia, and who have resided within said city for at
18 least six months prior to said election, shall at such election be
19 entitled to vote upon their being duly registered as required by
20 law.

21 The election shall be held by commissioners, clerk and chal-
22 lengers appointed by the said board in the manner prescribed by
23 chapter three of the code of West Virginia, governing the holding
24 of elections, so far as the same is applicable and not inconsistent
25 with provisions of this charter. The said board performing all
26 of the duties and functions required to be performed by the
27 county court in said charter, and the voters to be registered by
28 registrars appointed by the board unless the board shall adopt the
29 registration made at the last general election as the registration
30 for the city election about to be held.

31 The board shall convene as a canvassing board at ten o'clock
32 on the day next following each election, and shall canvass and
33 declare the returns of the election, make all recounts and decide
34 all contests demanded or made by any candidate for office, of any
35 special elections for the issuing of bonds by any citizen and tax
36 payer of the city in the manner that the county court is required

37 to do under chapter one hundred and three, chapter six and
38 chapter seven of the code of West Virginia, so far as the same is
39 applicable, and any contest thus decided by the said board may be
40 appealed to the circuit court of Logan county as provided in said
41 chapter, and from there to the Supreme Court of Appeals.

Sec. 10. The board of commissioners shall appoint all officers,
2 whose offices are established by this charter, and such additional
3 officers and employees as said board may from time to time by
4 ordinance create, except the officers herein provided to be elected.

Sec. 11. That in case of a vacancy during the recess of the
2 board in office which is not elective, the mayor shall, by appoint-
3 ment, fill such vacancy until the next meeting of the board when
4 the vacancy shall be filled by the board, as herein provided for
5 the appointment of officers by the board.

Sec. 12. All officers appointed under this charter may be re-
2 moved from office for official misconduct, incompetency, neglect of
3 duty or gross immorality in such manner as is prescribed by gen-
4 eral law for the removal of county and district officers, the said
5 board being hereby granted the jurisdiction and authority to try
6 and determine all matters relating to the removal of officers, and
7 upon the hearing of such motion or petition to remove any officer
8 they shall be governed by the general laws relating to the re-
9 moval of county and district officers, and an appeal may be taken
10 from their decision to the circuit court of Logan county in the
11 manner prescribed by general law on motion of any officer re-
12 moved by said board, or any petitioner or petitioners requesting
13 the removal of said officer. The elected officers may be removed
14 for said cause in the same manner that county and district officers
15 are removed.

Sec. 13. The executive powers under this charter shall be and
2 are hereby vested in the mayor, who shall take care that the laws
3 be faithfully executed, and who shall be the official head of the
4 city for ceremonial purposes and upon whom service may be had in
5 civil process and by the governor (military purposes). It shall
6 also be the duty of the mayor to attend and preside at all meet-
7 ings of the board, and to see that all ordinances of the board are
8 faithfully executed and carried out by the officers of the city,
9 and until a municipal court is provided for and a municipal judge
10 appointed and qualified, and thereafter in case of a vacancy in
11 said court, to hear, try and determine all complaints for viol-

12 tions of city ordinances, and all complaints for violation of the
13 general law of this city over which the municipal court is given
14 jurisdiction, and the mayor shall perform such other duties as may
15 be required of him by the board of commissioners.

16 The mayor shall be within the city a conservator of peace.

Sec. 14. The board shall meet once each month at the office
2 of the mayor of the city or at such place as they shall provide
3 and at such time as they shall provide for such meeting, which
4 meeting shall be known as the regular monthly meeting of the
5 board. They may hold special meetings at any time and place
6 at the request of the mayor or any two other members of the
7 board. In case of a special meeting each member of the board
8 shall be notified in time to attend the same.

9 At each meeting it shall be the duty of each member to attend,
10 and the mayor shall attend the meeting and act as presiding
11 officer. In his absence, however, the board may designate one
12 of its members to act as presiding officer pro tem. All of the
13 acts and proceedings of each meeting shall be recorded and at each
14 meeting the proceedings of the last meeting shall be read, correct-
15 ed, if erroneous, approved and signed by the presiding officer.

16 A majority of all of the members elected to the board shall
17 be necessary to constitute a quorum for the transaction of busi-
18 ness, but a smaller number may meet and compel the attendance
19 by proper process as provided by general law of the other mem-
20 bers of the board refusing or failing to attend.

Sec. 15. All the corporate powers and functions, jurisdiction
2 and authority pertaining to the city of Logan and herein granted
3 to it, and not specifically delegated to some other officer of the
4 city, is hereby granted and vested in the said board who shall
5 transact no business except when assembled as a board, and when
6 so assembled shall have full power, authority and jurisdiction
7 to carry into effect all of the powers of the municipal corpor-
8 ation granted under this charter or general law, or necessary for
9 the full enjoyment of the power and privileges so granted. And
10 it shall be the duty of the board to make and to have executed
11 all ordinances, resolutions, by-laws, necessary, proper or con-
12 venient to enable said board to carry out all of the powers, priv-
13 ileges, functions and authority granted to this city under section
14 one of this charter, and to specifically provide for the holding of
15 the elections herein provided for, and appoint the officers herein

16 provided for, and to have kept and to preserve the records of
17 the city as herein provided for, to impose the taxes herein pro-
18 vided for, and to have the same collected and properly disbursed,
19 and to do and perform all things necessary for the governing
20 of the city of Logan under this charter, and especially to pre-
21 serve the peace, health and welfare of the inhabitants of said city.

Sec. 16. The board shall cause to be kept by the "City Clerk,"
2 in a well bound book (which may be a loose leaf book), to be
3 called the "Minute Book," an accurate record of all proceedings,
4 acts, orders and resolutions, and in another book (which may be
5 loose leaf record), to be called "Ordinance Book," an accurate
6 copy of all general ordinances adopted by the board, both of
7 which shall be accurately indexed and open to the inspection of
8 any one who pays taxes in the city, or who may be otherwise in-
9 terested therein. All oaths and bonds of officers of the city, and
10 all papers of the board shall be endorsed, filed and securely kept
11 by the "City Clerk." The bonds of all officers shall be recorded
12 in a well bound book (which may be a loose leaf book), to be
13 called "Record of Bonds."

14 The transcript of any of the proceedings, acts, orders, resolu-
15 tions, ordinances or bonds, recorded, as aforesaid, when duly cer-
16 tified by the "City Clerk," under the seal of the city, shall be
17 admissable in evidence in any court or before any justice of the
18 peace in the state of West Virginia.

Sec. 17. The "City Clerk" shall accurately keep the minute
2 book and the ordinance book, as provided in section sixteen, and
3 shall accurately record all bonds as provided in said section, and
4 shall have charge of and preserve the records of the city.

5 In the absence of the mayor from the city, or his inability
6 for any cause to act as mayor, or during any vacancy in the
7 office of mayor, (until the same is filled by the board as pro-
8 vided herein), the city clerk shall perform the duties of the mayor,
9 and to that end, in addition to the powers herein conferred upon
10 him, the city clerk is hereby vested, when so acting as mayor,
11 with all the powers necessary for the performance of the duties
12 of the mayor. The city clerk shall attend each meeting of the
13 board, and perform such other duties as the board may require
14 of him.

Sec. 18. It shall be the duty of the assessor to make an assess-
2 ment of the property within the city subject to taxation, sub-

3 stantially in the manner and form in which the assessments are
4 made by the assessor of the county, and return the same to the
5 board on the same day that the assessor of the county is required
6 to return the county assessment to the county court of Logan
7 county, and for this purpose the city assessor shall have all the
8 powers conferred by law upon the county assessor of Logan
9 county, the valuation of which property shall be the same as
10 the valuation for the county and state taxation.

11 He shall list the number of dogs, and other animals, subject
12 to license tax in the city, and the name or names of persons
13 owning the same, which list shall likewise be returned to the
14 board at the same time the assessment of property is returned.

15 In order to aid the assessor in ascertaining the property sub-
16 ject to taxation by the city, he shall have access to all books and
17 public records of Logan county without expense to him of the
18 city, and he shall have the same powers and be subject to the
19 same penalties in ascertaining and assessing the property, sub-
20 ject to taxation in said city, as are granted and imposed on the
21 county assessors throughout the state by general law.

22 When the assessor shall have completed his assessment he
23 shall deliver the same upon the order of the board, sworn to by
24 him, to the city treasurer.

Sec. 19. It shall be the duty of the city treasurer to receive
2 the assessment of property and animals subject to license tax in
3 the city from the city assessor upon the order of the board and he
4 shall, thereupon, within the time prescribed for the collection
5 of county taxes, collect from the persons and corporations, the
6 entire amount of taxes with which they are charged in said as-
7 sessment. He shall allow the same discount to persons paying
8 their taxes before the thirtieth day of November of each year as
9 is allowed by general law to tax payers on county and state taxes,
10 and he is hereby given the same authority and power to levy upon
11 personal property of persons assessed with taxes and to make
12 sale of the same in the same maner and to the same extent as the
13 sheriff of the county is allowed to make levies and sales of per-
14 sonal property for state and county taxes. He shall make out
15 and deliver to each tax payer proper receipts for the taxes so
16-17 paid by the tax payer and may in the same manner that the
18 sheriff of the said county is required to make out and deliver to
19 tax payers, receipts for taxes paid to the sheriffs, and the treas-

20 urer shall make settlements of his accounts before the board on the
21 same dates that sheriffs are required to make settlement with the
22 county court for the taxes collected by them. The treasurer
23 shall keep an accurate itemized account of all taxes collected by
24 him, of all moneys received by him on behalf of the city from any
25 source, and this account shall at all times, be open for the inspec-
26 tion of the mayor, board, city clerk or any tax payer of the city.
27 He shall also make up, when required by the board, statements
28 of the money in his hands and the amount paid out by him, which
29 account shall show to whom and on what authority each item
30 was paid.

31 He shall also collect and receipt for all license tax imposed
32 by the board.

33 He shall pay out the money in his hands upon the order of the
34 city board which order shall be signed by the mayor and city
35 clerk.

36 He shall at the expiration of his term of office and at such
37 other times as the board may require, present to the board a full
38 and complete statement of all moneys with which he is charge-
39 able, or that have been received by him, and not previously ac-
40 counted for, and shall at the same time, and in like manner,
41 furnish a complete statement, by separate items, of all disburse-
42 ments made by him during such period, and with his vouchers
43 evidencing the payment of the same. He shall upon the expira-
44 tion of his term of office, turn over to the board all books and
45 other papers in his possession belonging to the city, except the
46 money in his hands, which he shall turn over to his successor
47 upon the order of the board. He shall immediately after his
48 induction into office, make up an accurate account and keep the
49 same revised to date of all the bonded indebtedness of the city.

Sec. 20. The judicial power of the city shall be vested in a
2 municipal court to be presided over by the mayor, if no municipal
3 judge be appointed. Said court shall have exclusive jurisdiction
4 of all criminal proceedings for the violation of any city ordinance,
5 and for the collection of any license or tax imposed by any city
6 ordinance, and shall have concurrent jurisdiction with justices
7 of the peace of Logan county in the following offenses committed
8 within the city, to-wit, petit larceny, assault and battery, breaches
9 of the peace, rioting, committing wilful injury to property, and
10 all misdemeanors, punishable by fine or by imprisonment in the

11 county jail, or both, proceedings respecting vagrants, lewd or
12 disorderly persons, and lewd and disorderly conduct.

13 In case of a vacancy in the office of municipal judge, the mayor
14 shall act as ex-officio municipal judge. The municipal judge (of if
15 none be appointed, the mayor) shall within the city, have, pos-
16 sess and exercise all the powers, and perform all of the duties
17 vested by law in the justice of the peace, except that he shall have
18 no jurisdiction in criminal cases or causes of action arising out-
19 side of the corporate limits of the city, said limits to include, how-
20 ever, the one mile extension of the jurisdiction of the city, pro-
21 vided for in section two of this act. He shall have the same
22 power to issue attachments in civil suits as the justice of the
23 peace has, although the cause of action arose outside of the city.
24 Said attachments shall be returnable to and be held before some
25 justice of the county of Logan. Any warrant or process issued
26 by the municipal judge may be executed at any place in Logan
27 county. He shall have the power to issue executions for all fines,
28 penalties and costs imposed by him, or he may require the imme-
29 diate payment thereof, and in default of such payment he may
30 commit the party in default to the jail of Logan county, or until
31 the fine or penalty and costs shall have been paid, but the term
32 of imprisonment in such cases shall not exceed thirty days. The
33 expense of maintaining any person committed to the county
34 jail by the municipal judge shall be borne by the city, except it
35 may be to answer an indictment or be under the provisions of sec-
36 tion two hundred and twenty-seven and two hundred and twenty-
37 eight of chapter fifty of the code of this state. The municipal
38 judge shall not receive any money belonging to the city or indi-
39 viduals, unless he shall give bond and security as is required by
40 justices of the peace, and all provisions of said chapter fifty of
41 the code, relating to monies received by justices shall apply in
42 like manner to the municipal judge.

43 He shall have authority to sentence an offender to labor upon
44 the streets or other public works of the city for a period not ex-
45 ceeding thirty days, and the compensation for said labor shall be
46 paid to said offender's dependents, if any, in conformity with such
47 regulations as the board by ordinance may provide.

48 Appeals shall lie from the judgment of the municipal court to
49 the circuit court of Logan county in accordance with law in the

50 same manner as appeals are allowed from justices of the peace, or
51 mayor, under chapter forty-seven of the code of West Virginia.

52 The municipal judge may be allowed a salary fixed by an ordi-
53 nance of the board in which case the fees and costs collected by
54 him shall be paid into the city treasury or said ordinance may
55 provide that no salary be paid the municipal judge, and in lieu
56 thereof that he receive the same fees as are provided by law for
57 justices of the peace in criminal and attachment cases. In this
58 event, however, the city shall assume no liability for the collection
59 of any of said fees.

60 A well bound book, indexed, to be denominated the "police
61 docket," shall be kept in the office of the municipal judge, in which
62 shall be noted each case brought before or tried by him, together
63 with the proceedings therein, including a statement of the com-
64 plaint, the warrant or summons, the return, the fact of appear-
65 ance, or non-appearance, the defense, the hearing, the judgment,
66 the costs, and in case the judgment be one of conviction, the ac-
67 tion taken to enforce the same. The record of each case shall be
68 signed by the police judge and the original papers thereof, if no
69 appeal be taken, shall be kept together and preserved in his office.
70 All references herein to the "police judge" or "municipal
71 judge," if none be appointed, shall relate to the mayor acting as
72 such.

Sec. 21. The city solicitor shall be an attorney at law au-
2 thorized to practice in the courts of Logan county, and he shall be
3 the legal adviser of the city and of all its officers in all matters
4 arising and in which legal proceedings may be taken. He shall
5 prosecute all suits, actions and proceedings, instituted on behalf
6 of the city and defend all suits, actions and proceedings against
7 the city, and when requested in writing, shall give his written
8 opinion to the mayor or board upon such legal questions as may
9 be referred to him affecting the city's interest, and he shall per-
10 form such other duties as may be required by the board. It shall
11 be his duty to attend the session of the board when requested, also
12 his duty when requested, by the board or mayor to prosecute all
13 trials before the municipal court for violation of the city ordi-
14 nances or offenses within the jurisdiction of said court, and he
15 shall, without being so requested appear for the city in all ap-
16 peals taken to the circuit court by the city or by defendants or
17 criminals, and for his services he shall receive such compensation

18 as the board shall by ordinance provide, and in addition to such
19 compensation in all criminal prosecutions conducted by said city
20 solicitor where there is a conviction of the defendant, there shall
21 be taxed as of the costs a fee of not less than five dollars nor more
22 than ten dollars, which fee shall be paid to such solicitor, and
23 in all criminal cases appealed to the circuit court or Logan county,
24 the city solicitor shall receive the same fee, in case of a convic-
25 tion, as are allowed prosecuting attorneys in criminal cases.

Sec. 22. The chief of police shall be an *ex-officio* constable with-
2 in the corporate limits of the city, and may execute any writ or
3 process issued by the municipal judge or any justice of the peace at
4 any place in Logan county; he shall have all the powers, rights
5 and privileges within the corporate limits of the city in regard to
6 the arrest of persons, the collection of claims, and the execution
7 and return of process that is vested by law in a constable of a
8 magisterial district, and he shall be liable to all fines, penalties
9 and forfeitures that a constable of a magisterial district is liable
10 to, to be recovered in the same manner and in the same court that
11 fines, penalties and forfeitures may be recovered against such
12 constable. All other police officers shall be members of the police
13 force, and shall perform their duties under the general direction
14 of the chief of police, and they shall have and possess all of the
15 rights and privileges of a constable of a magisterial district while
15-a. acting as police officer within the corporate limits of the city.
16 The board shall determine and provide whether any police offi-
17 cer, and if so how many, shall be appointed in addition to the
18 chief of police herein provided for, and shall prescribe the term
19 of their services, and may on special occasions have special police
20 officers qualified to act as such for a limited time without the
21 giving of any bond.

Sec. 23. In the discretion of the board it may appoint a chief
2 of fire department, and one or more firemen, or the board may
3 provide for the organization and maintenance of a fire company as
4 provided in chapter forty-eight of the code of West Virginia, and
5 prescribe the duties, compensation and number of the fire com-
6 pany, and rules and regulations for the government of the com-
6-a pany and may provide for the using of fire equipment of the
7 city by the chief of the fire department or the fire company, if
8 one is organized, under chapter forty-eight of the code, and un-
9 less such chief of the fire department is appointed, or a fire com-

10 pany is organized under chapter forty-eight of the code, the chief
11 of police of the city shall be *ex-officio* the chief of the fire depart-
12 ment, and it shall be his duty to attend at all fires, and to direct
13 the use of the fire extinguishing appliances used by the city in an
14 effort to extinguish the fire.

Sec. 24. The board shall provide a city engineer whose duty it
2 shall be to perform such engineering services as are required from
3 time to time by an order of the board, and in case any permanent
4 improvements are being made upon any of the existing streets
5 or alleys, or to any of the sewers of the city, it shall be the duty of
6 the board to have the same done under the supervision and direc-
7 tion of the city engineer, and all new streets hereafter laid off or
8 dedicated to public use within said city, and all lines of sewers
9 hereafter laid by said city, before the same is dedicated or laid,
10 be correctly surveyed by the city engineer, and a map and plan
11 of the same filed with the city clerk as a part of the records of the
12 city.

13 In case the city should install a water works or a water plant
14 or purchase the one now in operation in said city, all lines for
15 carrying the water installed by the city, and all improvements
16 made to said plant, shall first be submitted to the city engineer
17 and approved by him before the same shall be acted upon by the
18 board.

Sec. 25. The superintendent of streets appointed by the board
2 shall, under the direction of the board, and within the limits of
3 the money provided for his work keep all public streets and alleys
4 clean and in constant repair and all sewers within the city
5 in constant operating condition, and shall, under the direction of
6 the board, have the garbage of the city removed and burnt or oth-
7 erwise disposed of as directed by the board and shall perform such
8 other duties at such times and in such manner as the board may
9 authorize by general ordinance or by special direction, in writ-
10 ing, direct.

Sec. 26. The city health officer shall perform the duties with-
2 in the corporate limits of the city of Logan, required to be per-
3 formed by the county health officer, under the general laws of this
4 state.

Sec. 27. The board shall cause to be annually made up and
2 enter in its "minute book," at the same time at which county
3 courts are required to make up their annual estimate, an accu-

4 rate estimate of all sums with which the city treasurer may be-
5 come chargeable to such city during the current fiscal year, and
6 shall give notice of such estimate as provided by general law and
7 that at the same time that county courts are required to lay their
8 annual levy, in the same manner, the board shall lay a sufficient
9 levy to pay the current expense of the city, thus estimated for
10 the current fiscal year. The said levy shall be upon all property
11 both real and personal assessed by the city assessor. The rate of
12 levy, however, shall not exceed fifty cents on one hundred dollars
13 valuation, unless a higher rate of levy be authorized by two-thirds
14 vote of the voters of said city at an election to be held for that pur-
15 pose, and in no case shall said levy for all purposes exceed seventy-
16 five cents on every one hundred dollars of valuation. At the same
17 time said board shall also levy a special annual tax of five dollars
18 on each female dog and two dollars and fifty cents on each male
19 dog within said city over three months old at the time said es-
20 timate is made, and the taxes thus levied shall be the fund out
21 of which the current expenses for the current fiscal year shall
22 be paid.

Sec. 28. There shall be a lien on all real estate within the
2 city for the city taxes assessed thereon, and for all fines and pen-
3 alties assessed against or imposed upon the owners thereof, by the
4 authorities of the city, including expense for making, maintain-
5 ing, repairing, paving, macadamizing, sidewalks, drains, gutters
6 and streets from the time the same are assessed or imposed, which
7 lien shall have priority over all other liens except taxes due the
8 United States and the lien for taxes due the state, county, and
9 district, and such lien may be enforced by the board in the same
10 manner provided by law for the enforcement of the lien for county
11 taxes.

12 The laws of the state of West Virginia in relation to delinquent
13 taxes and the sale of property therefor, are hereby in all respects
14 adopted as to all of the proceedings in relation to taxes for city
15 purposes delinquent in said city, and the powers and duties con-
16 ferred by the laws of the state upon county courts and their clerks
17 and sheriffs in regard to delinquent taxes and their collection, are
18 hereby in all things conferred upon said city board, city clerk, city
19 treasurer, and other officers of the city whose duties are of a sim-
20 ilar nature as those of county officers in so far as the same may be
21 directly or indirectly applicable in the collection of delinquent

22 taxes due the city, and so far as they are not applicable the board
23 is hereby given the authority to make proper rules and regula-
24 tions for carrying out the provision of this section to the end that
25 the laws imposed for the taxes herein may be enforced.

Sec. 29. The board may, by ordinance, impose a special li-
2 cense tax in all cases where the state of West Virginia imposes a
3 license tax, except that no license tax shall be levied by said city
4 under clauses "r" and "s" of section two, chapter thirty-two of the
5 code of West Virginia.

6 The board shall prescribe by ordinance the time and manner
7 in which license of all kinds shall be applied for and granted, and
8 shall require the payment of the taxes thereon to the city treas-
9 urer on the delivery to the person applying therefor, which tax
10 shall include the same fees for the issuing of license as are charged
11 for similar service by state and county officers, which fees shall
12 be paid into the city treasury.

13 The board may revoke any such license for a breach of any
14 of the conditions or for other good cause shown, but the person
15 holding such license must first have reasonable notice of the time
16 and place of hearing and adjudicating the matter as well as the
17 cause alleged, and shall be entitled to be heard in person or by
18 counsel in opposition to such revocation. The term for which the
19 license provided for in this chapter shall be granted shall be gov-
20 erned by the general laws providing for state license and rate of
21 license tax shall in no case be greater than the rate of state taxes
22 charged for the city license.

Sec. 30. The city shall construct, keep in repair and maintain
2 its own roads, streets and alleys and by reason thereof shall not be
3 required to pay any district or county road levies for the con-
4 struction or maintenance of roads outside of the city limits, ex-
5 cept levies to pay the bonded indebtedness of the county of Logan
6 now outstanding.

Sec. 31. And the city shall provide for and maintain, as re-
2 quired by law, all poor persons and paupers within the city limits
3 and shall by reason thereof be relieved from paying any county or
4 district levies for the maintenance of the poor or paupers.

Sec. 32. The city is hereby authorized to issue its bonds in
2 the manner provided by general law and in that way become in-
3 debted for the following purposes only, to-wit:

4 (a) For the purchasing of suitable lots and the building of a
5 city hall.

6 (d) For the paving, re-paving, curbing, re-curbing, grading,
7 re-grading, sewerage, re-sewerage, or otherwise permanently im-
8 proving any street or alley or roadway within the city limits or
9 the acquisition of land on rights of way for the establishment of
10 new streets, alleys or roadways or rights of way for the building
11 of city sewers.

12 (c) For the construction and installing of a water plant or
13 works to supply the city of Logan and the residents thereof with
14 water, or for the acquisition of the water plants or works now in-
15 stalled in said city, and the improving, re-construction or re-build-
16 ing of the same.

17 But the city shall not become indebted in any manner or for
18 any purpose to an amount, including existing indebtedness, in the
19 aggregate, exceeding five per centum on the valuation of the tax-
20 able property therein to be ascertained by the last assessment for
21 state, county and municipal taxes, previous to the incurring of
22 such indebtedness; nor without at the same time providing for the
23 collection of a direct annual tax sufficient to pay annually the in-
24 terest on such debts and the principal thereof, within, and not to
25 exceed thirty-four years; *provided*, no debt shall be contracted
26 under this section unless the question connected with the same
27 shall have been first submitted to a vote of the people, and have re-
28 ceived three-fifths of all the votes cast for and against the same.

29 Sec. 33. It shall be the duty of the board through and by the
30 city superintendent of streets and the city engineer to provide for
31 the construction, maintenance and constant repair of all streets,
32 alleys, roadways, sidewalks, gutters and sewers of the city, now
33 being used as such within the corporate limits of the city, or as
34 may hereafter be laid out or made and to keep the same at all
35 times open and free from obstruction and in suitable condition for
36 the use required to be made thereof, and to keep the same con-
37 tinuously clean and well drained, using the available current
38 funds for such purpose.

39 The board is also authorized to provide for the permanent im-
40 proving of the streets, alleys, roadways, gutters and sewers by
41 the using of bonds in the manner and to the extent provided for
42 in the last preceding section and in the manner provided for in
43 sections one to sixteen, both inclusive, of chapter eight of the acts
44 of the legislature of one thousand nine hundred and eight; provid-
45 ing for the issuing of bonds for street improvements and sewers,

18 which act of the legislature was as provided in section seventeen
19 thereof submitted to the voters of said city of Logan and by them
20 duly ratified, therefore, the said sections one to sixteen, both in-
21 clusive, of said act, are hereby made a part of this charter so far
22 as the same is not in conflict with the provision of this act.

Sec. 34. It shall be the duty of the owner of any real prop-
2 erty abutting on or next adjacent to or on any side walk, foot
3 way or gutter, of this city, to lay and construct proper sidewalks
4 and to curb, re-curb, pave, re-pave, or repair, and keep the same
5 in constant good condition and clean in the manner and within
6 the time required by the board, and if any owner of any real
7 property abutting on or next adjacent to any sidewalks, footway,
8 or gutter of said city shall fail or refuse to lay and construct
9 proper sidewalks, and to curb, re-curb, pave or re-pave, or re-
10 pair or keep the same clean in the manner and within the time
11 required by the board, it shall be the duty of the board to cause
12 the same to be done at the expense of the city, and to assess the
13 amount of such expense against said property, and upon the
14 owner thereof, and the amount so assessed shall be collected
15 by the city treasurer in the same manner and at the same time
16 that city taxes on property assessed within the city is collected,
17 and there shall be a lien upon said property for the amount
18 assessed hereunder the same as the lien for taxes as herein pro-
19 vided.

Sec. 35. The board shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate for streets, alleys, roadways, drains, sewers, market
3-a grounds, city hall, and other public purposes for the city. Said
4 proceeding shall conform to the provisions of chapter forty-two
5 of the code of West Virginia, and the expense thereof shall be
6 borne by the city except in case where it is provided under said
7 chapter to charge said expense or any part thereof against the
8 defendant.

Sec. 36. Public utility franchises shall be granted for a
2 period not exceeding twenty-five years.

3 It shall be provided in every public utility franchise that upon
4 the annexation of territory to the city, said franchise shall apply
5 also within the said annexed territory.

6 No exclusive monopoly shall be granted, and all franchises
7 or privileges for the occupation of the streets, alleys and road-

8 ways of the city, shall be strictly construed in favor of the city.

9 No grant of extension of an existing franchise shall be for
10 a greater period than twenty-five years for any one renewal, but
11 any such extension or renewal may be succeeded by similar re-
12 newals. Subsequent grants made to the holder of a prior grant,
13 if of the same nature and purpose as the original, shall be made
14 to expire at the same time with the original grant.

15 All public franchises shall be granted subject to the right of
16 the board of commissioners by resolution or ordinance, whether
17 so expressed in the said franchise or not, to restrict and control
18 the operation of the grant in the interest of the public welfare;
19 and subject further to the right of the board of commissioners
20 by ordinance to revoke said franchise for violation by the grantee
21 of any of the terms thereof.

Sec. 37. The said board of said city shall have power and
2 authority to control and regulate the construction and repair of
3 all houses and other buildings within the said city, and to provide
4 the granting of building permits; to cause the removal of unsafe
5 walls or buildings, and may upon the petition of any person or
6 persons owning the greater amount of the frontage of the lots
7 abutting on any street between any two cross-streets, or in any
8 square in said city, prohibit the erection on such street, or in
9 such square, of any building or any addition to any building un-
10 less the outer walls thereof be made of brick and mortar or other
11 fireproof materials and to provide for the removal of any building
12 or addition, which shall have been erected contrary to such pro-
13 hibition, at the expense of the owner or owners thereof.

Sec. 38. To carry into effect the enumerated powers herein
2 granted, and all implied powers granted the board under this
3 charter or by general law conferred upon them or which may
4 be hereafter conferred upon the city, or any of its officers, the
5 board shall have power and possess full authority to make all
6 needful ordinances, by-laws, orders and resolutions, not repug-
7 nant to the laws and constitutions of the United States and of
8 this state, and to enforce any and all of such ordinances, by-
9 laws, or resolutions by prescribing for a violation thereof, fines,
10 penalties and imprisonment, either in the county jail of Logan
11 county, or in the city of Logan prison, if there be one, and such
12 fines and penalties shall be imposed and recovered and such
13 imprisonment inflicted and enforced by and under the judgment
14 of the municipal court of this city.

Sec. 39. The city of Logan, under its charter, shall succeed to all of the rights and liabilities of the city of Logan under the charter granted by the acts herein amended, and it shall be liable for all of the debts and obligations of said city the same as if said indebtedness or liabilities were created or incurred by the city of Logan under this charter.

Sec. 40. All ordinances, by-laws, orders and resolutions of the city of Logan in force at the time this act goes into effect, so far as they are not inconsistent with this charter, shall continue in force as ordinances, by-laws, orders and resolutions of the city of Logan, until amended or repealed by the board of said city.

Sec. 41. If any section or part of this act shall be found to be invalid, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of section, unless such other section or part is clearly dependent for its operation upon the section or part so held invalid.

Sec. 42. The act of the legislature of West Virginia passed on March five, one thousand nine hundred and seven, creating the municipal corporation of the city of Logan, known as chapter three of the acts of one thousand nine hundred and seven, and chapter eighty-eight of the acts of the legislature, for the year one thousand nine hundred and nine, and chapter eighty-two of the acts of the legislature for the year one thousand nine hundred and thirteen, and all acts and parts of acts which are in conflict with and inconsistent with this act, are hereby repealed, but this act shall not be construed to take away any of the powers conferred upon cities or upon the board or any officers thereof by general law, except so far as the same may be consistent with the powers herein granted or the provisions of this charter.

Sec. 43. But it is expressly provided that before this act shall take effect insofar, and insofar only, as the same extends the present limits of the city of Logan to take in additional territory the same shall be ratified by sixty percent of the voters voting on the question residing in and entitled hereunder to vote within the territory defined in section two hereof at an election regularly called for that purpose, within six months from the date this act takes effect, which election shall not be called except upon petition of two hundred legal voters within the ter-

10 ritory comprising the city of Logan prior to the passage of this
 11 act. By this provision is meant sixty percent of the persons
 12 voting at such election in such entire territory, and not both sixty
 13 percent of the persons voting in the old city of Logan, and also
 14 (separately) sixty percent of the persons voting in such new or
 15 additional territory.

16 If at said election, if held, there is less than sixty percent of
 17 the votes cast at said election in favor of including the addi-
 18 tional territory described herein, then the boundary lines of said
 19 city shall remain as they are at the present time.

CHAPTER 13

(Senate Bill No. 40—Mr. Bowers.)

AN ACT re-incorporating, or incorporating anew, the city of Manning-
 ton in the county of Marion; enlarging the boundaries of said
 city; and repealing all prior acts in relation to said city and in
 relation to the town of Mannington, the predecessor of said city.

[Passed March 22, 1921. In effect from passage. Became a law without the approval of the Governor.]

SE.

1. The City of Mannington.
2. Corporate limits.
3. Exempt from taxes for construction and maintenance of roads outside of the city limits.
4. Governing body to be known as "The board of commissioners of the city of Mannington."
5. Exercise of corporate powers.
6. Eligibility to office of commissioner.
7. Term of office; special provisions for those elected at first election; salary.
8. Provision for holding election as speedily as possible under this act.
9. Municipal elections, how conducted; those eligible to office; ballots, etc.
10. Commissioners elected by popular vote, other officers appointed; date of election; term to begin.
11. Appointment of election officers; board of ballot commissioners; board of commissioners to provide additional regulations.
12. Legislative authority of commissioners.
13. Place of meetings; record of proceedings.
14. Election of mayor.
15. A quorum.
16. Compensation of appointive officials.
17. Powers of board of commissioners.

SEC.

18. No commissioner shall vote upon proposition in which he is interested to which city is a party.
19. No commissioner shall be surety on any city bond.
20. List of appointive officers.
21. The mayor, his duties; powers; salary.
22. City to use county jail.
23. A "Docket" shall be kept in office of mayor.
24. City clerk, duties.
25. Clerk shall, after levy of taxes, extend same on property books made out by assessor; make out tax tickets, etc.
26. Clerk shall receive taxes, assessments and fines; keep a record.
27. Clerk shall give bond.
28. City solicitor, qualifications, duties, compensation.
29. Assessor, duties.
30. Treasurer, duties, bond.
31. Chief of police.
32. Oath of office.
33. Officers required to give bond; amounts.
34. City board of health.
35. Liens on real estate for city taxes.
36. Licenses.
37. Board of commissioners.
38. Condemnation of real estate.
39. Expenditures of money.
40. Granting of franchises.

SE.	SEC.
41. Materials and location of sidewalks, etc., determined on by commissioners; cost of paving and lien on lots; notice.	57. Issuance of bonds; question to be submitted to a vote of the people.
42. Alleys. may be ordered to be macadamized.	58. Terms of appointive officers.
43. Board of commissioners to make accounting at end of fiscal year.	59. Board of commissioners may appoint, employ or elect a city manager.
44. Audit of affairs of city.	60. Ordinances and resolutions not in conflict shall continue in force and effect.
45. Removing ice and rubbish from sidewalks.	61. Present officers shall continue in office; time.
46. Police to execute any notice, summons, warrant or other process unless otherwise provided.	62. Vested rights of city to continue under act; also contracts and public works.
47. Penalty for non-performance of duties.	63. Any provision of this act, if declared invalid, not to affect other parts of act.
48. Removal of commissioners by petition.	64. All acts inconsistent are repealed.
49. Petition.	65. Act to be submitted to vote of people; provisions for special election.
50. Petition; how signed; affidavit.	66. Election of officials providing act falls to take effect by time given council and other officers are to be nominated.
51. Papers comprising petition to be filed with clerk; time.	67. Providing for the making of an assessment in case act falls to take effect on or before April first.
52. Holding of election; time.	
53. Ballots; form.	
54. Results of election.	
55. Time within which no recall can be made.	
56. Issuance of bonds; limits.	

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Marion as is within the bounds 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 of "The City of Mannington," and as such shall have perpetual succession and a common seal; and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purpose of said corporation. The City of Mannington is hereby empowered to accept any gift or devise of any property or thing which lawfully may be given, whether such gift or devise be given direct to said "The City of Mannington", or its executive officers for and on its behalf. And the said "The City of Mannington" is hereby invested with the title to the property which is, or may be the subject of such gift or devise.

Sec. 2. The corporation territorial limits of the city of Mannington shall hereafter be as follows:

Beginning at a stake in the northern side of the old Mannington and Clarksburg turnpike, near the residence of E. B. Koen, and running thence south seventy-six degrees east three hundred and sixty-three feet to a stake in the northern side of turnpike, thence south forty-seven degrees thirty minutes east seven hundred and thirty-four feet to a stake in the northern side of said turnpike; thence south thirty-one degrees fifteen minutes

10 east six hundred and thirty and five-tenths feet to a stake in the
11 northern side of said turnpike; thence south sixteen degrees
12 twenty-five minutes east three hundred and three feet to a stake
13 in the northern side of said turnpike; thence leaving said turn-
14 pike south seventy-three degrees fifty-two minutes east seven hun-
15 dred and fifty-seven feet to a stake in the field; thence south
16 eighty-nine degrees forty-four minutes east two hundred and
17 eighty-nine feet to a stone, corner to Mary Hamilton and lands
18 formerly owned by John Blackshere's heirs and now owned by the
19 Sycamore land company; thence north seventy-nine degrees thir-
20 ty-six minutes east eight hundred and eighty-six feet to a stake;
21 which bears south sixty-five degrees west ninety-five feet from oil
22 well number twelve on the original J. W. Phillips tract; thence
23 south fourteen degrees fourteen minutes east one thousand five
24 hundred and fifty-five feet to a stake twenty feet to the left of
25 well number three on said J. W. Phillips tract; thence south
26 eighty-one degrees fifteen minutes east eight hundred and four-
26-a teen feet to a chestnut tree; thence south seventy-four degrees
26-b forty-five minutes east six hundred and twenty-four
26-c feet to a white oak; thence south eighty-six degrees
26-d thirty minutes east five hundred and seventy-seven feet
26-e to the mouth of Flaggy Meadow creek; thence with the
27 meanders of the south bank of Buffalo creek north seventeen de-
28 grees forty-five minutes east two hundred and ten feet, north eight
29 degrees east two hundred and twenty-seven feet, north four de-
30 grees thirty minutes east one hundred and twenty-eight feet,
31 north twenty-two degrees west one hundred and fifty-five feet,
32 north thirty-six degrees fifteen minutes west one hundred and thir-
33 ty-six feet, and north forty-seven degrees thirty minutes west one
34 hundred and twenty feet; thence crossing Buffalo creek and the
35 Baltimore and Ohio railroad, north forty-two degrees fifty-two
36 minutes east three hundred and eighty-five feet to a stake at the
37 southern edge of the pike; thence north forty degrees fifty-seven
38 minutes west four hundred and twenty-six feet to a stake at the
39 southern edge of the pike; thence north twenty-five degrees six
40 minutes west three hundred and fifty-four feet to a stake at the
41 southern edge of the pike thence north twenty-one degrees fifty-
42 eight minutes west six hundred and eighty-nine feet to a stake
43 at the southern edge of the pike; thence north forty degrees nine
44 minutes west two hundred and sixty-nine feet to a stake at the

45 south side of the pike; thence north thirty-three degrees fifty-
46 four minutes west three hundred feet to a stake at the south side
47 of the pike; thence north forty-six degrees thirty-four minutes
48 west one hundred and ninety-one feet to a stake at the south side
49 of the pike; thence north seventy-one degrees forty-nine minutes
50 west one hundred and fifty-seven and five-tenths feet to a stake
51 at the south side of the pike; thence south eighty-seven degrees
52 twenty-one minutes west one hundred and fifty-four and five-
53 tenths feet to a stake at the south side of the pike near a culvert;
54 thence north one degree twenty-four minutes west four hundred
55 and eighty-feet to a walnut; thence north thirty-seven degrees
56 west seven hundred and fifty-five feet to a hickory, corner to
57 Rymer heirs; thence north fifty-six degrees west one thousand four
58 hundred and thirty-one feet to a stake, corner to Rymer heirs and
59 M. F. Hamilton; thence north thirty-three degrees twenty
60 minutes west one thousand eight hundred and twenty feet to a
61 stake; thence north eight degrees forty-five minutes west six hun-
62 dred and sixty feet to a stake; thence north fifteen degrees fifteen
63 minutes east eight hundred and fourteen feet to a stake; thence
64 north thirty-five degrees five minutes west one thousand six hun-
65 dred and ten feet to a white oak on a bluff; thence north eighty-
66 three degrees thirty minutes west three hundred and sixty-five
67 feet to a point on the curb at the southwest corner of the Balti-
68 more and Ohio railroad, crossing the county road; thence cross-
69 ing Pyles Fork creek twice, south forty-nine degrees thirty-min-
70 utes west five hundred and seventy feet to a point on the north-
71 east corner of the head wall of a culvert on the east side of the
72 county road; thence south forty-two degrees fifteen minutes east
73 three hundred and seventy-three feet to the northeast corner of
74 the head wall of a culvert on the east side of the county road;
75 thence south four degrees west one thousand three hundred and
76 sixty-one feet to a stake; thence south seventeen degrees west one
77 thousand and seventy-two feet to a point on the root of a white
78 oak tree, corner to Koen and Beaty, from which the corner of
79 Koen heirs, Sallie Beaty and Snodgrass, formerly Geo. Furbee
80 estate, bears north thirty-three degrees thirty minutes west two
81 hundred and twenty-five feet; thence north eighty-two degrees
82 west seven hundred and sixty feet to a gum in Koen heirs field;
83 thence south fifty-four degrees twenty minutes west one thousand
84 nine hundred feet to the northeast corner of the Grand View plan

85 of lots; thence south seventy-two degrees forty-five minutes west
86 five hundred and forty-four feet to a stake; thence south eighty-
87 nine degrees thirty minutes west seven hundred and sixty feet to a
88 stake; thence north eighty-one degrees west two hundred and
89 seventeen feet to a stake and lynn pointers at Rock Camp run;
90 thence south twenty-one degrees thirty minutes east three hun-
91 dred and sixty-three feet to the southwest abutment of concrete
92 bridge over Rock Camp run; thence south thirty-nine degrees
93 thirty minutes east four hundred and ninety-three feet to a
94 stake on the northern bank of Buffalo creek; thence with said
95 creek south fifteen degrees east four hundred and sixty-three feet,
96 south sixty-nine degrees fifteen minutes east four hundred and
97 sixty feet, south fifty-six degrees ten minutes east nine hundred
98 and thirty feet, south sixty-one degrees forty-five minutes east
99 two hundred and forty-five feet to a stake; thence crossing Buffalo
100 creek south seventy-two degrees east five hundred and thirty-five
101 feet to a service in Koen's field; thence north seventy-four de-
102 grees east one thousand six hundred and ten feet to a stake in the
103 north side of the Mannington and Clarksburg turnpike, the place
104 of beginning.

Sec. 3. The city of Mannington shall construct, maintain and
2 control its streets and roadways and be exempt from the payment
3 of taxes for the construction and maintenance of roads outside
4 of the city limits, except that where the people of the city have
5 heretofore, by special election, joined in the issuance of bonds
6 for permanent road improvement within, and without, the city
7 limits and have assumed their share of such obligations this act
8 shall not exempt the taxable property of the city from the payment
9 of any special taxes provided in said election for the liquidation
10 of such indebtedness; nor shall this act prevent the future partici-
11 pation of the city in permanent road improvement by special vote
12 of the people under the laws of the state of West Virginia; but
13 the said county of Marion shall be chargeable with the construc-
14 tion and maintenance of all bridges within the city.

Sec. 4. The municipal authorities of the city of Mannington
2 shall be three commissioners who shall constitute and be known as
3 "The Board of Commissioners of the City of Mannington". All
4 the corporate powers of said city shall be vested in and exercised
5 by the board of commissioners or under its authority and direction,
6 except as otherwise provided in this act.

Sec. 5. The board of commissioners of said city shall and are 2 hereby granted power to have said city surveyed; to open, vacate, 3 broaden, change grade of, and pave streets, alleys, sidewalks and 4 gutters for public use, and to alter, improve, embellish and orna- 5 ment and light the same, and to construct and maintain public 6 sewers and laterals; and shall, in all cases, have power and 7 authority to assess upon and collect from the property benefitted 8 thereby, such part of the expense thereof as shall be fixed by 9 ordinance, except as hereinafter provided; to have control of all 10 streets, avenues, roads, alleys and grounds for public use in said 11 city, and to regulate the use thereof, and driving thereon, and 12 to have the same kept in good order, and free from obstruction 13 pollution or litter on or over them; to have the right to control 14 all bridges within said city, and the traffic passing thereover; 15 *provided, however*, that nothing in this act shall be construed 16 as to require the city of Mannington to build or keep in repair 17 any bridge, or bridges, within said corporation owned by the 18 county, and the officers of said city, in preservation of law and 19 order, shall have jurisdiction over said bridge or bridges within 20 said corporation; to change the name of any street, avenue or 21 road within said city, and to cause the re-numbering of houses 22 on any street, avenue or road therein; to regulate and determine 23 the width of the streets, sidewalks, roads and alleys therein; to 24 order and direct the curbing and paving of sidewalks, roads 25 and footways for public use in said city, to be done and kept 26 clean and in good order by the owners of adjacent property; to 27 prohibit and punish the abuse of animals; to restrain and punish 28 vagrants, mendicants, beggars, tramps, prostitutes, drunken or 29 disorderly persons within the city, and to provide for their arrest 30 and manner of punishment; to prohibit and punish by fine the 31 bringing into the city by railroads or other carriers, of paupers 32 or persons afflicted with contagious diseases; to control and sup- 33 press disorderly houses, houses of prostitution or ill-fame, houses 34 of assignation, and gaming houses and to punish gaming and to 35 suppress gaming and gambling in any form, or the operation 36 of gaming and gambling devices within said city; to prohibit 37 within said city, or within one mile thereof, slaughter houses, 38 soap or glue factories and houses of like kind; to control the 39 construction and repair of all houses, basements, walls, bridges, 40 culverts and sewers, and to prescribe and enforce all reasonable

41 regulations affecting the construction of the same, and to require
42 permits to be obtained for such buildings and structures, and
43 plans and specifications thereof to be first submitted to a city
44 architect or building inspector; to control the opening and con-
45 struction of ditches, drains, sewers, cess-pools and gutters, and
46 to deepen, widen and clear the same of stagnant water or filth,
47 and to prevent obstruction therein, and to provide, contract for
48 and construct an adequate sewerage system for said city, and
49 to determine at whose expense the same shall be done; and to
50 build and maintain fire station houses, police stations and jails,
51 and to regulate the management thereof; to acquire, lay off,
52 appropriate and control public grounds, squares and parks, either
53 within or without the city limits as hereinafter defined. And
54 when the board of commissioners determine that any real estate
55 is necessary to be acquired by said city for any such purpose,
56 or for any public purpose, the power of eminent domain is hereby
57 conferred upon said city, and it shall have the right to institute
58 condemnation proceedings against the owner thereof in the same
59 manner, to the same extent and upon the same conditions as
60 such power is conferred upon public corporations by chapter
61 forty-two of the code of West Virginia of the edition of one
62 thousand nine hundred and six, and as now amended; to pur-
63 chase, sell, lease or contract for and take care of all public
64 buildings and structures and real estate, including libraries and
65 hospitals, deemed proper for use of such city; and for the pro-
66 tection of the public, to cause the removal of unsafe walls or
67 buildings, and the filling of excavations; to prevent injury or
68 annoyance to the business of individuals from anything danger-
69 ous, offensive or unwholesome; to abate and prohibit, or cause
70 to be abated and prohibited, all nuisances and to that end and
71 thereabout to summon witnesses and hear testimony; to regulate
72 the keeping of gunpowder, gasoline, dynamite and other com-
73 bustible or dangerous articles; to regulate, restrain or prohibit
74 the use of fire crackers or other explosives or fire works and
75 all noises or performances which may be dangerous, annoying
76 to persons or tend to frighten horses or other animals; to pro-
77 vide for shade and ornamental trees and the protection of the
78 same; to provide for the making of division fences; to make
79 proper regulation for guarding against danger or damage from
80 fires; to prohibit within said city the carrying on of the busi-

81 ness of a clairvoyant, or fortune telling in any form; to provide
82 for the poor of the city, and to that end may contract with the
83 proper authorities of Marion county to keep and maintain the
84 poor, or any number thereof, upon terms to be agreed upon;
85 to build, own and maintain a home for the poor; to make reason-
86 able regulations in regard to the use of the streets and alleys
87 for street cars, railroad engines, automobiles and auto trucks,
88 cars, and to regulate the running and operation of the same so
89 as to prevent injury to the public and to the public highways;
90 to prohibit prize fighting, cock and dog fighting; to license, tax,
91 regulate or prohibit theaters, motion picture shows, circuses, the
92 exhibition of showmen and shows of any kind, and the exhibition
93 of natural or artificial curiosities, caravans, menageries, and
94 musical exhibitions and performances, and other things or busi-
95 ness on which the state does or may exact a license tax; to organ-
96 ize and maintain fire companies and to provide necessary appa-
97 ratus, engines and implements for the same; to regulate and
98 control the kind and manner of plumbing and electric wiring for
99 the protection of the health and safety of said city; to provide
100 for the annual assessment of taxable persons and property within
101 said city, and to levy taxes on persons, property and licenses;
102 to license and tax dogs and other animals, and regulate, restrain
103 and prohibit them and all other animals and fowls running at
104 large; to provide revenue for the city and appropriate the same
105 to its expenses; to adopt rules for the transaction of business and
106 for its own regulation and government; to promote the general
107 welfare of the city and to protect the persons and property of cit-
108 izens therein; to regulate and provide for the weighing of pro-
109 duce and other articles sold in said city, and to regulate the trans-
110 portation thereof, and other things through the streets; to have
111 the sole and exclusive right to grant, refuse, or revoke any and
112 all licenses for the carrying on of any business within said city,
113 on which the state exacts a license; to own and maintain a public
114 market; to establish and regulate markets and to prescribe the
115 time for holding the same, and what shall be sold in such markets
116 and to acquire and hold property for market purposes; to regu-
117 late and prohibit the placing of signs, bill-boards, posters and
118 advertisements in, on, or over the streets, alleys, side-walks and
119 public grounds of said city; to regulate, or prohibit, the placing
120 of signs, bill-boards, posters and advertisements on private prop-

121 erty within said city; to preserve and protect the peace, order
122 and safety and health of the city and its inhabitants, including
123 the right to regulate the sale and use of cocaine, morphine, opium
124 and poisonous drugs; to appoint and fix the place of holding city
125 elections; to regulate the erection of gas works, telephone plants,
126 electric light works or water works in the city, and to own, lease,
127 erect, operate and maintain gas works, telephone plants, electric
128 light works, water works, including water plants, reservoirs, fil-
129 ters, pumping stations, water pipe lines, mains, laterals and con-
130 nections, including all appliances, accessories and connections re-
131 quired in and about the operation of a water system, and to sell
132 and furnish water, gas and electric current to the city and the
133 inhabitants thereof, and to persons and corporations within one
134 mile of the corporate limits of the city, and for public use, and
135 to collect water rents, gas and electric tolls and charges and de-
136 posits for all water, gas and electricity so furnished to consum-
137 ers residing within or without said city; to build, hold, purchase
138 own and operate toll bridges; to provide for the purity of water,
139 milk, meats and provisions offered for sale in said city, and to
140 that end provide for a system of inspecting the same, and making
141 and enforcing rules for the regulation of their sale, and to pro-
142 hibit the sale of any unwholesome or tainted milk, meats, fish,
143 fruits, vegetables or the sale of milk containing water or other
144 things not constituting a part of pure milk; to provide for in-
145 specting dairies and slaughter houses, whether in or outside of
146 the city, where the milk and meat therefrom are offered for sale
147 within said city; to prescribe and enforce ordinances and rules
148 for the purpose of protecting the health, property, lives, decency,
149 morality and good order of the city and its inhabitants, and to
150 protect places of divine worship in and about the premises where
151 held, and to punish violations of such ordinances, even if the
152 offense under and against the same, shall constitute offenses
153 under the law of the state of West Virginia, or the common law;
154 to provide for the employment and safe keeping of persons who
155 may be committed in default of the payment of fines, penalties
156 or costs under this act, who are otherwise unable to give bond to
157 secure the payment of such fines and costs, or fail to discharge
158 the same by putting them to work for the benefit of the city upon
159 the streets or other places provided by said city, and to use such
160 means to prevent their escape while at work as the board of com-

161 missioners may deem expedient; to compel the attendance at pub-
162 lic meetings of the members of the board of commissioners; to
163 have and exercise such additional rights, privileges and powers as
164 are granted to municipalities by chapter forty-seven of the
165 code of West Virginia of the edition of one thousand nine hun-
166 dred and six, or as amended. And for all such purposes, except
167 that of taxation, the board of commissioners shall have jurisdic-
168 tion, when necessary, for one mile beyond the corporate limits of
169 said city.

170 And the board of commissioners shall have and are hereby
171 granted power to take, acquire and hold, by condemnation, or
172 purchase or donation, or otherwise, any and all real estate neces-
173 sary for public purposes within said city or adjacent thereto;
174 *provided*, that said city shall at no time hold more than fifty
175 acres without the corporate limits of said city, nor more than
176 fifteen acres within the limits of said city; nor shall said city au-
177 thorities have the right to acquire by purchase, condemnation or
178 gift, any land more than three miles distant from the corporate
179 limits of said city; the board of commissioners shall have power
180 and authority to sell and convey any of the property of the said
181 city, either real or personal, for a proper consideration, except that
182 no part of the water works plant or system owned by said city
183 shall be sold and conveyed until the question of such sale and con-
184 veyance shall have first been submitted to the qualified voters of
185 said city, at a special or general city election held at the usual
186 voting places of said city for that purpose, and shall have been
187 approved by at least three-fifths of the legal voters of said city,
188 cast for and against the same, at the said election, notice of which
189 said election shall be published in at least one newspaper of gen-
190 eral circulation in the said city for two weeks consecutively, and
191 said election shall be held within ten days after the expiration of
192 the publication of said notice aforesaid; and, in such election, the
193 conduct and returns thereof shall be as provided by law for all
194 other elections held within said city for offices and other pur-
195 poses.

196 And the board of commissioners shall have power to prohibit
197 the manufacture, sale, keeping or storing for sale in the city, or
198 offering, or exposing for sale all liquors or absinthe or any drink
199 compounded with absinthe in said city, subject to the provisions
200 of law, and liquors as used in this act shall be construed to em-

201 brace all malt, vinous or spirituous liquors, wine, porter, ale, beer,
202 or any other intoxicating drink, mixture or preparation of like
203 nature; and all malt or brewed drinks, whether intoxicating or
204 not, shall be deemed malt liquors within the meaning of this act;
205 and all liquors, mixtures or preparations, whether patented or
206 not, which shall produce intoxication, and all beverages contain-
207 ing so much as one-half of one per centum of alcohol by volume
208 shall be deemed spirituous liquors, and shall be embraced in the
209 word liquors as used in this act.

210 The board of commissioners shall have authority to pass all or-
211 dinances (not repugnant to the constitution of the United States
212 and of this state) which shall be necessary or proper to carry into
213 full effect and power, any authority, capacity and jurisdiction
214 which is or shall be granted or vested in the said city, or in the
215 board of commissioners, or in any officer or body of officers of
216 said city, and to enforce any or all ordinances by reasonable fines
217 and penalties, and by imprisoning the offender, or offenders, and
218 upon failure to pay any fine or penalty imposed by compelling
219 them to labor without compensation on any of the public works or
220 improvements undertaken, or to be undertaken, by said city, or
221 to labor at any work which the city may lawfully employ labor
222 upon, at such rate per diem as the board of commissioners may
223 fix, but not at a less rate than is fixed by said board of commis-
224 sioners for like labor from other employees of said city, until any
225 fine or fines imposed upon any such offender, or offenders, by said
226 city shall have been fully paid and discharged. after deducting
227 charges of support while in the custody of the officers of said city.

Sec. 6. No person shall be eligible to the office of commis-
2 sioner who is not at the time of his election entitled to vote in the
3 city election and who was not for the preceding year assessed with
4 taxes upon personal or real property, or both, within the city, of
5 an assessed value of five hundred dollars, and did not actually pay
6 the taxes so assessed.

Sec. 7. Commissioners shall be elected from the city at large for
2 a term of three years, except that at the first election the one ascer-
3 tained to have been elected by the largest number of votes shall
4 serve for three years, the one ascertained to have been elected by
5 the next largest number of votes shall serve for two years, and the
6 third one ascertained to have been elected by the next largest num-
7 ber of votes shall serve for one year. Thereafter one commissioner

8 shall be elected each year for a term of three years. The commis-
9 sioners shall each receive a salary of three hundred dollars per
10 annum.

Sec. 8. An election under this act shall be held as speedily as
2 possible, to elect the officers provided for in this act after giving
3 notice at least twenty days, prior to the date fixed for said election,
4 by publishing the same in some newspaper published in said city,
5 which notice shall state the purpose of said election; said election
6 shall be held at the regular voting places within the city, under
7 the supervision of the council and officials of the city as at present
8 constituted, and be conducted, certified, returned and finally de-
9 termined, in accordance with the provisions of this act and the
10 laws and ordinances, or such parts thereof, as are now in effect in
11 said city, and not inconsistent with the provisions of this act. If
12 such election is held, all persons holding office under the next
13 preceding election, shall vacate such office immediately, and other
14 officers shall hold office at the pleasure of the board of commis-
15 sioners, notwithstanding they were elected and appointed under
16 existing law for specified terms.

Sec. 9. Municipal elections under this act shall be conducted as
2 follows:

- 3 (a) Every person who has been a *bona fide* resident of the
4 city for six months next preceding a city election therein, and
5 who is a qualified voter under the constitution and laws of this
6 state, shall be entitled to vote at said city election in the election
7 precinct in which he actually resides; but no person shall be
8 deemed a *bona fide* resident who is residing within the city lim-
9 its for any temporary purpose and expects to remove from the
10 city after said purpose shall have been accomplished. The board
11 of commissioners may by ordinance provide for the registration
12 of voters under the laws of the state of West Virginia. The board
13 of commissioners shall, after the first election held hereunder,
14 establish the boundaries of, and designate and provide voting pre-
15 cincts within the city, which precinct boundaries and places of
16 voting shall be, if practicable, in conformity within the city
17 with those established for general election purposes by the county.
- 18 (b) Any person eligible to the office of commissioner may be-
19 come a candidate and have his name placed upon the ballot,
20 either upon his own motion or by others, by filing with the city
21 clerk of a declaration of his candidacy and a certificate of his eligi-

22 bility, within sixty days next preceding the day of the election,
 23 signed by twenty-five qualified voters of the city. Said declara-
 24 tion and certificate shall be accompanied by a fee of ten dollars
 25 to be paid into the treasury of the city, and shall be filed with
 26 the city clerk not less than twenty days prior to the day of elec-
 27 tion. The names of all candidates for the office of commissioner
 28 shall appear on one ballot and said ballot shall be without party
 29 emblem or designation. The whole number of ballots to be
 30 printed for the election of commissioners shall be divided by the
 31 number of candidates and the quotient so obtained shall be the
 32 number of ballots in each series of ballots to be printed.

33 (c) The names of the candidates shall be arranged in alpha-
 34 betical order and the first series of ballots printed. The first
 35 name shall then be placed last and the next series printed, and
 36 this process shall be repeated until each name shall have been first.
 37 These ballots shall then be combined into tablets in the order of
 38 the series with no two of the same series together.

39 (d) The ballots to be used for the election of commission-
 40 ers shall be in the form as follows:

41 Candidates for Election to the Office of
 42 Commissioner.
 43 City of Mannington, W. Va.
 44 Monday..... 19....

45 Direction to voter: Put a figure one in the blank space op-
 46 posite the name of the candidate whom you most desire elected.
 47 Then put a figure two in the space opposite the name of the can-
 48 didate who is your second choice. Then put a figure three in the
 49 space opposite the name of the candidate who is your third
 50 choice. Do not mark after more than three names. If you
 51 spoil this ballot, tear it across once and hand it to the election
 52 officer in charge and he will give you another.

53 Name of Candidates	Choice
54
55
56
57
58

59 (e) A *fac-simile* as nearly as possible of the ballot to be
 60 used in all elections, bearing the names of all candidates in alpha-
 61 betical order, shall be published in the same manner as is pro-

62 vided by law for the publication of ballots for general elections
63 in West Virginia, together with the certificate of the city clerk
64 that it contains the names of all candidates filing with him in
65 the manner prescribed in this act, but that it does not show the
66 order in which the names will appear on all ballots.

67 (f) A valid ballot cast in the elections for commissioners
68 shall be one on which the voter has clearly expressed his choice
69 of one or more candidates. If a voter express the same choice for
70 more than one candidate, his vote shall be void as for that choice.
71 If he express more than one choice for one candidate the highest
72 properly expressed choice only shall be counted for said candi-
73 date.

74 (g) A vote equal to, or greater than, a majority of the total
75 valid ballots cast within the city shall be necessary to an election.
76 During the counting of the votes, all ballots or votes not counted
77 shall be marked by the election commissioners of each precinct
78 with the words "not counted" written upon the ballot or opposite
79 the vote not counted, together with a statement of the reasons for
80 not counting, and the total number of invalid ballots marked thus
81 and not counted shall be ascertained by them at the conclusion
82 of the counting and be shown upon the precinct return certificate
83 and subtracted from the total number of ballots taken from the
84 ballot box.

85 (h) In ascertaining the result of the election, the canvassing
86 board shall first count the first choice votes received by each can-
87 didate. If a candidate be found to have received a total of first
88 choice votes equal to or greater than a majority of the total valid
89 ballots cast, he shall be declared elected.

90 But if more than one commissioner is to be elected or no can-
91 didate shall have received the number of first choice votes neces-
92 sary for an election, then the second choice votes received by each
93 of the candidates who were not elected by the first choice votes
94 shall be added to his first choice votes, and if one or more of said
95 candidates shall be found to have received a total of first and sec-
96 ond choice votes equal to or greater than a majority of the valid
97 ballots cast, that candidate who shall have received the highest
98 number of first and second choice votes shall be declared elected.
99 But if the required number of commissioners shall not be found
100 to have been elected by first and second choice votes, then the
101 third choice votes received by each of the candidates who were not

102 elected by the first or first and second choice votes, shall be added
103 to his first and second choice votes and those candidates to the
104 number of commissioners yet remaining to be elected, who shall
105 be found to have received the highest vote, shall be declared
106 elected in the order of the vote received, beginning with the high-
107 est; and if an election of one or more be prevented by a tie, then
108 of those tied the one or ones who received the highest total of first
109 and second choice votes shall be declared elected; and if there be
110 yet a tie, then of those tied the one or ones who received the high-
111 est number of first choice votes shall be declared elected; and if
112 there be yet a tie, then selection shall be made by lot by placing
113 within a hat the names of those candidates who are tied and
114 drawing therefrom one name at a time to the number of commis-
115 sioners yet to be elected. The candidates whose names are thus
116 drawn shall be declared elected as drawn.

Sec. 10. Commissioners only shall be elected by popular vote.
2 All other officials and employees shall be appointed by the commis-
3 sioners in such manner as is provided by this act or as they may
4 by ordinance properly prescribe, and shall hold office during the
5 pleasure of the board of commissioners, subject to removal for
6 cause. The annual election of commissioners shall be held on the
7 first Monday in March. Each person elected or appointed to an
8 office in the city shall within twenty days after his election or
9 appointment and before entering upon the duties of his office, take
10 and subscribe the oath of office hereinafter provided, and give
11 bond, if a bond be required, in the penalty herein provided.

12 The term of office of a commissioner elected and qualified shall
13 begin with the first day of April next following the day of his elec-
14 tion, except that the term of office of the commissioners elected at
15 the first election under this act shall begin with the first day of the
16 month next following the month of the election. A vacancy in
17 the office of commissioner in all cases, except a vacancy resulting
18 from a recall election, shall be filled by appointment by the re-
19 maining commissioners until the next municipal election, when
20 said vacancy shall be filled by election for the part of the term
21 then unexpired.

Sec. 11. At least four weeks before the day of an election the
2 board of commissioners shall appoint, from among the qualified
3 voters for their respective voting precincts, such election officers as
4 are provided for by the laws of the state for holding elections.

5 The said officers of election shall be selected from the two political
6 parties which at the last preceding state election cast the highest
7 number of votes in the precinct in which they reside, and not more
8 than two of said commissioners of election nor more than one clerk
9 shall belong to the same political party. At least four weeks be-
10 fore the date of a municipal election the city clerk shall appoint
11 one ballot commissioner from among the voters of the two afore-
12 said political parties, within the city, who with himself as chair-
13 man, shall constitute the board of ballot commissioners.

14 Elections under this act shall be conducted, returned and the
15 results thereof ascertained and declared in the manner prescribed
16 by the constitution and laws of the state in so far as said laws are
17 not inconsistent with this act, and all penalties prescribed by said
18 laws of the state in so far as consistent shall be applicable under
19 this act.

20 The board of commissioners shall by ordinance provide such ad-
21 ditional regulations in conformity with the provisions of this act
22 as are necessary for the proper conduct of elections.

23 The duties required of the clerks of the circuit and county
24 courts under the election laws of West Virginia, shall be performed
25 by the city clerk of said city. The duties required of the com-
26 missioners of the county court under the provisions of said laws
27 shall be performed by the board of commissioners of said city.
27-a The duties required of the sheriff under the provisions of said
27-b laws shall be performed by the chief of police of said city, except
28 as specifically provided otherwise herein. And the duties required
29 of any constable under the provisions of said laws shall be per-
30 formed by any member of the police force of the said city.
31 Wherever the word "county" appears in said laws, the same shall
32 be taken to refer to the city of Mannington, and wherever the
33 words "election precinct" or "precincts" appear in said laws they
34 shall be taken to refer to the election precinct or precincts for the
35 municipal election, and wherever the words "court house" shall
36 appear in said laws as designating the place of meeting of the
37 election officers and boards, the same shall be taken to refer to the
38 municipal building.

39 If at any time a commissioner shall be a candidate for re-elec-
40 tion to said office, the other commissioners shall appoint some per-
41 son to act in his stead as a member of the canvassing board for
42 the purpose of canvassing the returns and ascertaining the re-

43 sult of the election at which he is a candidate; however, in the
44 case of illness or inability to attend on the part of any one or more
45 of said commissioners, the remaining commissioner or commis-
46 sioners shall appoint some person or persons in his or their stead
47 for the purpose of canvassing the returns and ascertaining the
48 result of any election.

Sec. 12. The board of commissioners shall be vested with all
2 legislative authority of the city and shall exercise the same by ordi-
3 nance; other action by them may be by order upon motion. They
4 shall, by ordinance, prescribe the manner in which the powers
5 conferred upon the city shall be exercised in conformity with the
6 provisions of this act.

Sec. 13. They shall meet in the municipal building of the city
2 and shall provide by ordinance for the manner and times of hold-
3 ing said meetings, at least two regular meetings being held each
4 month.

5 They shall cause to be kept in a well-bound book, called the
6 "city journal", an accurate record of all their proceedings, by-
7 laws, ordinances, orders, and resolutions, and the same shall be
8 open for public inspection during usual office hours.

Sec. 14. A meeting shall be held on the first Monday of April
2 of each year for the purpose of electing one of their number to the
3 office of mayor, except that the commissioners elected at the first
4 election under this act shall meet for such purpose on the first day
5 of the month next following the month of their election, unless the
6 same should fall on Sunday or a legal holiday, when it shall be
7 held on the following day. If they shall fail to agree upon a
8 mayor within ten days, then the oldest commissioner in point of
9 continuous service shall act as mayor, *pro tempore* until a mayor
10 may be elected, unless the commissioners elected at the first elec-
11 tion under this act should fail to agree upon a mayor within ten
12 days, then the one receiving the highest number of votes at said
13 first election shall act as mayor *pro tempore* until a mayor may
14 be elected, and unless the commissioners elected at the first and sec-
15 ond elections under this act should fail to agree upon a mayor
16 within ten days, then the commissioner whose term of office is the
17 next to expire shall act as mayor *pro tempore* until a mayor may
18 be elected.

Sec. 15. A majority of the commissioners shall constitute a
2 quorum for the transaction of business, and no act shall be done

3 unless a majority of the commissioners shall vote in favor there-
4 of.

Sec. 16. They shall fix the compensation of all appointive of-
2 ficials and employees of the city.

Sec. 17. They shall grant franchises, levy and collect taxes and
2 assessments, order payment of approved accounts, hear and de-
3 termine charges against officials of the city other than members
4 of their own body, require that the laws and ordinances be obeyed
5 and enforce, cause the affairs of the city to be efficiently and
6 economically administered, and perform such other duties as prop-
7 erly devolve upon the chief executive body of the city.

Sec. 18. No commissioner or official of the city shall vote
2 upon or in any way participate in the consideration of any propo-
3 sition in which he is, or may become interested, directly or indi-
4 rectly, in any contract, sale or transaction, to which the city is a
5 party, nor shall he vote on the same or participate in any man-
6 ner in said contract, sale or transaction, under penalty, upon con-
7 viction, of forfeiture of his office and a fine of not less than five
8 nor more than five hundred dollars.

Sec. 19. No commissioner or official of the city shall be surety
2 on any bond given to or for the benefit of the city.

Sec. 20. The board of commissioners shall elect or appoint the
2 following officers and employees.

3 (a) A city clerk.

4 (b) A chief of police and members of the police force.

5 (c) A city solicitor.

6 (d) A city assessor.

7 (e) A city engineer.

8 (f) A city treasurer.

9 (g) A street commissioner.

10 (h) A superintendent of water works.

11 (i) Such other employees as may be necessary and provided
12 for by ordinance.

13 Each of said officers shall hold office for one year and be sub-
14 ject to removal at any time for cause, by the appointing body.
15 Their duties shall be prescribed by the board of commissioners,
16 and as herein provided. One person may be elected or appointed
17 to and discharge the duties of more than one of said offices.

Sec. 21. The mayor shall preside at meetings of the board of
2 commissioners; shall exercise authority and perform such duties

3 as are conferred upon him or imposed upon him by this act, the
4 ordinances of the city and the laws and constitution of the state.
5 He shall be the official head of the city for all ceremonial pur-
6 poses and upon whom service may be had in civil process and
7 by the governor for military purposes. He shall see that the
8 orders, by-laws, ordinances and resolutions of the board of com-
9 missioners are faithfully executed; he shall be *ex-officio* a justice
10 and conservator of the peace within the city and shall within the
11 same, have, possess and may exercise, all the powers and perform
12 all the duties whether in civil or criminal proceedings, vested by
13 law in a justice of the peace. Any summons, warrant or other
14 process issued by him may be executed at any place within the
15 county; he shall have power during the recess of the regular meet-
16 ings of the board of commissioners to appoint special police offi-
17 cers when he shall deem it necessary, and it shall be his duty to see
18 that the peace and good order of the city are preserved, and that
19 persons and property therein are protected; and to this end he
20 may arrest and detain, or cause the arrest and detention of all
21 riotous or disorderly persons in the city before issuing his warrant
22 therefor. He shall have the power to issue executions for all fines,
23 penalties and costs imposed by him, or he may require the imme-
24 date payment thereof, and in default of such payment he may com-
25 mit the party in default to the jail of the county of Marion or
26 other place of imprisonment in such corporation, if there be one,
27 until the fine or penalty and costs, shall be paid, but the term of
28 imprisonment in such cases shall now exceed ninety days. And in
29 all cases where a person is sentenced to imprisonment or to the pay-
30 ment of a fine of ten dollars or more (and in no case shall a judg-
31 ment for a fine of less than ten dollars be given by the mayor if the
32 defendant, his agent or attorney object thereto) such person shall
33 be allowed an appeal from such decision to the criminal or circuit
34 court of Marion county, upon the execution of an appeal bond with
35 surety deemed sufficient by the mayor, in a penalty double the
36 amount of the fine and costs imposed by the mayor, with condition
37 that the person proposing to appeal will perform and satisfy any
38 judgment which may be rendered against him by the said courts on
39 such appeal. If such appeal be taken, the warrant of arrest, (if
40 there be any) the transcript of judgment, the appeal bond and
41 other papers of the case, shall be forthwith delivered by the mayor
42 to the clerk of said courts, and the court shall proceed to try the

43 case as upon indictment or presentment, and render such judgment
44 including that of the costs as the law and the evidence may require.
45 The mayor shall, from time to time, recommend to the commission
45-a such measures as he may deem needful for the welfare of the city.
46 The expense of maintaining any person committed to the jail of
47 the county by him, except it be to answer an indictment or be
48 under the provisions of sections two hundred twenty-seven and two
49 hundred twenty-eight of chapter fifty, of the amended code of
50 this state, shall be paid by the city. But the mayor shall not re-
51 ceive any money belonging to the state or individuals, unless he
52 shall give the bond and security required of a justice of the peace
53 by chapter fifty of the said code, and all the provisions of said
54 chapter relating to money received by justices shall apply as to
55 like moneys received by the mayor.

56 The mayor shall receive a salary of six hundred dollars per
57 annum, and shall not receive the salary of a commissioner in ad-
58 dition thereto; such salary shall be in lieu of the fees which would
59 otherwise accrue to him in proceedings for the enforcement of or-
60 dinances, but all such fees shall be collected when practicable, and
61 accounted for to the city, and he may tax such costs against any
62 person or corporation found guilty of the violation of any ordi-
63 nance of the city, as are provided to be taxed and recovered by
64 justices of said county in criminal cases.

Sec. 22. The said city shall be allowed to use the county jail
2 of Marion county for the confinement of all persons who shall be
3 sentenced to imprisonment under the ordinances of said city; and
4 all persons confined in said county jail by virtue hereof shall be
5 under the charge and custody of the sheriff of said county, who
6 shall receive, keep and discharge the same in such manner as shall
7 be prescribed by the ordinances of said city, or otherwise accord-
8 ing to law.

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 shall
3 be noted each case brought or tried by him together with the pro-
4 ceedings therein, including a statement of complaint, the sum-
5 mons, the return, the fact of appearance, the defense, the hearing,
6 the judgment, the costs, and in case the judgment be one of convic-
7 tion, the action taken to enforce the same; the record of such case
8 shall be signed by the mayor or other person acting in his stead;

9 and the original papers thereof, if no appeal be taken, shall be
10 kept together and preserved in his office.

Sec. 24. In addition to such duties as the board of commis-
2 sioners may prescribe, it shall be the duty of the city clerk to keep
3 the journal of the proceedings of the board of commissioners, and
4 have charge of and preserve the records, papers, contracts and
5 other documents belonging to the city; it shall be his duty to at-
6 tend the sessions of the municipal court and keep an accurate rec-
7 ord of its proceedings, and all judgments shall be entered by him
8 within twenty-four hours after the same are rendered; he shall, in
9 cases of sickness or disability of the mayor to act, or in case of his
10 temporary absence, perform the duties of mayor, and shall be
11 vested with all the powers necessary for the performance of such
12 duties; he shall also perform such other duties pertaining to the
13 fiscal affairs of the city, or otherwise, as may be required of him
14 by this act or by the board of commissioners.

Sec. 25. The clerk shall, immediately after the annual levy for
2 city taxes is laid, extend the same on the property books made out
3 by the assessor as hereinafter provided, including thereon any un-
4 collected capitation taxes, and make out the tax tickets of the taxes
5 therein extended, and it shall be the duty of the clerk to make out
6 all tax tickets in the same manner that they are made out for
7 state and county taxes, and when the same shall have been exam-
8 ined, compared and approved by the board of commissioners, or an
9 accountant or financial committee appointed by them for the pur-
10 pose, and found to be correct, they shall be forthwith turned over
11 to the clerk, whose receipt shall be returned to the commissioners
12 and entered upon its record and the clerk shall be charged there-
13 with.

14 The clerk shall give notice that said tax tickets are in his hands
15 for collection, stating the penalty for non-payment thereof, and
16 the time and place where the same may be paid, which notice shall
17 be published for two weeks in one or more newspapers published in
18 the city.

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

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

Sec. 26. The said clerk shall receive all taxes, assessments,
2 fines and costs, water rents, and other money due the city author-
3 ized by this act, or by any ordinance of the said city, to be paid
4 to the city, and shall receipt for the same; he shall keep an accu-
5 rate account of all money paid to him for the use of said city,
6 showing under separate accounts the amounts received for account
7 of taxes, sewer purposes, street improvements or pavements, li-
8 censes, water rents and other bills due the city, fines and costs and
9 of other matters pertaining to his office, which books shall be at
10 all times open to the inspection of the commissioners or to any
11 committee appointed by the board of commissioners for such pur-
12 poses; he shall pay over promptly all money which he may receive,
13 within five days after the receipt thereof, into the hands of the
14 treasurer of the said city, showing an itemized statement of the
15 several funds included in said payment, taking the treasurer's re-
16 ceipt therefor; he shall keep his office at the office of the mayor,
17 unless otherwise ordered by the board of commissioners, and shall
18 maintain office hours or be at his office for the transaction of
19 business at such times as the board of commissioners may pre-
20 scribe; he shall on or before the first day of January and July of
21 each year, and oftener if directed by the board of commissioners,
22 present to the said board a full, complete and detailed statement of
23 all money with which he is chargeable, or that has been received by
24 him from all sources up to that time, together with a statement of
25 all money paid to the treasurer and proper receipts therefor, and
26 he shall at such times return a list of all taxes, levies, assessments
27 and other claims in his hands for collection which he shall not
28 have been able to collect by reason of insolvency, removal, or other
29 cause, to which list he shall append an affidavit that he has used
30 due diligence to collect the several items therein mentioned, but
31 has been unable to do so, and if the board of commissioners should
32 be satisfied as to the correctness of said list, they may allow him
33 credit for said claims, but thereafter may direct the said city clerk
34 or some one else, or may themselves take such lawful measures to
35 collect the same as shall be by the board of commissioners pre-
36 scribed. The said clerk shall receive all taxes on licenses, and re-
37 ceipt to the party paying the same by endorsement upon the per-
38 mit granted by order of the board of commissioners and shall

39 charge himself with the amount received from the same, and re-
40 port to the board of commissioners at the next regular meeting
41 thereafter, the amount so received, and pay the same over to the
42 treasurer taking his receipt for the same; he shall upon the expi-
43 ration of his term of office or upon the order of the board of com-
44 missioners, turn over to his successor all money, books of account
45 and other property of said city in his possession, and he and his
46 bondsmen shall not be released until such full and complete trans-
47 fer to his successor has been made; he shall receive such salary as
48 may be fixed by the board of commissioners.

Sec. 27. The clerk of said city, before entering upon the dis-
2 charge of his duties, shall execute a bond conditioned for the faith-
3 ful performance of the duties of his office, and for the accounting
4 for and paying over, as required by law and by this act, all money
5 which may come into his hands by virtue of his office, with sureties
6 satisfactory to the board of commissioners, payable to the city of
7 Mannington, in a penalty of not less than two thousand nor more
8 than ten thousand dollars, as the board of commissioners may pre-
9 scribe; he shall be the custodian of all bonds, notes, certificates and
10 other evidences of indebtedness to the city, together with all val-
11 uable papers which may be placed in his possession by the board of
12 commissioners, except that the bond of the clerk shall be deposited
13 with the mayor; he shall be chargeable with, and it shall be his
14 duty to collect the city taxes, water rents, tolls, charges, levies and
15 assessments under such regulations as may be prescribed by law
16 and the ordinances of the city, and in case of non-payment as de-
17 fined by the laws of West Virginia, shall distrain and sell therefor
18 in like manner and have the same power and authority possessed
19 by the officer charged with the collection of state and county taxes,
20 but if permitted to do so by the board of commissioners, the clerk
21 may, and is hereby granted authority, to deputize the chief of po-
22 lice or any other police officer, to make any distraints, levies, as-
23 sessments or sales that may be necessary in the collection of any
24 taxes, assessments, water rents, or any other money he is author-
25 ized to collect. And at the time and in the same manner pro-
26 vided by the laws of West Virginia for the return and publica-
27 tion of delinquent tax lists he shall make up a list of taxpayers
28 who are delinquent for the non-payment of tax on personal prop-
29 erty and cause the same to be published in accordance with the
30 laws of West Virginia for the publication of taxpayers delinquent

31 for the non-payment of state and county taxes on personal prop-
32 erty; and at the time and in the manner prescribed by the laws of
33 West Virginia the said city clerk shall return to the auditor of
34 West Virginia a list of the real estate in said city delinquent for
35 the non-payment of taxes and the same shall be sold in the manner
36 prescribed by law for such sales. If the clerk shall fail to collect,
37 account for and pay over to the treasurer of said city any or all
38 of the money with which he may be chargeable, belonging to the
39 said city, according to the conditions of his bond and orders of the
40 board of commissioners, it shall be lawful for the board of com-
41 missioners to recover the same in the manner hereinafter pro-
42 vided.

Sec. 28. The city solicitor shall be an attorney at law ad-
2 mitted to practice in the state of West Virginia. He shall be
3 the legal adviser of and attorney and counsel for the municipality
4 and for all officers thereof in matters relating to their official
5 duties; it shall be his duty to prepare when directed by the board
6 of commissioners, all ordinances for said city, to represent the
7 said city in all matters and proceedings in any court in which the
8 said city is interested, and counsel the said board of commissioners
9 when requested; he shall receive a compensation for his services
10 to be fixed by the board of commissioners.

Sec. 29. It shall be the duty of the assessor to make an as-
2 sessment of the property within the city, subject to taxation sub-
3 stantially in the manner and form in which assessments are made
4 by the assessor of the county, including the collection of the
5 capitation tax for the city, and return the same to the board of
6 commissioners on or before the first day of June of each year,
7 and for this purpose he shall have all the powers conferred
8 by law upon the county assessors. He shall list the number
9 of dogs and other animals subject to license tax in the city and
10 the names of the persons owning the same, which list shall be
11 returned. In order to aid the assessor in ascertaining the prop-
12 erty subject to taxation by said city, he shall have access to all
13 books and public records of said Marion county, without expense
14 to him or said city and he shall have the same power and be subject
15-16 to the same penalties in ascertaining and assessing the prop-
17 erty and subjects of taxation of said city as are granted and im-
18 posed on the county assessors throughout the state by general law;
19 and the commissioners shall have authority to prescribe by general
20 ordinance such other rules and regulations as may be necessary

21 to enable and require such assessor to ascertain and properly
22 assess all property liable to be taxed by said city, so that such
23 assessment and taxation shall be uniform and equal and the com-
24 missioners may enforce such regulations by reasonable fines to
25 be imposed on anyone failing to comply therewith. When he
26 shall complete his assessment he shall deliver the same, when
27 sworn to, to the board of commissioners, and shall make out or
28 cause to be made out the real and personal property books.

Sec. 30. The treasurer may be a citizen, a bank or trust com-
2 pany of said city, and shall be appointed by the board of com-
3 missioners and hold office during the pleasure of the board of com-
4 missioners. All money due the city shall be paid to the clerk,
5 and be by the clerk deposited with the treasurer. The money
6 deposited with the treasurer shall be disbursed only upon orders
7 drawn against the same, signed by the mayor and countersigned
8 by the clerk. The treasurer shall receipt to the clerk for all
9 money paid by him, and shall keep the regular books of accounts,
10 showing the amount of the several funds paid or deposited with
11 the treasurer by said clerk, and shall make report to the board
12 of commissioners once a month or at such other times as the
13 board of commissioners may direct, showing the receipts and dis-
14 bursements of the funds of the city, and the treasurer shall pro-
15 duce his books and accounts to the board of commissioners or any
16 committee of the same for inspection, upon the order of the board
17 of commissioners.

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

Sec. 31. The chief of police, street commissioner, and other
2 officials or employees deemed necessary by and appointed or em-
3 ployed by the board of commissioners, shall perform such duties
4 as the board of commissioners shall by ordinance, resolution or
5 order require. They shall be subject to removal at any time for

6 cause by the board of commissioners without recourse to the
7 city, and the board of commissioners may direct the dismissal
8 of any employee for cause.

Sec. 32. All officers, elective and appointive, shall make oath
2 before some one authorized to administer oaths, that they will sup-
3 port the constitution of this state and will faithfully and im-
4 partially discharge the duties of their respective offices, to the
5 best of their skill and judgment: that they will not, during their
6 term of office, become pecuniarily interested directly or indi-
7 rectly in any contract with the city or the purchase of any sup-
8 plies therefor. When the officer shall have made such oath in
9 writing and filed the same with the city clerk and shall have
10 given the bond required of and accepted from him, if a bond
11 is required, he shall be considered as having qualified for the office
12 to which he was elected or appointed; *provided*, that if any per-
13 son elected to the office of board of commissioners, shall not
14 qualify for said office as herein prescribed within twenty days
15 after he shall have been officially declared elected thereto, said
16 office shall *ipso facto* become vacant, and said vacancy shall be
17 filled in the manner provided for in this act.

Sec. 33. Each member of the board of commissioners, the
2 city clerk, the chief of police, city assessor and city treasurer, shall
3 before entering upon the discharge of their duties, give an of-
4 ficial bond, conditioned for the faithful performance of their
5 respective duties as prescribed in this act or any ordinance now
6 or hereafter passed in amounts as follows:

7 Each commissioner one thousand dollars, except the mayor,
8 who shall give bond in the penalty of three thousand dollars; the
9 chief of police in the penalty of thirty-five hundred dollars; the
9-a city clerk and city treasurer in the penalty hereinbefore pro-
10 vided and the city assessor in the penalty of not less than five
11 hundred nor more than one thousand dollars.

12 The board of commissioners may require bond in whatever
13 sum they may fix of any appointive officer. All bonds of ap-
14 pointive officers shall before their acceptance be approved by the
15 board of commissioners; and the bonds of the commissioners
16 elected at the first election under this act shall be approved by the
17 common council of the city of Mannington as now constituted
18 and thereafter by the commissioners in office at the time of any
19 such election. All other bonds of whatsoever kind shall not be

20 accepted until first approved by the board of commissioners.
21 The minutes of the meeting of the board shall show all matters
22 touching the consideration or approval of all bonds and when
23 said bonds are approved and accepted they shall be recorded by
24 the city clerk in a well-bound book kept by him at his office for that
25 purpose, which book shall be open to public inspection; and the
26 recordation of such bonds as aforesaid shall be *prima facie* proof
27 of their correctness and they as so recorded shall be admitted as
28 evidence in all the courts of this state.

29 All bonds, obligations and other writings, taken in pursuance
30 of any provision of this act, shall be made payable to "The city
31 of Mannington", and the respective persons, and their heirs,
32 executors, administrators and assigns bound thereby, shall be
33 subject to the same proceedings on the said bond, obligation or
34 other writings, for enforcing the conditions of the terms thereof,
35 by motion or otherwise, before any court of record held in and
36 for the county of Marion that collectors of county levies, and
37 other sureties are, or shall be subject to on their bonds for en-
38 forcing the payment of the county levies.

Sec. 34. The board of commissioners shall, at their first
2 meeting after election, and thereafter at the first meeting in April
3 of each year, appoint and constitute a city board of health to be
4 composed of a chief health officer who shall be a practicing phy-
5 sician of good standing in the city, if such there be, who will
6 serve faithfully for the compensation of fifty dollars per annum,
7 and if no practicing physician of good standing will serve as
8 such chief health officer for said compensation, then the board of
9 commissioners may appoint any reputable citizen as such chief
10 health officer, who, with the city solicitor and two other citizens
11 of good repute and interested in the welfare of the city, shall
12 constitute the city board of health to exercise all powers con-
13 ferred upon county health officers and boards by the laws of the
14 state of West Virginia, and the said city board of health shall be
15 independent of the county board of health, but shall bear the
16 same relation to the state health department as county boards of
17 health; the city health board shall protect the health of the city
18 and take such measures as may be advisable to prevent the spread
19 of contagious diseases; establish and maintain quarantines when
20 necessary and required by state laws; may establish rules of sani-
21 tation and enforce the same.

Sec. 35. There shall be a lien on the real estate within said
2 city for the city taxes assessed thereon, and for all fines and penal-
3 ties assessed to, or imposed upon the owners thereof, by the au-
4 thorities of said city, from the time the same are so assessed
5 or imposed, which shall have priority over all other liens, ex-
6 cept the lien for taxes due the state, county and district; and which
7 may be enforced by the board of commissioners or proper officer
8 of the city in the same manner provided by law for the enforce-
9 ment of the lien for county taxes,

Sec. 36. Concerning anything for which a state license is now
2 or may hereafter be required, said board of commissioners may
3 require a city license therefor, and may impose a tax thereon for
4 the use of the city; and the board of commissioners shall have and
5 is hereby granted the sole and exclusive power to grant, refuse or
6 revoke any such license, or the licenses of owners or keepers of ho-
7 tels, hacks, carts, wagons, drays and every other description of
8 wheeled vehicles kept or used for hire within the said city and to
9 levy and collect a tax thereon and to subject the same to such regu-
10 lations as the interest and convenience of the inhabitants of said
11 city, in the opinion of the board of commissioners, may require; to
12 license and tax owners and keepers of dogs within the city and pro-
13 vide for the killing of dogs. the keeping of which is not so licensed;
14 to license and tax hawkers, peddlers, book agents and canvassers
15 of all kinds within said city and persons who temporarily station
16 themselves on the street to sell or exhibit articles, and to license
17 and impose a tax on any other business, occupation or profession,
18 and the owners thereof or the person, persons or corporation con-
19 ducting the same, whether specifically mentioned herein or not,
20 not contrary to the constitution of the state of West Virginia.
21 When any such license as hereinbefore mentioned is granted by
22 said board of commissioners, said board may, by ordinance, impose
23 a tax thereon for the use of the city, the amount of which shall be
24 left to the discretion of said board. The board of commissioners
25 shall prescribe by ordinance the manner in which licenses of all
26 kinds shall be applied for and granted and shall require the pay-
27 ment of the tax thereon to be made to the properly designated offi-
28 cial of the city before delivery to the person applying therefor.

Board of Commissioners

Sec. 37. The board of commissioners shall have and hereby are
2 given authority to acquire by condemnation, purchase or otherwise,

3 any and all real estate within said city, or adjacent thereto, not to
4 exceed twenty acres, necessary for cemetery purposes; to main-
5 tain and keep the same in good condition and repair, and to pro-
6 vide, by taxation or otherwise, sufficient funds necessary to main-
7 tain and keep the same in good condition and repair; to regulate
8 the burial of the dead within said city, and to preserve the peace
9 within all the cemeteries acquired by it, whether situated within
10 or without the corporate limits of said city, and all other ceme-
11 teries as will promote the public good.

Sec. 38. The board of commissioners shall have the right to
2 institute proceedings in the name of the city for the condemnation
3 of real estate for streets, alleys, sewers, drains, market grounds,
4 city prison, or other work or purposes of public utility. Such
5 proceedings shall conform to the provisions of chapter forty-two of
6 the code of West Virginia and amendments thereto, and the costs
7 thereof shall be borne by the city, except that in contests involving
8 a hearing in the circuit court, costs shall be recovered by the pre-
9 vailing party.

Sec. 39. No ordinance or by-law, and no resolution or measure
2 for the expenditure of money other than to defray the current ex-
3 penses and incidental expenses of the city, shall be deemed adopted
4 or passed unless it shall have been fully read at two consecutive
5 meetings of the board of commissioners, and shall have received a
6 majority of the votes of all members of the board of commis-
7 sioners, when it shall stand and be declared adopted, and not oth-
8 erwise, except an ordinance for the immediate preservation of the
9 public health, peace or safety, which shall contain a statement of
10 its urgency.

Sec. 40. Franchises may be granted by the board of commis-
2 sioners to persons or corporations allowing such occupancy of por-
3 tions of the streets and alleys as may be necessary for works of
4 public utility and service, but no such franchise shall be passed
5 granting any franchise for the use of any of the streets or alleys of
6 the city for any of the purposes above named, except under the
7 following conditions:

8 All franchises must be filed with the city clerk at least thirty
9 days prior to the time when it is proposed that the board of com-
10 missioners shall act thereupon, and no action shall be taken until
11 notice of such application, stating the object of such franchise, and
12 when the same shall be considered by the board of commissioners,

13 shall have been given for four successive weeks in some newspa-
14 per of general circulation published in the city; nor shall any
15 franchise be granted within thirty days after the application has
16 been filed, nor until an opportunity has been given any citizen or
17 corporation interested in the granting or refusing of said fran-
18 chise to be heard; nor shall any franchise be granted for a longer
19 period than fifty years. No franchise shall be granted without
20 provision that the grantee, its successors or assigns, shall indem-
21 nify the city against all damages caused by the construction of
22 such works.

23 If any corporation or person to whom a franchise has been
24 granted heretofore, or may hereafter be granted, or their succes-
25 sors or assigns, shall fail to comply with the conditions of the ordi-
26 nance granting such franchise within one year from the time said
27 conditions are directed to be performed, said franchise shall be and
28 the same become null and void.

Sec. 41. The board of commissioners shall have power to de-
2 termine the material to be used in building all sidewalks, and shall
3 determine where such sidewalks shall be constructed, and the
4 width and grade thereof, and shall fix upon the material with
5 which the same shall be built, and may make an order requiring
6 the owners of the lots, or parts of lots, facing or abutting on such
7 sidewalk or footway, to pave the same with such material and on
8 such grade and of such width, as may have been determined, at
9 the expense of such owner, and under the supervision of the official
10 of the city so designated by the board of commissioners, and if
11 such owner of such abutting lot or lots, fail or refuse to pave the
12 same in the manner or within the time required by the board of
13 commissioners, the said board of commissioners may cause the
14 same to be done, at the expense of the city, and to assess the
15 amount of such expense upon such owner, and the clerk shall no-
16 tify the owner of said lot the amount of such assessment and if
17 the said assessment be not paid within thirty days from the date
18 of said notice he shall cause a memorandum showing the name of
19 the owner of said lot, a description of the lot, and the amount of
20 such assessment, to be filed in the office of the clerk of the county
21 court of Marion county, which shall be entered of record in the
22 judgment lien docket in his office, and the same shall constitute a
23 lien on such property, which may be enforced by a suit in equity
24 in the name of the city, in the circuit court of Marion county as

25 other liens against real estate are enforced, and upon the payment
26 of such assessment the clerk shall issue to the person entitled
27 thereto a release of said lien; *provided, however,* that reasonable
28 notice shall first be given to said owners that they are required to
29 construct such sidewalks or footways, and in case the owner is a
30 non-resident of the state, the notice aforesaid may be given by pub-
31 lication for four successive weeks in a newspaper published in the
32 city. The provisions of this section shall also be applicable to
33 needed repairs to any of the pavements of the city, and to the
34 substitution of new pavements for any which may have been here-
35 tofore or which may be hereafter laid and completed, and which
36 may be deemed insufficient.

Sec. 42. The board of commissioners shall have authority
2 to provide that any street or alley, or 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, and the whole cost of such 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 the
13 sum so assessed shall be paid to the city by each property owner
14 within thirty days after the completion of the work and the re-
15 mainder in two equal installments of six and twelve months there-
16 after with interest thereon, or at such other times as the board
17 of commissioners may prescribe. The expense of macadamizing
18 or paving at the intersections of streets and alleys shall be de-
19 frayed by the city.

20 After the said improvements have been made the board of
21 commissioners shall cause a notice to be published for one week
22 in a newspaper of said city, showing the owners of the prop-
23 erty and the number of feet fronting on said improvements, as
24 well as the time and the place when and where the said board
25 of commissioners will proceed to fix said assessment as above
26 provided, and giving notice to any person having any interest
27 in said property to appear and show cause, if any they can,
28 why such assessment should not be made; and the board of com-

29 missioners may in making said assessments, consider the pe-
30 tition of any person or corporation relative to the inequality of
31 said assessment, and may equalize and adjust the same. A copy
32 of the list of such assessments showing name of owner, number
33 of lot, or parcel of land, amount of assessment, attested by the
34 mayor and clerk, shall be filed in the office of the clerk of the
35 county court of Marion county, and recorded in the judgment
36 lien docket in said office within thirty days after the assessments
37 are approved by the said board of commissioners, otherwise the
38 lien of said assessment shall be void as to any purchaser of said
39 real estate, for value and without notice, who shall have pur-
40 chased such real estate, and the clerk shall execute and deliver
41 on behalf of said city a release of such lien, upon the payment
42 in full of said assessment. The assessment so made to any owner
43 of real estate shall constitute a lien on such estate; and like pro-
44 ceedings may be had and taken to enforce such lien, or to re-
45 cover from such owner the amount of such assessment, or of any
46 installments thereof, as those provided for in the preceding section
47 providing for the laying of pavements.

Sec. 43. The board of commissioners shall, on the second Tues-
2 day in August in each year, ascertain the condition of the fiscal
3 affairs of said city and make up an itemized statement of the same
4 which shall set forth in detail:

5 *First.* The amount due said city and the amount that will
6 become due thereto and collectible during the current fiscal year
7 from every source, except the amount that will be produced by
8 the levy of taxes to be made for the year.

9 *Second.* The debts and demands owed by said city and the
10 debts and demands that will become due and payable during the
11 current fiscal year, including interest on any indebtedness, fund-
12 ed, bonded or otherwise.

13 *Third.* All other expenditures under the several heads of ex-
14 penditures to be made and payable out of the funds of said city
15 for the current fiscal year, including the cost of collection of
16 taxes and other claims with proper allowances for delinquent
17 taxes and contingencies.

18 The said statement shall, also, set forth the total amount neces-
19 sary to be raised by the levy of taxes for the current fiscal year,
20 the rate of such levy in cents on each one hundred dollars assessed
21 valuation of the taxable property in said city and the separate

22 and aggregate amounts of the assessed valuation of real estate,
23 personal property and public utility property assessed by the
24 board of public works. A copy of which statement, duly cer-
25 tified by the clerk of said city, shall immediately be forwarded
26 to the state tax commissioner and said statement shall, also, be
27 published twice, at least one week intervening between publica-
28 tions, in two newspapers of opposite politics, if such there be,
29 published within the city, and if there be only one newspaper
30 published within the city, then in that newspaper. The session
31 shall then stand adjourned until the fourth Tuesday in August,
32 at which time it shall reconvene and it shall then be the duty
33 of said commissioners to hear and consider any objections made
34 orally or in writing to said estimate and proposed levy, or any
35 item thereof. It shall be the duty of the commissioners to enter
36 an order of record showing the objections so made, setting
37 forth the reasons and grounds for such objections. After said
38 objections have been made and heard, the commissioners shall
39 thereupon reconsider the proposed original estimate and pro-
40 posed rate of levy, and if the objection thereto or any part there-
41 of appear to be well taken, the commissioners shall correct the
42 same accordingly, and it shall, thereupon, be approved, and when
43 approved shall, with the order approving it, be entered by the
44 clerk in its book of record of proceedings; the commissioners
45 shall, thereupon, by an ordinance, lay a levy for the ensuing
46 tax year of a sum not to exceed one dollar on each one hun-
47 dred dollars assessed valuation of all taxable property, real and
48 personal, subject to taxation in said city, according to the last
49 assessment thereof, as will produce the amount shown by the said
50 statement approved to be necessary for municipal purposes; a
51 copy of the order laying levies, duly certified by the clerk of said
52 city, shall be immediately forwarded to the state tax commissioner.
53 The said board of commissioners is authorized to levy such
54 maximum of one dollar for municipal purposes, on each one hun-
55 dred dollars of valuation notwithstanding any general laws now
56 in force or which may hereafter be enacted restricting the powers
57 of municipal corporations to levy taxes; and said maximum levy
58 of one dollar shall be exclusive of any amount required to be
59 levied to care for any bonded indebtedness, or the interest ac-
60 crued thereon.

61 An annual capitation tax of one dollar may be levied upon each
62 male inhabitant of said city who has attained the age of twenty-
63 one years, and the said capitation taxes may be collected at the
64 same time the assessment is made.

Sec. 44. The board of commissioners shall cause an audit
2 to be made of the affairs of the said city on or before the thirty-
3 first day of March of each year by a competent accountant. The
4 duties of the persons so auditing the affairs of said city, shall
5 include a complete examination of all the books of account,
6 records and transactions in the various departments of the city,
7 including the certification of all statements required to be made
8 by any of its officials under the provisions of this act or gen-
9 eral law and a general balance sheet exhibiting the assets and
10 liabilities of the city and schedules for each utility publicly owned
11 or operated and summaries of income and expenditure and also
12 comparisons, in proper classifications with the last previous year.
13 The report of such audit for each previous year shall be kept on
14 file in the clerk's office of said city for inspection at all times,
15 by the citizens thereof.

Sec. 45. The board of commissioners shall have power to
2 provide by ordinance for assessing against the abutting property
3 the cost of removing from the sidewalks all accumulations of
4 snow and ice, and for assessing against the property the cost of
5 cutting and removing noxious weeds and rubbish.

Sec. 46. Whenever 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 be
5 executed by an officer of the police department of said city in
6 the same way or manner in which the laws of the state prescribe
7 for executing summonses and subpoenas by state officers, unless
8 otherwise provided by this act.

Sec. 47. If the board of commissioners fail or refuse to per-
2 form the duties hereinbefore or hereinafter named, every mem-
3 ber of such board of commissioners and the clerk thereof con-
4 curring in such failure or refusal, shall be guilty of a misdemeanor
5 and upon conviction thereof, shall be fined not less than ten dol-
6 lars nor more than one hundred dollars for each offense.

Sec. 48. Any or all members of the board of commissioners
2 provided for in this charter may be removed from office by the

3 electors. The procedure to effect such removal shall be as fol-
4 lows:

5 A petition demanding that the question of removing such offi-
6 cer or officers shall be submitted to the electors and filed with the
7 city clerk. Such petition for the recall of any or all of the
8 board of commissioners shall be signed by at least thirty-five
9 per cent. of the total number of registered voters in the munici-
10 pality. The signatures to such petitions need not be appended to
11 any one paper.

Sec. 49. Petition papers shall be procured only from the clerk
2 of said city, who shall keep a sufficient number of such blank
3 petitions on file for distribution as herein provided. Prior to
4 the issuance of such petition papers an affidavit shall be made
5 by one or more qualified electors and filed with the city clerk,
6 stating the name and office of the officer or officers sought to be
7 removed. The clerk of the board of commissioners upon issuing
8 any such petition papers to an elector shall enter in a record,
9 to be kept in his office, the name of the elector to whom issued,
10 the date of such issuance, and the number of papers issued, and
11 shall certify on such papers the name of the elector to whom
12 issued and the date issued. No petition papers so issued shall
13 be accepted as part of the petition unless it bears such certificate
14 of the clerk, and unless it be filed as provided herein.

Sec. 50. Each signer of a recall petition shall sign his name in
2 ink, or indelible pencil, and shall place thereon after his name his
3 place of residence by street and number. To each such petition
4 paper there shall be attached an affidavit of the circulator thereof
5 stating the number of signers to such part of the petition, and that
6 each signature appended to the paper was made in his presence
7 and is the genuine signature of the person whose name it purports
8 to be.

Sec. 51. All papers comprising a recall petition shall be filed
2 with the clerk as one instrument within thirty days after the
3 filing with the clerk of the affidavit stating the names and office
4 of the officers sought to be removed.

Sec. 52. The clerk shall at once submit the recall petition to
2 the board of commissioners, and shall notify the officer sought to
3 be recalled of such action. If the official whose removal is sought
4 does not resign within five days after such notice, the board shall
5 thereupon order and fix a day for holding a recall election. Any

6 such election shall be held not less than forty nor more than sixty
7 days after the petition has been presented to the board, at the
8 same time as any other general or special election held within such
9 period; but, if no such election be held within such period, the
10 board shall call a special recall election to be held within the time
11 aforesaid.

Sec. 53. The ballots at such recall election shall conform to the
2 following requirements:

3 With respect to each person whose removal is sought the ques-
4 tion shall be submitted, "Shall (name of person) be removed from
5 the office of commissioner by recall?"

6 Immediately following each such question there shall be printed
7 on the ballots the two propositions, in the order set forth:

8 [] For the recall of (name of person).

9 [] Against the recall of (name of person).

10 Immediately to the left of the proposition shall be placed a
11 square in which the electors, by making a cross mark (X), may
12 vote either of such propositions. Under said questions shall be
13 placed the names of candidates to fill the vacancy or vacancies.
14 The name of the officer or officers whose removal is sought shall
15 not appear on the ballot as a candidate or candidates to suc-
16 ceed himself or themselves.

17 Before any such recall election for the removal of commission-
18 ers shall be had, there shall be nominated candidates to fill the
19 vacancy or vacancies, the nominations therefor to be made in the
20 manner as here provided for the nomination of candidates for the
21 general municipal election, and a certificate of such nominations
22 shall be filed with the clerk twenty days prior to the date fixed
23 for holding such recall election.

Sec. 54. Should a majority of the votes cast at a recall elec-
2 tion be against the recall of the officer named on the ballot, such
3 officer shall continue in office for the remainder of his unexpired
4 term subject to recall as before. If a majority of the votes cast
5 at a recall election shall be for the recall of the officer named on
6 the ballot he shall, regardless of any technical defects in the recall
7 petition, be deemed removed from office.

Sec. 55. No recall petition shall be filed against a commis-
2 sioner within six months after he takes his office, nor in case of an
3 officer re-elected in a recall election, until six months after that
4 election. Such election shall be conducted, canvassed and the

5 result ascertained in all respects as other elections within said
6 city.

Sec. 56. The city of Mannington, excepting cases where
2 it has already authorized bonds to be issued, shall not hereafter
3 be allowed to become indebted in any manner, or for any purpose,
4 to an amount, including existing indebtedness, in the aggregate,
5 exceeding five per centum on the value of taxable property there-
6 in, to be ascertained by the last assessment for state and county
7 taxes, previous to the incurring of such indebtedness; nor with-
8 out at the same time providing for the collection of a direct an-
9 nual tax sufficient to pay annually or semi-annually, the interest
10 on such debt and the principal thereof, within and not exceeding
11 thirty-four years; and the city of Mannington is hereby authorized
12 and allowed, notwithstanding anything herein, or any other
13 statute or act of the legislature to the contrary, to become in-
14 debted in an amount, including existing indebtedness, in the ag-
15 gregate, not to exceed five per centum of the value of the taxable
16 property therein ascertained as aforesaid, and to issue bonds
17 therefor for the purpose of locating, grading, draining, paving
18 and permanently improving the streets and alleys and public
19 grounds, parks and play grounds therein and of purchasing real
20 estate for the purpose of acquiring public grounds, parks and
21 play grounds, and improving and enlarging its streets, alleys and
22 public grounds, parks and play-grounds therein, and of con-
23 structing and repairing the bridges and retaining walls therein,
24 and of sewerage the city, the term "sewerage" being used in
25 its comprehensive sense so as to include mains, laterals, connec-
26 tions, traps, incinerating and disposal plants, and other necessary
27 and convenient accessories to a modern, sanitary and efficient sew-
28 erage system, and for the purpose of leasing, purchasing or erect-
29 ing, owning and operating a system of gas plants, to produce arti-
30 ficial gas, with distributing system, and for the purpose of leasing,
31 purchasing or erecting, owning, maintaining and operating a sys-
32 tem of water works, with distributing system, including reser-
33 voirs, filters, pumping stations, water pipe lines, mains, laterals and
34 connections as well as all appliances, accessories and connections
35 required in and about the operation of a water works system; and
36 for the purpose of leasing, purchasing or erecting, owning, main-
37 taining and operating electric power plants for the generation of
38 electricity for electric current, fuel, heat and light with the neces-

39 sary transmission system, for the city and the inhabitants and in-
 40 dustries thereof, and the inhabitants and industries of any terri-
 41 tory adjacent to the territory of the city of Mannington, which
 42 the board of commissioners may from time to time to agree to sup-
 43 ply from the city water works, gas plants or power plants, as pro-
 44 vided for in this or any other act of the legislature, and of build-
 45 ing municipal halls, hospitals, libraries and other public buildings
 46 and of refunding outstanding bonds, and of funding existing and
 47 floating indebtedness of said city.

Sec. 57. The board of commissioners shall have power to issue
 2 bonds of the city for one or more purposes authorized by this
 3 charter or by the laws of the state. Before issuing any such
 4 bonds the board of commissioners shall by ordinance submit all
 5 questions connected with the same to the vote of the people, and
 6 no such bonds shall be issued unless the proposition for their is-
 7 suance shall receive three-fifths of all the votes cast for and against
 8 the same. Such ordinance shall state the purpose or purposes for
 9 which bonds are to be issued, and the amount to be appropriated
 10 to each such purpose. The ballot voted at such election shall be
 11 in the following form:

12 For the issuance of bonds under ordinance adopted
 1319.....
 14 Against the issuance of bonds under ordinance adopted
 1519.....

16 Said ballot shall be voted or marked in the manner prescribed by
 17 law. Said ordinance shall specify the maturities of said bonds
 18 and the rate of interest thereon, not exceeding six per centum
 19 per annum, payable annually or semi-annually, and said bonds shall
 20 be made payable in not less than one year and within and not
 21 exceeding thirty-four years from the date of their issuance, and
 22 said ordinance shall provide for a direct annual tax, sufficient,
 23 with other revenue applicable thereto, to pay the interest and
 24 maturing principal of said bonds within and not exceeding thirty-
 25 four years. If any part of such bonds shall be issued to refund
 26 any outstanding bonds, the amount of such bonds to be issued to
 27 refund such outstanding bonds shall be stated in such ordinance.
 28 Notice of the submission of such propositions shall be given by a
 29 proclamation of the mayor, reciting and embodying said ordinance
 30 and appointing a day on which an election shall be held by the
 31 qualified voters of such city to vote for or against such proposi-

32 tion for the issuance of such bonds pursuant to said ordinance.
33 Said proclamation shall be published in all daily newspapers in
34 said city for at least once a week for two successive weeks previous
35 to the day of such election. No other publication of such ordin-
36 ance shall be required. Such election shall be conducted, can-
37 vassed and the results ascertained in all respects according to the
38 laws governing elections for municipal officers in said city. If
39 upon the canvass of such election, it shall be found that three-
40 fifths of all the votes cast for and against the said bond issue have
41 been cast in favor of the issuance of said bonds, the mayor shall
42 issue a proclamation determining such fact, which proclamation
43 shall be published in all daily newspapers of said city. Such
44 proclamation shall state the amount, date and maturities of such
45 bonds, and the purpose or purposes for which they are to be is-
46 sued; that all questions connected with the same have been sub-
47 mitted to the qualified voters of the city, and that three-fifths of
48 all the votes cast for and against the issuance of such bonds have
49 been cast in favor of their issuance; that a direct an-
50 nual tax sufficient to pay the interest and the maturing principal
51 of such bonds has been duly authorized and that said bonds will be
52 issued bearing the date named in said proclamation. After the
53 publication as aforesaid of any proclamation in the form above
54 prescribed, and after the delivery of and payment for the said
55 bonds therein specified, such proclamation shall constitute the
56 final declaration and conclusive evidence of the facts so recited,
57 and the validity of such election, or of the ordinance or other pro-
58 ceedings calling such election, or authorizing such bonds, shall not
59 be called into question in any act or proceeding involving
60 the validity of such bonds or of any tax to pay the interest thereon,
61 and the principal thereof, anything herein or in any other statute,
62 or act of the legislature to the contrary notwithstanding. Notice
63 of the sale of such bonds shall be published at least once a
64 week for two weeks prior thereto in a financial paper published
65 in the city of New York, in the state of New York, in all daily
66 newspapers published in said city of Mannington and in such other
67 paper or papers as the board of commissioners may direct, and
68 such bonds shall not be sold at less than their par value.

Sec. 58. The terms of all officers of the said city, except the
2 members of the board of commisioners, who are elected by the
3 people for terms of three years after the first election held under

4 this act, shall be for one year, unless otherwise provided herein
5 and except that all officers appointed or elected by the board of
6 commissioners are subject to removal at any time for cause. Terms
7 of office shall begin on the first day of April of each year and end
8 on the thirtieth day of March, and until their successors are
9 elected and qualified.

Sec. 59 If, at the end of one fiscal year, the board of com-
2 missioners may deem it in the interest of economy and efficiency
3 in the administration of the city's affairs, they may appoint, em-
4 ploy or elect a city manager, at compensation to be fixed by
5 said board of commissioners, and such city manager shall be the
6 administrative head of the municipal government under the
7 direction and supervision of the board of commissioners; he may
8 be given such powers and duties as are by this act conferred upon
9 any or all other officials appointed by the board of commissioners
10 and such other powers and duties as the board of commissioners
11 may prescribe, which are not in conflict with the constitution and
12 laws of this state; he shall be required to give such bond as is
13 by this act required of the city clerk, and in the performance of any
14 of the duties of the city clerk as prescribed herein, the said city
15 manager shall be held to all of the requirements and provisions
16 pertaining to such duties hereunder.

17 To carry into effect this section the board of commissioners may
18 discontinue the office of city clerk, or any other office, and re-
19 distribute the duties hereunder conferred upon the city clerk and
20 other officials, and provide such assistance to the city manager as
21 may by the board of commissioners be deemed necessary.

22 This section shall be without force and effect, until such time
23 as the board of commissioners, as provided herein, shall declare
24 by ordinance and proclamation that it shall go into effect.

Sec. 60. All ordinances and resolutions in force at the time
2 of the taking effect of this act, not inconsistent with its provisions,
3 shall continue in full force and effect until amended or repealed.

Sec. 61. Persons holding office under the municipal govern-
2 ment of the city of Mannington as at present constituted, shall
3 continue in office and in the performance of their respective
4 duties until the day on which this act shall become effective, and
5 thereafter so long as their services shall be required, pending a
6 reorganization of the said municipal government to conform to
7 the requirements of this act.

Sec. 62. All vested rights of the city shall continue to be
2 vested and shall not in any manner be affected by the passage of
3 this act, nor shall any right or liability or pending suit or prose-
4 cution, either in behalf of or against the city, be in any manner
5 affected by the passage of this act. All contracts entered into
6 by the city or for its benefit prior to the taking effect of this act,
7 shall continue in full force and effect. All public work begun
8 prior to the taking effect of this act shall be continued and per-
9 fected hereunder.

Sec. 63. If any section or part of a section of this act shall
2 be found to be invalid, the same shall not be held to invalidate or
3 impair the validity, force or effect of any other section or part of
4 a section unless such other section or part is clearly dependent
5 for its operation upon the section or part so held invalid.

Sec. 64. All acts or parts of acts inconsistent with this act
2 are hereby repealed; but this act shall not be construed to repeal,
3 change or modify any previous act not inconsistent with this act
4 authorizing the city of Mannington to contract debts, or to bor-
5 row money, or to take away any of the powers conferred upon
6 said city of Mannington, or upon the mayor or council, or any of
7 the officers, conferred by general law, except so far as the same may
8 be inconsistent with the powers hereby conferred.

Sec. 65. This act shall not become and be effective until the
2 same shall have been submitted for adoption or rejection to the
3 duly qualified voters living within the territory embraced in sec-
4 tion two hereof, at a special election called for that purpose and
5 shall have been adopted by a majority of the votes cast at said
6 election; at which election all persons living within said terri-
7 tory, but outside of the city of Mannington as it was constituted
8 immediately prior to the passage of this act, shall be entitled to
9 vote as if they lived within the said city as it was constituted im-
10 mediately prior to the passage of this act. Said special election
11 shall be held as soon as possible after notice of the same has been
12 published at least twice in some daily newspaper published in the
13 city of Mannington, to be designated by the common council of the
14 city of Mannington, the last publication of said notice to be made
15 not less than ten days immediately preceding the date of the said
16 election. Said notice shall also give notice to the provisions of
17 section two of this act by publishing the same in full as part of
18 said election notice, together with a statement to the effect that a

19 certified copy of the whole act as passed is on file and may be
20 inspected by all voters living within the affected territory at the
21 office of the mayor of the city of Mannington; and it shall be the
22 duty of the common council of the city of Mannington to secure
23 one or more certified copies of the act and keep, or cause the
24 same to be kept, in the said mayor's office for the inspection of the
25 said voters, from the date of the first publication of the said notice
26 until the said election shall have been held. Said special elec-
27 tion shall be arranged for, held and conducted, and the result
28 thereof ascertained, certified and published in the usual and regu-
29 lar manner of arranging for, holding and conducting municipal
30 elections in the city of Mannington and ascertaining, certifying
31 and publishing the results thereof, and the authority of the
32 officials of the city of Mannington to arrange for, hold and con-
33 duct a municipal election therein, and to ascertain, certify and
34 publish the results thereof, is hereby extended to cover all the
35 territory embraced in section two hereof, for all persons of the
36 special election hereby provided for. At said special election
37 any person entitled to vote threat who lives outside of the city
38 of Mannington, as it was constituted immediately prior to the
39 passage of this act, shall vote at that regular voting precinct in
40 the said city which is nearest his place of residence.

41 If this act shall be adopted at said special election it shall go
42 into effect the day following its adoption at said election.

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

45 City of Mannington
46 Charter of Election

47 Indicate how you desire to vote by a cross in the square.

48 [] "For adoption of new charter."

49 [] "Against adoption of new charter."

50 *Provided, however,* that if this act shall fail of adoption at
51 said election, the same may be voted upon at a subsequent elec-
52 tion, called by the common council of said city, to be held and
53 conducted in the manner above set forth, and after notice as above
54 set forth; but no such subsequent election shall be held until a
55 period of six months shall have elapsed after any former election
56 held for that purpose; and

57 *Provided, further,* that if the common council of said city shall
58 fail or refuse to call a subsequent election for that purpose, then,

59 upon petition signed by the qualified voters of said city, equal in
60 number to at least thirty per centum of the entire votes cast for
61 the candidate for mayor who received the highest number of votes
62 at the last preceding municipal election, said common council
63 shall, by a proper order, call a special election for that purpose.
64 And if this act shall fail of adoption at the first special election held
65 for that purpose as herein provided, then it shall take effect from
66 the day immediately following its adoption at such subsequent
67 election.

Sec. 66. If for any reason this act fails to take effect by the
2 time the common council and their officers are to be nominated
3 in said city under existing laws for the election to be held on the
4 second Monday in March, one thousand nine hundred and twenty-
5 one, or any subsequent general election, then the mayor and coun-
6 cil in office at the time this act does take effect, shall speedily
7 cause an election to be held in said city to elect the officers pro-
8 vided for in this act, after giving notice at least twenty days prior
9 to the date fixed for said election, by publishing the same in some
10 newspaper published in said city, which notice shall state the
11 purpose of said election. If such special election is held, all
12 persons holding office under the next preceding election, shall
13 vacate such office immediately, and other officers shall hold office
14 at the pleasure of the board of commissioners notwithstanding
15 they were elected and appointed under existing law for specified
16 terms.

Sec. 67. If this act be adopted and for any reason fails to
2 take effect on or before April first, one thousand nine hundred
3 and twenty-one, or on the first day of April of any subsequent
4 year, it shall be the duty of the assessor in office at the time this
5 act takes effect, or his successor, to make an assessment as pro-
6 vided in this act of all the property within the city limits as here-
7 in constituted. And if this act fails to take effect on or before
8 April first, one thousand nine hundred and twenty-one, or on the
9 first day of April of any subsequent year, the board of commis-
10 sioners in making its levy, as in this act provided, for the year
11 one thousand nine hundred and twenty-one, or any subsequent
12 year thereafter, upon all real estate and personal property, sub-
13 ject to state and county taxes, within the city limits as in this act
14 constituted, shall reduce its levy upon all real estate and personal
15 property in the territory included within the corporate limits of

16 said city as in this act constituted, and not included in the cor-
 17 porate limits of said city under existing law, in the proportion
 18 that the time of said assessment year elapsed before this act takes
 19 effect bears to the whole assessment year.

CHAPTER 14

(Senate Bill No. 181—Mr. Henshaw.)

AN ACT to amend and re-enact sections eight and thirty-one of chap-
 ter six municipal charters, acts of legislature of West Virginia,
 one thousand nine hundred and fifteen, being the charter of
 the city of Martinsburg, and adding thereto section eight-a.

[Passed April 21, 1921. In effect from passage. Approved by the Governor
 April 29, 1921.]

SEC.

8. Municipal authorities, general pow-
 ers enumerated.

8-a. Council has power to lay special
 levy not to exceed five cents
 on the one hundred dollars to
 be known as the "Crossing and
 bridge levy."

SEC.

31. Mayor to be chief executive; ex-
officio a justice and conservator
 of the peace within the city;
 control of the police of the city;
 assess and collect fines; compen-
 sation fixed by council.

Be it enacted by the Legislature of West Virginia:

That sections eight and thirty-one of chapter six, municipal char-
 ters, acts of the legislature of West Virginia, one thousand nine hun-
 dred and fifteen, be amended and re-enacted and section eight-a added
 thereto, so as to read respectively as follows:

Section 8. The municipal authorities of said city, acting under
 2 the powers and in the manner herein specified, shall have and
 3 are hereby granted power to have said city re-surveyed;
 4 to open, vacate, broaden, widen, and repair streets and
 5 alleys; and in so doing to exercise the right of eminent domain
 6 to the fullest extent, including the right to condemn across the
 7 property of common carriers, including railroad yards; to curb
 8 and pave streets, sidewalks and gutters for public use, and to alter
 9 improve, repair and light the same; and to construct and main-
 10 tain public sewers and laterals and shall in all cases have power
 11 to assess upon and collect from the property benefited thereby
 12 such part of the expense thereof as shall be fixed by ordinance,
 13 except as hereinafter provided; to have control of all streets,
 14 avenues, roads and alleys for public use in said city and to have
 15 the same kept in good order, free from obstruction on or over

16 them; to have the right to control all bridges within said city
17 and traffic passings thereover; to regulate and determine the
18 width of streets, sidewalks, roads and alleys; to order and di-
19 rect the curbing and paving of sidewalks and footways for public
20 use in said city, to be done and kept in good order by the owners
21 of adjacent property; to control the construction and repairing
22 of all houses, bridges, culverts, sewers, and to prescribe and en-
23 force all regulations affecting the erecting, repairing or removal
24 of all buildings and structures and to require permits to be ob-
25 tained for such buildings, and plans and specifications thereof
26 to be first submitted to the building inspector, and to prescribe
27 and enforce regulations controlling the erection of such build-
28 ings, and to secure the safety and health of the public; to con-
29 trol the opening and construction of ditches, drains sewers, cess-
30 pools and gutters; to deepen, widen and clear the same of stag-
31 nant water and filth, and to determine at whose expense the same
32 shall be done; to build and maintain station houses, police sta-
33 tions, and police courts, and regulate the management thereof;
34 purchase, lay off, appropriate and control public grounds, squares
35 and parks, either within or without the city limits as hereinafter
36 defined, and when the council determines that any real estate is
37 necessary to be acquired by said city for any such purpose or for
38 any public purpose, the power of eminent domain is hereby con-
39 ferred upon said city; and it shall have the right to institute con-
40 demnation proceedings against the owners thereof in the same
41 manner and to the same extent and upon the same conditions
42 as such power is conferred upon public corporations by chapter
43 forty-eight of the code of West Virginia of the edition of one thou-
44 sand nine hundred and six; to provide, contract for and take care
45 of all buildings and structures deemed proper for the use of said
46 city; to provide for and regulate the building of all houses or other
47 structures and to determine the distance that they shall be built
48 from the street or alley; to cause the removal of unsafe walls or
49 buildings; to prevent injury or annoyance to the business of indi-
50 vidnals from anything dangerous, offensive or unwholesome; to
51 abate or cause to be abated all nuisances; to regulate the keeping
52 of all gunpowder and all other combustibles; to provide and main-
53 tain proper places for the burial of the dead; to regulate inter-
54 ments therein upon such terms and conditions as to price and
55 otherwise as may be determined; to provide for shade and orna-

56 mental trees and the protection or removal of the same; to provide
57 for draining of lots by proper drains and ditches; to make proper
58 regulations for guarding against danger or damage from fire;
59 to provide for the poor of the city; to organize and maintain
60 fire companies and to provide necessary apparatus, engines and
61 implements for the same to levy taxes on persons, property and
62 licenses; to provide revenue for the city and appropriate the
63 same to its expenses; to provide for the valuation of property
64 as often as may be deemed proper and for the assessment of tax-
65 able persons and property; to adopt rules for the transaction of
66 business and for the government and regulation of its corporate
67 bodies; to promote the general welfare of the city and to protect
68 the person and property of citizens therein; to appoint such of-
69 ficers as they may deem proper and require and take from them
70 bonds with such security and in such penalty as may be deter-
71 mined, conditioned for the faithful discharge of their duties;
72 to regulate and provide for the weighing of produce and other
73 articles sold in said city; to regulate the transportation thereof
74 through the streets; to establish and regulate markets; to pre-
75 scribe the time for holding the same and what shall be sold only
76 in such markets, and to acquire and hold property for market
77 purposes if deemed proper; to regulate the placing of signs, bill
78 boards, posters and advertisements, and other obstructions, in, on
79 or over the streets, alleys and sidewalks of said city; to preserve
80 and protect the peace order and health of the city and its inhabi-
81 tants; to appoint and fix places for holding city elections; to
82 erect, own, lease, regulate, authorize or prohibit the erection of gas
83 works, electric light works in or near the city, and to operate
84 the same and to sell the products thereof, and to do all things
85 necessary and incidental to the conduct of such business; to
86 provide for and preserve the purity of the water and the health
87 of the city; to prescribe and enforce ordinances for the purpose
88 of protecting the health, decency, morality and order of the city
89 and its inhabitants, and to punish violations of such ordinances,
90 even if the offenses under and against such ordinances shall also
91 constitute offenses under the laws of the state of West Virginia
92 or the common law; to have and exercise all the rights, privi-
93 leges and powers provided by chapter forty-seven of the code
94 of West Virginia of the edition of one thousand nine hundred
95 and six, and amendments thereof not inconsistent with this act,

96 and shall retain, keep and succeed to all right, privileges, prop-
97 erty, interest, claim and demands, heretofore acquired by, vested
98 in or transferred to the said city of Martinsburg, or heretofore
99 to the corporation of Martinsburg.

Sec. 8-a. The council shall have authority to lay a special levy
2 in addition to all other levies, not exceeding five cents on each
3 hundred dollars valuation, known as the "Crossing and bridge
4 levy", for the purpose of raising funds to pay city's share of the
5 expense of eliminating grade crossings within the city, and for the
6 building or repairing of bridges within the city, and no part of
7 said fund shall be expended for any other purpose.

Sec. 31. The mayor shall be the chief executive officer of the
2 said city, and shall take care that the orders, by-laws, ordinances,
3 acts and resolutions of the council thereof are faithfully executed.
4 He shall be *ex-officio* a justice and conservator of the peace within
5 the city and shall, within the same, have, possess and exercise all
6 powers and perform all the duties vested by law in a justice of the
7 peace, except that he shall have no jurisdiction in civil cases.
8 Any warrant or other process issued by him may be executed at
9 any place in the county. He shall have control of the police of
10 the city, and may appoint special police officers whenever he deems
11 it necessary, and may suspend any policeman for cause; and it
12 shall be his duty to see that the peace and good order of the city
13 are preserved; and that persons and property therein are pro-
14 tected; and to this end he may cause the arrest and detention of
15 all riotous and disorderly persons in said city before issuing his
16 warrant therefor. He shall have the power to issue executions
17 for all fines, penalties and costs imposed by him or he may require
18 the immediate payment thereof, and in default of such payment
19 thereof may commit the offending party to the jail of Berkeley
20 county, or other place of imprisonment in such city, if there be one,
21 until the fine or penalty and costs shall be paid, but the term of
22 imprisonment in such case shall not exceed thirty days. In all
23 cases where a person is sentenced to imprisonment, or to the pay-
24 ment of a fine of ten dollars or more, (and in no case shall judg-
25 ment for a fine of less than ten dollars be ordered or given by the
26 mayor, if the defendant, his agent or attorney, object thereto)
27 such persons shall be allowed an appeal from such decision to the
28 circuit court of Berkeley county, upon the execution of an ap-
29 peal bond, with surety deemed sufficient by the mayor, in a penalty

30 double the amount of the fine and costs imposed by the mayor,
 31 with condition that the person proposing to appeal will perform
 32 and satisfy any judgment which may be rendered against him by
 33 the circuit court on such appeal. If such appeal be taken, the
 34 warrant of arrest, (if there be any) the transcript of the judgment,
 35 appeal bond and other papers of the case, shall be forthwith de-
 36 livered by the mayor to the clerk of said court; and the court shall
 37 proceed to try the case and render such judgment, including that
 38 of costs, as the law and the evidence may require, but no judg-
 38-a ment shall be rendered against said city for costs on such appeal.
 39 The mayor may from time to time recommend to the council
 40 such measures as he may deem needful for the welfare of the city.
 41 The expense of maintaining any person committed to the jail of
 42 the county, or to any place of imprisonment in said city, by him
 43 except it be to answer an indictment or be under provisions of
 44 sections two hundred and twenty-seven and two hundred and
 45 twenty-eight of chapter fifty of the code of this state, shall be paid
 46 by the said city. Said mayor shall pay all moneys received by him
 47 for fines or by virtue of his office belonging to said city to the
 48 treasurer of the city within one week after he receives the same.
 49 He shall receive such compensation for his services as the coun-
 50 cil shall by ordinance annually fix.

CHAPTER 15

(Senate Bill No. 351—Mr. Stewart.)

AN ACT to amend and re-enact chapter one hundred forty-four of the acts of the legislature passed January four, one thousand nine hundred and one, entitled "An act to create the municipal corporation of the city of Morgantown," in the county of Monongalia, to grant a charter thereto and to amend the charter of the town of Morgantown, the town of South Morgantown, the town of Greenmont and the town of Seneca," and all the acts of the legislature amendatory thereof.

[Passed April 21, 1921. In effect from passage. Approved by the Governor April 30, 1921.]

SEC.
 1. The city of Morgantown.
 2. Boundaries.
 3. Wards.
 4-a. Municipal authorities.
 5. Exercise of corporate powers.

SEC.
 6. Subordinate officers.
 7-a. Eligibility of councilmen.
 8. Tenure of office.
 9. Compensation of councilmen.
 10. Vacancies in office.

SEC.

11. Who are voters.
12. First election of officers.
13. Election.
14. Qualifications of officers.
15. Meeting of council.
16. Votes of members.
17. Records of council.
18. Powers and duties of council.
19. Enforcement of powers.
20. Annual estimate of expenditures.
21. Annual levy.
22. City assessments.
23. Licenses.
24. Sidewalks, street paving, etc.

SEC.

25. Lien for taxes, assessments, etc.
26. Garbage removal and disposal.
27. Annual audit of accounts.
28. Exemption from district poor and road levies.
29. Street maintenance, sewers, etc.
30. The police officers.
31. Police court.
32. Miscellaneous.
33. Repeal of certain acts.
34. Act not effective unless submitted to voters at special election, and adopted by majority; when held; the ballot.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred forty-four of the acts of one thousand nine hundred and one, and all acts of the legislature amendatory thereof, be amended and re-enacted so as to read as follows:

The City of Morgantown.

Section 1. The inhabitants of the portion of the county of
 2 Monongalia, in the state of West Virginia, within the limits of
 3 the city of Morgantown as they now are, or as they may here-
 4 after be, shall be and continue a body politic and corporate, by
 5 the name and style of "The City of Morgantown," and as such,
 6 and by that name, shall have perpetual succession and may con-
 7 tract and be contracted with, sue and be sued, plead or be im-
 8 pleaded, answer and be answered unto, and may purchase, acquire
 9 by condemnation proceedings for public use, take, receive, hold
 10 and use goods and chattels, lands and tenements and choses in
 11 action, or any interest, right or estate, therein either for the
 12 proper use of said city, or in trust for the benefit of any person
 13 or association therein; and the same may grant, sell, convey,
 14 transfer and assign, let, pledge, mortgage, charge and encumber,
 15 in any case and in any manner in which it would be lawful for
 16 private individuals so to do, except where its power may be lim-
 17 ited by law; and may have and use a common seal, and alter and
 18 renew the same at pleasure; and generally shall have all the
 19 rights, franchises, capacities and powers appertaining to muni-
 20 cipal corporations in this state.

21 All real and personal estate, and all funds, rights, titles,
 22 taxes, credits and claims and rights of action owned by the city
 23 of Morgantown immediately before this charter takes effect or
 24 which are then held in trust or have been appropriated for the
 25 use or benefit of said city or of the inhabitants thereof, shall be
 26 and the same are hereby transferred to and vested in the city of
 27 Morgantown under this charter.

28 All lawful contracts with and all lawful rights, claims and
29 demands against the city of Morgantown, at the time this
30 charter takes effect, shall be good in law against the said city
31 under this charter.

Boundaries.

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

3 Beginning at Target rock, a large rock in the Monongahela
4 river below Morgantown, said Target rock being nearest the
5 right bank of said river, thence north fifty-six degrees east, two
6 hundred and three and eight-tenth poles to a locust on the
7 northeast side of the Collin's ferry road, opposite to the entrance
8 of a lane leading to Oliver H. Dille's farm house; thence south
9 sixty-one degrees and fifteen minutes east, two hundred fifty-
10 three and seven-tenth poles to a post on the southeast side of the
11 Stewartstown road, opposite the intersection of a lane leading
12 to the Hoffman farm house, and the intersection of the old and
13 new Stewartstown roads; thence south fifty-eight degrees and
14 two minutes east, two hundred one and five tenth poles to a stone
15 on the southeast of the Ice's ferry pike at its intersection
16 with the old Robinson road; thence south eleven degrees and
17 nine minutes east, two hundred nineteen and five-tenths poles
18 to a stone on the southwest side of the Decker's creek road,
19 opposite its intersection with the Sturgiss road; thence south
20 thirty-four degrees and fifteen minutes west, two hundred
21 thirty-one and five tenth poles to a large stone on the top of the
22 hill on land of George Harner; thence south fifty-eight degrees
23 and twenty-five minutes west, two hundred twenty-seven and
24 five-tenth poles, to a stone on the northeast side of the King-
25 wood pike at its intersection with a lane leading to the William
26 Well's farm house; thence south sixty-seven degrees and fifty-
27 three minutes west, three hundred and forty-four poles to a stone
28 at the intersection of the Evansville pike, with the Morgantown
29 and Fairmont road; thence north eighty-eight degrees and twen-
30 ty-five minutes west, seventeen and eighty-eight one hundredths
31 poles to a sycamore on the right bank of the Monongahela river;
32 thence directly across said river to a point opposite said syc-
33 more and thence with the shore line of said river and down the
34 western side of same to a point opposit Target rock, and

35 thence across said river to Target rock, the place of beginning.
36 (b) The city of Morgantown may from time to time here-
37 after enlarge the boundaries of the city only by and with the
38 consent of a majority of the inhabitants of the territory pro-
39 posed to be annexed, who are qualified voters of the state of
40 West Virginia, voting upon the subject at a general election
41 held in Monongalia county, West Virginia, for state, county,
42 judicial or district officers, the votes upon the question of an-
43 nexation to be by ballots for the purpose of voting on such
44 questions only, to be deposited in a ballot box or boxes separate
45 and distinct from the others used at such election, and the
46 election to be held after a notice thereof published in two
47 newspapers published in said city of Morgantown, once a week
48 for four successive weeks, and to be conducted, and the result
49 thereof duly ascertained, declared, certified and made a matter
50 of record, by the same officers who perform the like duties in re-
51 lation to the votes upon other matters at such general election,
52 and the ballots shall be prepared for voting upon such question
53 by the same officers as the other ballots for use at such election
54 and so far as applicable all the provisions of chapter three of the
55 code of West Virginia shall apply to the election upon such
56 annexation question.

57 *Provided, however,* that all expenses of holding such elec-
58 tion insofar as pertaining to such annexation of territory not
59 already separately incorporated, the payment whereof is not
60 now provided for by law, shall be paid by the city of Morgan-
61 town, and, *provided, further,* that, if the territory proposed
62 to be annexed is part or all of the land embraced within the
63 boundaries of any other municipal corporation, before the elec-
64 tion on such annexation question is held, the city of Morgan-
65 town and such other municipal corporation shall agree upon
66 the terms upon which the annexation is to be made and such
67 terms shall be inserted in the published notice of election; the
68 vote taken on such question of annexation in a municipal cor-
69 poration in which part or all of the territory proposed to be
70 annexed is located, and the vote on annexation in territory not
71 within a municipal corporation, must be taken separately and
72 not together.

73 A majority of the votes cast upon the question of annex-
74 ation in any municipal corporation must be in the affirmative

75 to authorize the annexation of any of the territory thereof, and
76 a majority of the votes cast upon such question in territory not
77 in such a corporation must be in the affirmative to authorize the
78 annexation of any of the last mentioned territory.

79 In the event that a majority of the votes upon the question
80 of annexation shall be in the affirmative, the council of the
81 said city of Morgantown shall by ordinance carry out the terms
82 of agreement upon which the annexation is to be made.

83 Any territory annexed must be contiguous to a boundary or
84 boundaries of the city of Morgantown existing at the time of
85 the annexation.

Wards.

Sec. 3. (a) The territory included in the said city shall, from
2 time to time, be divided into wards by the common council there-
3 of. The wards shall be as nearly equal as may be in area and
4 population, and when the wards and the boundaries thereof
5 shall have been once established by an ordinance of the common
6 council, the wards shall thereafter be entitled to elect an equal
7 number of councilmen; but until such establishment of wards
8 by an ordinance of the common council, the wards shall be as
9 follows, and shall be entitled to elect the number of council-
10 men provided for in the twelfth section of this act:

11 The first ward shall comprise all that portion of said city
12 which lies between the southwestern boundary line of said cor-
13 porate limits, the Monongahela river, Decker's creek and the
14 divisional lines between the first ward and the second
15 ward of said city, which divisional line is as follows, to-wit:
16 Beginning at a beech tree on the south bank of Decker's creek
17 in a line between the lands of John J. Brown and Mary E.
18 Brown, and thence with their said divisional line S. eight and
19 one-half, E. eighty-one and one-half poles crossing the road
20 leading to the old fair grounds, now known as Wilson or White
21 avenue, and thence in a westerly direction with said White
22 avenue to Willey driveway, and thence with the center line of
23 said Willey driveway to its first intersection with Jefferson
24 street, and thence with the center line of said Jefferson street
25 in a southerly direction to Jackson avenue at its intersection
26 with Logan avenue, and thence with the center line of said Lo-
27 gan Avenue around the sharp bend of said avenue to its inter-
28 section with King street, and thence with the center line of said

29 King street in a southwesterly direction to the end of said
30 street, where it merges into Sheldon avenue, and thence with
31 the center line of said Sheldon avenue, to its intersection with
32 Ross street, and thence with the center line of said Ross street
33 to its intersection with the Morgantown and Kingwood pike,
34 and thence with the center line of said pike in an easterly di-
35 rection to the corporate limits.

36 The second ward shall comprise all that portion of said city
37 included within the following boundaries, viz: Beginning at a
38 beech tree on the southern bank of Decker's creek, and thence in a
39 southerly direction, with the eastern boundary of the first ward
40 to a point where the southeastern boundary line of the corporate
41 limits of said city intersects the Morgantown and Kingwood pike,
42 and thence with the said southeastern boundary line of the cor-
43 porate limits to a point where the said boundary line crosses
44 Decker's creek near the intersection of the Decker's creek road
45 and the Sturgiss road at a large stone and thence with the center
46 line of the Decker's creek road in a westerly direction to the iron
47 bridge across Decker's creek near the plant of the Everbright
48 Mirror Company, and thence with the center line of said creek
49 to the place of beginning.

50 The third ward shall comprise all that portion of said city
51 which lies within the following boundaries, viz: Beginning at
52 the junction of Decker's creek with the Monongahela river, and
53 thence along the eastern shore of said river to Hough street, and
54 thence along the center line of said Hough street to its intersec-
55 tion with Willey street, and thence along the center line of said
56 Willey street to the deep ravine known as Deep Hollow, lying be-
57 tween the old town of Morgantown and what is known as East
58 Morgantown at the point where the street or road leading from
59 Willey street to East Morgantown crosses said ravine; thence
60 along the small stream in the said ravine and down the same to
61 Decker's creek, and thence down the center of said Decker's creek
62 to the place of beginning.

63 The fourth ward shall comprise all that portion of said city
64 which lies within the following boundaries, viz: Beginning at
65 the northwestern corner of the corporate limits of said city at a
66 point on the bank of the Monongahela river known as Target
67 rock; and thence with the eastern shore of said river and up
68 the same in a southeasterly direction to the mouth of Falling

69 run; and thence in a northeasterly direction up the center line
70 of said Falling run to a point where the same is crossed or in-
71 tersected by the northern boundary of said city; and then in a
72 westerly direction with the said northern boundary line or cor-
73 porate limits of said city to the place of beginning.

74 The fifth ward shall comprise all that portion of said city in-
75 cluded within the following boundaries, viz: Beginning at a
76 point on the east shore of the Monongahela river, at the mouth of
77 Falling run and a corner in the boundary line of the fourth ward,
78 and thence up the said eastern shore of said river in a southerly
79 direction to a point in the center line of Hough street, and
80 thence in an easterly direction up Hough street, and with the
81 boundary lines of the third ward of said city to a point in
82 Decker's creek at the mouth of Deep Hollow ravine, a corner to
83 both the second and third wards of said city, and thence in an
84 easterly direction with the northern boundary line of the second
85 ward of said city to the corporate limits, and thence with the
86 northwestern boundary lines of said city in a northwesterly di-
87 rection to a point in the center of Falling run ravine, a corner
88 in the boundary lines of said fourth ward, and thence with the
89 southeastern boundary lines of said fourth ward in a southwest-
90 erly direction to the place of beginning.

Municipal Authorities.

Sec. 4-a. The municipal authorities of the said city shall con-
2 sist of not less than ten councilmen, which shall constitute the
3 common council of said city. The word "council" in this act
4 shall be construed as synonymous with common council. All
5 councilmen shall serve for a term of two years and until their
6 successors are elected and have qualified, unless sooner removed
7 from office as hereinafter provided. They shall be residents of the
8 city and qualified voters therein. No member of city council who
9 is directly or indirectly, a holder or owner of any bond or stock
10 of any corporation, owning or interested in a municipal franchise,
11 privilege, or easement in or from such city; or be an officer, agent,
12 trustee, servant or employee of such a corporation, shall vote on,
13 or participate in any discussion of any proposition in which such
14 company is directly or indirectly interested. If any member of
15 council shall violate this provision, he shall be guilty of a misde-
16 meanor and upon conviction thereof, be confined in the county
17 jail not more than one year, or be fined not more than one thou-

18 sand dollars. And no member of city council who shall be inter-
19 ested directly or indirectly or be the owner of more than five
20 shares of the capital stock of any corporation interested in the
21 profits or emoluments of any contract, job, work or service for
22 the city or any sale to it of any property, real or personal, shall
23 vote or participate in the consideration of any such contract,
24 work, service or sale. The council shall appoint, within ten days
25 after their election, one of their number as their chairman or pre-
26 siding officer, who shall be known officially as mayor of the city
27 and recognized as such for ceremonial purposes and for the pur-
28 pose of being served with civil processes against the city, and for
29 the performance of all duties imposed upon him by this charter.
30 A majority vote of all the councilmen elected shall be necessary
31 for the election of such mayor. The mayor shall hold his office as
32 such at the pleasure of the council.

Exercise of Corporate Powers.

Sec. 5. (a) All the corporate powers and functions pertaining
2 to the said city shall be exercised by its common council, or under
3 its authority, in the corporate name of the city, unless otherwise
4 provided herein by state law or by municipal ordinance.

5 (b) The council shall have authority to pass all ordinances not
6 in conflict with the constitution and laws of the United States, or
7 of this state, which shall be necessary and proper to carry into
8 full effect any power, authority, capacity or jurisdiction which is
9 or shall be granted to, or vested in, the said city, or in the council
10 or any officer of said city; and to provide for the enforcement of
11 any or all of their ordinances by reasonable fines and penalties, or
12 by imprisoning the offender or offenders violating such ordinances,
13 and by compelling them to labor without compensation, at any of
14 the public works or improvements undertaken or to be under-
15 taken by said city, or by any or all of the said modes; *provided,*
16 *however,* that no person shall be imprisoned or compelled to labor
17 as aforesaid more than one year or fined more than one hundred
18 dollars for any one offense.

Subordinate Officers.

Sec. (6-a). The council shall appoint the following named 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 responsi-
4 ble for the efficient administration of all departments; a clerk, who
5 shall be known as city clerk, who shall keep all records of the meet-

6 ings of the city council, all of the financial and other records of the
7 city, and shall act as clerk of the police court and perform such
8 other duties as may be required by this charter or by the coun-
9 cil; a judge of police court. All appointees of council shall hold
10 office at the pleasure of the council and receive such compensation
11 therefor as council may determine. But none of the above men-
12 tioned officials shall be removed by council, until and only after
13 the presentation of written charges and specifications of mis-
14 feasant, malfeasant or non-feasant lodged against them, and
15 after they have been given every opportunity to present their de-
16 fense. After a full hearing of the matter, including the right to
17 appear before council in person or by counsel, council shall have
18 the right to remove such appointee for cause only.

19 *City Manager's Powers and Duties.*

20 The duties and powers of the city manager shall be:

21 (1) To see that the laws and ordinances are enforced;

22 (2) To appoint all officers of the city, except members of the
23 city council and the officers of such city council is hereby author-
24 ized to appoint, and to employ, or cause to be employed, all em-
25 ployees of the city; the officers by him appointed and such em-
26 ployees as he shall appoint or cause to be appointed, to continue
27 in their offices or employment during his pleasure or that of his
28 successor as such city manager; but all appointees or employ-
29 ments shall be upon merit and fitness alone;

30 (3) To exercise supervision and control over all departments
31 and divisions created herein or that hereafter may be created
32 by the council, except the council and other officers by it ap-
33 pointed;

34 (4) To attend all meetings of council with the right to take
35 part in discussion, but having no vote;

36 (5) To recommend to the council for adoption such meas-
37 ures as he may deem necessary or expedient;

38 (6) To keep the council fully advised as to the financial con-
39 dition and needs of the city;

40 (7) To approve for payment all vouchers prepared by the
41 city clerk, when the expenditure has been authorized by council
42 by proper appropriation, and the payment is otherwise proper to
43 be made.

44 (8) To supervise the conduct and performance of their du-
45 ties by other officers and employees of the city, except the mem-

46 bers of the city council, reporting to such council any failure of
47 performance of duty by any of the other appointees of such coun-
48 cil, and enforcing the proper performance of their duties by the
49 officers appointed by him and by the city employees, to the end
50 that the city's business shall be efficiently and economically trans-
51 acted; and,

52 (9) To perform such other duties as may be prescribed by
53 this charter or be required of him by ordinance or resolution of
54 the council. The city manager shall devote his whole working
55 time to the performance of the duties of his office, and while oc-
56 cupying such office he is not to be engaged, directly or indirectly,
57 or be actively interested in any business other than the perform-
58 ance of his duties concerning the affairs of the city of Morgan-
59 town.

60 (c) The city manager shall have authority to provide for the
61 appointment of such officers, the appointment of whom is not
62 vested in the council, as shall be necessary or proper to carry into
63 full effect any authority, power, capacity or jurisdiction which
64 is or shall be vested in the city of Morgantown, or in the council
65 thereof, or in such city manager; to grant, in writing, to the offi-
66 cers so appointed the powers necessary or proper for the purposes
67 above mentioned; to define their duties in writing, to allow them
68 reasonable compensation (said compensation to be approved by
69 council), and to require and take from all or any of them such
70 bonds, obligations, or other writings as he shall deem necessary
71 or proper to insure the proper performance of their several
72 duties.

73 All bonds, obligations or other writings taken in pursuance of
74 this section, as well as all other bonds given to the city of Mor-
75 gantown, shall be made payable to such city, and the respective
76 persons or corporations, their heirs, executors, administrators
77 and successors bound thereby, shall be subject to the same pro-
78 ceedings on the said bonds, obligations or other writings for en-
79 forcing the conditions and terms thereof, by motion or otherwise,
80 before any court of record whose sessions are or shall be held in
81 said city of Morgantown, that collectors of the county levies and
82 their securities are or shall be subject to on their bonds for the
83 enforcing the payment of such levies.

84 (d) The duties and powers of the city clerk shall be

85 (1) To keep all records of the city, including the records of
86 the meetings of the city council.

87 (2) To act as auditor and to keep all records of the finances
88 of the city.

89 (3) To keep all other records pertaining to the city and to all
90 departments thereof, including the records pertaining to the office
91 of city manager and the other departments of said city.

92 (4) To act as clerk of the police court and to perform duties
93 required in connection therewith by the provisions of this char-
94 ter, ordinances of council or the police judge himself.

95 (5) To act as treasurer of said city by collecting all funds
96 due it and depositing the same in such bank or banks as shall
97 be named as city depository by council, but he shall pay out no
98 money except upon voucher approved for payment by endorse-
99 ment thereon by the city manager.

100 (6) To make up the assessment rolls for the city, utilizing
101 therefor the facts and data available from all sources including
102 the board of appraisers hereinafter provided for, assessment rolls
103 and records of the county assessor; and having made up the as-
104 sessment rolls of the city, he shall prepare the tax ticket or re-
105 ceipts and collect the same from the tax payers in accordance
106 with paragraph eight of this section hereof.

107 (7) The city clerk shall report to and be under the direction
108 of the city manager, but the city manager shall not have the
109 right or power to remove him from office, but may prefer charges
110 against the city clerk to council for hearing and action under sec-
111 tion six-a hereof.

112 (8) The city clerk in person or by deputy shall have charge
113 of the collection of the city taxes and shall account to the city for
114 the same; he shall have the same powers and authority in mak-
115 ing such collections of city taxes as is by law vested in a sheriff in
116 making collections of state and county taxes, and should he act
117 by deputy in so collecting said city taxes, his deputies shall have
118 and exercise all the powers of their principal in so doing.

Eligibility of Councilmen.

Sec. 7 (a). To person shall be eligible to the office of council-
2 man, unless at the time of his election he is legally entitled to
3 vote in the city election for member of the common council.

3-a (b) No person holding an elective office under this state, the
4 United States, or any foreign government; no member of con-

5 gress, no person who is a salaried officer of any railroad company,
6 operating or proposing to operate its lines of railroad in said city,
7 or who is a sheriff, constable, or clerk of any court of record shall
8 be eligible to a seat in council. No person who has been, or hereaft-
9 er shall be convicted of bribery, perjury or other infamous crime
10 shall be eligible to a seat in the council. No person who may
11 have collected or been entrusted with public money, whether of a
12 state, county, township, district or any municipal corporation,
13 shall be eligible to the council, or to any office of honor, trust or
14 profit in the city, until he shall have duly accounted for and
15 paid over such money, according law.

Tenure of Office.

Sec. 8 (a). The five members of council elected at the regular
2 election held or to be held in said city, under the act of the Legisla-
3 ture hereby amended, on the first Thursday of April, one thousand
4 nine hundred and twenty-one, shall continue in office for the term
5 of one year from the first day of February, one thousand nine
6 hundred and twenty-two, or until their successors are duly elected
7 and qualified; and the five members of council whose term of office
8 to which they were elected would expire on May first, one thou-
9 sand nine hundred and twenty-two, shall continue in office only un-
10 til the first day of February, one thousand nine hundred and twen-
11 ty-two, or until their successors are duly elected and qualified;
12 thereafter, and commencing with the election to be held in said
13 city on the first Thursday after the first day of January, one
14 thousand nine hundred and twenty-two, and annually thereafter,
15 an equal number of councilmen shall be elected from each ward
16 by the voters thereof for a term of two years from the first day
17 of February following, or until their successors are duly elected
18 and qualified; unless they are sooner removed in the manner
19 required by law.

Compensation of Councilmen.

Sec. 9. Councilmen shall be paid five dollars each for every
2 regular meeting they attend, and the mayor shall be paid six
3 dollars for like attendance, but no compensation shall be allowed
4 for special meetings, nor for any committee meeting of the council.
5 No extra compensation shall be granted or allowed to any
6 members of council, agent or servant of the city, or contractor

7 therewith after the services shall have been rendered or the con-
8 tract made; nor shall any payment be made of any claim or part
9 thereof, created against the city, under any agreement or contract
10 made without express authority of law; and all such unauthor-
11 ized agreements shall be null and void. Nor shall the salary or
12 compensation of any member of council be increased or dimin-
13 ished during his term of office. No member of council shall
14 receive any additional emolument, allowance or perquisite of any
15 account, save the compensation hereinbefore in this section pro-
16 vided.

Vacancies in office.

Sec. 10. (a). A majority of the councilment elected shall have
2 authority at any meeting of the city council to appoint one of
3 their number to serve *pro tempore* as chairman or mayor, in the
4 event of the absence from the city or such meeting or disability
5 of the regular mayor. Vacancies in the council shall be filled for
6 the unexpired term by a majority of the remaining members.
7 In the event of the death or resignation of the regular mayor the
8 vacancy in the office of mayor for the unexpired term shall be
9 filled by council.

10 (b) The filling of any vacancy, except that of mayor, shall
11 take into account the ward of the member whose place has been
12 vacated and his successor must reside in such ward. Removal
13 from a ward shall vacate the seat of a councilman residing in such
14 ward at the time of his election.

Who Are Voters.

Sec. 11. Every person who has been a *bona fide* resident of the
2 city for six months next preceding the city election therein, and
3 who is a qualified voter under the constitution and laws of this
4 state, shall be entitled to vote at any city election, in the ward in
5 which he actually resides. But no person shall be deemed a resi-
6 dent of such city by reason of being a student of any school or
7 college therein, or by reason of being stationed therein for any
8 temporary purpose.

First Election of Officers.

Sec. 12. No election for council shall be held hereunder before
2 the first Thursday after the first day of January, one thousand

3 nine hundred and twenty-two, but the members of council holding
4 office at the time this charter goes into effect shall continue in
5 office as provided for under section eight-a hereof. On and after
6 the election to be held on the first Thursday after the first day of
7 January, one thousand nine hundred and twenty-two, one-half
8 of the councilmen from each ward shall be elected annually by the
9 voters of such ward for a term of two years from the first day
10 of February following, or until their successors are duly elected
11 and qualified, unless sooner removed in the manner provided by
12 law.

Election.

Sec. 13. (a) The regular annual election in said city shall be
2 held on the first Thursday after the first day of January in each
3 year at which there shall be elected an equal number of councilmen
4 from each ward, as hereinbefore provided for. The election shall
5 be held, conducted, and the results thereof ascertained, certified,
6 returned and finally determined, under an ordinance of the com-
7 mon council of such city, which shall not be inconsistent with the
8 general statutes of the state governing municipal elections, and
9 shall conform as nearly as practicable to such statutes. Whenever
10 two or more persons receive an equal number of votes for the same
11 office, if such number be the highest cast for such office, the persons
12 under whom the supervision of the election is held shall decide by
13 lot which of them shall be returned elected, and shall make their
14 return accordingly. All contested elections shall be heard and
15 decided by the common council.

16 (b) All other elections or votes on any question by the quali-
17 fied voters of said city shall be held or taken at such places under
18 the superintendency of such persons and subject to such regula-
19 tions as are by the council ordained and consistent with the laws
20 of the state.

21 (c) The council shall by ordinance provide for the adoption
22 and use by the city in all city elections of the regular biennial
23 county registration, and any person who shall become a resident
24 of the city, after such annual registration lists have been filed by
25 the county authorities, and who shall establish his right to vote in
26 city elections may register with the city clerk at any time until
27 the third day before the day on which a city election is held, and
28 his name shall be entered on such registration list.

29 (d) In all city elections for councilmen the names of the
30 candidates for council in each ward shall be arranged alphabeti-
31 cally without party designation or symbol, whether such candidates
32 are nominated by political parties or by petition, or such other
33 methods as are provided by law.

Qualifications of Officers.

Sec. 14. (a) Every city officer, before he enters upon the duties
2 of his office, shall make, before some one authorized by law to ad-
3 minister oaths, and file with the city clerk, an oath or affirmation
4 to support the constitution of the United States, and of the state
5 of West Virginia, and to perform faithfully, honestly and im-
6 partially the duties of his office, to the best of his skill and judg-
7 ment. No person except citizens entitled to vote in said city shall
8 be elected or appointed to any municipal office therein.

9. (b) Such officers and employees of the city as the council
10 may determine by ordinance, shall, respectively, furnish and file.
11 after approval thereof by the council, as to form and security, their
12 bonds with the city clerk in such penalties, respectively, and with
13 such conditions as are fixed by such ordinance, with such cor-
14 porate or other surety or securities hereinbefore mentioned, pay-
15 able to the city. The furnishing of such bond shall be a necessary
16 part of the qualification of such officers or employees. The bonds
17 of all appointive officers required to give bond shall also be ap-
18 proved, as to form, by the city solicitor. No officer or employee
19 of the city of whom a bond is required, shall enter into the dis-
20 charge of his official duties or of the duties which he is employed
21 to discharge, until his bond has been approved and duly filed.

Meeting of Council.

Sec. 15 (a) The first meeting of such council shall be held on
2 the Tuesday next after this charter shall become effective, or as
3 soon thereafter as practicable, commencing at seven o'clock p. m.,
4 or as soon thereafter as a quorum of members shall be in attend-
5 ance, in the room or chamber in the city hall in said city, known
6 as the council chamber; or, if the meeting cannot be held in such
7 chamber, it shall be held at such convenient place in said city as
8 the majority of such members shall elect, the residue of such mem-
9 bers having first received reasonable notice of the time and place
10 of the meeting.

11 Subsequent meetings shall be held at such place in said city hall
12 or elsewhere in said city, and (commencing at such hour, as the
13 council shall from time to time determine), on Tuesday of each
14 week, unless a legal holiday shall occur on that day, in which event
15 the meeting shall be held on the succeeding Wednesday. Council
16 may hold special meetings at the place selected for their regular
17 meetings, commencing at such hour as they shall determine.
18 Special meetings of council may be called by the mayor, or any
19 three members thereof.

20. (b) The council shall be presided over at its meetings by the
21 mayor, or in his absence, by one of the councilmen selected by the
22 majority of the council present. A majority of the council shall
23 be necessary to form a quorum for the transaction of business.

Votes of Members.

Sec. 16. (a) The council shall be judge of the election and quali-
2 fications of its members, subject to the provisions of section four
3 of this charter. A majority of all members elected shall con-
4 stitute a quorum to do business, and the affirmative votes of a
5 majority of all members elected shall be required for the adoption
6 of any ordinance or resolution. Every ordinance or resolution
7 passed by the council shall be signed by the mayor or mayor *pro*
8 *tempore*, and filed by him with the clerk within two days and by
9 him recorded.

10. (b) No member of the council shall vote upon any order,
11 measure, resolution, or proposition, in which he may be interested
12 otherwise than as an inhabitant of such city. Upon the call of
13 any member the yeas and nays on any question shall be taken
14 and recorded in the journal.

15. (c) The mayor shall have a vote as a member of the common
16 council, but in case of a tie the motion shall fail. The city clerk
17 shall have no vote, but act as clerk of said body only.

Records of Council.

Sec. 17. The council shall cause to be kept in a well-bound
2 book called the "Council Journal" an accurate record of all its
3 proceedings, by-laws, ordinances, orders, and resolutions, which
4 shall be fully indexed, and shall be open to the inspection of any
5 one who is required to pay taxes to such city. The records of
6 the former towns of Morgantown, South Morgantown, Seneca,

7 and Greenmont, shall remain with the council of said city, and
8 it shall make suitable provisions for the safe-keeping and preser-
9 vation of the same. At each meeting of the council the proceed-
10 ings of the last meeting shall be read, corrected if erroneous, and
11 signed by the presiding officer for the time being.

Powers and Duties of Council.

Sec. 18. (a) The council of said city shall have power therein to
2 lay off, vacate, close, open, alter, curb, pave, and keep in good re-
3 pair, roads, streets, alleys, sidewalks, cross-walks, drains and gut-
4 ters for the use of the inhabitants thereof and of the public, and to
5 improve and light the same, and to have them kept free on and
6 over them; to regulate the width of sidewalks on the streets,
7 roads and alleys, and to order the sidewalks, drains and gutters to
8 be curbed and paved and kept in good order, free and clean, by own-
9 ers or occupants of the real property next adjacent thereto; to es-
10 tablish and regulate markets, prescribe the time of holding the
11 same, provide suitable and convenient buildings therefor, and pre-
12 vent the forestalling of such markets; to prevent injury or annoy-
13 ance to the public or individuals from any thing dangerous, of-
14 fensive, or unwholesome; to regulate, or prohibit slaughter houses,
15 tan-houses, tan-yards, soap factories, and all other structures for
16 carrying on any business, trade or employment in said city that
17 is unhealthy, offensive, or dangerous; to abate any nuisance
18 within the city limits, or to require and compel the abatement or
19 removal thereof by the person causing the same, or at his expense,
20 or by the owner or occupant of the ground on which such nuisance
21 exists or at the expense of the owner of such ground; to cause to
22 be filled up, raised, or drained, by the owner thereof or at his ex-
23 pense, any lot or tract of land covered with stagnant water; to pre-
24 vent hogs, horses, cattle, sheep, and other animals, and fowls of all
25 kinds from going at large in such city; to provide for impounding
26 and confining all kinds of cattle, dogs, animals, and fowls running
27 at large within said city, until the fines and penalties therefor
28 have been paid, and in default of such payment to make sale of the
29 cattle, animals, or fowls impounded to satisfy such fines and pen-
30 alties; to protect places of divine worship, and to preserve order
31 in and about the places where held; to regulate the keeping of gun
32 powder and other inflammable or dangerous substances; to provide
33 in or near the city places for burial of the dead, and to regulate

34 the interment therein; to provide for the regular building of
35 houses or other structures; to provide for the making and main-
36-37 tenance of division fences and party walls by the owners of ad-
38 jacent premises; to provide for the proper drainage of lots or
39 other parcels of land, by the owner or occupant thereof, or at his
40 expense; to make regulations for guarding against danger by fire;
41 to impose punishment for assault, assault and battery, and breach
42 of the peace; to prohibit maintaining, loitering in or visiting
43 houses of ill-fame, or loitering in saloons, upon the streets, or in
44 any public place; to define offenses against good morals and de-
45 cency and provide penalties therefor; to prevent the illegal sale of
46 all intoxicating liquors, mixtures, and preparations; to make use
47 of the county jail of Monongalia county for a city prison, and
48 to provide a separate prison for the city; to erect, own, control,
49 and maintain, or authorize or prohibit the crection of any water-
50 works in the said city or any gas plant, or electric light plant, for
51 light, heat, and power, or for either of said purposes; to prevent
52 and punish any pollution of the water supply within said city,
53 and to prevent and punish any injury to any gas plant, electric
54 plant, or waterworks within said city; to provide for and regulate
55 the weighing or measuring of hay, coal, lumber, and other articles
56 sold or kept for sale in the city, and to establish rates and charges
57 therefor; to protect the person of the inhabitants of the city; and
58 to protect all property, public and private, within the city; to
59 preserve the peace and good order therein; to preserve and pro-
60 mote the health, safety, comfort, and well being of the inhabitants
61 thereof; to provide for the appointment of a suitable police force;
62 to provide for the examination, regulation and licensing of sta-
63 tionary engineers, and others having charge or control of station-
64 ary engines, boilers, or steam generating apparatus within said
65 city; to provide a revenue for the city and apply the same to its
66 purposes; to provide for the annual assessment of taxable prop-
67 erty therein; to impose a license tax on persons or companies
68 keeping for hire carriages, buggies, wagons, or vehicles of any
69 kind, or for carrying passengers for pay in such city; to require
70 and take from any officer when deemed necessary a bond, payable
71 according to law, with such sureties, and in such penalty as the
72 council may see fit, conditioned for the faithful discharge of the
73 duties of the office; to adopt rules for the transaction of business
74 and for the government and regulation of its own body.

75 (b) The enumeration of certain powers of council herein
76 shall not be construed to limit the power of council to those pow-
77 ers enumerated to the exclusion of all or any other powers which
78 are not contrary to the constitution or any general law of this
79 state or of the United States; and all such powers not in such
80 conflict are hereby granted to said council whether enumerated
81 herein or not.

Enforcement of Powers.

Sec. 19. To carry into effect these enumerated powers, and all
2 other powers conferred upon such city, or its council, by this act
3 or by any other future act of the legislature of this state, the
4 council shall have power to make and pass all needful orders, by-
5 laws, ordinances, resolutions, rules and regulations, not contrary
6 to the constitution and laws of this state; and to prescribe, im-
7 pose, and enact reasonable fines, penalties, and imprisonments in
8 the county jail or other place of imprisonment in said corpora-
9 tion, if there be one, for a term not exceeding thirty days for a
10 violation thereof. Such fines, penalties and imprisonments shall
11 be recovered and enforced under the judgment of the mayor of
12 such city, or the person lawfully exercising his functions.

Annual Estimate of Expenditures.

Sec. 20. The council shall cause to be annually made up and
2 entered upon its journal not later than the first day of July in
3 each year, an accurate estimate of all sums that are, or may be-
4 come, chargeable to such city, and which ought to be paid, within
5 one year; and it shall order a levy of so much as may, in its
6 opinion, be necessary to pay the same.

Annual Levy.

Sec. 21. The levy so ordered shall be upon all dogs in the said
2 city, and upon all real and personal property therein subject to
3 state taxes upon the basis of the valuation of such property as
4 fixed for city purposes; but the taxes so levied upon property
5 shall exceed the rate of one dollar on every one hundred dol-
6 lars of the valuation thereof, in any one year for current purposes,
7 unless authorized by ordinance in the manner prescribed by law.

City Assessments.

Sec. 22. The council shall appoint three citizens of the city
2 who are free holders and entitled to vote, not more than two of
3 whom shall belong to the same political party, who shall constitute
4 for the city a board of review and equalization; but no two of
5 said board shall be appointed from the same ward; said board
6 shall annually elect one of their members as president and two of
7 the members of said board shall constitute a quorum for the trans-
8 action of business; the salary of the members shall be fixed by
9 council at a reasonable amount per day for each day actually in
10 session of not less than six hours, and for such number of days as
11 council shall deem necessary, and shall be provided for and paid
12 out of the city levy for the current year. The term of office of
13 such members shall begin at the date of appointment and shall
14 continue for the term of three years, except that at the first meet-
15 ing of such members they shall designate by lot, or otherwise, in
16 such manner as they may determine, one of their board who shall
17 hold his office for the term of one year, one for two years and one for
18 three years, so that one shall be appointed every year; any mem-
19 ber may be removed for cause by the council and the vacancy
20 filled by it. Every member so appointed shall within ten days after
21 his appointment take the oath or affirmation prescribed by section
22 five of article four, of the constitution of West Virginia, and such
23 oath shall be certified by the person who administers the same
24 and filed with the city clerk. The board of review and equaliza-
25 tion shall annually, not later than the first day of August, meet at
26 the municipal hall for the purpose of reviewing and equalizing the
27 assessments of the city as returned by the assessor, and shall not
28 adjourn said session for longer than three days at a time until the
29 work of review and equalization is completed; at which time the
30 county assessor shall submit to the said board for its inspection
31 the land books, covering the real estate in the City of Morgan-
32 town, for the current year as prepared by him, and approved by the
33 board of review and equalization of the county; said board shall
34 proceed to examine and review the land books and have the same
35 copied for the city. Said board for the purpose of equalization,
36 shall for city purposes, have the power and authority to change
37 the assessed valuation of any lot or parcel of ground in the city,
38 and of the buildings and improvements thereon, but the aggre-

39 gate assessed valuations of the real estate and buildings and im-
40 provements thereon within the city as fixed by the said city board
41 of review and equalization shall not exceed the aggregate valua-
42 tions of the same as fixed and determined by the assessor, after
43 the review thereof by the county board of review and equalization.
44 And for the purpose of aiding the city board of review and equali-
45 zation in ascertaining and fixing the valuation of real estate of the
46 city, the board shall have authority to employ such clerical and
47 other assistance as it may deem necessary and proper. The said
48 board shall have authority of its own motion or on sufficient
49 cause being shown by any person, to add to said land books the
50 names of persons the description and value of real estate liable to
51 assessment in the city omitted from said assessment books by the
52 assessor; they shall correct all errors in names of persons, in the
53 description of property upon such books and in the assessment
54 and valuation of property thereon, and they shall cause to be done
55 whatever else may be necessary to make said assessment as
56 returned by the assessor comply with this provision of the charter;
57 the board shall pass upon each valuation and each interest and
58 shall enter the valuation of each as fixed by it in a separate column
59 in the city land books prepared for the purpose; if it shall be
60 determined by said board that any property or interest is assessed
61 too high or too low, it shall reduce or increase the value of such
62 property as in the judgment of the board is necessary to equalize
63 valuations in the city, but in no event shall the aggregate assessed
64 valuations of the real estate of the city, as fixed and determined by
65 the board, exceed the aggregate assessed valuation of said real
66 estate as fixed and reported by the assessor.

67 After said board shall complete the review and equalization of
68 the land books of the city, a majority of said board shall endorse
69 and sign a statement to the effect that the same is the completed
70 real estate assessment of said city for the year for which it has
71 been prepared and approved by the city board of review and equal-
72 ization; then said land books shall be delivered to the city clerk
73 and the levies upon same extended and the tax tickets or
74 receipts prepared as provided. If any tax-payer of the city be
75 dissatisfied with the valuation of his property as fixed by the
76 board, he shall have the right to apply to the board for relief and
77 may within thirty days after adjournment of the board of review
78 and equalization apply for relief to the circuit court of the county;

79 but he shall before any such application is heard, give ten days
80 notice to the city solicitor, whose duty it shall be to attend to the
81 interests of the city in the matter. And in case of appeal from the
82 decision of the board, the party taking such appeal shall have the
83 evidence taken at the hearing of such application before the board
84 of review and equalization, certified by said board. If upon the
85 hearing of such appeal it is determined that the assessment of any
86 such real property is unequal and not uniform, with other real
87 property in said city similarly situated, the court shall be an order
88 entered of record correct every such assessment, so that the
89 assessed value of such real property shall be equal and uniform
90 with the assessed value of other real estate in said city similarly
91 situated.

Licenses.

Sec. 23. (a) The council may by ordinance require that suitable
2 magazines or places shall be provided in or near said city for the
3 storage of gun powder, dynamite, petroleum and the volatile pro-
4 ducts thereof, and all explosives and combustible and dangerous
5 articles, make and enforce such regulations as it may deem neces-
6 sary respecting the place and manner of transporting the same,
7 and assess and collect an annual license tax for the keeping and
8 selling of any or all such articles.

9 (b) The council may by ordinance regulate theatrical exhibi-
10 tions, public shows, musical performances and hypnotic exhibi-
11 tions, and all performances to which admission is obtained by the
12 payment of money or other reward, and grant or refuse license for
13 any of such performances, and levy and collect taxes on the same.

14 (c) The council may grant license to owners and keepers of
15 horses, hacks, carts, wagons, drays, automobiles, bicycles and
16 every description of wheeled vehicles kept within the said city; levy
17 and collect license taxes as well as other taxes thereon, and sub-
18 ject the same to such regulations as the interest or convenience of
19 the inhabitants of said city, in the opinion of the council, may
20 require. The council shall also have authority to license and col-
21 lect license taxes from hawkers and peddlers within said city, and
22 persons who rent temporary quarters or who temporarily station
23 themselves upon a street to sell or exhibit articles, must take out
24 and pay the license required by the city of hawkers and peddlers.

25 (d) It shall be unlawful for any person, in said city, to hold
26 himself or herself out as a fortune-teller, clairvoyant, mindreader

27 or palmist, and purport and claim to tell the future or the past
28 by the above or any other hidden and secret methods or science, or
29 to practice the above callings, avocations or professions, and the
30 council may pass an ordinance prohibiting the same and prescrib-
31 ing penalties for its violation. Nothing in this section contained
32 shall be construed so as to regulate or control any religious asso-
33 ciation or body.

34 (e) The council may by ordinance regulate sales at
35 auction within said city, and levy and collect taxes upon
36 such sales; grant or refuse licenses to auctioneers, and
37 loan agencies, and levy and collect taxes upon such licenses,
38 in addition to any tax which may be payable to the
39 state; *provided, however*, that nothing herein contained
40 shall be construed to authorize any interference by the
41 corporate authorities of the city with, or the imposition of any
42 tax upon any sale made under the judgment or decree of any court
43 of justice in this state, or made by a trustee under a deed of trust
44 given *bona fide* in this state to secure debt.

45 (f) The council shall have exclusive authority within said
46 city, by ordinance, to grant or refuse license to the keepers of ho-
47 tels, inns and taverns, houses of public or private entertainment,
48 not used for immoral purposes, boarding houses, public eating
49 houses, places of public amusement, and boarding stables or sta-
50 bles for keeping and feeding horses and mules for compensation;
51 *provided, however*, that persons keeping an inn, hotel or tavern,
52 with stabling attached, shall not be required to have any other
53 license than the license to keep an inn, hotel or tavern, by reason
54 of their keeping and feeding horses and mules for compensation.
55 The council shall further have authority, by ordinance, to regulate
56 the manner in which such horses or places shall be kept, and to
57 levy and collect a license tax from every person licensed under the
58 authority of this section, in addition to all other taxes imposed
59 upon him or his property.

60 (g) The council may by ordinance require city license from
61 persons conducting the business of pawn broker or loan agent in
62 the city by lending money or other thing of value for profit for
63 or on account of personal property deposited with the lender in
64 pledge or left in the possession of the borrower and secured to the
65 lender by lien, pledge, mortgage, or deed of trust.

66 (h) The council may also, by ordinance, restrict or regulate
67 fees to be charged to patrons by money brokers, pawn brokers
68 loan agents, private bankers and others engaged in like business,
69 in said city, for examinations of title, applications, examinations of
70 property, appraisements, renewals, transfers, or any other paper
71 writing to be signed by such patrons, or for anything else con-
72 nected with a loan, and may safeguard the public against unscru-
73 pulous, unfair or exorbitant charges by any such brokers, loan
74 agents, bankers and others engaged in like business, in said city.

75 (i) The council may by ordinance require city license for per-
76 sons conducting and carrying on any business or vocation in the
77 city for which the state may now or hereafter require license.

78 (j) The council may by ordinance subject any person or per-
79 sons, who without having obtained a city license therefor, shall do
80 any act, or follow any employment or business in said city, for
81 which the council is or shall be authorized to grant license, to any
82 fine or punishment which they are authorized to impose or in-
83 flict for the enforcement of their ordinance.

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, market
3 grounds, and public squares, or extend or widen the same, first
4 having obtained title to the ground necessary for the purpose,
5 and grade any street, walk, alley, market ground or public square
6 which is or shall be established within said city, pave or other-
7 wise improve the same, and cause them to be kept open in good
8 repair, and generally ordain and enforce such regulations re-
9 specting the same, or any of them, as shall be proper for the
10 health, interest or convenience of the inhabitants of said city.

11 (b) The council may by ordinance have all work done with-
12 out the intervention of contractors or middlemen, but shall not
13 be compelled so to do.

14 (c) The council may cause to be taken or damaged for the
15 use of the city, for streets, alleys, markets, bridges, public
16 squares, parks, playgrounds and other municipal purposes in-
17 cluding occupation by sewer, water pipes, gas pipes, heating pipes,
18 compressed air pipes, and electric or other subways, any private
19 property within the city, (and where such use is to secure or im-
20 prove the water supply, or for park, playground, sanitary or cen-
21 tery purposes, outside the limits of the city), but no such prop-

22 erty shall be taken or damaged without just compensation. The
23 compensation, if it cannot be determined by agreement with the
24 owner of the property so taken or damaged, shall be ascertained
25 in such manner as is or may be, prescribed by general law for the
26 condemnation of land for public purposes.

27 (d) Council shall have full power and authority to make
28 and provide, by ordinance, laws, rules and regulations for the
29 establishing or changing of the grades of any sidewalk, footway
30 or gutter in said city to grade, re-grade, curb, re-curb, pave and
31 re-pave any such sidewalk, footway or gutter and keep the same
32 clean, in such manner and time as the council shall pro-
33 vide by ordinance, and to provide for such work to be done at the
34 expense of the city and to assess the amount of such expense
35 upon such real property or the owner or occupant thereof, and to
36 provide for the collection of the same, either in cash or in yearly
37 interest bearing payments not exceeding ten years, in the same
38 manner as herein provided for the collection of city taxes.

39 (e) The council shall have full power and authority to pro-
40 vide by ordinance for the establishment of a method to be fol-
41 lowed in all street grading, paving and re-paving from time to
42 time with any suitable material therefor, depending upon the
43 character of the traffic and the grades and other conditions upon
44 any particular street and such ordinance may provide for the
45 assessment of one-half of the cost of such grading, re-grading,
46 paving and re-paving to the owners of lots, the fractional parts
47 of lots abutting on that part of streets or alleys so paved in
48 yearly interest bearing payments, not exceeding a period of ten
49 years, in proportion to the distance such lot or part of lot abuts
50 on such street or alley so graded, re-graded, paved or re-paved
51 subject, however, to the following provisos:

52 (1) That, where any part of said street or alley so paved or
53 about to be paved is occupied or used by any public service or
54 public utility company, the council shall provide for assessing
55 such portion of the total cost of such grading, re-grading, pav-
56 ing or re-paving, as may be provided for in the respective fran-
57 chises, for the distance such street is so occupied by such public
58 service or public utility company, including the intersections of
59 cross streets and alleys, and shall provide for assessing the re-
60 mainder of the cost of such grading, re-grading, paving or re-
61 paving, including such cross streets, alleys, etc., to the abutting

62 property owners on both sides of such street, in proportion to
63 their frontage thereon, taking the entire distance such street is
64 traversed by such public service or public utility company as the
65 basis for such assessment.

66 (2) Council shall have power and authority to pro-
67 vide by ordinance for the issuing by said city of tem-
68 porary interest bearing certificates of indebtedness, pay-
69 able on from one to ten years from the date thereof,
70 to cover cost of such grading or re-grading, paving or
71 re-paving, but the amount thereof, issued in any one
72 year shall not exceed the amount of the assessments remaining
73 unpaid by property owners hereunder for such year.

74 (3) Nothing herein contained however, shall authorize and
75 empower council to cause the owner or occupant of any lot or
76 parcel of ground abutting on such street or alley to pay for or be
77 assessed with the cost of such grading, or re-grading, paving or
78 re-paving, within fifteen years after such street or alley has been
79 graded and paved or re-paved, at the cost and expense of the
80 property owners abutting thereon.

81 (4) Council shall provide for all necessary grading at the
82 city's expense upon any street or alley ordered by it to be
83 graded and paved for the first time, in order to equalize the cost
84 of paving in the first instance and repaving those streets and
85 alleys heretofore graded and paved at the city's expense.

86 (5) Nothing herein contained however, shall prevent the
87 council from including the grading of any street or alley, or part
88 thereof, and the paving of the cross streets or cross alleys and the
89 assessment of the entire cost thereof against the property owners
90 adjacent thereto in proportion to their frontage upon both sides
91 of such street, whenever the owners of a majority of the frontage
92 abutting upon both sides of said street shall petition council so
93 to do and for the purpose of this section the distance to be paved
94 as a unit shall not be limited to one city block between cross
95 streets, but shall be for the entire distance petitioned to be paved.

96 (6) Immediately upon the completion and acceptance of any
97 such paving, the council shall direct the city clerk to cause to
98 be published a notice, which shall name and describe the loca-
99 tion of the portion of the street or alley upon which said paving
100 shall have been constructed; give the name or names of the own-
101 ers of each lot abutting or bounding upon such portion of the

102 street or alley, if known, and if the name or names of the owner
103 or any lot or fractional part of a lot are unknown, such lot shall
104 be described with reasonable certainty in order that the same
105 may be identified; and the number of feet that each lot or frac-
106 tional part of a lot abuts upon such paved portion, as well as the
107 amount assessed against each lot or fractional part of a lot for
108 the cost of the paving. Said notice shall cite all owners of lots
109 or fractional parts of lots, abutting upon the portion of the street
110 or alley which has been paved, to appear before the council at a
111 regular meeting thereof, within thirty days from the first publi-
112 cation of the notice, and show cause, if they can, why the assess-
113 ment aforesaid should not become final, which notice shall be
114 published once a week for two successive weeks in one or more
115 newspapers of general circulation published in said city. The
116 council shall upon the request of any one or more of the owners
117 of said lots or fractional parts of lots, appoint a day to hear the
118 grievances of said owner or owners, and may alter or amend any
119 assessment made against any one or more of said owners for
120 good cause shown. The city clerk shall give notice to all per-
121 sons claiming to be injured by said assessment, of the time and
122 place of holding the meeting of the council to hear such griev-
123 ances, which meeting shall be held within ten days after the clerk
124 shall have given the last mentioned notice. The council may ad-
125 journ the hearing from time to time. In case any owner or owners
126 of abutting property fail within such thirty days to complain to the
127 council of any grievance or injury they may have suffered by
128 reason of the assessment aforesaid, or to appear before the coun-
129 cil for the purpose of having the same corrected on the day ap-
130 pointed by the council for the hearing of such grievances as have
131 been complained of, the assessment as laid shall be final. The
132 findings of such council shall be subject to correction by said cir-
133 cuit court upon appeal, which must be taken and perfected
134 within thirty days from the finding and be heard and deter-
135 mined by such court without delay, having precedence of other
136 cases on the court's docket. The rights conferred by this sec-
137 tion are cumulative and shall not be exhausted as to any particu-
138 lar street or alley by reason of having been once exercised.

139 (7) All moneys appropriated for the paving, re-paving or re-
140 pairing of streets or alleys shall be used for such purposes only,
141 and the revenue received by the city from assessments against

142 any and all property or property owners shall be placed in special
143 funds, and shall be applied to the city's liabilities on that par-
144 ticular improvement.

145 (8) In any case however, where any street or alley in said
146 city shall be paved by the state, county or district, thereby mak-
147 ing it unnecessary for the city to pave the same under any of
148 the provisions of this section, the city shall have the power to
149 assess a special maintenance assessment against the properties
150 abutting on so much of said street or alley so paved to be applied
151 to the maintenance of all streets and alleys of the city, and the
152 amount of which shall be the approximate cost of the said pav-
153 ing based upon the frontage of each particular property abutting
154 thereon.

155 (f) The council may by ordinance establish the width of
156 any sidewalk along any street, alley or part thereof, and require
157 the owner or owners of any ground fronting on such sidewalks
158 adjacent to their property to pave or re-pave the same; and in
159 case of the failure or refusal of such owners so to do, the city
160 may cause same to be properly paved, or re-paved at the expense
161 of such owner or owners; and the council shall have power, by
162 ordinance, in like manner, to require the owner or owners of
163 property adjacent to any paved sidewalk whether heretofore or
164 hereafter constructed, to keep such sidewalk in repair, and in de-
165 fault of his or their so doing, to cause the same to be repaired
166 and assess the cost thereof upon such owner or owners. It shall
167 be lawful for the officer authorized by the council to collect any
168 such tax or assessment for the cost of such paving or re-paving to
169 collect the same from the owner or owners of such grounds at
170 once by distress and sale as provided in section twenty-five of this
171 charter, and such assessment shall be a lien upon such adjacent
172 property, which may be enforced as taxes assessed upon the real
173 estate for the benefit of the city.

174 (g) In all cases where the city is compelled to construct or
175 lay sidewalks under this section, it shall include a commission
176 of not exceeding twenty per cent for the time of its employees in
177 supervising such construction, laying the assessment, and collect-
178 ing the same over and above the actual cost to it of such im-
179 provement.

Lien for Taxes, Assessments, Etc.

Sec. 25. There shall be a lien on all real estate within the 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 the
7 same manner now provided by law for the enforcement of the lien
8 for state or county taxes or in such other manner as the council
9 may by ordinance prescribe. There shall also be lien on all real
10 estate within the city for other assessments, fines, and penalties
11 assessed or imposed upon the owners thereof by the authorities of
12 the city from the time the same are so assessed or imposed, which
13 shall have priority over all other liens except the lien for taxes,
14 and may be enforced by the council by suit in equity, in the cor-
15 porate name of the city, in the same manner now prescribed by
16 law for the enforcement of the lien for state or county taxes, or
17 in such other manner as the council may by ordinance prescribe.
18 If any real estate within the city be returned delinquent for the
19 non-payment of the taxes thereon, a copy of such delinquent list
20 may be certified by the council to the auditor, and the same may
21 be sold for taxes, interest and commission thereon in the same
22 manner, at the same time and by the same officer as real estate
23 is sold for the non-payment of state taxes.

Garbage Removal and Disposal.

Sec. 26. Council shall provide by ordinance for the systematic
2 collection, removal and disposal of all garbage of every kind and
3 character under the control, management and at the expense of
4 the city, and for such rules and regulations as shall by it be
5 deemed necessary, advisable or expedient in the collection, re-
6 moval and disposal of the same; and should the expense thereof
7 be found to be excessive for the revenue of the city, the council
8 shall have the power to provide by ordinance for the laying of a
9 special levy for that purpose sufficient to provide funds therefor.

Annual Audit of Accounts.

Sec. 27. At the end of each year the city shall cause a full and
2 complete examination and audit of all the books and accounts of
3 city to be made by competent accountant or accountants and shall

4 publish in two daily newspapers of said city the fact that such
5 audit has been made and is on file in the office of the city clerk
6 where the same shall be constantly open during reasonable office
7 hours to the inspection of any one at any time thereafter.

8 And such right to such audit shall be in lieu of the provision of
9 the general law requiring the publication of an annual statement
10 of receipts and disbursements of the city.

Exemption from District Poor and Road Levies.

Sec. 28. The city shall support its own poor, and shall con-
2 duct and maintain its own roads and streets; and by reason thereof
3 shall not be required to pay any district poor levies for the support
4 of the poor outside of the city limits, or any district road taxes
5 for the construction and maintenance of roads outside of the city
6 limits; but the county court shall remain at present chargeable
7 for the construction and maintenance of bridges within the city.

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 Morgantown
3 to a use, which will destroy, impair or injure the use of such
4 street or streets for ordinary travel in ordinary modes. The
5 council shall carry this provision into effect by appropriate ordi-
6 nance or ordinances.

7 (b) Council shall have full power and authority to provide by
8 ordinance certain of the streets and alleys of the city as routes for
9 the transportation and haulage of commodities and to classify
10 such commodities and to specify the streets and alleys over which
11 certain classes shall be hauled and transported, and otherwise to
12 regulate the traffic of the city in such manner as in its judgment
13 will protect the streets and alleys of the city and promote the public
14 interest.

15 (c) Council shall have full power and authority to provide by
16 ordinance for the construction, maintenance and repair of all
17 streets and alleys in said city, and to provide rules and regulations
18 for the laying of water and gas lines and street car tracks thereon,
19 and for the construction of sewer pipes and sewer system thereon,
20 and to provide rules and regulations for the manner in which said
21 pipes and tracks shall be laid and relaid in such streets and alleys,
22 and to provide for the future needs of such pipes and their connec-

23 tions, and such street car tracks, and excavations therefor, and to
24 provide rules and regulations for excavations in such streets or al-
25 leys under the supervision of such city officials as council may by
26 ordinance provide, and the council shall have full power and au-
27 thority to provide by ordinance for the laying of gas, water and
27 sewer pipes, and street car tracks in any such street or alley, and to
29 provide that no such street or alley or part thereof, after being
30 paved, shall be open excavated, or in any manner interfered with,
31 except upon such conditions and terms as council may by ordinance
32 prescribe, and council shall have full power and authority to pro-
33 vide by ordinance for the relaying and re-location of such pipes and
34 their connections, and such street car tracks prior to the paving
35 or re-paving of any such street or alley.

36 (d) Council shall provide by ordinance for the requirement
37 upon all public utilities or public service corporations to place
38 or renew all pipes, conduits or other underground appliances, in-
39 cluding all connections therewith to the curb upon any street
40 to be paved sufficient to provide for the reasonably anticipated re-
40-a quirements of such company or companies for the probable life of
41 such paving and notice to that effect shall be given by the city
42 council a sufficient time in advance of the commencement of such
43 paving, not to exceed ninety days, to enable such public service
44 corporation or utilities corporation fully to comply there-
45 with, and upon their failure so to do, such public util-
46 ity corporation or public service corporation shall thereafter be
47 deprived of any rights under its franchise or franchises from the
48 city or otherwise of disturbing such paving to install such im-
49 provements to its plant, and council may at the expiration of
50 the time fixed in said notice, proceed with its paving
51 and not before.

52 (e) And before any streets of said city shall here-
53 after be paved and as preliminary to the paving there-
54 of, council shall provide reasonably adequate sewers, both
55 main and lateral, and including the connections to the
56 property line of said street.

57 (f) The council may by ordinance prohibit the disturbance
58 of any streets or alleys of the city, including the sidewalks or pub-
59 lic grounds of said city caused by digging therein for the bene-
60 fit of any private person, firm or corporation other than the city
61 itself, except by city employees under city supervision at the ex-

62 pense of such private person, firm or corporation, or under the
63 superintendence and control of the city itself; and may charge a
64 service fee to cover the permanent injury to such streets, alleys,
65 sidewalks or public grounds impossible to repair, and the council
66 shall by ordinance require the enforcement of these provisions in-
67 cluding the duty of making repeated repairs as often as the defect
68 so caused shall reappear.

69 (g) Council shall have full power and authority to provide
70 by ordinance for the issue and sale of bonds for the construction of
71 sewers in said city and for the construction of a municipal build-
72 ing or city hall, and for refunding the actual existing unsecured
73 debt at the time of the enactment of this charter, in the amount
74 of five per cent. of the value of all taxable property lying within
75 the limits of said city, which value shall be ascertained by the last
76 city assessment of the taxable property within said city previous
77 to the issuing of such bonds; and council shall have full power
78 and authority to provide by ordinance for the collection of a
79 direct annual tax, sufficient to pay annually, the interest on such
80 bonded indebtedness and the principal thereof, within not ex-
81 ceeding thirty-four years from the date of the issue of said bonds

The Police Officers.

Sec. 30. The chief of police shall be *ex-officio* a constable
2 within the corporate limits of this city. He may execute any writ
3 or process issued by the mayor or a justice of the peace at any
4 place in Monongalia county. He shall have all the powers, rights
5 and privileges within the corporate limits of the city in regard
6 to the arrest of persons, the collection of claims, and the execu-
7 tion and return of process, that can be legally exercised by a con-
8 stable of the district in which the said city is situated, and he and
9 his sureties shall be liable to all the fines, penalties, and forfeit-
10 ures that a constable of a district is liable to, for any failure or
11 dereliction in his office, to be recovered in the same manner and
12 in the same courts that the fines, penalties and forfeitures may be
13 recovered against such constable. All special police officers shall
14 have and possess all the powers, rights and privileges of a con-
15 stable of the district within the corporate limits of the city, in
16 regard to the arrest of persons, and the execution and return of
17 all criminal writs and process issued by the mayor; but the coun-
18 cil may exempt them from giving the bond required of constables.

Police Court.

Sec. 31. (a) The judge of the police court shall receive a
2 salary to be fixed by the council, and no other compensation shall
3 be allowed him. He shall preside over said police court and
4 try and determine all cases over which said court has jurisdiction.
5 In the event of his temporary absence or disability the council
6 shall appoint a member of the Monongalia county bar of good
7 standing to preside over said court, and perform the duties of the
8 judge thereof, during the absence or disability of the regular
9 judge, and the judge's salary shall be transferred to and paid such
10 temporary judge for the time he serves as such judge.

11 (b) The said police court shall have jurisdiction over all of-
12 fenses against, or violations of, the ordinances of said city, and full
13 authority to punish in any manner lawfully prescribed by such or-
14 dinances, the offenders against or violators of the same; *provided*
15 *however*, that no jury shall be allowed in any trial in said court
16 for the violation of any ordinance of said city.

17 (c) The proceedings for the recovery of the fine or for the en-
18 forcement of the penalty prescribed by any ordinance shall con-
19 form to the regulations so far as they are applicable, prescribed in
20 the code of West Virginia, for civil proceedings before justices of
21 the peace; but the judge or the clerk of said court may, for good
22 cause, shown by affidavit, by an endorsement upon the summons,
23 order the defendant or defendants, to be arrested and brought be-
24 fore the said court to be dealt with according to law.

25 (d) In cases where evidence discloses such a violation within
26 the city, of a law of the state that, in the opinion of the judge of
27 the police court, the person accused should be committed to await
28 the action of the grand jury upon an accusation made, the judge
29 of the police court shall have the same jurisdiction and power as
30 a justice of the peace in the county of Monongalia in regard to
31 the apprehension, commitment and admission to bail of the person
32 so accused; and in the exercise of such jurisdiction and powers
33 shall be governed by the same regulations.

34 (e) The sessions of said court shall be at such time and places
35 as the council of said city shall by ordinance direct.

36 (f) The said court shall have full power and authority to
37 enforce its orders and judgments, by any process of law which
38 may be necessary and proper for the purpose, and all processes,
39 executions and orders of said court shall be signed by the judge or

40 the clerk thereof. Such process and executions shall be directed
41 to the chief of police of said city, and be executed by him or one
42 of his deputies. In the execution of any process or order of said
43 court, the chief of police or deputy shall have the same powers,
44 be governed in his proceedings by the same rules of law, and be
45 subject to the same liabilities as the sheriff of Monongalia county,
46 West Virginia, in the performance of like services. There may
47 be charged for the services of such officer the same fees as the
48 sheriff is entitled to charge for like services, but all such fees, as
49 well as all fines imposed by said court, shall be collected by the
50 chief of police, and accounted for and paid by him to the treasurer
51 of the city. The city shall in no event be liable for any such fees.

52 (g) The clerk of said court shall have authority to administer
53 oaths within said city, and shall perform such duties as may be
54 required by the judge of said court, or be prescribed by rule or or-
55 der of the council. Such clerk may charge the same fees for his
56 services as are allowed to be charged by justices of the peace for
57 like services, and such fees shall be collected by him in like man-
58 ner as fees of the clerk of the circuit court are collected; but all
59 such fees shall be accounted for by him to the city and paid over to
60 its treasurer.

61 (h) A docket and other books required for the records and a
62 seal shall be provided for the said court by the council, and the
63 seal may be altered or renewed as the said court may direct. Full
64 faith and credit shall be given to the records of said court and the
65 certificates of its judge or clerk, whether the seal of said court be
66 fixed thereto or not, in like manner and with the same effect as if
67 the same were records of the circuit court or certificates of the
68 judge of a circuit court similarly authenticated.

69 (i) The said police court shall have power, upon rendering
70 judgment against a defendant charged with the violation of an
71 ordinance of the city, to render judgment against him also for the
72 costs of prosecution. In every suit or prosecution for the viola-
73 tion of an ordinance the said court shall cause the person or per-
74 sons at whose instance it was instituted to be designated upon the
75 warrant or writ issued to arrest or summon the person charged,
76 and if the person or persons charged shall not be convicted in such
77 court, and such court shall be of the opinion that no sufficient or
78 probable cause existed for the institution of the said suit or pros-
79 ecuton, then judgment for the costs of the city, and of the de-

80 fendant, or of either of them, as the court shall deem just, shall
81 be rendered against the person or persons at whose instance such
82 suit or prosecution was instituted.

Miscellaneous.

Sec. 32. (a) All officers of the city of Morgantown, who shall
2 collect or receive, or whose official duty it is, or shall be, to collect,
3 receive, hold or pay out any money belonging to, or which is or
4 shall be, for the use of said city, shall make annual account and
5 settlement therefor. Such settlement, when made, shall be sub-
6 ject to exceptions, and take such direction, and have only such
7 force and effect as may be provided by law; but in all cases, such
8 settlements shall be recorded and be open to examination of the
9 people, at such convenient place or places as may be appointed by
10 ordinance of the city.

11 Any person violating any of the provisions of this section shall
12 be guilty of a misdemeanor, and fined not less than fifty dollars
13 nor more than one hundred dollars, or imprisoned not less than
14 two nor more than twelve months, or punished by both such fine
15 and imprisonment.

16 (b) All contracts, grants, easements, rights, privileges or con-
17 sents on, in or relative to any street, alley, or public ground or
18 property of said city, made by the council of said city, or by any
19 board or officer thereof, prior to this charter taking effect, and all
20 other contracts, grants, easements, rights, privileges or consents,
21 entered into or granted by the said city or its council, at any time
22 prior to this charter taking effect, which are now in
23 force, or which may have been lawfully entered into or
24 granted, within any territory hereafter annexed to the city of
25 Morgantown, and be in force and effect when the an-
26 nexation is made, shall continue in full force and effect,
27 and be respected and complied with by the city of
28 Morgantown, and the council and other officers thereof
29 under this charter, and all indebtedness incurred by the
30 said city, prior to this charter going into effect shall
31 be binding upon the city of Morgantown, under this charter, and be
32 paid by it out of its revenues.

33 (c) All copies purporting to be copies of the ordinances of
34 said city or extracts from the journal or minutes of the council
34-a which shall be printed by the authority of the council,

35 or which shall be certified to be correct by the mayor of said city
36 under the seal thereof shall be received by all courts and magis-
37 trates of this state as *prima facie* evidence of the tenor of such
38 ordinances, and of the acts and proceedings of the council therein
39 set forth.

40 (d) This charter shall not invalidate any legal act done by
41 the council of the city of Morgantown, or any officer of said city
42 now or heretofore in office, and all ordinances, by-laws and regu-
43 lations, actions, resolutions and rules of any council of the city
44 of Morgantown in force immediately before the time this charter
45 takes effect, shall remain in force until altered, amended or re-
46 pealed by the council, provided for by this charter, in so far as not
47 in conflict with the provisions hereof.

48 (e) The council is empowered to define and locate voting pre-
49 cincts for elections in said city, which shall conform, so far as prac-
50 ticable, to the territorial areas of the election precincts in said
51 city for state and county elections, but there shall be only one
52 voting place in each precinct.

53 (f) All fees and money paid to an officer of the city, for any
54 official service, shall belong to the city and be paid at once into
55 the city treasury by such officer, the salary or compensation given
56 by the city to its officers respectively being all the compensation
57 they shall be entitled to for any official service.

58 (g) Any person who shall violate any of the provisions of this
59 charter for the violation of which no punishment has been provided
60 herein, shall be deemed guilty of a misdemeanor, and upon con-
61 viction thereof, shall be punished by a fine of not exceeding one
62 hundred dollars or by imprisonment in the county jail not ex-
63 ceeding one year, or by both such fine and imprisonment.

64 (h) In accordance with the provisions of the nineteenth fed-
65 eral amendment and laws of this state, women shall have the same
66 rights, privileges, and prerogatives as men, and the pronoun "he"
67 whenever used herein shall be construed to include women.

Repeal of Certain Acts

Sec. 33. (a) All acts and parts of acts which are in con-
2 flict and inconsistent with this act, are hereby repealed and de-
3 clared inoperative in so far 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 effect
7 without the invalid part.

Sec. 34. This act shall not be effective unless the same shall
2 first be submitted to the voters of said city at a special election
3 called for that purpose, and adopted by a majority of the votes
4 cast at said election. Said special election shall be held on the
5 first Tuesday in June, one thousand nine hundred and twenty-
6 one, after publication of the act one time not less than ten days
7 immediately preceding said special election in two daily news-
8 papers published in said city. Said special election shall be con-
9 ducted in the regular manner of holding municipal elections in
10 said city. If this act is adopted at said election, that fact shall
11 immediately be proclaimed by the present Mayor of said city and it
12 shall go into effect at the expiration of ten days after the date of
13 said election.

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

16 City of Morgantown
17 Charter Election.

18 (Indicate how you desire to vote by cross in the square).

19 [] For Adoption of Amended Charter.

20 [] Against Adoption of Amended Charter.

CHAPTER 16

(House Bill No. 4—Mr. Moore, of Marshall.)

AN ACT to amend and re-enact sections four, seven, thirty, thirty-
two, thirty-three and thirty-seven of chapter eighty-two of the
acts of the legislature of West Virginia of the year 1911, and
adding thereto sections sixteen-a and forty-nine-a, relating to the
charter of the city of Moundsville, in the county of Marshall,
granting to it additional charter powers, fixing salaries of cer-
tain officers and conferring additional power with respect to the
correction of sidewalk, street paving and sewer assessments.

[Passed January 25, 1921. In effect from passage. Approved by the Governor
January 26, 1921.]

SEC.
4. City officers: of whom composed,
qualifications, elected, appointed,
eligibility of; salary.

SEC.
7. Terms of different officers: coun-
cilman for each ward; qualified;
compensation.

SE.

- 16-a. City council; additional powers of.
30. City clerk; duty and power regarding finances; salary of.
32. City solicitor; duty, compensation.
33. Chief of police; duty towards officers; suspension of, additional powers of.
37. State commissioner; duty, compensation.
- 49-a. When assessments for construc-

SE.

tion of sidewalks, etc.; invalid, commission may re-assess same; before the assessment council will be given notice by publication; re-assessment, a lien; provisos forbidding re-assessments; council to correct erroneous and to levy omitted assessments; certain sections of previous acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections four, seven, thirty, thirty-two, thirty-three and thirty-seven of chapter eighty-two of the acts of the legislature of West Virginia of the year 1911 be amended and re-enacted so as to read as follows, and that sections sixteen-a and forty-nine-a be added thereto.

Section 4. The officers of said city shall be a mayor, clerk, who shall be ex-officio collector; solicitor, chief of police, health officer, treasurer, street commissioner, city engineer, sewer inspector, and two councilmen from each ward. The mayor and chief of police shall be elected by the qualified voters of said city. The clerk, health officer, solicitor, street commissioner, treasurer, sewer inspector and city engineer shall be appointed by the council, and the councilmen shall be elected by the qualified voters of their respective wards. No person shall be eligible to an elective office unless he is a qualified voter thereof, nor unless he has resided therein for at least six months before his election; and in the case of a councilman, unless he is a bona fide resident of the ward from which he is elected, and a freeholder of said city; and the removal of a councilman from the ward in which he was elected, or his ceasing to be a freeholder in said city, shall vacate his office, and no person shall be eligible to any city office unless he be a taxpayer and a qualified voter thereof.

In addition to the municipal authorities mentioned in this section the council may from time to time create and employ other officers and agents and fix their salaries and compensations.

Sec. 7. The term of office of the mayor and chief of police shall begin on the first Monday in April next succeeding their election and shall be for the term of two years, and until their successors shall have been elected and qualified. The clerk, solicitor, treasurer, health officer, street commissioner, city engineer and sewer inspector shall be appointed by the council and shall hold their office during the pleasure of the council. Any former incumbent

8 shall be ineligible for a second appointment unless he shall have
9 fully settled up the business of his former term or terms. At the
10 first election held after this act goes into effect, there shall be elect-
11 ed a mayor, and chief of police, whose term of office shall begin on
12 the first Monday in April next succeeding their election and shall
13 be for the term of two years, and until their successors are elected
14 and qualified; and one councilman from each ward, whose term
15 of office shall begin on the first Monday in April next succeeding
16 his election, and who shall hold office for the term of four years,
17 and until his successor is elected and qualified. On the same day
18 in each succeeding two years one councilman from each ward
19 shall be elected and shall hold office for four years from the first
20 Monday in April next succeeding his election and until his suc-
21 cessor is elected and qualified. But nothing in the section shall
22 be construed to invalidate the election or term of office of any
23 councilman elected to office and whose term of office began on the
24 first Monday in April in the year 1919, under the provisions of
25 section seven of the charter of said city of the act of
26 one thousand nine hundred and eleven.

27 The council of said city shall have the right to fix a compensa-
28 tion for the members thereof, which compensation, however, shall
29 not exceed fifty dollars per year to each member.

Sec. 16-a. In addition to the powers conferred upon the coun-
2 cil of said city by section sixteen of chapter eighty-two of the
3 acts of the legislature of the year 1911, express power
4 is hereby conferred upon the council to regulate and
5 control by proper ordinances the kind and manner of
6 plumbing and electric wiring to be done in said city and to provide
7 for an inspection of that already done and where found defective to
8 require the same to be put in a sanitary and safe condition and to
9 require permits and bonds from those engaged in said business in
10 said city; to regulate and control airships, airplanes, balloons,
11 wireless stations, and other appliances, for the safety of property
12 and persons in said city; to require plans and specifications for
13 buildings to be erected and repaired in said city to be submitted to
14 council or some officer appointed by council to inspect the same;
15 to regulate the limit within which it shall be lawful to erect any
16 steps, porticos, bay windows, bow windows, show windows, awnings,
17 signs, columns, piers, or other projections or structural ornaments
18 of any kind for the houses and buildings fronting on any street of

19 said city; to establish fire limits and to provide the kind of build-
20 ings and structures that may be erected therein and to enforce all
21 needful rules and regulations to guard against fire and danger
22 therefrom; to require, regulate and control the construction of fire
23 escapes for any buildings or other structures in said city; to regu-
24 late and control the use and storage of gasoline, oil and other in-
25 flammable liquids and to require permits from those engaged in
26 the dry cleaning, dye works and garage business and others in said
27 city using inflammable liquids; to provide for the removal of
28 trees that become obstructions to the sewers, sidewalks, streets and
29 alleys of said city at the expense of the owners thereof, and to re-
30 quire permits to plant trees and to prohibit the planting of trees
31 that in the opinion of council will be detrimental to the sewers,
32 sidewalks, streets and alleys, of said city; to require permits for
33 the placing of signs, billboards, posters and advertisements and to
34 provide for the removal of the same; to take down and remove, to
35 make safe and secure, any and all buildings, walls, structures
36 or super-structures at the expense of the owners thereof, that
37 are or may become dangerous, or to require the owners or their
38 agents to take down and remove them or put them in a safe and
39 sound condition at their own expense; to regulate hacks, taxi cabs,
40 hack stands and taxi cab stands and the rates to be charged by
41 persons, firms and corporations operating the same; to make suit-
42 able regulations in regard to the use of the streets, sidewalks, alleys
43 and public places, by street cars, motor vehicles, traction engines,
44 railroad engines and cars, and to regulate the speed, running and
45 operation of the same so as to prevent injury, inconvenience or an-
46 noyance to the public; to provide for the purity of water, milk
47 meats and provisions offered for sale in said city, and to that end
48 provide for an inspection of the same and make and enforce rules
49 and regulations relating to their sale, and to prohibit the sale of
50 any unwholesome or tainted milk, meat, fish, fruits, vegetables, or
51 the sale of milk containing water or other things not constituting a
52 part of pure milk; to provide for the inspection of dairies and
53 slaughter houses whether in or outside of the city where the milk
54 and meat therefrom are offered for sale within the city, and to pro-
55 hibit the sale of any article deemed unwholesome, and to condemn
56 the same or destroy or abate it as a nuisance; to require physicians
57 to report births, deaths and contagious diseases and to require of
58 them permits to practice their profession in said city; to provide

59 for the appointment of a sewer inspector, city veterinarian, build-
60 ing inspector and city electrician and define their duties and fix
61 their salaries; to regulate and provide for the weighing of produce
62 and other articles sold in said city, and to regulate the transporta-
63 tion thereof, and other things, through the streets, alleys and public
64 places; to have the sole and exclusive right to grant, refuse or re-
65 vote any and all licenses for the carrying on of any business
66 within said city on which the state exacts or may exact a license
67 tax; to restrain and punish vagrants, mendicants, beggars,
68 tramps and prostitutes; to make it unlawful for any common
69 gambler, known thief, common pickpocket or ex-convict (after
70 the latter's release from imprisonment in the penitentiary of
71 this state) to be or remain in said city, and to punish for viola-
72 tion of ordinances passed in pursuance of the powers heretofore
73 and hereby conferred on council even if the offenses under the
74 same shall constitute offenses under the laws of the state of
75 West Virginia or the common law. 6

Sec. 30. The said clerk shall receive all taxes, assessments,
2 fines and costs and other money due the city authorized by this
3 act, or by any ordinance of the said city, to be paid to the city,
4 and shall receipt for same; he shall keep an accurate account of
5 all money paid to him for the use of said city, showing under
6 separate accounts the amounts received for account of taxes,
7 sewer purposes, street pavement, licenses, fines and costs and of
8 other matters pertaining to his office, which books shall at all
9 times be open to the inspection of the council or to any committee
10 appointed by it for such purpose; he shall pay over promptly all
11 money which he may receive, within five days after the receipt
12 thereof, into the hands of the treasurer of the said city, showing
13 an itemized statement of the several funds included in said pay-
14 ment, taking the treasurer's receipt therefor; he shall keep his
15 office at the office of the mayor, unless otherwise ordered by the
16 council, and shall keep his office open for the transaction of busi-
17 ness during usual business hours, and as may be directed by coun-
18 cil; he shall on or before the first day of January and July of
19 each year and oftener if directed by council, present to the council
20 a full, complete and detailed statement of all money with which

21 he is chargeable, or that has been received by him from all
22 sources up to that time, together with a statement of all money
23 paid to the treasurer, and proper receipts therefor, and he shall
24 at such times return a list of all taxes, levies, assessments and
25 other claims in his hands for collection which he shall not have
26 been able to collect by reason of insolvency, removal, or other cause,
27 to which list he shall append an affidavit that he has used due
28 diligence to collect the several items therein mentioned, but has
29 been unable to do so, and if the council should be satisfied as to
30 the correctness of said list it shall allow him a credit for said
31 claims, but may thereafter take such lawful measures to collect
32 the same as shall be by it prescribed. The said clerk shall re-
33 ceive all taxes on licenses, and receipt to the party paying the
34 same by endorsement upon the permit granted by order of the
35 council and shall charge himself with the amount received from
36 the same, and report to the council at the next regular meeting
37 thereafter, the amount so received, and pay the same over to the
38 treasurer, taking his receipt for the same; he shall upon the ex-
39 piration of his term of office, or upon the order of council, turn
40 over to his successor all money, books of account and other prop-
41 erty of said city in his possession; he shall receive such salary as
42 may be fixed by the council, which shall not be less than at the
43 rate of one thousand dollars, nor more than one thousand five
44 hundred dollars per annum.

Sec. 32. It shall be the duty of the solicitor to prepare, when
2 directed by council, all ordinances for said city, to represent the
3 said city in all matters and proceedings in any court in which the
4 said city is interested, and counsel the said council when request-
5 ed; he shall receive as compensation for his services, to be fixed
6 by the council, not less than four hundred dollars nor more than
7 eight hundred dollars per annum.

Sec. 33. It shall be the duty of the chief of police to preserve
2 the order and quiet in said city, and to see that all subordinate
3 police officers faithfully perform their official duties, and he may
4 for good cause appearing to him, for neglect of duty or insub-
5 ordination, suspend any such officer from duty, and report his
6 action and his reason therefor to the next regular meeting of
7 council for action thereon; he shall make a list of all dogs within

8 said city liable to tax, collect the license tax thereon and pay the
9 same to the clerk, as may be provided by ordinance of said
10 city; he shall be present in police court whenever the same shall
11 be in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of council entered
13 of record, but not otherwise, appoint one or more policemen, as
14 the council may determine; he shall, before entering upon the
15 discharge of his duties, execute a bond conditioned for the faith-
16 ful performance by him of the duties of his office, and for the
17 accounting for and paying over, as required by law, all money
18 which may come into his hands by virtue of his office, with sure-
19 ties satisfactory to the council, in a penalty of not less than five
20 thousand dollars, as the council may prescribe; he shall receive
21 such salary as may be fixed by council, which shall not be less
22 than one thousand dollars nor more than fifteen hundred dollars.

Sec. 37. The street commissioner shall perform such duties as
2 are now, or which may hereafter be imposed upon him by any or-
3 dinance of said city, and shall receive such compensation as may
4 be fixed by council, which shall be at the rate of not less than
5 one thousand dollars nor more than twelve hundred dollars per
6 annum.

Sec. 49-a. That whenever any assessments for the cost of con-
2 struction of any sidewalk, street paving and sewers as provided by
3 sections forty-seven, forty-eight, and forty-nine respectively of
4 chapter eighty-two of the acts of the legislature of the
5 year one thousand nine hundred and eleven heretofore or hereafter
6 levied, have been or may hereafter be adjudged by the council of
7 said city or any court of this state having jurisdiction, invalid,
8 because of any error or irregularity in the mode or manner of as-
9 sessment, or lack of authority in said city to levy such assessments
10 at the time they were levied, or failure of the council of said city to
11 comply with some requirement of the law relative to such assess-
12 ments, the council of said city shall have the power, at any regular
13 meeting, or special meeting called for the purpose, to re-assess the
14 cost of such sidewalks, street paving and sewers against the real
15 estate benefitted thereby and abutting thereon, in the same manner
16 and proportion as provided in sections forty-seven, forty-eight and
17 forty-nine respectively of chapter eighty-two of the acts of the leg-

18 islature of the year one thousand nine hundred and eleven in the
19 first instances; except before proceeding to make such re-assess-
20 ment, it shall be the duty of said council to give notice to all per-
21 sons interested, by publication for two successive weeks in two
22 newspapers of opposite political faith published in said city, of
23 the time and place of such meeting, and the purpose thereof in
24 relation to such assessments, at which meeting, after a full hear-
25 ing, the council may proceed to re-assess against the real estate, as
26 provided in sections forty-seven, forty-eight and forty-nine respec-
27 tively of chapter eighty-two of the acts of the legislature of the year
28 one thousand nine hundred and eleven the cost of said sidewalks,
29 street paving and sewers, which, when so re-assessed, shall be a lien
30 enforceable against said real estate, and shall be collected, with
31 interest thereon at six per cent per annum, after thirty days
32 from said re-assessment, as is provided in said sections forty-
33 seven, forty-eight and forty-nine respectively of chapter eighty-
34 two of the acts of the legislature of the year 1911 pro-
35 viding generally as to such assessments in the first in-
36 stance; *provided*, that nothing contained herein shall be con-
37 strued to authorize said council to re-assess the cost of any side-
38 walks, street paving or sewers which have been constructed, and
39 the original assessment therefor levied for more than fifteen
40 years, prior to the passage of this act, and unless said city, since
41 the construction thereof, has maintained and is still maintaining
42 the same at its expense; *provided further*, that nothing contained
43 herein shall be construed to authorize the council of said city to
44 re-assess upon any real estate the cost of any sidewalks, street
45 paving or sewers, when the original assessment against such real
46 estate was paid by the owner thereof, and when any part of the
47 original assessment against any real estate was so paid, the coun-
48 cil shall re-assess against such real estate only the residue of its
49 proportionate share of the cost of said sidewalks, street paving or
50 sewers, after crediting thereon the amount so paid.

51 The council is hereby given full power and authority to correct
52 erroneous assessments of sidewalks, street paving and sewers, and
53 in cases where the same have not heretofore been made and the
54 property benefitted by such improvements has been omitted from
55 assessment for the same, the council shall by resolution as here-

56 inbefore provided levy assessments against the same in the mode
57 and manner herein provided.

58 Sections four, seven, thirty, thirty-two, thirty-three and thirty-
59 seven of chapter eighty-two of the acts of the legislature of the
60 year one thousand nine hundred and eleven in so far as they are
61 in conflict herewith are hereby repealed.

CHAPTER 17

Senate Bill No. 330—Mr. Lewis

AN ACT to create the municipal corporation of the "City of Mount Hope," in the county of Fayette, to grant a charter thereto, and to annul the charter of the "Town of Mount Hope."

[Passed April 25, 1921. In effect from passage. Approved by the Governor May 4, 1921.]

SEC.	SEC.
1. City of Mount Hope.	29-30. Duties of the auditor.
2. Corporate limits.	31. Duties of city attorney.
3. Municipal authorities.	32. Duties of police judge.
4. Officers.	33-35. Ordinance; general provisions.
5-8. Corporate powers.	36. Enfranchisements.
9. Qualification of voters.	37-39. Estimate of expenses and levy.
10-11. Elections.	40-43. Taxes; how collected.
12-15. Election of officers.	44. Money; how appropriated.
16-17. Oath of mayor and other officers.	45-46. Sewers, paving and curbing.
18-20. Vacancies occurring.	47-50. Sewers.
21. Officers may perform other duties.	51. Bonded indebtedness.
22. To keep a journal of proceedings.	52. Building for city use, etc.
23. Meeting of council.	53-55. Health.
24. Quorum.	56. Police department.
25. Salaries.	57. Fire department.
26. Appointive officers.	58. Present officers, how long to continue in office.
27. Duties of the mayor.	59. Inconsistent acts repealed.
28. Duties of the clerk.	

Be it enacted by the Legislature of West Virginia:

ARTICLE I.

The City of Mount Hope.

Section 1. That the inhabitants of so much of Fayette county
2 as are within the boundaries prescribed by article two of this act,
3 and their successors, shall constitute, be and remain a municipal
4 corporation by the name of "the City of Mount Hope."

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate limits of the city of Mount Hope shall be
2 as follows: Beginning at the original corporation line at a stake
3 near Mill Creek, thence north with the said original line seventeen
4 degrees thirty minutes east six hundred and ninety feet; north
5 twelve degrees fifteen minutes east one hundred and thirty feet;
6 north thirty-three degrees fifteen minutes east four hundred and
7 twenty-eight feet; north eleven degrees fifty-five minutes east four
8 hundred and forty feet; north twenty-nine degrees east six hundred
9 and forty-one feet to a stake on the north side of Dun Loop creek
10 near the bottling works; thence, leaving the original cor-
10-a poration lines north thirty-eight degrees east two hundred
11 feet to a stake in the line of Glen Jean corpora-
12 tion; thence with same north twenty-six degrees west
13 two thousand and seventy feet; thence leaving said Glen
14 Jean corporation and through the Sugar creek lease south
15 sixty-four degrees west five thousand three hundred and
16 eighty feet to a stake in the original line, a corner to the McKell
17 heirs; thence with the original lines south twenty-eight degrees
18 east one thousand nine hundred and ninety-seven feet; south
19 eighty-three degrees east two hundred and ten feet; south thirty-
20 three degrees twenty minutes east one thousand six hundred and
21 forty-three feet; north fifty-seven degrees east two thousand four
22 hundred and thirty-five feet; south seventy-one degrees forty-five
23 minutes east two hundred and seventy-two feet; north fifty-four
24 degrees east crossing Mill Creek three hundred and seventy-eight
25 feet to the beginning.

ARTICLE III.

Municipal Authorities.

Sec. 3. The municipal authorities of the city of Mount Hope
2 shall be the mayor, clerk and five councilmen, who shall consti-
3 tute the council.

ARTICLE IV.

Officers.

Sec. 4. In addition to the municipal authorities mentioned in
2 article three of this act, the said city of Mount Hope shall have a
3 treasurer who may be sergeant, an auditor who may be clerk,
4 chief of police, building inspector, who may be one of the council,
5 a police judge, who shall be the mayor, and council may appoint a
6 health commissioner, city attorney and such other officers and
7 agents as the council may from time to time create or employ.

ARTICLE V.

Corporate Powers.

Sec. 5. All of 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 and 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 of
4 Mount Hope," and shall have perpetual succession and a common
5 seal, and by that name may sue and be sued, plead and be implead-
6 ed, and may purchase and hold or sell real estate and personal prop-
7 erty necessary to enable them to discharge its corporate powers,
8 to assess upon and collect from the property benefited thereby for
9 the welfare of said corporation.

Sec. 7. The municipal authorities of said city, acting under
2 the powers and in the manner herein specified, shall have and are
3 hereby granted the power to have said city re-surveyed; to open,
4 vacate, broaden, widen and repair streets and alleys; to curb and
5 pave streets, sidewalks and gutters for public use, and to alter,
6 improve, repair and light the same; to construct and maintain
7 public sewers and laterals, and shall in all cases have power to
8 assess upon and collect from the property benefitted thereby such
9 part of the expense thereof as shall be fixed by ordinance, except
10 as hereinafter provided; to have control of all streets and avenues,
11 roads and alleys for public use in said city, and to have the same
12 kept in good order, free from obstruction on or over them; to
13 have the right to control all bridges within said city and traffic
14 passing over them; to regulate and determine the width of streets,
15 sidewalks, roads and alleys; to order and direct the curbing and

16 paving of sidewalks and footways for public use in said city, to be
17 done and kept in good order by the owners of adjacent property; to
18 control the construction and repairing of all houses, bridges culverts
19 and sewers, and to prescribe and enforce all regulations affecting the
20 erecting, repairing or removal of all buildings and structures and to
21 require permits to be obtained for such buildings, plans and specifi-
22 cations thereof to be first submitted to the building inspector, and to
23 prescribe and enforce regulations controlling the erection of such
24 buildings, and to secure the safety and health of the public; to
25 control the opening and construction of ditches, drains, sewers,
26 cesspools and gutters, to deepen, widen and clear the same of stag-
27 nant water and filth, and to determine at whose expense the same
28 shall be done; to build and maintain station houses, police stations
29 and police courts, and to regulate the management thereof; to pur-
30 chase, lay off, appropriate and control public roads, squares and
31 parks, either within or without the city limits as hereinafer de-
32 fined, and when the council determines that any real estate is
33 necessary to be acquired by the said city for any such purpose.
34 the power of eminent domain is hereby conferred upon said city,
35 and it shall have the right to institute condemnation proceed-
36 ings against the owner thereof in the same manner and to the same
37 extent and under the same conditions as such power is conferred
38 upon public service corporations by chapter forty-eight of Barnes'
39 code of West Virginia of the edition of one thousand nine hundred
40 and eighteen; to provide, contract for and take care of all public
41 buildings and structures being proper for the use of said city; to
42 provide for and regulate the building of all houses or other struct-
43 tures, and to determine the distance they shall be built from the
44 street or alley; to cause the removal of unsafe walls or buildings;
45 to compel owners of property to fence in or wall their property
46 for the protection of the public safety; to prevent the injury and
47 annoyance to the business of individuals from anything dangerous,
48 offensive or unwholesome; to abate or cause to be abated all
49 nuisances; to regulate the keeping of gun powder and all other
50 combustibles; to provide and maintain proper places for the burial
51 of the dead; to regulate interment therein upon such terms and
52 conditions as to price and otherwise as may be determined; to pro-
53 vide for shade and ornamental trees and the protection or removal
54 of same; to provide for the draining of lots by proper drains and
55 ditches; to make proper regulation regarding danger and damage
56 from fire; to provide for the poor of the city; to organize and

57 maintain fire companies and provide the necessary apparatus; to
58 levy taxes on persons, property and licenses; to provide revenue for
59 the city and appropriate the same to its expenses; to provide for
60 the valuation of property as often as it may be deemed proper
61 and for the assessment of taxable persons and property; to adopt
62 rules for the transaction of business and for the government and
63 welfare of this corporate body; to promote the general welfare of
64 the city and protect the person and property of citizens therein;
65 to adopt rules for the transaction of business and for the govern-
66 ment and regulation of its corporate body; to appoint such officers
67 as they may deem proper and require and take from them bond
68 with such security and in such penalty as may be determined,
69 conditioned for the faithful discharge of their duty; to regulate
70 and provide for the weighing of produce and other articles sold
71 in said city; to regulate the transportation thereof through the
72 streets; to establish and regulate markets, to prescribe the time
73 for holding the same and what shall be sold in such markets, and
74 to acquire and hold property for market purposes if deemed proper;
75 to regulate the placing of signs, bill boards, posters and advertising
76 and other obstructions in, or over the streets, alleys and sidewalks
77 of said city, to preserve and protect the peace, order and health of
78 the city and its inhabitants; to appoint and fix places for holding
79 city elections; to erect, own, lease, regulate, authorize or prohibit
80 the erection of gas works, electric light works in or near the city,
81 and to operate the same and sell the products thereof and do all
82 things necessary and incidental to the conduct of such business;
83 to provide for and preserve the purity of the water and health of
84 the city; to prescribe and enforce ordinances for the purpose of
85 protecting the health, decency, morality and order of the city and
86 its inhabitants, and to punish violations of such ordinances, even
87 if the offenses under and against such ordinances shall also consti-
88 tute offenses under the laws of the state of West Virginia or the
89 common laws; to have and exercise all the rights, privileges and
90 powers provided by chapter forty-seven of Barnes' code of West
91 Virginia of the edition of one thousand nine hundred and eighteen,
92 and amendments thereof not inconsistent with this act, and shall
93 retain, keep and succeed to all rights, privileges, property, interest,
94 claims and demands heretofore acquired by or vested in or trans-
95 ferred to the "City of Mount Hope", or heretofore to the corpora-
96 tion of Mount Hope.

Sec. 8. To carry into effect these enumerated powers and all
2 other powers conferred upon said city, expressly or by implication
3 in this and other acts of the legislature, the municipal authorities
4 of said city shall have power in the manner heretofore prescribed
5 to adopt and enforce all needful orders, by-laws and ordinances not
6 contrary to the laws and constitution of this state, and to prescribe,
7 impose and enforce reasonable fines and penalties, including im-
8 prisonment.

ARTICLE VI.

Qualification of Voters.

Sec. 9. Every person who may have resided within the territory
2 of said city for six months next preceding an election held therein,
3 and who is a qualified voter under the laws and constitution of this
4 state, and none others, shall be entitled to vote at any election held
5 in said city. But no person shall be deemed a resident of said
6 city by reason of being a student of any school or college therein
7 for any temporary purpose.

ARTICLE VII.

Elections.

Sec. 10. The council shall by ordinance provide such regula-
2 tions for the registration of voters as the state laws may require.

Sec. 11. The first election under this act shall be held on
2 the second Tuesday in May in the year one thousand nine hundred
3 and twenty-two; and the second election on the second Tuesday in
4 May in the year one thousand nine hundred and twenty-four, and
5 on the same day every two years thereafter. Such first election and
6 all subsequent elections shall be held in such manner as is, or
7 shall be prescribed by law for the holding of state elections and
8 the council shall, for the first election held under this act, and
9 at least ten days before said first election under this act, designate
11 challengers to hold the said first election. Special elections for
12 any purpose must be authorized by the council and called by the
13 mayor. Notices of all special elections must be given by publica-
14 tion in at least one newspaper of general circulation
15 in the city of Mount Hope, at least thirty days before the date
16 fixed for all such special elections, and by posting notices in such
17 manner as the council may deem necessary. The council shall
18 sit on the seventh day, Sundays excepted, after every election as

19 a board of canvassers, each member of the council having one vote;
20 and as such board of canvassers they shall canvass, ascertain, pub-
21 lish and declare the result of any election held; and the circuit
22 court of Fayette county shall have power to control proceedings
10 the voting places and the names of the commissioners, clerks and
23 of said board of canvassers by mandamus and prohibition. The
24 said board shall keep in a separate book, marked for that purpose,
25 a record of the proceedings, and shall take down and record any
26 evidence, motion, or paper filed, or offered by any candidate, which
27 book and record shall be open to the public and shall be kept in
28 the custody of the clerk.

ARTICLE VIII.

Election of Officers.

Sec. 12. On the second Tuesday in May one thousand nine
2 hundred and twenty-two, and on the same day every two years
3 thereafter, there shall be elected by the qualified voters of the city,
4 a mayor, who shall hold office from the first day of June succeeding
5 the year in which he is elected for a term of two years and until
6 his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor except
2 he be assessed with and own at least five hundred dollars worth
3 of real or personal property, and is a citizen entitled to vote at
4 the election at which he is elected, and no person shall be elected
5 to such office or retain or hold the same, who shall be or become
6 an officer or employee of any person, firm or corporation holding
7 any franchise or contract under or with said city.

Sec. 14. On the second Tuesday in May, one thousand nine
2 hundred and twenty-two there shall be elected by the qualified
3 voters of the city five councilmen, to hold office from the first day
4 of June one thousand nine hundred and twenty-two until the first
5 day of June, one thousand nine hundred and twenty-four or until
6 their successors are elected and qualified. Beginning with the first
7 election held under this act, which shall be on the second Tuesday
8 in May, one thousand nine hundred and twenty-two, and every two
9 years thereafter, there shall be elected a clerk by the qualified voters
10 of the city, to hold office for the term of two years, and so on every
11 two years thereafter. The officers of the city elected under the old
12 charter and at the election held in the year one thousand nine hun-
13 dred and twenty-one shall hold over until their successors are
14 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 five hundred
3 dollars worth of real or personal property, and be a citizen entitled
4 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 of
2 the duties of said office, shall take and subscribe an oath or affir-
3 mation that he possesses the qualifications prescribed by this act
4 to hold such office, and is not subject to any of the disqualifications
5 prescribed therein, and that he will support the constitution of the
6 United States and the constitution of this state, and honestly dis-
7 charge the duties of his office to the best of his skill and judgment
8 which oath shall be written out and signed and filed and preserved
9 among the records and books of the city.

Sec. 17. The clerk, councilmen and all other officers elected or
2 appointed under this act shall take and subscribe an oath or
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 ap-
3 pointment of some qualified person. If any vacancy occurs in any
4 other office, whether elective or appointive, the council shall fill
5 the same by the appointment of some qualified person subject to
6 all regulations as required for the original appointment of elec-
7 tion.

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 power
2 and authority to remove from office any officer, whether elective
3 or appointive, for cause or upon written charges preferred by any
4 responsible citizen to the council; but to remove from office under
5 this provision, four-fifths of the members of the council must be
6 present and four-fifths must concur in such removal, and the officer

7 against whom the charges are preferred shall be served with a
8 reasonable notice of the same, together with the time of hearing
9 upon such charges, together with a copy of such charges, and shall
10 have the right to be represented before the council in person and
11 by attorney, and the right to require all witnesses to be sworn and
12 testify under oath before the council and to have the testimony
13 taken down.

ARTICLE XI.

Officers May Perform Other Duties.

Sec. 21. Any member of the council, the mayor, clerk, treasurer, or any other elective or appointive officer shall, during the time for which he was elected or appointed, be eligible for appointment to any office under the city government; *provided*, such employment is authorized by the council, by resolution for such appointment; but in no case shall the time of service be for a longer period than said council is selected to serve under this act.

ARTICLE XII.

To Keep a Journal of Proceedings.

Sec. 22. The council shall keep a journal of all its proceedings, which shall, at all times, be open to the inspection of the taxpayers of the city, and be a public record, and the ayes and noes of the members shall be taken on any question, at the request of any member, and shall be taken down and entered on the journal.

ARTICLE XIII.

Meeting of Council.

Sec. 23. The council shall hold regular meetings on the first Tuesday of each month of the year, and such special meetings as the business to be transacted may require, at such time, place or places in the city as the council shall, from time to time, ordain or appoint; and the council shall have the power by proper ordinances or resolution, entered of record, to vest in any officer of the city or any member or number of members of their body, authority to call such special meetings and in like manner to prescribe the mode in and by which said meetings shall be called. All questions put, except as to such matters, as herein otherwise provided, shall be decided by a majority of all the members elected. No

12 business shall be transacted at any special meeting of the council
13 unless specifically mentioned in the call for such meeting.

ARTICLE XIV.

Quorum.

Sec. 24. The majority of the whole number of members elected
2 or appointed to the council shall constitute a quorum to transact
3 business, but a smaller number may adjourn from time to time and
4 may compel attendance of absent members in such manner and
5 under such penalties as either body may by 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 such
3 salaries as the council shall, from time to time, by ordinance fix
4 and establish; but the salaries of such officers shall not be in-
5 creased or diminished during the term for which such officers were
6 elected or appointed; *provided*, that the salaries of all officers
7 elected or appointed for any term shall be fixed not later than
8 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 and
5 ordinances of the city are enforced; that the peace and good order
6 of the city are preserved and that persons and property therein are
7 protected, and to this end he may cause the arrest and detention
8 of riotous and disorderly persons, and shall perform such other
9 duties and services as the council may ordain in addition to the
10 duties prescribed in this act and not inconsistent herewith. The

11 clerk, except as herein otherwise provided, shall perform the duties
12 of the mayor whenever and so long as the mayor is from any
13 cause not able to perform his official duties, and he shall, in the
14 absence of the mayor perform any and all the duties of the mayor
15 except he shall not preside over the council. In the absence of the
16 mayor at a meeting of the council, the council shall select one of
17 its own members to preside over its meetings, who shall have a
18 vote as a councilman. If the mayor and clerk are both absent from
19 the city, or otherwise disabled from performing the duties of the
20 mayor, the council may elect a mayor *pro tempore*. The mayor
21 shall have the power at any time to appoint special policemen, who
22 shall be sworn in without confirmation of the council.

ARTICLE XVIII.

Duties of the Clerk.

Sec. 28. It shall be the duty of the clerk to keep a properly in-
2 dexed journal of the proceedings of the council and board of health
3 and have charge of and preserve the records of the city; he shall,
4 whenever required by the mayor, attend the police court and at-
5 tend to all the duties as clerk of the police court of the city. In
6 the absence of the mayor or police judge, he shall exercise the func-
7 tions of police judge; he shall perform all other duties required
8 of him by order or by ordinance of the council; as clerk he shall
9 receive compensation for his service to be fixed by the council,
10 which shall not be increased or diminished during his term of
11 office.

ARTICLE XIX.

Duties of the Auditor.

Sec. 29. The auditor shall be the city accountant and auditing
2 officer of the city and it shall be his duty to see that the accounts
3 of said city are kept in a detailed and systematic manner, under
4 the proper classification so as to show the bonded and other in-
5 debtedness of said city, and the amounts and claims due the same,
6 as well from taxes, levies and assessments as from other sources.

Sec. 30. In addition to the other duties of the auditor, it shall
2 be his duty, on or before the first day of August in each year to
3 make a copy from the real and personal property books of prop-
4 erty shown to be liable to taxation within the limits of the city of
5 Mount Hope, and to certify such copies under his hand as a true

6 and correct copy thereof, and to deliver the same to the council and
7 to assist the council in preparing the annual estimate of expenses
8 to be certified to the council as a basis for the annual levy. After
9 such levy is made in each year, it shall be the duty of the auditor
10 to extend said levy upon said real estate and personal property
11 books for said city and to prepare proper tax tickets therefrom
12 against all owners of real estate and personal property subject to
13 taxation in said city. He shall turn the said tax bills over to
14 the treasurer or sergeant, who shall collect said taxes when due and
15 payable, and the treasurer shall certify to the payment of same as
16 made. In addition to the above duties of the auditor, he shall per-
17 form such other 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 city
3 and all its officers in all matters arising and in which legal pro-
4 ceedings may be taken; he shall prosecute all the suits, actions
5 and proceedings instituted on behalf of said city and shall defend
6 all suits and actions against said city, and when requested to do
7 so in writing, shall give his written opinion to the mayor, council
8 or any committee thereof upon such questions as may be referred
9 to him affecting the city's interest; he shall perform such other
10 duties as may be requested, and for such services shall receive such
11 compensation as may be agreed on between him and the city
12 council.

ARTICLE XXI.

Duties of Police Judge.

Sec. 32. The mayor or police judge shall be *ex-officio* a justice
2 and conservator of the peace within the city and he shall, within
3 the same, have, possess and exercise all the powers and perform all
4 the duties vested by law in a justice of the peace, except that he
5 shall have no jurisdiction in civil causes of action arising out of
6 the corporate limits of the city. He shall have the same power to
7 issue attachments in civil actions as a justice of his county has,
8 though the cause of action arose out of the city limits, but in such
9 case he shall have no power to try the same but must have such at-
10 tachment returnable and heard before some justice of the county.

11 Any warrant or other process issued by him may be executed within
12 the same territorial limits as that of a justice of the county. He
13 shall have power to issue executions for all fines, costs and penal-
14 ties imposed by him, or he may require the immediate payment
15 thereof, and in default of such payment he may commit the party
16 in default to the jail of the city, until the fine, penalty or costs
17 shall be paid, but the term of imprisonment in such cases shall not
18 exceed sixty days. But such mayor or police judge shall not re-
19 ceive any money belonging to the state, or any individual, unless
20 he shall give bond and security as required of a justice of the
21 peace under the laws of the state of West Virginia, and all pro-
22 visions under the laws of the state of West Virginia relating to
23 moneys received by justices shall apply as to like moneys received
24 by the mayor or police judge.

ARTICLE XXII.

Ordinance—General Provisions.

Sec. 33. The style of ordinances of the city shall be "Be it en-
2 acted and ordained by the council of the city of Mount Hope,"
3 but the ordinances now in force shall remain in effect until amend-
4 ed or repealed, except where they are in conflict or inconsistent
5 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 pas-
4 sage at the meeting at which it is introduced unless the same shall
5 have been reported on by a committee, but reference to a committee
6 may be dispensed with by an affirmative vote of three-fifths of the
7 council as elected. No ordinance shall contain more than one
8 subject, which shall be clearly expressed in its title; nor shall any
9 ordinance be passed by the council unless a majority of all the
10 members elected to the council shall concur therein by ayes and
11 nays when the question is put upon its passage.

Sec. 35. All ordinances passed by the council shall be spread
2 upon the minutes and at the next regular meeting such ordinances
3 shall be read in open council and the mayor shall sign said min-
4 utes when found correct or corrected, in the presence of the council.
5 The council shall provide a well-bound book, in which shall be
6 copied all the ordinances in the order in which they are passed,
7 which ordinances so copied shall be compared with the originals

8 by the mayor and shall be signed by him when found correct.
9 Such book shall be indexed so as to show in brief from the sub-
10 stance of the ordinances. All copies thereof certified as herein-
11 after provided, shall be received by all the courts and justices in
12 this state as evidence; but the council may adopt by ordinance,
13 properly designing and describing it, a code of laws and ordi-
14 nances, which when adopted, shall be published in a newspaper of
15 general circulation in said city, or posted, and printed in book
16 form, or it may be adopted as a whole after it is printed, and the
17 said code shall be and become the laws and ordinances of the said
18 city, and shall be received as such by all the courts in this state,
19 and the printed volumes published under order of the council shall
20 be so received as evidence of what is printed therein till errors
21 or omissions be affirmatively shown therein.

ARTICLE XXIII.

Enfranchisements.

Sec. 36. All franchises granting the right of occupancy of any
2 portion of the streets of the city for work of public utility and
3 service shall be granted by the council, but no such franchise shall
4 hereafter be granted except under the following restrictions and
5 conditions:

6 No franchise shall be granted, except at the time of granting
7 it bond be made to the city providing that the grantee shall indem-
8 nify the city against all damages caused by construction, mainte-
9 nance or operation of such works. All reasonable additional pro-
10 visions and conditions may be made for the protection of the public
11 necessary damage or inconvenience by reason of the construction,
12 maintenance or operation thereof.

13 No grant of a franchise for the extension of, or in addition to,
14 any line of work or public service through, over or under any ad-
15 ditional street or territory of the city shall be made for a period
16 extending beyond the time limit for the expiration of the fran-
17 chise, if the principal work is one granted before this act goes into
18 effect and not limited as to time. Any franchise granted for an
19 extension or addition thereto shall nevertheless be made, subject
20 to the provisions hereof including the time limit of not exceeding
21 fifty years.

22 The council shall in all franchises hereafter granted, embody
23 therein a plainly expressed condition, when the franchise is to be

24 for work useful chiefly to the citizens of the city, that at the ex-
25 piration of the franchise the grantee shall, if required by the coun-
26 cil sell to the city the plant at what it is then worth.

27 If the city or the owner of the plant cannot agree upon its value,
28 then its value shall be ascertained by an impartial arbitration, one
29 arbitrator to be selected by the city, one by such owner of the
30 plant, these two to select a third, and the decision of any two to
31 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, and said finance committee shall,
3 on or before the first day of August in each year, prepare and sub-
4 mit to the council an estimate of the amount of money necessary
5 and advisable to be expended by the city for the current year next
6 ensuing and to be provided for by the tax levy as herein provided
7 for such current year, in which estimate the finance committee
8 shall ascertain and present a detailed and itemized account or esti-
9 mate of the money necessary to pay interest on the bonded in-
10 debtedness of the city, the amount required for the several sink-
11 ing funds, for the reduction of the principals thereof, the amount
12 to be expended severally for the streets, alleys, curbing, water
13 works, police department, fire department, street paving, sewers, sal-
14 aries, parks, real and personal property, contingent expenses and
15 other expenses, together with an itemized statement of the esti-
16 mated receipts, other than that to be derived from the annual levy,
17 and after receiving such estimates, and before making the levy the
18 council shall apportion the rate thereof, (including estimated re-
19 ceipts for licenses and all other sources), among the several funds
20 to ascertain and provide for, which said apportionment when
21 adopted, shall be spread upon the records of the council.

22 Upon the estimate of such expense, the council shall thereupon,
23 by ordinance, lay a levy for the ensuing tax year of a sum not to ex-
24 ceed one dollar on each one hundred dollars assessed valuation
25 of all taxable property, real and personal, subject to taxation in
26 said city, as well as a capitation tax not to exceed two dollars upon
27 every male inhabitant of said city over the age of twenty-one years
28 who is subject to the capitation tax under the laws of the state of
29 West Virginia, and said council is authorized to levy to such max-

30 inum of one dollar on each one hundred dollars of valuation, not-
31 withstanding any general laws now in force, or which may be en-
32 acted, restricting the powers of municipal corporations to levy
33 taxes.

Sec. 38. Whenever anything, for which a state license is re-
2 quired, is to be done within said city, the municipal authorities, as
3 herein provided, may require a city license to be had for doing the
4 same, and may, in any case, require from any person licensed a
5 bond with sureties, and in such penalty and with such conditions
6 as it may deem proper, and the council may on notice revoke such
7 license at any time, if the conditions of said bond be broken, or
8 for good cause.

9 The municipal authorities may impose a license and assess a tax
10 thereon on all wheeled vehicles for public hire, all dogs kept within
11 the corporate limits, all insurance, bonding, casualty and guarantee
12 companies, auctioneers, book agents, bowling alleys, billiard sa-
13 loons, bagatel saloons, bond, note and loan associations, building
14 and loan associations, capitation taxes, commission merchants,
15 common carriers, circuses, menageries, theatres, drays, cabs, hacks,
16 etc., eating houses, express companies, hitting and striking ma-
17 chines, hobby horses, junk dealers, real estate agents, insurance
18 agents, livery and feed stables, omnibuses, peddlers, pawn brok-
19 ers, stock brokers, slot machines, social clubs, street venders, to-
20 bacco, snuff, cigars, etc., theatrical shows, transient merchants tel-
21 egraph and telephone companies, electric light companies, gas com-
22 panies, water companies, and other business, property profes-
23 sion or occupation; bicycles, automobiles, butchers and venders
24 of meats, vegetables and other things sold on the streets of the city.
25 The municipal authorities may prescribe, impose and enforce rea-
26 sonable fines and imprisonment, under the order of the police
27 judge of said city, or the person lawfully exercising his function,
28 upon any person carrying or attempting to carry on any business
29 for which the said license is required, without first obtaining a city
30 license therefor, and paying the city license tax assessed thereon.
31 All licenses provided for in this section shall be paid to the ser-
32 geant or treasurer. For the purposes of enforcing the provisions
33 of this section the city shall have police jurisdiction for two miles
34 beyond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make all
2 regulations and pass all ordinances necessary and proper concern-

3 ing the granting and revoking of all licenses. The city shall have
4 the power to prohibit by ordinance and to punish persons abusing
5 animals; to restrain and punish vagrants, mendicants, beggars,
6 tramps, prostitutes and drunken and disorderly persons within the
7 corporate limits; to provide for their arrest and manner of punish-
8 ment; to prohibit and punish railroad companies bringing in pau-
9 pers or persons or animals afflicted with dangerous diseases; to con-
10 trol and suppress bawdy houses, houses of assignation and gambling
11 houses and to punish gaming; to prohibit slaughter houses within
12 the prescribed limits and soap or glue factories of any kind; to
13 restrain and prohibit the use of fire crackers, fireworks or other
14 explosives, and all dangers or unseemly noises which tend to annoy
15-16 persons or frighten horses or other animals; to make regula-
17 tions guarding against fire; to regulate the use of streets and alleys
18 for street cars, railroads, railroad engines, traction engines, auto-
19 mobiles, and cars of all sorts, and regulate the running and opera-
20 tion of the same within the city limits; to regulate and prevent in-
21 jury, inconvenience or annoyance to the public, to prohibit cock
22 fighting and dog and prize fighting; to regulate and control the
23 kind and manner of plumbing and electric wiring, etc., for the
24 safety and health of the public, to regulate, restrain and prohibit
25 all animals and fowls running at large; to establish and regulate
26 markets; to regulate signs and billboards, posters and advertise-
27 ments on or over streets; to regulate the sale and use of cocaine,
28 morphine, opium and poisonous drugs; to provide for purity of
29-32 water, milk, meat, etc., sold in the city limits; to pro-
33 vide for inspection of dairies, slaughter houses and other places
34 of like nature; to protect places of divine worship; to have abated
35 and removed all nuisances; to regulate the construction of all wa-
36 ter closets, privies, cess pools, pens, sinks, yards, stables and other
37 places where offensive substance may accumulate; to regulate and
38 prescribe punishment for all violations against the public peace and
39 welfare.

ARTICLE XXV.

Taxes—How Collected.

Sec. 40. The city taxes annually levied by said council shall be
2 collected as follows Immediately after the annual levy for city
3 taxes is laid, the auditor shall extend the same on the property
4 books made out by him, including thereon, the proper capitation

5 taxes. He shall make out proper tax tickets in the following man-
6 ner, that is to say: there shall be a single ticket for the whole
7 amount charged to any person, firm or corporation, and after the
8 tickets have been examined and compared and found to be correct
9 by the council, they shall be turned over to the sergeant or treas-
10 urer by the first day of October following the levy. The sergeant
11 or treasurer shall receipt for the gross amount, said receipt to be
12 returned and entered upon the records and the sergeant charged
13 therewith. The sergeant shall then give notice by publication in
14 a newspaper of general circulation in the city or posting for at
15 least ten days, stating that the tax tickets are in his hands for col-
16 lection, the penalty for the non-payment thereof, and the time and
17 place where the same may be paid; *provided, however*, that a tax
18 payer shall have the right to anticipate the payment of the whole
19 or any part of the taxes as assessed. Immediately upon the pay-
20 ment of said taxes or any part thereof, the said amount shall be
21 deposited by the sergeant or treasurer in one of the city deposi-
22 tories to the credit of the "City of Mount Hope," and the sum so
23 deposited shall be reported to the council at its first meeting after
24 deposit is made. All taxes shall be due and payable within thirty
25 days after the expiration of the notice posted and published by
26 the sergeant as hereinbefore set forth, and in case the same are
27 not paid within said time, he may distrain and sell therefor, in like
28 manner as the officer collecting the state taxes may distrain there-
29 for, and he shall have in all other respects the same power to en-
30 force the payment and collection thereof. On all tickets remain-
31 ing uncollected in the hands of the sergeant fifty days after the
32 date of the expiration of the notice posted or published by him
33 a penalty of five per cent, shall be added and collectable, together
34 with six per cent interest until paid.

35 The council may by ordinance allow a discount for prompt pay-
36 ment of taxes. The sergeant shall have the power to collect said
37 taxes so placed in his hands together with the penalty and interest
38 thereon, heretofore provided to be added thereto. The sergeant
39 shall be charged with the gross amount of said tax tickets so de-
40 livered to him for collection, and no deductions therefrom shall be
41 allowed unless on or before the first day of July of each year he
42 makes out and returns to the council a delinquent list of taxes un-
43 collected for the year previous with his oath attached thereto, stat-
44 ing that such delinquent list is correct and just, that he has received

45 no part of the taxes mentioned thereon and that he has used due
46 diligence to find property to distress for said taxes and has found
47 none, and that the same are uncollectable. Penalties and interest,
48 provided for in this section, to be added to such taxes, shall not be
49 deemed or considered any part of the limitation in this act here-
50 inbefore prescribed, restricting the annual city levy to one dollar
51 on each one hundred dollars valuation. The sergeant shall not
52 take or collect anything but money and the legally issued and au-
53 thorized drafts or vouchers of the city, for the payment of taxes.
54 The sergeant shall perform such other duties as the council may
55 require, and receive such compensation as shall be fixed by the
56 council.

Sec. 41. All goods and chattels belonging to a person, firm, or
2 corporation or estate, assessed with any city taxes, whether the
3 same be a capitation tax, tax upon real or personal property or an
4 assessment for paving or other improvements, shall be liable for
5 said taxes and may be distrained therefor in whosoever posses-
6 sion they may be found, and the sergeant shall have the same power
7 to collect said taxes or assessments from any persons owing debts
8 to or having in his possession any estate belonging to a person as-
9 sessed with any tax or assessment of any kind, that the sheriff has
10 to collect state taxes or enforce the collection thereof.

Sec. 42. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon including such penalties
3 and interest added thereto for non-payment thereof as are pre-
4 scribed by this act, from the first day of January in which said
5 taxes are assessed. Said liens may be enforced in any court of rec-
6 ord in Fayette county by appropriate suit; *provided*, such suit be
7 entered within five years from the time said liens attached as here-
8 in provided, and such suit may either be by and in the name of the
9 city of Mount Hope as plaintiff, or said city may intervene by pe-
10 tition in any suit pending to sell or enforce liens against real es-
11 tate which is subject to such liens for said taxes. The liens herein
12 created shall have priority over all other liens except those for
13 taxes due the state and county.

Sec. 43. Said liens for city taxes and attendant penalties, as
2 well as for improvement assessments, may also be enforced by the
3 certifying of the same to the clerk of the county court of Fayette
4 county for certification to the state auditor, and the same may be

5 certified by the state auditor and sold for taxes, interest and penal-
6 ties and commissions thereon in the same manner, at the same time,
7 and by the same officer as real estate sold for taxes, interest, dam-
8 ages, costs and commissions due the state thereon, which officer
9 shall account therefor on settlement with the council and pay the
10 same over to the treasurer.

ARTICLE XXVI.

Money—How Appropriated.

Sec. 44. No money shall be appropriated and no debts shall be
2 contracted and no contracts authorized by the city, except by an
3 ordinance passed by the council as specified herein, and no such or-
4 dinances shall be passed except where the funds to meet the same
5 shall have first been provided by levy duly made in accordance with
6 this act and its provisions. No contract shall be entered into in-
7 volving or anticipating further levies, unless all the questions con-
8 nected with the same shall have been first submitted to the people
9 and shall have received three-fifths of all the votes cast at such
10 election.

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 or
3 portion thereof, and any owner of ground fronting on such street,
4 alley or public square shall, in such manner as the council shall
5 reasonably prescribe, pave and curb the sidewalk adjacent to such
6 property. In case of a failure or refusal of the owner to pave or
7 curb the same, the council may cause the same to be properly
8 curbed and paved by the city, and levy and collect from such
9 owner the whole cost of such curbing and paving adjacent to such
10 property, with a penalty of five per centum added thereto, to-
11 gether with six per centum interest until paid; and in like manner
12 to require the owner of any property adjacent to any paved side-
13 walk heretofore or hereafter constructed, to keep the same in re-
14 pair, and in default of doing so to cause the same to be repaired,
15 and levy and collect the cost from said owner or owners with a
16 penalty of five per centum added thereto together with six per
17 centum interest per annum until paid. In all cases of such as-
18 sessment, whether for the original or for the repairing of side-
19 walks, payment thereof, including penalties and interest, shall be

20 made to the sergeant within sixty days after the completion of the
21 work, who shall have the power to collect the same from the owner
22 or owners of any such property by distress and sale, in the same
23 manner in which taxes levied for the benefit of the city are au-
24 thorized to be collected, and in addition, there shall be a lien upon
25 such real estate, which lien shall be enforced by appropriate suit
26 in any court of record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to cause
2 any street or alley in said city, or portion thereof, to be paved in
3 a permanent manner, it shall upon a written petition signed by the
3-a property owners owning two-thirds of the property abutting on
3-b said street or alley, order the work done in the follow-
4 ing manner and upon the following terms: The contract for such
5 paving shall, after due advertising, in which the council shall re-
6 serve the right to reject any and all bids, be let, if let, to the low-
7 est responsible bidder. The contractor shall look only to the city
8 for the payment for the work and in no sense to the abutting land
9 owner. The total cost of grading and paving any such street or
10 alley (except when the streets are occupied by street car tracks,
11 for the distance between the rails and for two additional feet out-
12 side of each rail, which portion shall be borne and paid by the
13 company owning and operating such railway and track) shall be
14 borne by the owners of the land abutting upon said street, alley or
15 portion thereof, subject to the following plans, that is to say:
16 payment is to be made by all the land owners on either side of such
17 portion of a street or block so paved, in such portion of the total
18 cost, less the portion, if any, chargeable to such street railway
19 company, as the frontage in feet of his land bears to the total
20 frontage of all lands so abutting on such street, alley or portion
21 thereof so paved as aforesaid. The cost of such paving chargeable
22 to the abutting property is not to include any portion of the
23 amount paid for paving of any squares at intersections of streets,
24 which shall in all cases be borne and paid by the city. When the
25 paving of any street or alley or portion thereof shall have been
26 let to contract and the work done as hereinbefore provided, it shall
27 be the duty of the city engineer to cause the several frontages
28 abutting thereon to be measured, to calculate the assessment upon
29 each and every land owner so abutting, and to certify the same to
30 the council showing the proper amount to be determined as pro-
31 vided in the foregoing plan. It shall be the duty of the council

32 to examine and compare such assessments, amounts and names so
33 certified to it. Thereupon, the council shall give notice by publi-
34 cation for two successive weeks in some newspaper of general circu-
35 lation published in said city that an assessment, under this act, is
36 about to be laid against abutting property for paving done on said
37 streets or alleys, describing the location of such paving. Any owner
38 or owners of abutting property shall have the right to appear before
39 the said council within three weeks from the first publication thereof
40 and move such council to correct any apportionment or assess-
41 ment improperly made; which corrections the said council shall
42 have the power to make. If found to be correct, or when recti-
43 fied, the council shall cause the same to be entered, together with
44 the description as to the location, frontage, depth and ownership
45 of the land, so far as the same may be ascertained, upon its rec-
46 ords, and to enter in its record that such owners and lots be as-
47 sessed and chargeable with the amount so ascertained to be borne
48 by them respectively. When so approved, certified and entered of
49 record, the same shall be and constitute an assessment against said
50 owners and lots for such respective amounts. It shall be the duty
51 of the council to immediately certify such assessment to the ser-
52 geant for collection as hereinbefore provided. A copy of such
53 order shall be certified by order to the clerk of the county court of
54 Fayette county, who shall be required to record and index the same
55 in the proper deed book in the name of each person against whose
56 property assessments appear therein. The amount so assessed
57 against any land owner, as aforesaid, shall be paid in seven pay-
58 ments, as follows, that is to say: one-fourth of said amount shall
59 be paid to the sergent when said work is completed, certified and
60 entered of record as aforesaid, and the other three-fourths shall be
61 paid in equal semi-annual payments with six per cent interest
62 thereon until paid, the first of which shall be due and payable six
63 months from date first payment is due, and so on, every six months
64 until the full amount of assessment, with penalties and interest
65 is paid, the purpose being to require the payment regularly until
66 the entire amount is paid. *Provided, however,* that the abutting
67 land owner so liable for any costs of such paving shall have the
68 right at any time after the same is certified as aforesaid to the ser-
69 geant for correction, to anticipate the payment of either install-
70 ment. To each of said installments of assessments remaining un-
71 paid in the sergent's hands at the time specified for such payment,

72 a penalty of four per cent shall be added and the payment thereof
73 enforced, in all respects as hereinbefore provided for the collection
74 of any other taxes due the city, and such shall be a lien upon the
75 property liable therefor, the same as for other taxes, and the lien
76 may be enforced in the same manner as provided for other taxes.
77 The liens hereinbefore provided for shall have priority over all
78 other liens except these due the state and county for taxes, and
79 shall be on a parity with other taxes and assessments due the city.
80 Upon the payment of any assessment to the sergeant he shall de-
81 liver to the party paying the same a release of the lien therefor,
82 which may be recorded in the office of the clerk of the county court
83 as other releases for liens. Should such assessment not be in the
84 hands of the sergeant, if the same shall have been shown to the
85 satisfaction of the council to have been paid in full to any officer
86 entitled to receive the same as designated by it, the council may
87 direct the sergeant to execute a release of such liens, which release
88 may in like manner be recorded.

ARTICLE XXVIII.

Sewers.

Sec. 47. Whenever the council shall order the construction of
2 any public sewer in said city the owners of the property abutting
3 upon any street, in which said sewer shall be constructed, shall be
4 charged with and liable for sewerage assessments as follows: when
5 said sewer is completed the city engineer shall report to the coun-
6 cil in writing the total cost of such sewerage, with a description of
7 the lot and land, as to the location, frontage, depth and ownership,
8 liable for such sewerage assessment, so far as the same may be as-
9 certained, together with the amounts chargeable against each lot
10 and owner, estimated on the basis of cost, frontage measures on
11 said sewer being considered, and thereupon said council shall give
12 notice by publication in a newspaper of general circulation,
13 in said city, as is required in the case of street paving as-
14 sessment, and the same right shall exist as to the persons and
15 property affected, and the same duty as to corrections by the coun-
16 cil as are prescribed with reference to paving, which report shall,
17 in like manner, be examined by the council, and if found to be cor-
18 rect, or corrected as aforesaid, and such estimated assessments to
19 be a fair and equitable apportionment of the costs of said sewer,
20 it shall enter an order upon its records setting forth such location,

21 depth, ownership, and said amount of said sewer assessments
22 against each property respectively, calculated as aforesaid, and
23 the entry of such order shall constitute and be an assessment
23-a for the proportion and amount so fixed therein, against
24 such respective owners and lots. If after such advertisement, no-
25 tice and hearing said council shall find that such apportionment
26 at such rate is unjust or inequitable, it shall ascertain, fix and as-
27 sess the cost thereof among and upon the abutting owners respect-
28 ively fairly and equitably and in like manner assess and enter the
29 amount so fixed, respectively, upon its records, and the council
30 shall in either event thereupon certify the same to the sergeant for
31 correction, and certify a copy of such order to the clerk of the
32 county court of Fayette county, who shall record the same in the
33 proper deed book, and index the same in the name of the owner of
34 any such lot so charged with such assessment. Such assessment
35 so made shall constitute and be a lien upon said lots respectively,
36 which shall have priority over all other liens except those for taxes
37 due the state and county, and shall be on a parity with other taxes
38 and assessments due the city. Said amounts so assessed against
39 said several land owners shall be paid by the parties liable there-
40 for to the said sergeant at the time, in the manner and with the at-
41 tendant penalties and interest, for failure to pay promptly at the
42 time prescribed in all respects as hereinbefore provided in the case
43 of assessment for paving of streets and alleys in a permanent man-
44 ner; and the parties liable therefor in the same manner and to the
45 same extent shall have the right and be entitled to anticipate any or
46 all of such installments. The owner or owners of any lot abutting
47 upon any street or alley in said city, on which a public sewer is or
48 may hereafter be laid and constructed upon which any business or
49 residence building is or may hereafter be erected, not otherwise
50 connected to the public sewer, may be required and compelled by
51 council to connect any such property with such sewer. Notice
52 to so connect may be given by the council to the owner, lessee or
53 occupant of such property. Each day's failure to comply with
54 such notice and to connect with such sewer by such owner or ow-
55 ners, after ten days have elapsed after such notice has been given,
56 shall be a misdemeanor and a separate offense and a new offense
57 under this section, and each offense shall be punishable by a fine
58 of not less than five nor more than twenty-five dollars. Jurisdic-
59 tion to hear, try and determine and sentence for violation of this

60 section is vested in the police court of said city. If said owner or
61 owners fail to comply with the notice to make such sewer connec-
62 tion, then the council may by ordinance order the work to be done
63 at the expense of the city and the costs thereof be certified to the
64 clerk of the county court, and the same shall constitute a lien upon
65 said property, with the same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for street
2 paving and sewerage assessments shall constitute liens upon real
3 estate upon which they are assessed, as against creditors of the
4 owners thereof or purchasers for value from, and without actual
5 notice of such lien, only from and after the time that the state-
6 ment thereof, certified as aforesaid, shall be filed for record in the
7 office of the clerk of the county court of Fayette county.

Sec. 49. When the whole or any portion of the improvement
2 authorized by this act pass through or by a market space, park,
3 cemetery, structure for the fire department, water works, school
4 building, infirmary, market house, work house, hospital, house of
5 refuge, bridge, gas works, public prison, court house, church or
6 any other public structure or public ground within said city, and
7 belonging to said city, or to the county, state, or any church, as-
8 sociation or eleemosynary institution, the council may authorize
9 the assessment to be certified to the clerk of the county court of
10 Fayette county and the same shall thereupon be recorded by said
11 clerk in the proper deed book and shall thereupon become a lien
12 against said property and collectable as other assessments are col-
13 lected against individuals under this act. It shall be the duty of
14 those persons having charge of the fiscal affairs of any such prop-
15 erty or institution to make the proper arrangements for meeting
16 such assessments, when due and payable.

Sec. 50. The city of Mount Hope, by ordinance of the council
2 may borrow money in an amount equal to the amount of said liens
3 herein acquired, for the purpose of paying any contract for paving
4 or sewerage under this act, and may assign said liens as security
5 for such loan or loans; but in no event shall the money so borrowed
6 be expended for any other purpose than in the payment of the in-
7 debtedness owing by the city for such work; that is, liens for the
8 street paving can only be used by the city in borrowing money to
9 pay for street paving and liens for sewerage can only be used by the
10 city in borrowing money to pay for sewerage.

ARTICLE XXIX.

Bonded Indebtedness.

Sec. 51. The council of said city upon the written petition signed
2 by the voters, citizens or corporations owning a majority of the
2-a total property, both real and personal in said city as shown by the
2-b assessed valuation thereof shall have the right to bond
2-c the said city for the purpose of paving the streets and alleys of
3 said city and for constructing water works or repairing the same,
4 and for constructing a sewerage system, or repairing the same, and
5 for the purpose of providing hose and other appliances for ex-
6 tinguishing fires, and for any and all public improvements when-
7 ever the council thereof shall deem such improvements necessary,
8-9 and to refund outstanding bonds at a lower rate of interest, and
10 to issue new bonds for the purpose of increasing the length of time
11 on any such indebtedness; but the aggregate indebtedness of said
12 city shall for all purposes not exceed five per centum on the assessed
13 valuation of the taxable property therein, based on the valuation
14 of the last assessment next preceding the date of the incurring of
15 such indebtedness; and the said council shall by taxation provide
16 a fund for the payment of the interest and any and all indebtedness
17 incurred in the manner aforesaid within the period of thirty-four
18 years. Such bonds shall not be sold for less than par nor ex-
19 changed for the evidence of indebtedness of said city except dol-
20 lar for dollar. A record of all the proceedings had hereunder shall
21 be kept by 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 govern-
3 ment, or any of its departments, and to provide for and regulate
4 the same; to establish and maintain public hospitals and receive
5 donations, gifts or bequests for the same, in trust or otherwise.

ARTICLE XXXI.

Health.

Sec. 53. The council shall have the authority to ordain and en-
2 force such regulations within said city as shall be necessary or

3 proper to preserve the health of the inhabitants of said city and
4 to secure them from disease; to require and compel the abatement
5 of and removal of all nuisances within said city at the expense of
6 the person or persons causing the same, or of the owner or owners
7 of the ground whercon the same shall be; to prevent or regulate
8 slaughter houses within the said city; or the exercise of any un-
9 healthy or offensive business, trade or employment therein; to pre-
10 vent the keeping of any stale meats, fish, vegetables, or other mat-
11 ter, or depositing the same, or dirt, rubbish or offal, upon any
12 lot, street, alley or square within said city or upon the banks of
13 any streams within the limits thereof.

Sec. 54. The council shall have the power by ordinance to reg-
2 ulate the sale of cocaine, morphine, opium and poisonous drugs
3 within said city, and to prescribe punishment including fine and
4 imprisonment, for the violation of any such ordinance, and to pro-
5 vide that one or more convictions for violations of the same shall
6 operate as a revocation of the license of any druggist or pharmacist
7 holding a license under said city.

Sec. 55. The council shall, in the month of June, one thou-
2 sand nine hundred and twenty-one, 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 shall
5 be for one year and until his successor is appointed and qualified.
6 The members of the council, mayor and health commissioner shall
7 comprise the board of health of said city. The board of health
8 shall have the power to abate all nuisances within said city, and
9 it shall do and perform all such other duties and exercise such
10 other powers as may be required of or conferred upon them by
11 legal ordinances of said city. The council of said city shall pro-
12 vide by ordinances the way and method of trying and abating such
13 nuisances, and shall prescribe all penalties that may be proper and
14 necessary for such purpose. The board of health shall have the
15 power to summon witnesses, hear testimony and to do any and
16 all other things necessary and proper in the performance of such
17 duties under this act and under the general laws of the state, in
18 such cases made and provided.

ARTICLE XXXII.

Police Department.

Sec. 56. The mayor shall nominate a chief of police and such
2 number of policemen as may be authorized by ordinance, from time
3 to time, said nominations to be subject to confirmation by the
4 council. Council shall prescribe by ordinance such mental and
5 physical examinations for applicants for appointment to the po-
6 lice force as it shall deem proper. Policemen, when nominated
7 and confirmed by the council shall hold office during the will of
8 the council. The term of chief of police shall be for one year.
9 No person shall serve or exercise any of the duties of a police of-
10 ficer until he shall have been confirmed as such by the affirmative
11 vote of a majority of all the members elected to the council, unless
12 he has been appointed a special officer as hereinbefore provided for.
13 Policemen may be removed and discharged at any time by the
14 mayor for good cause, in which event he shall report such suspen-
15 sion, together with the reason therefor, to the council at its next
16 meeting. The council shall consider such suspension and may veto
17 such suspension and may reinstate such policeman or confirm the
18 suspension for such period as they may fix. *Provided*, that the
19 council shall have the power to suspend without pay the chief of
20 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 council.

ARTICLE XXXIV.

Sec. 58. All officers of the city of Mount Hope heretofore
2 elected by vote of the people shall remain in and hold their offices
3 and discharge the duties thereof until the first day of June one
4 thousand nine hundred and twenty-two and thereafter until their
5 successors have been elected and qualified.

6 All valid ordinances and regulations passed and adopted by
7 the council on or before the fifteenth day of January, one thou-
8 sand nine hundred and twenty-one, and consistent with this act,
9 shall be and remain in full force, unless and until repealed, and

10 the council now in office shall continue to exercise its powers as
11 such until their successors are elected and qualified.

Sec. 59. All acts in conflict or inconsistent with this act are
2 to the extent of any such conflict hereby repealed.

CHAPTER 18

House Bill No. 116—Mr. Brown.

AN ACT to incorporate the city of New Cumberland in the county of Hancock, state of West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said city.

[Passed April 7, 1921. In effect from passage. Approved by the Governor April 18, 1921.]

- | SEC. | SEC. |
|--|--|
| 1. Incorporating "City of New Cumberland." | 29. Appeals allowed by mayor; exceptions. |
| 2. Boundaries prescribed. | 30. Recorder; duties; substitute for mayor; power and authority to perform all duties of mayor during his absence; license taxes, when paid; duties and power as assessor; levies. |
| 3. Officers designated; eligibility of. | 31. Recorder, prepare bills for license taxes due city, turn same over to chief of police, who shall collect all taxes on licenses, etc.; prepare financial statement, publication of, compensation for. |
| 4. Municipal authorities to consist of mayor, recorder and councilmen. | 32. Treasury selected. |
| 5. Act to take effect when; first election; officers elected. | 33. Solicitor appointed, duty, compensation of. |
| 6. Elections to be held biennially. | 34. Chief of police, duty, power, bond required, penalty, responsibility. |
| 7. Present officers in power until this act effective. | 35. Violation, ordinances enforced, fines, costs, arrests, possess power of constable. |
| 8. Terms of office. | 36. Chief of police— <i>ex-officio</i> collector; tax bills collected, penalty for non-payment, publication required; discount allowed. |
| 9. Officers to take oath. | 37. Same; taxes received; separate account kept, and open for inspection; deposits made by said collector; duties upon expiration of office; disbursements, salary. |
| 10. Council to fix compensation for members thereof; to prescribe duties and powers of officers. | 38. Same; duty as to collections of; council to recover any or all money, not paid by him to city. |
| 11. To require performance of duty of officers; bonds, obligations, etc., payable to city. | 39. Health officer; duty, salary; council to provide by ordinance a municipal board of health. |
| 12. Council; authority to remove officers; how vacancy filled. | 40. Street commissioner; duty, compensation, term of office. |
| 13. Council; to fix time and place of regular meetings; quorum. | 41. City engineer; council to employ and fix compensation for same. |
| 14. Minute book and ordinance book to be kept; oaths and bonds to be kept by recorder. | 42. Lien for taxes on real estate, for taxes, fines and penalties; delinquent real estate may be sold for taxes. |
| 15. Council meetings; how conducted. | 43. Licenses generally; city licenses required by council, tax of same for use of city; dog license required. |
| 16. Regulating expenditures of money. | |
| 17. Wards; prescribing limits. | |
| 18. General powers of. | |
| 19. Franchises; regulations governing. | |
| 20. Council; empowered to adopt needful ordinances, etc., and to enforce same; restrictions as to fine and imprisonment. | |
| 21. Mayor; authority, duties and salary of. | |
| 22. Fine or imprisonment; laws governing. | |
| 23. Mayor; power of, relative to fines and costs. | |
| 24. Jailer of Hancock county, also city jailor; duties and fees of. | |
| 25. Mayor's docket; description of. | |
| 26. Appeals; when granted or denied. | |
| 27. Appeals; when taken; mayor to deliver to clerk of court, record of case. | |
| 28. Court to ascertain fine or imprisonment. | |

SEC.	SEC.
44. Licenses applied for and granted by council, payment of taxes thereon; expiration of licenses.	ed from payment of district road taxes.
45. Council; power to condemn real estate for public use and utility, cost borne by city.	50. Bonds; city authorities to have authority and power to issue and sell bonds; additional levy made by council.
46. Council; to require sidewalks, footways, etc., to be paved by owners of said lots or property if owner fails to do work, council to do so at own expense.	51. Ordinance adopted specifying purpose of bond issue; proclamation for election.
47. Council; shall lay a levy on real and personal property; capitation tax required; limit amount of levy.	52. Petition to council by owners of property to lay pavements; sewers constructed; bids or proposals therefor.
48. Publication of financial statement required, statement or report to be sworn to; copy of printed report to be delivered to officials; penalties of.	53. Rules governing elections.
49. Male residents required by council to work on streets; age and conditions of; residents exhort-	54. City of New Cumberland; rights, powers, responsibilities of; service and compensation of officers; laws regarding council.
	55. Acts submitted to voters at special election; time for publication of.
	56. Duties of mayor, council and recorder, relation to election.
	57. Acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Hancock as are within the bounds prescribed by section two of this act, now and hereafter residing within said bounds, shall be and they are hereby constituted a body politic and corporate, by and under the name of the "City of New Cumberland", and as such, and in that name, shall have perpetual succession and a common seal and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property for municipal purposes, and, generally, shall have the rights, powers and franchises belonging or appertaining to municipal corporations in the state of West Virginia.

Boundaries.

Sec. 2. The boundaries of the said city shall be as follows: Beginning at the mouth of Deep Cut run, on the south side thereof, and at low water mark in the Ohio river; thence up said run N. 63 $\frac{1}{4}$ ° E. 26 rods to a large elm tree standing on the south bank of said run; thence N. 10° E. 23 rods to a stone on the north side of said run; thence S. 85° E. crossing said run to a rock 11 rods; thence S. 19° W. 78 rods to a dogwood corner to Smith Porter & Co.; thence by line of Jeremiah Smith S. 23° E. 6.5 rods; thence N. 13° E. 4 rods to a stone; thence by lands of said Smith and Gregory heirs S. 30 $\frac{1}{4}$ ° E. 67.5 rods to a stone in John B. Chapman's line; thence S. 70° W. 17.5 rods to the east side of a twelve foot alley; thence with said alley S 31° E. 42.7 rods to the lands of Fickes; thence with said Fickes line N. 69° E. 2.4 rods; thence

14 S. 36° E. 15 rods; thence S. 69° W. 6.5 rods to the east side of
 15 said alley; thence with the same S. 21° E. 22 rods to the line of
 16 Smith Porter & Co.; thence N. 69° E. 21.7 rods; thence S. 24°
 17 E. 28.5 rods; thence S. 66½° W. 3 rods to corner of G. W. New-
 18 man; thence S. 29½° E. 9.2 rods; thence S. 62½° E. 17 rods to a
 19 pile of rocks; thence S. 29° E. 54.4 rods to three white oak
 20 stumps, original corner to Campbell, Cuppy and Chapman; thence
 21 S. 54½° E. 36 rods to stone corner to New Cumberland Ceme-
 22 tery, and with the same N. 16° W. 10.5 rods to center of road;
 23 thence N. 50° E. 4 rods; thence N. 42° E. 12 rods; thence N. 56°
 24 E. 25 rods.; thence N. 50° E. 7 rods; thence S. 7½° 58 rods;
 25 thence S. 66½° W. 23.1 rods to line of Mrs. Headley; thence S.
 26 55° E. 33.3 rods to a red oak stump; thence N. 67° E. 34.5 rods;
 27 thence S. 81¾° E. 31.2 rods to cross on rock on the north side of
 28 Hardin's run; thence with line of E. Stewart S. 25° E. 8.5 rods;
 29 thence S. 42° W. 50.8 rods; thence S. 65° W. 22 rods to line of
 30 lands of S. F. Grier; thence S. 32° E. 35 rods; thence with line
 31 of J. H. Ahkinson, James M. Porter and John Porter S. 43½°
 32 E. 79 rods to a stone; thence S. 89° E. 20.5 rods; thence S. 2°
 33 E. 40 rods; thence S. 9° E. 49 rods to a hickory corner to Rose-
 34 berry; thence with Roseberry line S. 48° W. 61 rods; thence S. 55°
 35 W. 41 rods; thence S. 14 ° E. 60 rods to corner to Ballantyne;
 36 thence with Ballantyne line N. 50° W. 15 rods; thence N. 88°
 37 W. 25 rods to low water mark in the Ohio river; thence west to
 38 the west line of West Virginia; thence up the Ohio river with the
 39 said west line of West Virginia 800 rods; thence east across the
 40 said river to the place of beginning; excepting however from the
 41 said boundaries the county bridges over Deep Cut run and over
 42 Hardin's run with their abutments, which otherwise would be in-
 43 cluded within said boundaries.

Officers.

Sec. 3. The officers of said city shall be a mayor, recorder, chief
 2 of police and six councilmen. The recorder shall be *ex-officio*
 3 assessor and the chief of police shall be *ex-officio* collector and
 4 treasurer thereof. The said officers shall be elected by the qualified
 5 voters of said city. The mayor, recorder and six councilmen shall
 6 constitute the common council of the said city, which common
 7 council may, at its discretion, appoint a street commissioner, city
 8 solicitor and such other officers as may be deemed necessary from
 9 time to time, and fix the terms, duties and compensation there-

10 for. No person shall be eligible to any elective office in said city
11 unless he be a qualified voter therein, nor unless he has resided
12 therein for at least six months next preceding his election; and
13 no person shall be eligible to the office of mayor, recorder or coun-
14 cilman unless he was assessed with and paid taxes on not less than
15 one hundred dollars valuation of real or personal property in said
16 city, for the year prior to his said election; and if any such officer
17 shall during his term of office, cease to own and pay taxes on the
18 said amount of real or personal property, his office shall thereby
19 become vacant.

Sec. 4. The municipal authorities of said city shall consist of
2 the mayor, recorder and councilmen, who together shall constitute
3 a common council as hereinbefore set out; and all the corporate
4 powers of said corporation shall be exercised by said council, or
5 under its direction, except wherein otherwise provided herein.

Act to Take Effect, When; Elections; Certain Powers Granted.

Sec. 5. This act shall take effect on the first Tuesday after the
2 first Monday in August, one thousand nine hundred and twenty-
3 one, at which time the first election for city officers shall be held.
4 Said election shall be held and conducted, and the results thereof
5 ascertained, returned and determined, under such rules and regu-
6 lations as may be prescribed by the council of the town of New
7 Cumberland, the same being consistent with the general laws of
8 the state governing municipal elections, and shall conform as
9 nearly as may be thereto; but the proclamation calling said elec-
10 tion shall, in addition to the usual matters in such proclamations
11 contained, call attention to this act, and state fully the boundaries
12 of the city of New Cumberland hereinbefore contained. On the
13 said last named day there shall be elected a mayor, recorder, chief
14 of police and six councilmen, the mayor, recorder and chief of
15 police shall be elected for a term of two years, and one council-
16 man from each ward shall be elected for a term of two years and
17 one councilman from each ward to be elected for a term of four
18 years, thereafter, there shall be elected each two years, a mayor,
19 recorder, chief of police and one councilman from each ward. The
20 term of office of each municipal officer shall commence on the first
21 day of September next succeeding his election.

Sec. 6. Elections shall be held thereafter biennially, on the
2 Tuesday following the first Monday of August; said elections shall
3 be held and conducted and the results thereof ascertained, re-
4 turned and determined, under such rules and regulations as may be

5 prescribed by the common council of the city of New Cumberland,
6 the same being consistent with the general laws of this state gov-
7 erning municipal elections, and shall conform as nearly as may
8 be thereto.

Sec. 7. During the interim between the time when this act shall
2 take effect and the first day of September following, the present
3 officers of the town of New Cumberland shall have and exercise
4 over all of the territory of the city of New Cumberland, the same
5 authority and jurisdiction herein given to the officers of the said
6 city; *provided*, that if the officers of the city of New Cumberland,
7 elected at the first election herein mentioned, have not qualified
8 as hereinafter provided, the said officers of the town of New Cum-
9 berland shall continue to exercise their said functions until all the
10 legal requirements for such officers are fulfilled.

Terms of Office.

Sec. 8. The term of office of the mayor, recorder, chief of police
2 and councilmen shall beagin on the first day of September next
3 succeeding their election, and the term of office of the mayor,
4 recorder and chief of police, shall continue for two years and until
5 their successors shall have been elected and qualified. The term
6 of office of councilman shall continue for four years and until
7 their successors shall have been elected and qualified. The ap-
8 pointive officers herein mentioned shall hold office for the term of
9 two years unless sooner removed by council for cause. Any
10 former incumbent shall be ineligible for reappointment unless he
11 shall have settled up the business of his former term.

Sec. 9. Every person elected or appointed to any office in said
2 city shall, within fifteen days after his election or appointment,
3 and before entering upon the discharge of the duties of his office,
4 take and subscribe to the oath of office required by law for officers
5 generally, which oath may be administered by the mayor or re-
6 corder of said city, or by any person authorized to administer oaths
7 under the laws of West Virginia. Said oath together with the
8 certificate of the person administering the same shall be filed with
9 the recorder of said city.

Council.

Sec. 10.—The council of the said city shall have the right to fix
2 a compensation for the members thereof, which said compensation,
3 however, shall not exceed two dollars for each meeting actually at-

4 tended, and in no event shall exceed twenty-four dollars per annum
5 for each member. The council shall prescribe the duties and pow-
6 ers of all officers by it appointed, except so far as the same are
7 by this act defined; shall fix their compensation, and may require
8 and take from them, respectively, bonds payable to the city in its
9 corporate name with such sureties and in such penalties as may be
10 deemed proper, conditioned for the faithful performance of their
11 duties.

Sec. 11. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to receive
3 funds, assets or property belonging to the city, or have charge of
4 the same, such bonds, obligations or other writings as may be deem-
5 ed proper to secure the faithful performance of their several duties.
6 All bonds, obligations or other writings taken in pursuance to
7 any of the provisions of this act shall be made payable to the city
8 of New Cumberland with such sureties and in such penalties as
9 may be deemed proper, conditions for the faithful performance of
10 their duties and for the accounting for and paying over, as requir-
11 ed by law, all money or property coming into their hands by virtue
12 of their offices, and the respective persons and their heirs, execu-
13 tors and assigns bound thereby, shall be subject to the same pro-
14 ceedings on said bonds and other writings, for the enforcement of
15 the conditions thereof, by motion or otherwise, before any court
16 of competent jurisdiction held in and for the county of Hancock,
17 that collectors of county levies and other sureties are or shall be
18 subject to on their bonds for enforcing the payment of county
19 levies.

Sec. 12. The council shall have authority to remove from
2 office any elected officer for misconduct or neglect of duty, by an
3 affirmative vote of not less than four members of council, but only
4 after reasonable notice to such officer and a hearing of the charges
5 preferred. And failure of the mayor, recorder or any councilman
6 to attend the regular meetings of council for four consecutive
7 meetings without reasonable excuse therefor shall vacate his said
8 office. Any vacancy in office, however occasioned, shall be filled
9 by the council for the unexpired term.

Sec. 13. The council shall fix the time and place of holding its
2 regular meetings; may provide for adjourned and special meet-
3 ings; shall have power to compel the attendance of its members;
4 and may prescribe rules and regulations, not inconsistent herewith,
5 for the transaction of business and for its own guidance and

6 government. The council shall be presided over at its meetings
7 by the mayor, or in his absence by the recorder, or in the absence
8 of both the mayor and recorder, then one of the councilmen select-
9 ed by a majority of the council present, who may vote on any
10 question as a member of council. The mayor shall have a vote
11 only in the case of a tie and in no case shall the presiding officer
12 have more than one vote. A majority of the council shall be
13 necessary to constitute a quorum for the transaction of business.
14 No member of the council shall vote upon or take part in the con-
15 sideration of any proposition in which he is or may be interested
16 otherwise than as a resident of said city.

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

Sec. 15. At each meeting of the council the proceedings of the
2 last meeting shall be read, and, if erroneous, corrected, and sign-
3 ed by the presiding officer for the time being. Upon the call of any
4 member the yeas and nays on any question shall be taken and re-
5 corded in the minute book. And the yeas and nays shall be taken
6 on all propositions for the expenditure of money belonging to the
7 city.

Sec. 16. No ordinance or by-law and no resolution or measure
2 for the expenditure of money other than to defray the current ex-
3 penses of the city, shall be deemed passed or adopted unless it shall
4 have been fully read at two consecutive meetings of the council and
5 shall have received a majority of the votes of the members pres-
6 ent, when it shall stand and be declared adopted and not other-
7 wise.

Wards.

Sec. 17. The territory of the said city shall be divided into
2 three wards as follows:

3 That portion lying north of the center line of Jefferson street,
4 shall constitute the first ward.

5 That portion thereof lying south of the center line of Jeffer-
6 son street and north of the center line of Sedgewick street shall
7 constitute the second ward.

8 That portion lying south of the center line of Sedgewick street
9 shall constitute the third ward.

10 The lines between the wards are understood to run from the
11 western boundary of the city to the eastern boundary thereof by
12 lines projected through the center of each of the said streets.

Of the Council—Its General Powers.

Sec. 18. The council of the said city shall have plenary power to
2 lay off, open, alter, close, vacate, grade and keep in repair the
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains,
4 and gutters for the use of citizens or of the public and to improve
5 and light the same, and to keep the same free from obstructions of
6 every kind; to regulate the width of pavements and sidewalks on
7 the streets and alleys, and to order and require the pavements,
8 sidewalks, footways, drains and gutters to be kept in good order,
9 free and clear, by the owners or occupants of the real property next
10 adjacent thereto; to prevent injury or annoyance to the public or to
11 individuals from anything dangerous, offensive or unwholesome;
12 to prohibit or regulate slaughter houses and soap and glue factories
13 within the city limits, or the exercise of any unhealthy or offensive
14 business, trade or employment; to abate all nuisances within the
15 city limits, or to require and to compel the abatement thereof,
16 by or at the expense of the person causing the same, or at the
17 expense of the owner or occupant of the ground upon which they
18 are placed or found; to cause to be filled up, raised or drained by
19 or at the expense of the owner, any city lot or tract of land cov-
20 ered or subject to be covered by stagnant water; to prevent horses,
21 hogs, dogs, cattle, sheep, or other animals and fowls of all kinds,
22 from going or being at large within said city, and, as one means
23 of prevention, to provide for empounding and confining such
24 animals and fowls, and, upon failure to reclaim, for the sale there-
25 of; to protect places of divine worship and to preserve order within

26 and about the premises where and when such worship is held; to
27 regulate the keeping of gun powder and other inflammable, ex-
28 plosive and dangerous substances; to control and regulate skating
29 rinks, billiard and pool rooms, bowling alleys and dance halls,
30 and to fix the time for opening and closing the same; to provide
31 for, construct and maintain an adequate sewerage system; to pro-
32 vide for and regulate the building of houses and other structures
33 within the city and for maintaining of division fences by owners
34 of adjoining premises, and for the proper drainage of city lots and
35 other parcels of land by or at the expense of the owner or occupant
36 thereof; to provide against fire; to punish for assault and battery
37 and petit larceny; to arrest, convict and punish any person for
38 gambling or keeping or exhibiting gaming tables, commonly called
39 A. B. C. or O. E. tables, or faro bank or keno table, or table of like
40 kind, under any denomination, whether the game or table be play-
41 ed with cards, dice or otherwise, or shall be a partner or concerned
42 in interest in the keeping or exhibition of such table or bank, or
43 keeping or maintaining any gaming house or place, or betting or
44 gambling for money or anything of value, or playing cards in any
45 public place; suppress houses of ill-fame and to arrest and punish
46 persons loitering in, or visiting them, or loitering upon the streets;
47 to prevent lewd and lascivious conduct; the sale of indecent pic-
48 tures or other representations; the desecration of the Sabbath day;
49 profane swearing; the illegal sale of all intoxicating liquors,
50 drinks, mixtures and preparations, beer, ale, wine, or drinks of a
51 like nature; to protect the persons of those residing within the
52 said city; to appoint, when necessary or advisable, a police force,
53 permanent or temporary, to assist the chief of police in the dis-
54 charge of his duties; to build or purchase, or lease and use, a suit-
55 able place within or near the said city for the safe keeping or
56 punishment of persons charged with or convicted of the violation
57 or ordinances; to provide for the employment of persons convict-
58 ed of the violations of the ordinances or who may be committed in
59 the default of the payment of fines, penalties or costs, and who are
60 otherwise unable to discharge the same, by putting them to work
61 for the benefit of the city, and to use such means to prevent their
62 escape, while at work, as they may deem expedient; to erect, or
63 authorize or prohibit the erection of gas works, electric light
64 works or water works within the city limits; to prevent injury
65 to such works or the pollution of any gas or water used or intended
66 to be used by the public or by individuals, and to do all things

67 necessary to adequately supply said city and the inhabitants thereof
68 with pure, healthful and wholesome water; to use, generate, distri-
69 bute, sell and control electricity and gas for heat, light and power
70 and to furnish light for the streets, houses, buildings, stores, and
71 other places in and about said city; to provide a sewerage system for
72 said city; to provide for and regulate the weighing and measuring
73 of hay, coal, lumber and other articles sold or kept or offered for
74 sale within said city; to regulate the running and speed of engines,
75 cars and other motor vehicles within the said city; to organize one
76 or more fire companies and provide necessary apparatus, tools,
77 implements, engines, or any of them, for their use, and in their dis-
78 cretion to organize a paid fire department; to make regulations with
79 respect to the erection and location of all pipes, conduits, and tele-
80 phone, telegraph, electric light or other poles within said city, and
81 the extension of any wires, lines and poles by any individuals or
82 corporations; to create by ordinances such committees or boards,
83 and delegate such authority thereto, as may be deemed necessary
84 or advisable; to provide for the annual assessment of the property
85 therein, including dogs kept within said city, and to provide a rev-
86 enue for the city for municipal purposes, and to appropriate such
87 revenue to its expenses, and, generally, to take such measures as
88 may be deemed necessary or advisable to protect the property, pub-
89 lic and private, within the city; to preserve and promote the
90 health, safety, comfort and well being of the inhabitants thereof.
91 The council of said city shall have the power and authority to con-
92 trol and regulate the construction and repair of all houses and oth-
93 er structures and buildings within said city; to provide for the
94 granting of building permits; to cause the removal of unsafe walls
95 or buildings; and may prohibit the erection in any street or on any
96 square, of any building or structure, or addition thereto, unless the
97 outer walls thereof be made of brick and mortar or other fireproof
98 material; and to provide for the removal of any building or addi-
99 tion which shall have been erected contrary to such prohibition,
100 at the expense of the owner or owners thereof.

Franchises.

Sec. 19. No franchise shall hereafter be granted by the council
2 of the said city, where the application for such franchise has not
3 been filed at least thirty days prior to the time at which application
4 is to be acted upon by the said council, with the recorder of the
5 city, and notice of such application, stating the object of such

6 franchise, shall have been given by publication for thirty days in
7 two newspapers of general circulation and of opposite politics,
8 published in said city. Nor shall such franchise be granted
9 within thirty days after the application has been filed,
10 nor until an opportunity has been given any citizen
11 or corporation interested in the granting or refusing of said fran-
12 chise to be heard. Nor shall any franchise be hereafter granted by
13 the said council for a longer period than fifty years. *Provided,*
14 *however,* that nothing in this act shall prevent the renewal of such
15 franchise for a term of not to exceed fifty years when the same
16 shall have expired. No grant of such franchise shall be made
17 without at the same time providing that the grantee, its or his
18 successors and assigns shall indemnify the city against all loss,
19 costs and damages that may accrue or be awarded against it by
20 reason of the construction, operation or maintenance of such work.

Sec. 20. To carry into effect these enumerated powers and all
2 others by this act or by general law conferred, or which may be
3 be hereafter conferred upon the said city or its council or any of
4 its officers, the said council shall have and possess full authority
5 to make, pass and adopt all needful ordinances, by-laws, orders
6 and resolutions not repugnant to the constitution and laws of the
7 United States or of this state; and to enforce any and all such
8 ordinances, by-laws, orders and resolutions by prescribing, for
9 violations thereof, fines and penalties and imprisonment in either
10 the county jail of Hancock county or the city prison if there be
11 one; but no fine shall exceed fifty dollars, and no term of imprison-
12 ment shall exceed sixty days. Such fines and penalties shall be
13 imposed and recovered, and such imprisonment inflicted and en-
14 forced by and under the judgment of the mayor of the said city, or
15 in case of absence or inability to act, of the recorder of said city,
16 or in case of the absence or inability to act of both of said officers,
17 then by one of the councilmen appointed for that purpose by the
18 council.

Mayor.

Sec. 21. The mayor shall be the chief executive officer of the
2 city and shall see that the orders, by-laws, ordinances and regula-
3 tions of the council thereof are faithfully executed; he shall be
4 *ex-officio* a justice and conservator of the peace within the city
5 and shall have within possession of and may exercise all of the pow-
6 ers and perform all the duties, whether in civil or criminal pro-

7 ceedings, vested by law in a justice of the peace. Any summons,
8 warrant or other process issued by him may be executed at any
9 place within the county of Hancock; he shall have power during
10 the recess of the regular meetings of council to appoint special
11 police officers when he shall deem it necessary, and it shall be
12 his duty to see that the peace and good order of the city are pre-
13 served and that persons and property therein are protected; and
14 to this end he may arrest and detain, or cause the arrest and de-
15 tention of all riotous and disorderly persons before taking other
16 proceedings in the case; he shall from time to time recommend to
17 the council such measures as he may deem needful for the welfare
18 of the city; he shall not receive any money due or belonging to
19 the state or corporations, or to individuals, unless and until he
20 shall have given the bond and security required of a justice of the
21 peace by chapter fifty of the code of West Virginia; and all of the
22 provisions of said chapter relating to moneys received
23 by justices shall apply to moneys received by him in
24 like cases. The mayor shall receive a salary of not
25 less than one hundred dollars nor more than three hundred dol-
26 lars per annum; such salary shall be in lieu of the fees which
27 would otherwise accrue to him in proceedings for the enforcement
28 of ordinances, but all such fees shall be collected, when practicable,
29 and accounted for to the city, and he may tax such costs against
30 any person or corporation found guilty of the violation of any
31 ordinance of the city as are provided to be taxed and recovered
32 by justices of said county in criminal cases.

Sec. 22. The process in proceedings to enforce any ordinances
2 prescribing a fine or imprisonment or fine and imprisonment, for
3 the violation thereof, shall be a summons in the name of the city
4 of New Cumberland as plaintiff, directed to the chief of police, or
5 to one of the regular police officers of the city, or to any constable
6 of the district within which the said city is located requiring him
7 to summon the person accused of such violation, and who shall
8 thereafter be designated as defendant, to appear before the mayor
9 at the time and place therein named to make answer to such ac-
10 cusation and be dealt with according to law. Such summons shall
11 contain such statement of the facts alleged as will inform such per-
12 son of the general nature of the offense against the city of which
13 he stands charged, and except in case of arrests upon view, shall
14 be issued only on the complaint, on oath, of some credible per-
15 son. But the mayor for good cause appearing, by endorsement of

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

Sec. 23. The mayor shall have power to issue an execution for
2 any fine and costs assessed by him for the violation of any ordin-
3 ance, or he may at the time of rendering judgment therefor, or at
4 any time thereafter and before satisfaction of such judgment, or
5 by his order in writing require immediate payment thereof; and in
6 default of such payment he may cause the person so in default to
7 be apprehended and brought before him, and commit him to the
8 jail of Hancock county until such fine and costs are fully paid;
9 but such imprisonment shall not exceed sixty days. The county jail
10 of Hancock county is hereby made the jail for the city of New
11 Cumberland.

Sec. 24. The jailor of Hancock county is hereby made *ex-*
2 *officio* the jailor for the said city, and he shall receive into his
3 custody and confine in said jail, all persons committed under the
4 authority of the city, and shall provide for their safety and com-
5 fort, and, from time to time report to the council, he shall receive
6 the same fees for receiving and discharging and for feeding the
7 prisoners committed to said jail under the authority of said city
8 that are allowed by law for prisoners committed by authority of
9 the state or county, which said fees shall be paid by the city, on
10 the orders of the council.

Mayor's Docket.

Sec. 25. A book well bound and indexed, to be denominated the
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 with
4 the proceedings therein, including the statement of complaint, the
5 summons, the return thereof, the fact of appearance or non-ap-
6 pearance of the accused, the defense, the hearing, the judgment,
7 the costs and, in case the judgment be one of conviction, the ac-
8 tion taken to enforce the same. The record of such case shall be
9 signed by the mayor or other person acting in his stead, and the
10 original papers thereof, if no appeal be taken, shall be kept to-
11 gether and preserved in his office.

Appeals.

Sec. 26. In any case for the violation of an ordinance of the
2 said city, in which there is a judgment by the mayor of imprison-
3 ment, or for a fine of not less than ten dollars, an appeal shall
4 lie, at the instance of the person against whom such judgment is
5 rendered, to the circuit court or any other court of record of Han-
6 cock county, such appeal shall not be granted by the mayor, unless
7 within ten days from the date of the judgment, such person shall en-
8 ter into recognizance, with security deemed sufficient, in a penalty
9 double the amount of the fine and costs, with condition that the
10 person appealing will appear before such court on the first day of
11 the next term thereof to answer for the offense against the city
12 with which he stands charged, and not thence depart without leave
13 of the said court, and will perform and satisfy any judgment which
14 may be rendered against him by the said court on such appeal.

Sec. 27. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of the said court the complaint in writing, if
3 any, the summons, a transcript of the record including the judg-
4 ment, the recognizance and any other papers belonging to the case,
5 and shall note the taking of such appeal on his docket; the said
6 clerk shall receive and file the same and place the case on the trial
7 docket of the next succeeding term of said court, and the said
8 court shall proceed to try the same in its order.

Sec. 28. If the appellant be found guilty of the violation of the
2 ordinance in question, whether upon the verdict of a jury or other-
3 wise, the court shall ascertain by its judgment the fine or im-
4 prisonment, or the fine and imprisonment to be paid or suffered

5 by such defendant, having regard to the punishment prescribed
6 by such ordinance, and shall include in any such judgment the
7 costs incurred by said city, as well as the proceedings before the
8 mayor as those in court, including a fee to the attorney for the
9 city of ten dollars, and the fees, if any, of the jailor; and the
10 proceedings to enforce the collection of any such fine and costs
11 as may be provided in sections ten, eleven and twelve of chapter
12 thirty-six of the code of West Virginia, except that the writ men-
13 tioned in the tenth section may be issued by the clerk on the or-
14 der of the mayor of the city, and the notice contemplated by the
15 eleventh section shall be given to such officer.

Sec. 29. For all judgments by the mayor, in cases other than
2 for violation of ordinances, appeals shall be allowed as in similar
3 cases before justices.

Recorder.

Sec. 30. It shall be the duty of the recorder to keep a journal
2 of the proceedings of the council and have charge of and preserve
3 the records, papers, contracts and other documents belonging to the
4 city. He shall in case of sickness or disability of the mayor to
5 act. or in case of his absence from the city, or during any vacancy
6 in the office of mayor, perform the duties of mayor, and shall be
7 vested with all of the powers necessary for the performance of
8 such duties, including the right and duty to collect fines, for-
9 feitures and licenses due the said city, and account for the same
10 to the treasurer thereof; he shall also perform such other duties
11 pertaining to the fiscal affairs of the city, or otherwise, as may be
12 required of him by this act or by council. All license taxes
13 shall be payable on the first day of July of each year, or at such
14 time as such license may be issued.

15 The officer whose duty it is to make out the land and personal
16 property books of Hancock county shall, annually, at such com-
17 pensation as agreed upon with council, not later than the fifth day
18 of August, furnish to the recorder, showing in separate amounts
19 the aggregate personal property and the aggregate value of all
20 of the real estate in the city as ascertained from the land and
21 personal property books of said county for the current year. Upon
22 receiving said statement the recorder shall present the same to the
23 council at a meeting to be held not later than the second Tuesday
24 in August, for the purpose of determining the rate of levy in said
25 city for the current year. As soon as the rate of levy shall have

26 been fixed by council, the recorder, as *ex-officio* assessor for the
27 city shall ascertain the tithables and property, real and personal
28 within the city subject to taxation and shall make return thereof
29 to the council at such time as may be prescribed, substantially in
30 the manner and form as in cases of assessments by county assessors,
31 and to this end he shall have access to the current assessments
32 made for county of Hancock for state and county purposes.
33 The current assessments for state and county purposes shall be
34 used and adopted by him; but as to persons and property within
35 the city not included in such assessment, he shall ascertain the
36 same, fix the value of such property and include the same in his
37 assessment; but the council may correct any error on his part in
38 this regard, upon application of any person aggrieved. In the
39 discharge of his duties hereunder the recorder shall have the same
40 powers as are conferred by law on county assessors. After such
41 assessment has been completed, the recorder shall make up a com-
42 plete book and list of all tithables and of all real and personal
43 property, separately stated, with the levy extended therein, show-
44 ing the amount of taxes due to the city from each tax payer there-
45 in, and shall deliver the same to the chief of police who is *ex-*
46 *officio* collector and treasurer of the city, not later than the first
47 day of October following the levy, whose receipt therefor shall
48 be returned to the council and entered upon its record, and the
49 chief of police shall be charged therewith.

Sec. 31. The said recorder shall prepare the bills for all license
2 taxes due said city, whenever the same shall become due and pay-
3 able, and turn said bills over to the chief of police, charging him
4 therewith. The said chief of police shall proceed at once to col-
5 lect all such taxes on licenses, and account to the council there-
6 for as required herein for other collections. The recorder shall
7 keep his office at the office of the mayor, unless otherwise or-
8 dered by council, and shall keep his office open for the transaction
9 of business during such business hours as may be necessary for the
10 proper performance of his several duties. It shall be his duty to
11 prepare the annual financial statement of said city, and when
12 approved by the committee on finance, to cause the same to be
13 published in two newspapers published in said city; the said
14 recorder shall receive such compensation as may be fixed by the
15 council from term to term which shall not be less than one hun-
16 dred dollars nor more than three hundred dollars per annum.

Treasury.

Sec. 32. The council of said city, at its first meeting for the 2 term for which its members are elected, shall designate some bank 3 in said city, treasury or depository for the funds of the city, for 4 a term of two years. Such bank shall receive and receipt for all 5 money deposited therein by the mayor, chief of police, or other 6 officer, derived from any and all sources. The funds so de- 7 posited in such bank shall be paid out by it only on checks drawn 8 and signed by the chief of police. Such bank shall, before re- 9 ceiving any money belonging to the city, execute the bond required 10 by section ten of this act.

Solicitor.

Sec. 33. The council shall at its first meeting after each elec- 2 tion appoint a solicitor for said city, who shall be a practicing 3 attorney residing in said city. It shall be the duty of such 4 solicitor to prepare, when directed by the council, all ordinances 5 for the said city; to represent the said city in all matters and 6 proceedings in any court in which the city is interested; and to 7 advise the council on all legal questions when requested to do so. 8 He shall hold his office for a term of two years, unless sooner re- 9 moved by council for cause shown, and shall receive as compensa- 10 tion an annual salary of not less than one hundred dollars nor 11 more than three hundred dollars, and in addition thereto such 12 special fees as may be agreed upon for services rendered in the 13 circuit or other court of record.

Chief of Police.

Sec. 34. It shall be the duty of the chief of police to preserve 2 order and quiet in said city, and to see that all subordinate police 3 officers faithfully perform their official duties, and he may, for 4 good cause appearing to him, for neglect of duty or insubordina- 5 tion, suspend such officer from duty, and report his action and 6 the reason therefor to the next regular meeting of the council for 7 its action thereon; he shall make a list of all dogs within the city 8 limits liable to tax, collect the license tax thereon, and account 9 for same to the council, as may be provided by ordinance of the 10 said city; he shall be present in police court whenever the same is 11 in session, and see that all orders and requirements are properly 12 executed; he shall, with the consent of the council entered of re-

13 cord, and not otherwise, appoint one or more policemen, as the
14 council may determine; he shall, before entering upon the dis-
15 charge of his duties, execute a bond, conditioned for the faithful
16 performance by him of the duties of his office and for the account-
17 ing and paying over, as required by law, of all moneys which may
18 come into his hands by virtue of his office, with sureties satisfac-
19 tory to the council, in a penalty of not less than five thousand
20 dollars nor more than ten thousand dollars, as may be determined
21 by the council, which said bond shall be payable to the city of
22 New Cumberland. The chief of police, on his official bond shall
23 be liable for all of the acts and conduct of the policemen appointed
24 by him.

Sec. 35. In case of a violation of any ordinance of said city
2 is committed in the presence, or within view of the chief of police
3 or other police officer, the offender may be forthwith apprehended
4 and taken before the mayor and a complaint under oath, stating
5 such violation, there lodged against him and filed; and there-
6 upon such offender may be tried and dealt with according to law,
7 without summons. The chief of police shall execute, within
8 the county of Hancock, when directed to him, all proper process
9 issued by the mayor in proceedings for the enforcement of ordin-
10 ances; and shall collect by levy of execution, or otherwise, and
11 duly account for, all fines assessed and costs imposed in such pro-
12 ceedings. He shall also have the right and power within said
13 city, in regard to the arrest of persons, the collection of claims,
14 the execution and return of process, that are or may be lawfully
15 exercised by a constable of any district within the same, and shall
16 be entitled to the same compensation therefor as is provided by
17 law for constables in this state; and he and his sureties shall be
18 liable to all fines, penalties and forfeitures that a constable is
19 liable to, for any dereliction of duty in office, to be recovered in
20 the same manner and in the same courts that such fines, penalties
21 and forfeitures are recovered against constables.

Chief of Police—Ex-Officio Collector.

Sec. 36. When the tax bills of any year have been turned over
2 to the chief of police, as required by section thirty hereof, the
3 chief of police, as *ex-officio* collector, shall give notice that said
4 tax bills are in his hands for collection, stating the penalty for
5 non-payment thereof and the time and place where the same may
6 be paid, which notice shall be given by publication in some news-

7 paper published in said city, and by notices carefully posted on the
8 front door of the mayor's office and not less than four other public
9 places in said city; *provided, however*, that if there should be no
10 newspaper published in said city, then the posting shall be suffi-
11 cient. To all persons who shall pay their taxes in full before
12 the first day of December next succeeding said levy, there shall be
13 allowed a discount of two and one-half per centum on the whole
14 amount of taxes so paid, and not otherwise.

Sec. 37. The said collector shall receive all taxes and other
2 moneys due the city, authorized by this act or any ordinance there-
3 of to be paid to the city, and shall receipt for the same; he shall
4 keep an accurate account of all moneys paid to him for the use of
5 the city, showing under separate accounts the amounts received by
6 him on account of taxes, street pavements, fines, license fees, for-
7 feitures and all other sources; which accounts shall at all times
8 be open to the inspection of the council or to any committee ap-
9 pointed by it for the purpose; he shall within one week after re-
10 ceiving the same, deposit all moneys so collected by him, in the
11 bank designated by the council as treasury or depository, taking a
12 receipt therefor; he shall keep his office in the office of the mayor
13 and shall keep his office open, as much as practicable during busi-
14 ness hours; he shall, at each regular monthly meeting of the
15 council, present to council a full, complete and detailed statement
16 of all money with which he is chargeable, or that has been re-
17 ceived by him from all sources up to that time, together with a
18 statement of all money paid out by him, and proper receipts
19 therefor. The said collector shall, at the first regular meeting
20 of council in the month of August of each year return to and lay
21 before the council, a list of all taxes, fines, penalties and assess-
22 ment in his hands for collection which he shall not have been
23 able to collect by reason of insolvency, removal or other causes, to
24 which list he shall append his affidavit that he has used due
25 diligence to collect the several items therein mentioned, but has
26 been unable to do so. If the council shall be satisfied with the
27 correctness of said list, it shall allow him credit for said claims,
28 but may thereafter take such lawful measures to collect the same
29 as shall be by it prescribed; the same being consistent with the law
30 in such cases made and provided. The said chief of police and
31 *ex-officio* collector shall, upon the expiration of his office, or upon
32 order of council, turn over to his successor all the money, books
33 of account and other property of said city in his possession; he

34 shall receive for his services such salary as may be fixed by the
35 council, not however to be less than fifty dollars nor more than
36 one hundred dollars per month and in addition thereto a commis-
37 sion of five per centum of all moneys collected and disbursed by
38 him. Disbursements shall be made by the chief of police of the
39 funds of the city only upon warrants drawn by order of the coun-
40 cil entered of record, and signed by the mayor and countersigned
41 by the recorder.

Sec. 38. The chief of police (and *ex-officio* collector) shall be
2 chargeable with, and it shall be his duty to collect all city taxes,
3 levies and assessments under such regulations as may be prescribed
4 by law and the ordinances of the said city, and if the same are not
5 paid within one month after the same are placed in his hands for
6 collection, he may distrain and sell therefor in like manner and
7 have the same power and authority possessed by the officer charged
8 with the collection of state taxes. If the said collector shall fail
9 to collect, or account for and pay over any money with which he
10 may be chargeable, belonging to the said city, according to the
11 condition of his bond and the orders of council, it shall be lawful
12 for the council to recover the same by action or upon motion, upon
13 ten days' notice, in the corporate name of the city, in the circuit
14 court of Hancock county, against him and his sureties in his of-
15 ficial bond, or any or either of them, or his or their heirs, execu-
16 tors or administrators.

Health Officer.

Sec. 39. The health officer shall perform such duties as may be
2 provided by any ordinance of said city, or by resolution of the
3 council, and shall receive a salary at the rate of not more than
4 one hundred dollars per annum. He shall receive no compensation
5 from the city, other than the salary herein provided. The council
6 of said city is hereby authorized to provide by ordinance for a
7 municipal board of health.

Street Commissioner.

Sec. 40. The council may appoint some competent person as
2 street commissioner for said city, who shall perform all such
3 duties as may hereafter, by ordinance, be imposed upon him. He
4 shall hold his office for a term of two years and shall receive such
5 compensation as may be fixed by council from term to term.

City Engineer.

Sec. 41. The said council may employ a competent civil engineer for said city for such special or general work as said council may from time to time deem advisable, and fix the compensation for same.

Lien for Taxes.

Sec. 42. There shall be a lien on all real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof by the authorities of such city from the time the same are so assessed or imposed which shall have priority over all other liens, except liens for taxes due the state, county or district; and which shall be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of taxes thereon, a copy of such delinquent list may be certified by the council to the auditor and the same may be sold for the city taxes, interest and commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

Licenses Generally.

Sec. 43. The council shall have the authority to require a city license as follows: for anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required; for the keeping of hacks, carriages, carts, wagons and other vehicles for hire within the city, and for the keeping of dogs within the city, and council may provide by ordinance for the killing of all dogs the keeping of which is not so licensed; and upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 44. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the taxes thereon to be made to the recorder of the said city before delivery to the person applying therefor. All licenses shall expire on the thirtieth day of June next after they are granted.

Power to Condemn.

Sec. 45. The council shall have the right to institute proceedings in the name of the city, for the condemnation of real estate within the city for streets, alleys, avenues, sewers, drains, market ground, landings, city building and city prison and all other works for public use and utility. Such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the cost thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Sidewalks.

Sec. 46. After having caused a proper grade to be established at the expense of the city, the council may require sidewalks or footways on any streets, avenues or alleys of the said city to be paved with brick, stone or such other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or fractional parts of lots abutting or facing on any such sidewalk or footway; and if the owner of any such sidewalk or footway, or of the real estate next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the recorder shall notify the owner of said lot or part of lot the amount of such assessment, and if said assessment be not paid within thirty days from the date of said notice, he shall cause a memorandum showing the name of the owner of such lot, a description of the said lot and the amount of such assessment to be filed in the office of the clerk of the county court of Hancock county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity, in the name of the city, in the circuit court of Hancock county, as other liens against real estate are enforced; and upon payment of said assessment the recorder shall issue to the person entitled thereto a release of said lien; *provided, however*, that reasonable notice shall first be given to said owners that they are required to construct such sidewalk or footway; and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four suc-

29 cessive weeks in two newspapers of opposite politics, published in
30 said city. The provisions of this section shall also be applicable
31 to needed repairs to any of the sidewalks of the city, and to substi-
32 tution of new pavements for any which may have been heretofore,
33 or which may hereafter be laid and completed, and which may be
34 deemed insufficient.

Levy.

Sec. 47. The council shall cause to be made up annually, and
2 spread upon its minute book, an accurate estimate of all sums which
3 are or may become lawfully chargeable against the city, and which
4 ought to be paid within one year, and it shall order at a meeting
5 held by it in the month of August each year, as provided by law, a
6 levy of so much as will, in its judgment, be necessary to pay the
7 same. Such levy shall be upon all real and personal property
8 otherwise subject to state and county taxes, and an annual capi-
9 tation tax of fifty cents upon each male inhabitant of said city
10 who shall have arrived at the age of twenty-one years; *provided,*
11 *however,* that such levy shall not exceed the amount prescribed
12 by statute law on each one hundred dollars of the ascertained val-
13 uation of such property.

Financial Statement.

Sec. 48. In the month of September of each year the council
2 shall cause to be published in two newspapers of opposite politics,
3 published in the city, at a compensation not to exceed the rate pro-
4 vided by law for like publications, for one issue, a sworn statement
5 of the financial condition of said corporation; and said statement
6 shall be prepared by the recorder of said city, and shall contain an
7 itemized account of the receipts and expenditures of the city show-
8 ing the source from which all of the money was derived, and the
9 name of the persons to whom orders were issued, together with the
10 amount and number of each order, and why such order was issued,
11 arranging the same under distinct heads; and also a specific list of
12 all of the debts of the city, showing the purpose for which any debt
13 was contracted, the time it becomes due, the rate of interest, up to
14 what time the interest thereon has been paid, the amount of money
15 in the treasury at the end of the preceding administration and
16 the debts contracted by it. Such statement shall be prepared by
17 the city at the close of each fiscal year and then shall be printed
18 according to the provisions of this section. This report shall be

19 sworn to by the recorder and the chief of police and the chairman
20 of the finance committee of council. A copy of such printed report
21 shall be delivered by the recorder to the judge of the circuit court
22 of Hancock county, one to the clerk of the county court and one
23 to the clerk of the circuit court of Hancock county, and one shall
24 be kept as a part of the records of the said city. If council fail
25 or refuse to perform the duties herein named, every member of
26 such council and the recorder and chief of police thereof concur-
27 ring therein, shall be guilty of a misdemeanor and upon convic-
28 tion thereof shall be fined not less than ten dollars nor more than
29 one hundred dollars.

Work Upon Streets.

Sec. 49. Every male resident between the age of twenty-one and
2 fifty years, not a pauper, may be required by the council, by him-
3 self, or an acceptable substitute, under the direction of the street
4 commissioner to work not to exceed three days in each year, on any
5 of the streets and alleys of said city, or he may be released there-
6 from upon the payment to the chief of police of a sum of money to
7 be fixed by the council, to be used solely in making or improving
8 such streets and alleys, and the council shall include in its levy
9 an additional sum that may be necessary to make and keep in order
10 such streets and alleys, as well as the drains, gutters, sidewalks
11 and cross walks, and to defray all other expenses incident thereto.
12 The residents of the said city shall be and remain exonerated
13 from the payment of district road taxes assessed by the county of
14 Hancock, and from the performance of labor on roads outside of
15 the corporate limits of said city.

Bonds—Additional Levy.

Sec. 50. The municipal authorities of said city shall have
2 authority and power to issue and make sale of bonds of the said
3 city and to apply the proceeds thereof to the payment for any
4 general improvement therein, or to any debt or obligation of said
5 city which by general statute or this act the said city is permitted
6 or required to pay; and to meet the demands of such bond issue, or
7 issues, the council may levy, in addition to the levy by general
8 statute authorized, a sum sufficient to pay off said bonds and the
9 accruing interest, when so directed by ordinance calling for such
10 bond issue; and in addition to the levying power of council herein
11 set out, such additional levies as are authorized by section five of

12 chapter nine of the acts of the extra session of the legislature of
13 one thousand nine hundred and eight, may be made whenever
14 council may deem it advisable, and they meet the requirements of
15 said section.

Sec. 51. When the council shall deem it expedient to issue such
2 bonds, an ordinance, specifying the purpose and amount for which
3 such bonds are to be issued, shall be adopted by them in regular
4 meeting, and it shall then be the duty of the mayor, to issue a pro-
5 clamation reciting said ordinance, and appointing a day on which
6 an election shall be held by the qualified voters of said city to
7 decide whether they will ratify or reject said ordinance. Such
8 proclamation shall be published in all the newspapers published
9 in said city, at least once a week for two weeks previous to the day
10 of the election. Such election shall be conducted in all things
11 according to the laws then in force governing elections, and the
12 provisions of the charter of said city. All persons qualified to
13 vote at other municipal elections in said city, and no others, shall
14 vote at such election as are herein authorized.

Pavements—Sewers.

Sec. 52. Upon the petition in writing of the persons owning the
2 three-quarters part of the lots fronting or abutting on both sides
3 of any street, or between a cross street and an alley, the council,
4 by an affirmative vote of four of its members taken on a roll call,
5 shall be authorized to order such part of any street or alley to be
6 paved, between the sidewalks, with cobble stone, brick or other
7 suitable material, and a sewer to be constructed therein, from one
8 of such cross streets or alleys to the other, or to have the paving
9 done without the construction of a sewer, or a sewer constructed
10 without such paving, under such regulations as it shall direct by
11 ordinance, on the lowest and best terms to be obtained for bids or
12 proposals therefor. In the proceedings for the permanent im-
13 provement of the streets and alleys and in the construction of
14 sewers in the said city, the council shall be governed by and com-
15 ply with all of the provisions of sections forty-nine-c I, forty-
16 nine-c II, forty-nine-c III, forty-nine-c IV, forty-nine-c V,
17 forty-nine-c VI, forty-nine-c VII, forty-nine-c VIII and forty-
18 nine-c IX, of Barnes' code of West Virginia, of one thousand
19 nine hundred and eighteen.

Sec. 53. All persons qualified to vote at general, state and
2 county elections and who have resided within the city of New

3 Cumberland for sixty days next preceding any election held
4 therein, and no others, shall be qualified to vote at elections
5 held for municipal purposes within such city.

Sec. 54. The City of New Cumberland shall succeed to all the
2 rights, powers and responsibilities, and be vested with the title of
3 all property of the city of New Cumberland as heretofore and at
4 present existing; and all officers of said town acting at the time
5 this enactment shall take effect shall continue in office and shall
6 relinquish the same as directed in sections four, five and six of this
7 act, and shall receive for such service the compensation allowed
8 therefor by the said city of New Cumberland. All ordinances,
9 by-laws, resolutions and rules of council in force in said city at
10 the time this act takes effect, unless in conflict herewith shall con-
11 tinue to have full force, operation and effect until amended, re-
12 pealed or superseded by the council under authority herein
13 given, or by general statute.

Sec. 55. But this act shall not become effective unless the same
2 shall first be submitted to the qualified voters residing within the
3 proposed city of New Cumberland, as shown by the boundaries
4 thereof set out in section two of this act, and having received a
5 majority of all votes cast at the special election hereinafter pro-
6 vided for.

7 This act shall be submitted to said voters at a special election
8 to be held within the proposed city of New Cumberland on the
9 fourth Tuesday of the month next succeeding the calendar month
10 in which this act is enacted by the legislature of West Virginia.
11 At which said special election the polls shall be opened at one
12 o'clock P. M. and shall close at seven o'clock P. M.

13 In addition to the publicity given to this act by the legislature,
14 it shall be given such further publicity as the council of the city
15 of New Cumberland may deem necessary and proper prior to the
16 holding of the said special election, and if ratified at such special
17 election this act shall go into force as provided in section five
18 of this act.

19 The ballots to be used at said special election shall be in the
20 following order:

21 PROPOSED CHARTER OF THE CITY OF NEW CUMBERLAND.

22 () For ratification.

23 () Against ratification.

Sec. 56. It shall be the duty of the mayor, the council and the recorder now in office to perform the the duties in relation to such election as required by general law of county courts and officers on January first, one thousand nine hundred and twenty-one; and the provisions of chapter three of the code of West Virginia shall govern such election.

Sec. 57. Chapter forty-eight of the acts of the legislature of West Virginia, of one thousand eight hundred and ninety-one is hereby repealed.

CHAPTER 19

(House Bill No. 14—Mr. Hall, of Wetzel.)

AN ACT to amend and re-enact chapter one hundred and forty-eight of the acts of the legislature of West Virginia of the year one thousand nine hundred and one, incorporating the town of New Martinsville, in the county of Wetzel, and repealing all acts and parts of acts inconsistent or in conflict herewith.

[Passed April 27, 1921. In effect from passage. Approved by the Governor May 3, 1921.]

Sec.

1. Incorporating the town of New Martinsville.
2. Corporate limits; boundaries.
3. Divided into three wards. by council.
4. Municipal authorities, of whom it must consist.
5. All corporate powers under authority of said council, except when otherwise provided.
6. Mayor, six councilmen and recorder, elected; other officers appointed.
7. Appointees by council; rules governing.
8. Term of elective officers.
9. Expiration of term.
10. Election precincts established; election of councilmen by wards; regulations as to voters.
11. Persons entitled to vote, qualification and age of.
12. Municipal elections; mode of voting, rules and regulations to be prescribed by council; penalties.
13. Council to decide ties in election.
14. Contest of election; determined by common council; conducted as provided for by state laws; council to be judge of election; qualification of all members.
15. Vacancies; how filled.
16. Duty of council; to create offices and make appointments for.
 - (a) Collecting taxes.
 - (b) Keeping records of proceedings.
 - (c) For the safe keeping of moneys and other property.

Sec.

- (d) Preservation of peace and order in city limits; compensation of officers appointed.
17. Bond and oath required of all officers.
18. Elective officers, to take up duties; when and continue till.
19. Failure to qualify; vacancy, how filled.
20. Mayor; duty, power, authority; to keep record of each case.
21. Member of council to serve in absence of mayor.
22. Majority of council required for a quorum.
23. Council to keep accurate record of its proceedings; ordinances, acts, etc.; oaths and bonds kept by the recorder.
24. Council meetings; rules governing.
25. Mayor to preside and vote only in case of tie.
26. Regular and special meetings of council.
27. Moneys; to whom paid over, how expended.
28. Council; powers of, concerning roads, streets, sidewalks, gutters, etc.; to establish markets; to protect public buildings; to provide against fire, etc.; powers and duties in general; to levy; to collect taxes.
29. Statement showing aggregate value of all real and personal property; when, how and by whom made; rate of levy fixed by council, col-

SEC.		SEC.	
	lector of taxes; duty of; licenses taxes, when payable.		ing of poor, indigent; levy for keeping poor.
30.	Council: rights to construct wharves, docks, etc. and collect tax from boats using same; to appoint wharf master.	35.	Council to appoint board of health and make rules governing same.
31.	Lien on real estate for town taxes, fines, etc. imposed on owner; delinquent real estate.	36.	Publication of financial statement required on June 30; statement to contain what and how made.
32.	Dog licenses.	37.	Acts repealed; exceptions.
33.	Council: right to condemn property for streets, allies or public utility; to acquire by purchase, gift, etc. necessary property; other rights and powers.	38.	Council: to pass ordinances to make this act effective.
34.	Council: power to provide for keep-	39.	Books, accounts, etc. to be open for inspection of citizens.
		40.	City water works fund; how appropriated, etc.
		41.	This act not effective until ratified; election may be held.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and forty-eight of the acts of one thousand nine hundred and one be amended and re-enacted so as to read as follows:

Section 1. The inhabitants of so much of the county of Wetzel as is within the bounds described by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic, incorporated by the name of the town of New Martinsville, and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary for the use and purpose of said corporation.

Sec. 2. The corporate limits of said town shall hereafter be as follows: Beginning at the intersection of Big Fishing creek with the Ohio river at low water mark; thence up said Ohio river with the meanders thereof at low water mark, five thousand eight hundred feet to a stake at low water mark of said river, thence leaving said river south eighty-two and one half degrees east three thousand one hundred feet to a stake; thence south eight degrees west four thousand three hundred feet to a stake; thence south fifty degrees west one thousand nine hundred and forty feet to a stake; thence south forty-three degrees west nine hundred and fifty feet to said Big Fishing creek; thence down the same with the meanders thereof and at low water mark two thousand feet to the point of beginning at the mouth of said Big Fishing creek; and the corporate authorities of the said town shall have, for police purposes, jurisdiction over the waters of the Ohio river and said Big Fishing creek.

Sec. 3. The territory of said town shall, if the same has not heretofore been done, be divided into three wards, as soon as convenient after the passage of this act, by the council in being of said

4 town, which said wards shall be as nearly equal in population as is
5 possible and shall consist of compact territory; which said wards
6 so laid off shall remain until otherwise changed by the council of
7 said town, and a record and map of the said wards shall be entered
8 upon the journal of the council of said town and preserved. No
9 change shall be made in the limits of the said wards within six
10 months previous to any regular election to be held for the election
11 of town officers.

Sec. 4. The municipal authorities of said town shall consist of
2 a mayor and six councilmen, who, together shall form a common
3 council; and they shall receive such compensation as the council
4 from time to time determine, which shall not be increased or di-
5 minished during their term of office; also a recorder, who shall, in
6 addition to his duties in keeping a record of the transactions of the
7 council, shall act as tax collector, assessor and clerk of the water
8 board of said town.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by said council or under its authority except when other-
3 wise provided.

Sec. 6. There shall be elected by the qualified voters of said
2 town, as hereinafter provided, a mayor, six councilmen and
3 recorder, who at the time of their election shall be free holders
4 in said town and be entitled to vote for the members of the com-
5 mon council of said town as residents and legal voters therein. All
6 officers of said town, except the mayor, councilmen and recorder
7 shall be appointed by the council and mayor, as hereinafter pro-
8 vided.

Sec. 7. All persons appointed to office by the council of said
2 town, shall, at the time of their appointment, except as herein
3 otherwise provided, be entitled to vote for the members of the com-
4 mon council, and a removal from the town shall vacate their said
5 office.

Sec. 8. The mayor, councilmen and recorder shall each be
2 elected for the period of two years, and until their successors
3 are elected and qualified.

Sec. 9. The mayor, councilmen, recorder, chief of police, tax
2 collector, assessor and street commissioner who, prior to the time
3 this act becomes effective, shall have been elected to office by the
4 qualified voters of said town, shall hold their respective offices and
5 perform their respective duties until the terms for which they
6 were respectively elected shall have expired. On the second

7 Tuesday in January, one thousand nine hundred and twenty-two,
8 and on the second Tuesday in January of each and every year
9 thereafter, there shall be elected by the qualified voters of said
10 town one councilman for each ward in said town, as the same shall
11 have been or may hereafter be laid out and designated as here-
12 inbefore provided; it being the meaning and intent of this section
13 that one-half of said council, or one member from each ward, shall
14 be elected annually. On the second Tuesday in January, one
15 thousand nine hundred and twenty-three, and on the second
16 Tuesday in January of every second year thereafter, there shall be
17 elected by the qualified voters of said town a mayor, and recorder.

Sec. 10. Each ward shall constitute an election precinct, and
2 the council shall establish a voting place in each, and the election
3 of councilmen shall be by wards. No voter shall be entitled to
4 vote at any town election except in the ward in which he resides,
5 and if any voter shall vote for any person for council who is not a
6 resident of the ward in which he voted, such vote or votes shall not
7 be counted for such person or persons.

Sec. 11. Every person residing in said town shall be entitled
2 to vote for all officers to be elected under this act, but no person
3 who is a minor or of unsound mind or a pauper or who receives aid
4 from the treasury of said town or who is under conviction of trea-
5 son, felony or bribery in an election, or who has not been a resi-
6 dent of this state for one year and of the said town of New Mar-
7 tinsville for sixty days, and is not a *bona fide* resident of the ward
8 in which he offers to vote, shall be entitled to vote at any
9 election.

Sec. 12. In all municipal elections the mode of voting shall
2. be by ballot, but the voters shall be left free to vote by open
3 or secret ballot, as they may elect. Said municipal elections shall
4 be held and conducted and the results thereof certified, returned
5 and finally determined under such rules and regulations as may
6 be prescribed by the council, which rules and regulations shall
7 not be inconsistent with the laws of this state governing general
8 elections, and shall conform as nearly as practicable to such
9 laws. The penalties prescribed in said state laws for offenses
10 relating to such general elections shall be enforced against the
11 offenders at such municipal elections, and said laws, as to such
12 offenders, shall have the same force and effect as if they were
13 especially applicable to municipal elections.

Sec. 13. When two or more persons shall receive an equal number of votes for any elective office, such tie shall be decided by the council in being.

Sec. 14. All contested elections shall be heard and determined by the common council, and such contests shall be made and conducted in the same manner as is provided for by the laws of this state in cases of contests for county and district offices; and the common council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases. The council shall be the judge of the election and qualifications of its own members.

Sec. 15. Whenever a vacancy shall occur, from any cause, in the office of mayor, councilman, or recorder, the council shall immediately fill such vacancy, by the vote of a majority of council, until the next election if such next election occurs before the expiration of the term for which such mayor or councilman was elected; otherwise, such vacancy shall be so filled for the unexpired term. In case of appointment to fill a vacancy until the next election the voters of said town shall, at such next election, elect a mayor, councilman, or recorder, as the case may be, for the unexpired term.

Sec. 16. It shall be the duty of the council of said town to create and to fill by appointment when not elective, such offices and employments as may be necessary for the accomplishment of the purposes mentioned in sub-paragraphs (a), (b), (c) and (d) following, that is to say:

(a) For the collection of all taxes levied and assessed by said council, and for the collection of all other assessments, licenses, claims and moneys due the said town; and the said recorder as such tax collector may distrain and sell property for the enforcement of the payment of such taxes and assessments, and he shall have in all other respects the same powers and remedies as a sheriff of the county to enforce the payment and collection thereof;

(b) For the keeping and preservation of a record of the proceedings of said council and of the accounts and records of said town;

(c) For the safe keeping of the moneys and other property of said town, and for the paying out of said moneys as the same may be appropriated by the council; and the said council shall

19 require and take from all those whose duty it is to receive the
20 funds, assets or property of said town, or have charge of the
21 same, such bonds, obligations and other writings as the council
22 shall deem necessary or proper to insure the faithful performance
23 of said duties;

24 (d) For the preservation of peace and order within the
25 corporate limits of said town, and the enforcement of the police
26 power and authority which is or shall be vested in said town or
27 in the council or mayor thereof. The chief police officer of the
28 town shall have all the powers, rights and privileges within the
29 corporate limits of said town, and within one mile outside the
30 corporate limits thereof, in regard to the arrest of persons and
31 the execution and return of process, that can be legally exercised
32-33 within the same by a constable of the district, and he and his
34 sureties shall be liable to all fines, penalties and forfeitures that
35 a constable of a district is legally liable to for any failure or
36 dereliction in his said office, to be recovered in the same manner
37 and in the same courts in which the same fines, penalties and
38 forfeitures are now recoverable against such district constable.

39 And the said council shall have power, from time to time, ac-
40 cording to its judgment of the needs of the town, to create, fill
41 and discontinue such offices and employments (other than the
42 offices and employments which it is hereinbefore in sub-para-
43 graphs (a), (b), (c) and (d) of this section required to create)
44 as shall or may, in its opinion, be necessary and proper to carry
45 into full force any authority, power or jurisdiction which is or
46 shall be vested in the said town or in the council or mayor thereof.

47 The said council shall, by ordinance, define the duties of all
48 officers and employees appointed by it pursuant to this section
49 and of the recorder and grant to such officers such power (in
50 addition to any powers that may be specifically granted in this
51 act) as may be necessary or proper for the purpose of their ap-
52 pointment. It shall allow all officers appointed by it a reason-
53 able compensation, which (except as to persons employed for
54 special work for short periods of time) shall be by monthly
55 salaries, and not otherwise. All officers appointed by the council
56 shall hold their respective offices or appointments during the will
57 and pleasure of the said council, but no appointee shall hold
58 office for more than two years without a new appointment by
59 the council. Special police officers may be appointed by the

60 council whenever the necessities for the public safety of the peo-
61 ple of said town, in the council's judgment, may require such
62 appointments, and such special police officers shall be under the
63 direction and supervision of the mayor and council.

64 The council shall designate, by appropriate names, the offices
65 created by it, and the official titles of the officers who fill them;
66 and may, in prescribing the duties incident to any office created
67 by it and of the officer who fills the same, include the performance
68 of duties necessary for the accomplishment of any one or more
69 of the purposes mentioned in sub-paragraphs (a), (b), (c) and
70 (d) of this section, and of any other purpose for which it may
71 create offices.

Sec. 17. All officers elected and appointed under this chapter
2 shall, each, before entering upon the duties of their respective
3 offices, and within one week from the date of their election or
4 appointment, give the bond required for any officer, and take
5 the oath prescribed by law for all officers of this state, and shall
6 make oath that they will truly, faithfully and impartially, to
7 the best of their ability, discharge the duties of their respective
8 offices so long as they continue therein. Said oath may be taken
9 before any person authorized to administer oaths or before the
10 mayor of said town.

Sec. 18. The mayor, councilmen, and recorder shall enter upon
2 the duties of their said offices one week after they shall have been
3 elected, and shall continue therein until their successors are elect-
4 ed, appointed, and qualified.

Sec. 19. If any person elected or appointed shall be found
2 to be ineligible to such office, or shall fail to qualify, within the
3 time mentioned in section eighteen of this act, the said council
4 shall declare the office vacant and it shall be filled in the manner
5 prescribed in this chapter.

Sec. 20. The mayor shall be the chief executive officer of the
2 said town, and shall take care that the ordinances, by-laws and
3 resolutions of the council thereof are faithfully executed; he shall
4 be *ex-officio* a justice and conservator of the peace within the
5 town, and shall, within the same have, possess and exercise all
6 the powers and perform all the duties vested by law in a justice
7 of the peace, except that he shall have no jurisdiction in civil
8 cases or causes of action arising out of the corporate limits of
9 the said town. Any warrant or other process issued by him

10 may be executed at any place in the county. He shall have
11 control of the police in the town, and may suspend any police-
12 man for cause, and may appoint special police officers whenever
13 he deems it necessary. It shall be his duty to especially see
14 that the peace and good order of the town are preserved, and
15 that the persons and property therein are protected; and to this
16 end he may, before issuing his warrant therefor, cause the ar-
17 rest and detention of all riotous and disorderly persons in the
18 town. He shall have the power to issue executions for all fines,
19 penalties and costs imposed by him, or he may require the im-
20 mediate payment thereof, and in default of such payment there-
21 of, he may commit the offending party to the jail of Wetzel
22 county, or to other place of imprisonment in said corporation,
23 until the fine or penalty and costs shall be paid; but the term
24 of imprisonment, in such cases, shall not exceed sixty days. In
25 all cases where a person is sentenced to prison or to the payment
26 of a fine of ten dollars or more (and in no case shall a judg-
27 ment for a fine of less than ten dollars be ordered by the mayor
28 if the defendant or his agent, or attorney, object thereto), such
29 person shall be allowed an appeal from such decision to the cir-
30 cuit court of Wetzel county, upon the execution of an appeal
31 bond, with surety deemed sufficient by the mayor, in a penalty
32 of at least double the amount of the fine and costs imposed by
33 the mayor, and with condition that the person purporting to
34 appeal will perform and satisfy any judgment which may be
35 rendered against him by said circuit court on such appeal. If
36 such appeal be taken the warrant of arrest, if any, and the other
37 papers of the case, together with a transcript of his docket re-
38 lating to such case, shall be forthwith delivered by the mayor
39 to the clerk of said court, and the court shall proceed to try
40 the case as upon indictment or presentment, and render such
41 judgment, including that of costs, as the law and the evidence
42 may require; but no judgment shall be rendered against said
43 town for costs on such appeal. The mayor may, from time to
44 time, recommend to the council such measures as he may deem
45 needful for the welfare of the town. The expense of maintain-
46 ing any person committed to the jail of the county by him,
47 except it be to answer an indictment, shall be paid by the town.
48 Said mayor shall, within one week after he receives the same,
49 pay over to the officer appointed by the council as the custodian

50 of the funds of said town all monies, belonging to said town,
51 which may have come into his hands by virtue of his office. A
52 book, well bound and indexed, to be denominated the "Mayor's
53 Docket", shall be kept in the office of the mayor, in which shall
54 be noted each case brought or tried by him, together with the
55 proceedings therein, including a statement or record of the com-
56 plaint, the summons, the return, the fact of appearance or non-
57 appearance, the defense, the hearing, the judgment, the costs, and,
58 in case the judgment be one of conviction, the action taken to
59 enforce the same. The record of each case shall be signed by
60 the mayor, or other person acting in his stead; and the original
61 papers thereof, if no appeal be taken, shall be kept together and
62 preserved in his office.

Sec. 21. The council shall appoint one of its members to
2 perform, in the absence or in case of the sickness or inability of
3 the mayor, or during any vacancy in the office of mayor, the du-
4 ties of said mayor which pertain to him as the chief executive of
5 said town; and the councilman so appointed shall, during such
6 absence, sickness, inability or vacancy, be vested with all the
7 powers necessary for the performance of such duties.

Sec. 22. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business.

Sec. 23. The council shall cause to be kept in a well bound
2 book, to be called the minute book, an accurate record of all
3 its proceedings, ordinances, acts, orders and resolutions, and in
4 another book, to be called the book of ordinances, accurate
5 copies of all general ordinances adopted by the council, both of
6 which books shall be fully indexed. All oaths and bonds of
7 officers, and all papers pertaining to the proceedings of the coun-
8 cil, shall be endorsed, filed and securely kept by the recorder of
9 the town.

10 The bonds of officers shall be recorded in a well bound book,
11 to be called the record of bonds. Said council may cause to
12 be printed and bound, in pamphlet form, all the general ordin-
13 ances of the said town; and transcripts of such ordinances, and
14 of the acts, orders and resolutions of said council, certified by
15 the recorder, under the seal of the town, shall be deemed *prima*
16 *facie* correct when sought to be used before any court or before
17 any justice.

Sec. 24. At each meeting of the council the proceedings of the last meeting shall be read, and corrected if erroneous, signed by the presiding officer for the time being, and countersigned by the recording officer. Upon the call of any member, the "ayes" and "noes" upon any question shall be taken and recorded in the minute book, and the roll for that purpose shall be called alphabetically.

Sec. 25. The mayor shall preside at the meetings of the council, but shall have a vote only in case of a tie. In case of his absence from any meeting, the council shall select one of its members to preside.

Sec. 26. The regular meetings of the council shall be on the first Monday night in each month and at such other times as may be deemed necessary for the transaction of the business of said town, and shall be held at such place in said town as the council shall from time to time ordain and appoint. Said council shall meet in special session upon the call of said mayor or upon the call of any two of the councilmen. The council shall by ordinance prescribe the mode in which notice of special meetings shall be given; and no business shall be transacted at any meeting or at any adjournments thereof unless a majority of all the members of the council shall be present, except that a less number may compel the attendance of absent members at such meetings or adjournment thereof under such reasonable penalties as they may think proper to impose; and all questions put, except in such matters as are hereinafter provided for, shall be decided by a majority of the members present.

Sec. 27. The moneys belonging to the town shall be paid over to the officer appointed by the council as the custodian of the funds of said town, and no money shall be paid out by him except as the same shall have been appropriated by the council, and upon an order signed by the mayor and recorder.

Sec. 28. The council of said town shall have power to lay off, vacate, close, open, alter, grade and keep in good repair roads, streets, alleys, pavements, side walks, drains and gutters therein, for the use of the citizens of said town and of the public and to improve and light the same and to keep them free from obstructions of every kind; to regulate the width of the pavements and sidewalks, the streets and alleys, and to cause the pavements, sidewalks, footways, drains and gutters to be kept in good order,

9 free and clean, by the owners or occupants of the real property
10 next adjacent thereto; to establish and regulate markets, pre-
11 scribe the time of holding the same, provide suitable and con-
12 venient buildings therefor, and prevent the forestalling of such
13 markets; to prevent injury or annoyance to the public or to in-
14 dividuals from anything dangerous, offensive or unwholesome;
15 to prohibit or regulate slaughter houses, tan houses and factories
16 within the said town, and within one mile of the corporate
17 limits thereof; and to prohibit the exercise, in the said town,
18 of any offensive business, trade or employment; to abate all
19 nuisances within the corporate limits, and to require or compel
20 the abatement or removal thereof, at the expense of the person
21 causing the same, or by or at the expense of the owner of the
22 ground at the place they are found; to cause to be filled up,
23 raised or drained, by or at the expense of the owner, any city lot
24 or tract of land covered or subject to be covered by stagnant
25 water; to prevent horses, hogs, cattle, sheep and other animals
26 and fowls of all kinds from going or being at large in such
27 town, and as a means of prevention said council may provide
28 for impounding and confining said animals and fowls, and, upon
29 the failure to reclaim, for the sale thereof; to protect places of
30 divine worship and preserve order in and about the premises
31 where and when such worship is held; to protect places of public
32 instruction, schools and high schools, and to preserve order in
33 and about all school buildings therein; to regulate the keep-
34 ing of gun powder and other dangerous explosives and sub-
35 stances; to regulate the building of houses and other structures
36 and the maintaining and making of division fences by the
37 owners of adjacent premises; to require the proper drainage of
38 town lots and other parcels of land to be made by or at the
39 expense of the owner or occupant thereof, when such drainage
40 shall be deemed necessary for the protection of the public health;
41 to provide against danger or damage by fire; to punish assaults
42 and batteries; to prohibit the keeping of or loitering in or
43 visiting houses of ill-fame or congregating or loitering upon
44 the streets or alleys of said town; to prevent lewd or lascivious
45 conduct; the sale or exhibition of indecent pictures or other rep-
46 resentations, and the desecration of the Sabbath day; to pre-
47 vent swearing; to protect the persons of those residing or being
48 within said town; to appoint, when necessary, or advisable, a

49 police force, permanent or temporary; to build or purchase, lease
50 or maintain and use, a suitable place of imprisonment within
51 said town for the safe keeping or punishment of persons charged
52 with or convicted of the violation of ordinances; to erect or
53 authorize or prohibit the erection of gas or water works within
54 the corporate limits; to prevent injury of such works, of the
55 pollution of any gas or water used or intended to be used by the
56 public or by individuals; to provide for the inspection of bread,
57 milk, meat and all other articles intended for food, including
58 animals from which food is obtained, and all substances enter-
59 ing into the manufacture of goods intended for use in said town;
60 and for this purpose to appoint a competent inspector of foods,
61 who may be a non-resident of said town, to fix a minimum per-
62 centage of butter fat content of milk and cream offered for sale
63 in said town, and to require and issue licenses and permits to
64 offer said foods for sale and to revoke the same for failure to
65 comply with the ordinances, rules and regulations relating thereto;
66 and to regulate or prevent the sale, or cause the destruction of
67 any such food or milk as may be unwholesome, adulterated, or
68 dangerous, or lacking in butter fat content, and to provide for
69 the punishment of persons selling or offering the same for sale;
70 the word "food" in this clause meaning anything intended to be
71 eaten or drunk by the citizens of said town; to provide for and
72 regulate the measuring and weighing of hay, coal, lumber or other
73 articles sold or kept or offered for sale within said town, and to
74 establish rates and charges for said weighing or measuring, to
75 regulate the running and speed of automobiles, engines and cars
76 within said town; to create, by ordinance, such committees and
77 boards, and delegate such authority thereto, not inconsistent with
78 the law, as may be deemed necessary or advisable; to provide for
79 the assessment and collection of a license tax on dogs, kept in
80 said town, and to regulate their running at large; to provide
81 a revenue for the town for municipal purposes and to appropri-
82 ate such revenue to its expenses, and to take such measures as
83 may be deemed necessary or advisable to protect the property,
84 public and private, within said town; to preserve and maintain
85 peace, quiet and good order therein; and to preserve and pro-
86 mote the health, safety and well being of the inhabitants thereof.
87 The said council shall have authority to pass all ordinances
88 which shall be necessary or proper to carry into full force and

89 effect the authority and jurisdiction which is or shall be granted
90 or vested in said town, or in the council thereof, or in any officer,
91 or body of officers of said town, and to enforce any and all ordi-
92 nances by reasonable fines and penalties, and by imprisonment;
93 and, upon failure to pay any such fine or penalty imposed, to
94 compel the defaulting party to labor on any public works or
95 improvements undertaken or to be undertaken by said town, or
96 to labor at any work upon which the said town may lawfully
97 employ labor, at such a rate per diem as the council may fix,
98 but not at a less rate than is fixed by said council for like labor
99 from other employees of the town, until all fines imposed upon
100 the party so in default have been paid and discharged, after de-
101 ducting charges of support while in the custody of the officers
102 of said town; and said council shall have power to pass ordi-
103 nances prohibiting and fixing penalties for selling, offering, ex-
104 posing for sale and soliciting and receiving orders for spirituous
105 and intoxicating liquors, mixtures and preparations, wine, porter,
106 ale, beer and drinks of like nature, and the right and power to
107 enforce the same shall extend one mile in the state of West
108 Virginia beyond the corporate limits of said town; *provided,*
109 *however,* that no fines shall be imposed exceeding one hundred
110 dollars; and no person shall be imprisoned, or compelled to
111 labor as aforesaid, for more than sixty days for any offense; and
112 in all cases where a fine of ten dollars or more is imposed, or a
113 person be imprisoned, or compelled to labor as aforesaid for a
114 term greater than ten days, an appeal may be taken from such
115 decision upon the same terms and regulations that appeals are
116 taken from the judgment of a justice of this state. Such fines
117 and penalties shall be imposed and recovered and such punish-
118 ment inflicted and enforced by and under the judgment of the
119 mayor of said town, or, in case of his absence, sickness or inability
120 to act or in case of a vacancy in the office of mayor, by the mem-
121 ber of the council appointed pursuant to the provisions of sec-
122 tion twenty-one of this act, or, in case of his absence or inability
123 to act, by any member of the council, and the member of the
124 council first taking jurisdiction of the cash shall have full juris-
125 diction thereof, to the exclusion of all others. In addition to
126 the powers already enumerated, the said council shall have power
127 to amplify, improve, extend and expand the water works of said
128 town; to contract by public contract for an adequate supply

129 of pure, healthful water for said town; to do all things neces-
130 sary to secure an adequate supply of pure, wholesome water;
131 to effect and maintain a proper and efficient conduct of the
132 business of the said water works and the collection of the
133 revenues arising therefrom; to provide, contract by public con-
134 tract for, and construct and maintain an adequate sewerage
135 system for said town, and to provide, contract by public con-
136 tract for, construct, purchase and maintain an adequate system
137 of electrical generation and distribution for said town and the
138 inhabitants thereof, and to effect and maintain a proper and
139 efficient conduct of the business of such electrical system and
140 the collection of the revenues arising therefrom. Upon any
141 occupation carried on or which may be carried on in said town,
142 and for which a state license is required, the council may fix
143 and provide for the collection of a municipal license tax, not
144 exceeding the state license tax, which municipal license tax shall
145 be, by the officer whose duty it is to collect the other taxes for
146 said town as hereinafter provided, collected by distraint or other-
147 wise.

148 Said council shall also have power to levy, assess and collect
149 taxes upon the real and personal property within said town, but
150 such taxes shall be uniform with respect to persons and property
151 within the jurisdiction of said town. The council shall meet on the
152 second Tuesday in August of each year and cause to be made up,
153 and spread on its minute book an accurate estimate, in the man-
154 ner provided by law, of all sums which are, or may become law-
155 fully chargeable against the town during the current fiscal year,
156 and which ought to be paid during said year; and it shall order,
157 at a meeting which shall be held by it on the fourth Tuesday in
158 August of each year, as provided by law, a levy of so much as
159 will in its judgment, after deducting the money in the treasury
160 applicable thereto, and municipal claims, be necessary to pay
161 the same; which levy shall be upon all real and personal prop-
162 erty within the said town otherwise subject to state and county
163 taxes; *provided*, that such levy shall not exceed the amount pre-
164 scribed by the state law on every one hundred dollars of the as-
165 sessed value of such property. Such levy shall also include a poll
166 tax of not more than one dollar upon each resident of said corpora-
167 tion over twenty-one years of age, and a street tax of not to
168 exceed two dollars and fifty cents upon each and every male in-

169 habitant of said town over twenty-one and under fifty years of age.
170 Said poll tax and street tax shall be, by the officer whose duty it
171 is to make out the land and personal property books, extended in
172 the personal property books against the persons liable to the
173 payment of said taxes, at the same time the other taxes are by him
174 extended in pursuance of the provisions of this act. Any inhab-
175 itant of said town liable to the payment of said street tax, may,
176 instead of paying the same in money, pay the said street tax in
177 work on the public streets or alleys of the town, under the super-
178 vision of the officer whose duty it may be to superintend or look
179 after the work done on said streets and alleys, at the rate of one
180 dollar and twenty-five cents per day; and in such case the said
181 officer shall deliver to the person so working on the streets and
182 alleys a certificate showing the time such person so worked, and
183 the amount for which he is entitled to credit on his street tax
184 by reason thereof, and the officer whose duty it is to collect the
185 taxes for said town shall, upon presentation to him of such cer-
186 tificate, credit such person, on his street tax, for said amount.

187 Said council shall also have power to contract by public con-
188 tract, for the paving of its streets and alleys; to establish and
189 regulate the grade thereof, and to provide for the maintenance
190 and repair of the same; to provide for the maintenance, con-
191 tinuance and enjoyment of the water works of said town; to
192 provide for the maintenance, establishment and enjoyment of
193 fire companies, for the purpose of protecting the property of the
194 citizens of said town from destruction or damage by fire. But
195 said town shall not hereafter be allowed to become indebted in
196 any manner for any purpose to an amount, including the exist-
197 ing indebtedness, in the aggregate, exceeding the limit prescribed
198 by the laws of this state relating to the contracting of indebted-
199 ness by municipal corporations, nor shall said town contract any
200 debt without at the same time providing for that collection of a
201 direct annual tax sufficient to pay annually the interest on such
202 debt and the principal thereof within and not exceeding thirty-
203 four years; *provided*, that no such debt shall be contracted under
204 this charter unless all questions connected with the same shall
205 have been first submitted to a vote of the people, in the manner
206 provided by the laws of this state, and have received three-fifths
207 of all votes cast for and against the same. Said council shall not
208 grant any franchise to any person, or corporation, within said

209 town limits, which shall be either exclusive or perpetual, but all
210 such grants shall have annexed to them the power to rescind,
211 revoke, alter, modify or regulate the exercise thereof; and the
212 said council shall have power, upon ten days' notice, and for cause,
213 to revoke, rescind, alter or modify the exercise of any such fran-
214 chise; and no franchise involving the use of any of the public
215 property, streets, alleys, sidewalks, cross walks, or involving
216 the use or occupancy of the same shall be granted except by an
217 ordinance to that effect; and no such ordinance shall be passed
218 unless the question of the granting of such franchise shall have
219 been first submitted to a vote of the people, and a majority of all
220 the votes cast upon the question so submitted shall have been in
221 favor of the granting thereof; *provided*, such submission shall
222 have been petitioned for by at least one-tenth of the qualified
223 voters of said town, to be ascertained according to the number
224 of votes cast at the last preceding election.

Sec. 29. The officer whose duty it is to make out the land
2 books for Wetzel county shall, annually, at a reasonable compen-
3 sation therefor, to be allowed him by the council, and not later
4 than the fifth day of August, furnish to the officer whose duty it
5 is to keep and preserve a record of the proceedings of the said
6 council a statement showing, in separate amounts, the aggregate
7 value of the personal property and the aggregate value of all the real
8 estate in the town, as ascertained from the land and personal
9 property books of said county for the current year. Upon receipt
10 of said statement the officer receiving it shall present the same to
11 the council at the meeting thereof to be held on the second Tues-
12 day in August, for the purpose of making up the annual estimate
13 of said town for the current year. As soon as the rate of levy shall
14 have been fixed by council as provided by the laws of this state it
15 shall cause to be furnished to the officer whose duty it is to mak
16 out the land books and personal property books for said county a
17 certified copy of the order of the council, fixing the rate of tax, and
18 such officer shall thereupon, at a reasonable compensation therefor,
19 to be allowed him by the council, extend the tax against the prop-
20 erty situated in the town, in said land and personal property
21 books, in separate columns. The officer whose duty it is to collect
22 the taxes for said town shall, when the extended copies of the
23 assessor's books are completed and returned to the clerk of the
24 county court, have access to the same for the purpose of making

25 out the tax bills for the town taxes therein extended, and it shall
26 be the duty of said collector to make out all tax bills, and when
27 the same shall have been examined, compared and approved by a
28 committee of its own body which the council shall appoint for
29 such purpose, and found to be correct, which shall not be later
30 than the tenth day of September following the levy, the said col-
31 lector shall deliver to the said committee a receipt for said tax
32 bills, and the collector shall be charged therewith. Said receipt
33 shall be returned to the council and entered upon its record. The
34 collector shall give notice, by publication for two successive weeks
35 in one or more newspapers published in said town, if there be any
36 newspapers published therein, and by printed bills posted at ten or
37 more conspicuous places in said town, that said tax bills are in his
38 hands for collection, stating the penalty for non-payment thereof,
39 and the time and place where the same may be paid. To all per-
40 sons who shall pay their taxes in full on or before the first day of
41 December next succeeding said levy there shall be allowed a dis-
42 count of two per centum on the whole amount of the taxes so
43 paid, and not otherwise. The collector shall, immediately after
44 the first day of December, proceed, by distraint or otherwise, to
45 collect from the persons for whose taxes he may hold tax bills, the
46 the entire amount of the town taxes with which they are severally
47 charged; and upon all taxes remaining unpaid on the first day of
48 January next succeeding said levy, interest shall be charged at the
49 rate of one per centum per month from said first day of January
50 until they are fully paid.

51 If the said collector shall fail to account for and pay over any or
52 all of the money with which he may be chargeable, belonging to
53 the said town, according to the conditions of his bond and orders
54 of the council, it shall be lawful for the council to recover the
55 same by action or by motion, upon ten days notice, in the corporate
56 name of the town, in the circuit court of Wetzel county, or in
57 any other court of competent jurisdiction, against him and his
58 sureties or any or either of them, or his or their executors or ad-
59 administrators.

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

Sec. 30. It shall be lawful for the council to establish and con-
2 struct landings, wharves and docks on any ground, street or alley
3 which does or shall belong to said town, and to repair, alter and

4 remove any buildings, wharf or dock, and to collect a reasonable
5 tax on vessels coming to or using the same; and it shall have
6 power to keep the same in good order and repair; to preserve peace
7 and good order at the same and regulate the manner in which they
8 shall be used. It shall also have power to appoint a wharf master
9 if the same be deemed necessary, or to confer that duty upon
10 any other officer, and to prescribe the duties of such acting wharf
11 master, fix his fees, and make all regulations in respect thereto as it
12 may deem necessary.

Sec. 31. There shall be a lien on all real estate within said
2 town for the town taxes assessed thereon, and for all fines and
3 penalties assessed to or imposed upon the owners thereof by the
4 authorities of said town, which shall have priority over all other
5 liens except the liens for taxes due the state, county and dis-
6 trict, and which may be enforced by the council in the same
7 manner provided by the law for the enforcement of liens for
8 county taxes. If any real estate within said town be returned
9 delinquent for the non-payment of taxes due thereon, a copy
10 of such delinquent list may be certified by the council to the
11 auditor of the state, and the same may be sold for said taxes,
12 interest and commission thereon, in the same manner, at the
13 same time and by the same officers as real estate is sold for
14 state taxes.

Sec. 32. License for the keeping of dogs shall expire on the
2 thirtieth day of June next from their granting.

Sec. 33. The council shall have the right to institute pro-
2 ceedings in the name of the town for the condemnation of real
3 estate for streets, alleys, drains, markets, market ground, town
4 prison, or other work or purposes of public utility. Such pro-
5 ceedings shall conform to chapter forty-two of the code of West
6 Virginia. And said council shall also have power to acquire
7 by purchase, gift or condemnation, one or more lots necessary
8 for municipal buildings on which to place such buildings as
9 they may deem necessary for the meeting of said council and for
10 the keeping of the offices and the property of said town. And
11 said council shall also have the power to organize or authorize
12 the organization of fire companies, hose companies or any other
13 companies or associations of persons for the purpose of protect-
14 ing the property of the citizens of said town against destruction
15 by fire, and to authorize such companies or associations of per-

16 sons to create and hold property necessary and ordinarily held
17 and used by such fire companies. Council shall not have power
18 to release or relieve any tax payer from the payment of taxes
19 levied on or assessed against him or them, except that it may
20 exonerate members of volunteer fire companies of said town from
21 the payment of street tax.

Sec. 34. The council shall have full power to provide for the
2 keeping of its poor and indigent persons within the limits of the
3 said town, and the citizens thereof shall be exempt from the pay-
4 ment of all county poor taxes for each and every year and said
5 town council shall independently provide for the keeping of the
6 poor of said town; but in each and every year in which the county
7 court of Wetzel county shall levy, upon the persons and prop-
8 erty within said town, a tax for the keeping or care of the poor,
9 or one of the purposes of which levy is to keep and care for the
10 poor, the said county court shall bear the entire expense of keeping
11 the poor within the limits of said town, and all money necessarily
12 expended by the council for such purpose shall be reimbursed to
13 said town by the said county court.

Sec. 35. The council shall have power to appoint and constitute
2 a board of health, consisting of at least two of its own members
3 and one reputable physician, which said board of health, under the
4 supervision of and with the approval of said council, shall have
5 full power to make all needful rules and regulations for the keep-
6 ing and maintaining of the said town in a proper and healthful
7 condition, and when such board of health shall have been elected
8 and organized, it shall, subject to such state laws as may be ap-
9 plicable to it, have exclusive control of all matters relating to the
10 public health within the limits of said town.

Sec. 36. In the month of July in each year the council shall
2 cause to be published in two newspapers of opposite politics in
3 the town, if there be such published therein, and if not, then in
4 one newspaper published therein, at a compensation not to exceed
5 the rate provided by law for like publications, for one issue, or if
6 no such newspaper be published therein, to publish in pamphlet
7 form not less than one hundred copies of, a sworn statement of the
8 financial condition of said corporation as of the thirtieth day of
9 June next prior to such publication. Such statement shall con-
10 tain an itemized account of the receipts and expenditures of the
11 town for the fiscal year ending on said thirtieth day of June,

12 showing the sources from which all the money coming into the
13 treasury of said town during the said year was derived, and the
14 names of all persons to whom orders were issued, together with
15 the amount of each order, and why such order was issued, arrang-
16 ing the same under distinct heads; and shall also contain a specific
17 list of the debts of the town, showing the purpose for which any
18 debt was contracted, the time when it becomes due, the rate of
19 interest, up to what time the interest thereon has been paid, the
20 amount of money in the treasury at the end of the preceding fiscal
21 year, and the debts contracted during said year. Such statement
22 shall be sworn to by the officer whose duty it is to keep the books
23 of account of said town, by the mayor and by the members of a
24 finance committee to be appointed by the council from its own
25 body. One copy of such statement shall be delivered to the judge
26 of the circuit court, one to the clerk of the county court, and one
27 to the clerk of the circuit court of Wetzel county, and one shall
28 be kept as a part of the records of the town. If the said council
29 fail or refuse to perform the duties herein named, every member
30 of such council, and the said officer whose duty it is to keep the
31 books of account of said town, concurring in such failure or re-
32 fusal, shall be guilty of a misdemeanor and upon conviction thereof
33 shall be fined not less than ten dollars nor more than one hundred
34 dollars.

Sec. 37. All acts or parts of acts inconsistent or in conflict with
2 this act are hereby repealed, but this act shall not be construed to
3 repeal, change or modify any previous act, not inconsistent with
4 this act authorizing the town of New Martinsville to contract
5 debts or to borrow money, or to take away any of the power con-
6 ferred by general law upon the said town, or upon the mayor or
7 council or any of the officers, except so far as the same may be
8 inconsistent with the powers hereby conferred.

Sec. 38. The council shall pass all proper orders and ordinances
2 to give this act full force and effect. Such ordinances as are
3 now in force in said town, except such as may be inconsistent with
4 this act, shall continue to have full operation and effect as ordin-
5 ances of the town of New Martinsville until amended, repealed
6 or superseded by the council of said town.

Sec. 39. The books, accounts, vouchers and papers of said town
2 shall, at all reasonable hours, be open to inspection by any citi-
3 zen or tax payer of said town or by any officer of the United

4 States, the state of West Virginia, the county of Wetzel, or said
5 town of New Martinsville.

Sec. 40. The moneys arising from the operation of the water
2 works of said town shall constitute what shall be known as the
3 "City water works fund," which fund, or any part thereof, may be
4 appropriated by the council, or by and under its order, for the
5 amplification, improvement, extension, expansion, maintenance
6 or operation of the said water works; and the said water works
7 shall be kept and maintained in good condition and repair, and
8 operated, with said fund; *provided*, that at any time said city
9 water works fund shall exceed in amount the sum of ten thou-
10 sand dollars (after deducting the amount of all unpaid bills and
11 claims incurred or that may be then outstanding by reason of any
12 amplifications, improvements, extensions or expansions thereto-
13 fore made to said water works or by reason of the maintenance
14 thereof); the council may, in its discretion, appropriate and use
15 not to exceed in any one fiscal year twenty-five per centum of the
16 excess accumulated in said year for any other purpose for which
17 it may have authority to expend or pay money for the benefit
18 of said town.

Sec. 41. This act shall not become and be effective until it shall
2 have been ratified by a majority of the qualified voters of said town
3 of New Martinsville cast at an election to be held at the court
4 house in said town of New Martinsville for the purpose of deter-
5 mining whether this act shall be approved or disapproved. For
6 this purpose an election may be called by the common council of
7 said town of New Martinsville within three months from the date
8 of the passage of this act, and notice of such election
9 shall be given by publication, for two successive weeks in
10 the Wetzel Democrat and the Wetzel Republican, newspapers pub-
11 lished in said town of New Martinsville and, also notice of such
12 an election shall be given by posting a copy of the proclamation
13 calling said election at the court house, and in at least ten other
14 public places within the corporate limits of said town of New
15 Martinsville. The ballots used at said election shall contain a
16 brief statement of the question being voted upon and directly
17 underneath shall be printed the words:
18 "For ratification of act"
19 "Against ratification of act."

CHAPTER 20

(Senate Bill No. 73—Mr. Dinsmoor.)

AN ACT to amend and re-enact paragraph (e) of section nineteen of chapter eight of the acts of the legislature of one thousand nine hundred and fifteen, contained in the volume of "municipal charters" for that year, the same relating to the charter of the city of Pennsboro.

[Passed April 13, 1921. In effect from passage. Approved by the Governor April 19, 1921.]

SEC.	Paragraph (e) amended; council authorized to issue bonds for paving, etc.; sale of bonds; limita-	SEC.	tions; assessments; penalties; application of funds; limit of indebtedness; additional levy.
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Be it enacted by the Legislature of West Virginia:

That paragraph (e) of section nineteen of chapter eight of the acts of the legislature be amended and re-enacted so as to read as follows:

(e) Whenever it is deemed expedient by the council to provide 2 for paving, sidewalks, curbing or sewerage, in or upon any of 3 the streets or alleys of the city, or any right of way owned by the 4 city by the issue and sale of bonds of the city, it shall, by reso- 5 lution, entered of record on the minutes of the proceedings, so 6 declare, and thereupon the city shall be and is hereby empowered 7 and authorized to issue its bonds for the purpose of providing 8 for paving, laying sidewalks, curbing the streets and alleys of 9 the city and of constructing sewers for the drainage of said city, 10 in anticipation of special assessments to be made upon the prop- 11 erty abutting upon the streets and alleys so improved, and upon 12 street car and other railway companies occupying the said streets 13 or alleys with tracks, and such bonds may be in such amount as 14 shall be sufficient to pay the entire cost and expense of said im- 15 provements for which such special assessments are levied; and 16 said city is also authorized to sell said bonds as a whole issue at 17 one time, or in separate lots or parcels, from time to time as the 18 council may deem advisable; *provided*, that the price for which 19 they are sold shall not be below the par value of said bonds; said 20 bonds shall be payable not to exceed thirty-four years from the 21 date of the issue thereof and shall bear interest at not to ex- 22 ceed six per centum per annum, payable semi-annually, and in the 23 issuance and sale of said bonds the city shall be governed by all 24 the restrictions and limitations of the constitution of this state, 25 and, so far as not in conflict with the provisions of this section,

26 by the restrictions and limitations of this state with respect to
27 the issuance and sale of other bonds; and the assessments as
28 paid and provided for in this section shall be applied to the liqui-
29 dation of said bonds and the interest thereon and to that end paid
30 to the trustees of the sinking fund of the city to be by them
31 invested for the best advantage of the city, anything in any gen-
32 eral or special statute of the state notwithstanding to the con-
33 trary; and if by reason of penalties collected with the delinquent
34 installments there may be any balance after the payment of said
35 bonds and all accrued interest and costs, the said balance shall
36 be turned into the city treasury to the credit of a fund for street
37 improvements for said city and used for no other purpose: *pro-*
38 *vided*, that the city shall not by the sale or issue of such bonds
39 cause the aggregate of its debts of every kind whatsoever to ex-
40 ceed five per centum of the value of the taxable property therein;
41 and, *provided, further*, that nothing herein contained shall be
42 construed as authorizing said city to become indebted in any other
43 manner or for any other purpose to an amount including the
44 existing indebtedness in the aggregate exceeding two and one-
45 half per centum of the value of the taxable property therein
46 (so long as are in force the provisions of chapter fifty-one of the
47 acts of one thousand nine hundred and five), except for the pur-
48 pose of constructing curbing, sewers and sidewalks in and upon
49 the streets and alleys of said city, as provided in this section; nor
50 shall said city make such issues and sale without at the same time
51 providing for the collection of a direct annual tax sufficient to
52 pay annually the interest on such debt and principal thereof with-
53 in and not exceeding thirty-four years.

54 All of the assessments, interest and penalties thereon collected
55 from the abutting property owners on account of the grading,
56 paving, sewerage or otherwise improving the streets and alleys of
57 the city under the provisions of this section, shall annually be ap-
58 plied to the annual tax required to pay the interest on such
59 debt and principal within and not exceeding thirty-four years;
60 and in the event that the assessments, interest and penalties so
61 collected should not amount to a sum sufficient to pay annually
62 the interest on such debt and the principal thereof within and
63 not exceeding thirty-four years, then the council shall collect so
64 much of said levy as will pay annually the interest on such debt
65 and the principal thereof within and not exceeding thirty-four
66 years.

CHAPTER 21

(Senate Bill No. 77—Mr. Lewis.)

AN ACT to create the municipal corporation of the "City of Richwood," in the county of Nicholas, to grant a charter thereto, and to annul the charter of the "Town of Richwood."

[Passed March 23, 1921. In effect from passage. Approved by the Governor March 31, 1921.]

- Sec.
1. The city of Richwood.
 2. Boundaries of Richwood.
 3. Boundaries of wards.
 4. Municipal authorities.
 5. Exercise of corporate powers.
 6. Subordinate officers.
 7. Eligibility of officers.
 8. Election of officers.
 9. Special regulations for the first election of members of council: selection of long and short term members from each ward.
 10. Who are voters.
 11. General elections.
 12. Tie vote—how decided.
 13. Contested elections.
 14. Vacancy in office.
 15. Appointment of additional officers and defining their duties and fixing compensation of such officers.
 16. Bonds.
 17. Oath of officers.
 18. Tenure of office.
 19. Ineligibility or failure to qualify.
 20. Powers and duties of the mayor.
 21. Powers and duties of recorder.
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 23. Record of minutes and ordinances.
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- Sec.
25. Who shall vote in council.
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 38. No indebtedness to be created for current expenses.
 39. Support of poor and maintenance of roads and levies for same.
 40. Making and maintaining sidewalks.
 41. Paving.
 42. Appointment of officers to hold first election hereunder.
 43. When officers first elected to assume duties of office.
 44. General provisions.
 45. Existing ordinances.
 46. Repeal of inconsistent ordinances and acts.

Be it enacted by the Legislature of West Virginia:

City of Richwood.

Section 1. That the inhabitants of that portion of Nicholas county, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby made a municipal corporation by the name of "City of Richwood", 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 this charter.

Boundaries.

Sec. 2. Beginning at the northeast corner of the present corporation of Richwood; thence N. 5-30 W. 540 feet to a stake,

3 which is the beginning corner of the city boundary line; thence
4 S. 58-00 W. crossing the north fork of Cherry river 6145 feet to
5 a stake; thence S. 84-30 W. 5585 feet to the center of the Fishing
6 Rock on the north bank of Cherry river below drain; thence S.
7 20-00 E. crossing Cherry river 2640 feet to a stake; thence N.
8 84-30 E. 5300 feet to a stake; thence S. 30-00 E. 1139 feet to the
9 upper end of a large long rock; thence N. 84-30 E. 5284 feet to a
10 stake; thence N. 21-00 E. crossing the south fork of Cherry river
11 2689 feet to a stake; thence N. 23-00 W. 1850 feet to a stake;
12 thence N. 37-00 W. 2518 feet to the beginning corner, containing
13 1090 acres, more or less.

Wards.

Sec. 3. The territory included in the said city shall be divided
2 into four wards. Each ward shall be entitled to elect an equal
3 number of councilmen, as provided in the fourth section of this
4 act, and the wards shall be as follows:

5 *The First Ward* shall include all that part of the territory of
6 said city within the following boundaries: Beginning at the
7 wagon bridge across Cherry river at the south end of Oakford ave-
8 nue; thence in a northerly direction with said avenue to the outer
9 limits of the city; thence starting in an easterly direction and with
10 four lines of said outer limits around to the South Fork of Cherry
11 river; thence with and down said South Fork of Cherry river and
12 Cherry river to the beginning.

13 *The Second Ward* shall include all that part of the territory of
14 said city north of Cherry river not included in the first ward.

15 *The Third Ward* shall include all that part of the territory
16 of said city included within the following boundaries: Begin-
17 ning at the wagon bridge across Cherry river at the south end
18 of Oakford avenue; thence with and down said river to the outer
19 limits of said city; thence starting in a southerly direction and
20 with the lines of said outer limits around to the Greenbrier
21 road; thence with said road in a northerly direction to its inter-
22 section with Riverside Drive; thence with said Riverside Drive
23 in an easterly direction to the beginning.

24 *The Fourth Ward* shall include all that part of the territory
25 of said city south of Cherry river and west of the South Fork
26 thereof not included in the third ward.

Municipal Authorities.

Sec. 4. The municipal authorities of said city shall consist of a
2 mayor, to be elected by the voters of the whole city, a recorder,
3 to be elected by the voters of the whole city, and two council-
4 men from each ward, to be elected by the voters of such ward
5 who together shall form a common council and who shall receive
6 such compensation as the council shall from time to time deter-
7 mine, which compensation shall not be increased or diminished
8 during their term of office, and in no event shall said compensa-
9 tion exceed fifty dollars 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 its
3 authority, in the corporate name of the city, unless otherwise
4 provided by state law or municipal ordinance.

Subordinate Officers.

Sec. 6. The mayor shall nominate, and, by and with the advice
2 and consent of the council, shall appoint a superintendent of
3 streets, a chief of police, a city attorney, an assessor, a collector,
4 a treasurer, and all other officers whose offices may be estab-
5 lished by an ordinance of the council, and such officers shall hold
6 the respective offices to which they are appointed during the pleas-
7 ure of the council and until their successors are appointed and
8 qualified. These several officers, or any two or more of them,
9 may be held by the same person, and such officers shall receive
10 such compensation as the council may prescribe by ordinance,
11 and the same shall not be increased or diminished during the
12 term for which the appointment was made.

Eligibility of Officers.

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 was for the preceding year assessed with
5 taxes upon property within the said city of the assessed value of
6 five hundred dollars, and shall actually have paid the taxes so
7 assessed. And no person shall be eligible to any subordinate office

8 under said city who is not at the time of his election or appoint-
9 ment entitled to vote for member of the common council.

Election of Officers.

Sec. 8. On the first Thursday in January, one thousand
2 nine hundred and twenty-two, and every two years thereafter
3 on the first Tuesday in June, there shall be elected by the quali-
4 fied voters of said city, a mayor and recorder. The term of
5 office of said mayor and said recorder, elected on the first Thurs-
6 day in January, one thousand nine hundred and twenty-two,
7 shall commence on the first day of February next after their
8 election and end on the thirtieth day of June, one thousand nine
9 hundred and twenty-four, or when their successors shall be
10 elected and qualified; and the term of office of the mayor and re-
11 corder thereafter elected shall begin on the first day of July after
12 their election and be for two years, ending on the thirtieth day
13 of June.

Sec. 9. On the same day first above mentioned in the preced-
2 ing section, two members of the council shall be elected in each
3 ward of said city, who shall reside in the ward for which they
4 are elected, and the candidate receiving the largest number of
5 votes shall be elected for the term ending June thirtieth, one
6 thousand nine hundred and twenty-four, and the candidate re-
7 ceiving the next highest number of votes shall be elected for the
8 term ending June thirtieth, one thousand nine hundred and
9 twenty-three, and shall hold their offices until their successors
10 are elected and qualified; and on the first Tuesday in June in
11 each succeeding year one member of the council shall be elected
12 in each ward, whose term of office shall begin on the first day of
13 July next succeeding his election, and continue for two years
14 and until his successor is elected and qualified; but if any mem-
15 ber of the council remove from the ward in which he was elected
16 his office shall thereby become vacant, and the common council
17 shall fill such vacancy by appointment until the next general
18 election of some one residing in the ward who is eligible to the
19 office. Each ward shall constitute an election precinct, and the
20 council of the town of Richwood in office at the time of the pas-
21 sage of this act, shall establish a voting place in each ward, at
22 which the first election above provided for shall be held, and
23 thereafter the council of said city shall establish such voting

24 place in each ward, and at all elections for councilmen the coun-
25 cilmen shall be elected by wards. No voter shall be entitled to
26 vote at any city election except in the ward in which he resides;
27 and if any voter shall vote for any person for councilman who
28 is not a resident of the ward in which he is voted for, such vote
29 shall not be counted for such person or persons.

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 is a
3 minor or of unsound mind or a pauper, or who is under convic-
4 tion of treason, felony, or bribery in an election, or who has not
5 been a resident of this state for one year and of said city for six
6 months, and is not a *bona fide* resident of the ward in which he
7 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 municipi-
4 pal elections, and shall conform as nearly as practicable to such

Tie Vote—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 elec-
4 tion is held.

Contested Elections.

Sec. 13. All contested elections shall be heard and determined
2 by the common council and the contest shall be made and con-
3 ducted in the same manner as provided for in contests for county
4 and district officers, and the common council in their proceed-
5 ings in such cases shall, as nearly as practicable conform with
6 like proceedings of the county court in such cases.

Vacancy in Office.

Sec. 14. Whenever a vacancy from any cause shall occur in any
2 elective office, the council shall by a majority vote of those pres-
3 ent, fill such vacancy until the next general election, when a
4 successor shall be elected to fill such vacancy.

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 ordinance for the appointment of such other officers as shall be necessary and proper to carry into full force and authority the power, capacity, jurisdiction and duties of said city which are or shall be vested therein, or in the council, or in the mayor or any other officer or body of officers thereof, and to grant to the officers so appointed the power necessary or proper for the purposes above mentioned. The council by ordinance shall define the duties of all officers so appointed or elected as aforesaid, and allow them reasonable compensation; which shall be payable as the council shall provide, which compensation shall not be increased or diminished during their term of office, and shall require and take from all of them whose duty it shall be to receive its funds, assets or property, or have charge of same, such bonds, obligations or other writing as they shall deem necessary or proper to insure the faithful performance of their several duties. The council shall have power and authority to remove from office any officer elected by the voters of said city for drunkenness, incompetency, misconduct or neglect of duty, or any non-feasance, misfeasance, or malfeasance in office, upon written charges preferred by a member of council or by any responsible citizen of said city; but only after reasonable notice to such officer, and a hearing of the charges preferred; and no such officer shall be removed except by a two-thirds vote of all the members of the council. Any officer appointed by the council may be removed by it at its pleasure. The chief of police shall have all power, rights, and privileges within the corporate limits of said city in regard to the arrest of persons, the collection of claims and the execution and return of process, that can be legally exercised by a constable of a district within this state; and may without having any warrant or other process therefor arrest any person who commits any offence against the laws of this state or infraction of the ordinances of said city, in his presence. He shall be *ex-officio* the keeper of the city jail and have charge of the city prisoners confined therein, and may confine any person arrested by him in the city jail until such time as the charges against such person can be inquired into by the mayor.

38 Any person fined by the mayor for infraction of any of the
39 ordinances of the city may pay such fine to either the mayor or
40 chief of police; and the said chief of police and his sureties shall
41 be liable to all fines, penalties and forfeitures that a constable
42 of a district is liable to for any failure or dereliction in his said
43 office, to be recovered in the same manner and in the same courts
44 that the said fines, penalties and forfeitures are now recovered
45 against a district constable. It shall be the duty of the collec-
46 tor to collect the city taxes, licenses, levies, assessments and other
47 such city claims as are placed in his hands for collection by the
48 council, and he may distrain and sell therefor in like manner as
49 a sheriff may distrain and sell for state taxes, and he shall in all
50 other respects have the same powers as the sheriffs to enforce
51 the payment and collection thereof.

Bonds.

Sec. 16. All bonds, obligations or other writings taken in pur-
2 suance of any provision of this act or under the provisions of
3 any ordinance of said city, shall be made payable to the "City of
4 Richwood", and the obligors therein and theirs heirs, executors,
5 administrators and assigns, bound thereby, shall be subject to the
6 same proceedings on such bonds, obligations or writings for en-
7 forcing the provisions and penalties thereof, by motion or other-
8 wise, before any court of record or justice of the peace having
9 jurisdiction thereof, held or acting in or for said Nicholas
10 county or any district thereof or elsewhere, that the sheriff or
11 collector of said county and his sureties are or shall be subject
12 to on his bond taken for the performance of his duties in the
13 payment of the county levies.

Oath of Officers.

Sec. 17. The mayor, recorder and councilmen and all other
2 officers provided for in this act shall each, before entering upon the
3 duties of his office, and within twenty days after his election or
4 appointment, take the oath or affirmation prescribed by law
5 for all officers in this state, and make oath or affirmation that he
6 will truly, faithfully and impartially, to the best of his ability,
7 discharge the duties of his office so long as he continues therein.
8 Said oath or affirmation may be taken before any person authorized
9 to administer oaths under the laws in force at the time the same

10 is taken or before the mayor or recorder of said city, but in any
11 event a copy of said oath shall be filed with the recorder.

Tenure of Office.

Sec. 18. The mayor, recorder and councilmen, and all other
2 elected officers, elected on the first Thursday in January, one
3 thousand nine hundred and twenty-two, shall enter upon the
4 duties of their offices upon the first day of February next after
5 their election, or as soon thereafter as they have qualified, and
6 all officers elected at any regular election thereafter shall enter
7 upon the duties of their offices on the first day of July next after
8 their election; and all appointed officers shall enter upon the
9 duties of their offices as soon as they have qualified; and all
10 officers shall remain in office until their successors are elected or
11 appointed and qualified or until removed therefrom.

Ineligibility or Failure to Qualify.

Sec. 19. If any person elected to any office shall not be eligible
2 thereto under the provisions of this act, or shall fail to qualify
3 as herein required, the council shall declare his said office vacant,
4 and proceed to fill the vacancy as required by this act.

Powers and Duties of the Mayor.

Sec. 20. 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 executed.
4 He shall be *ex-officio* a justice and conservator of the peace within
5 the city, and shall within the same have, possess and exercise
6 all the powers and perform all the duties vested by law in a jus-
7 tice of the peace, *except*, he shall have no jurisdiction in civil
8 cases or causes of action arising out of the corporate limits of the
9 city, unless the defendant resides or is found therein and process
10 therein served upon him. He shall have the same power to issue
11 attachments in a civil suit as a justice of his county has, but in
12 such case he shall have no power to try the same, but such attach-
13 ment shall be made returnable and heard before a justice of the
14 peace of his county. Any warrant or other process issued by him
15 may be executed at any place in the county. He shall have con-
16 trol of the police of the city and may appoint special officers
17 whenever he deems it necessary, and may suspend any police officer

18 until the next regular meeting of the council. And it shall be
19 his duty especially to see that the peace and good order of the city
20 are preserved, and that persons and property therein are protected,
21 and to this end he may arrest or cause the arrest and detention
22 of all violators of the laws of this state and ordinances of the
23 city, before issuing his warrant therefor, if the offence is com-
24 mitted in his presence. Any act committed inside the corporate
25 limits of the city of Richwood and made a misdemeanor under
26 the laws of the state shall be an offense against the laws of
27 said city, and the mayor, in addition to the other powers here-
28 in granted, may try, convict and punish therefor; and in the
29 absence of any specific ordinance relating thereto, may inflict
30 the same penalties and collect the same fines for the benefit of
31 said city as are prescribed by state laws for the same offense.

32 He shall have power to issue executions for all fines, penalties
33 and costs imposed by him, and may include in such costs any
34 expense necessarily incurred by the city for the support of the
35 offender while in the custody of the officers of the city, or he may
36 require the immediate payment of such fine and costs and in
37 default of such payment he may commit the party in default to
38 the jail of the county of Nicholas or other place of imprison-
39 ment used by said corporation, if there be one, until the fine or
40 penalty and the costs be paid; but the term of imprisonment in
41 such cases shall not exceed thirty days. And in all cases when
42 a person is sentenced to imprisonment or to the payment of a
43 fine of ten dollars or more (and in no case shall a judgment for
44 a fine be for less than ten dollars if the defendant, his agent or
45 attorney object to a less fine being imposed), such person shall
46 be allowed an appeal from such decision to the circuit court of
47 the county of Nicholas upon the execution of an appeal bond
48 with security deemed sufficient by the mayor in a penalty sufficient
49 to cover said fine and costs before the mayor, and the costs in the
50 circuit court in case said judgment be affirmed, with condition
51 that the person proposing to appeal will perform and satisfy any
52 judgment which may be rendered against him by the circuit
53 court on such appeal. If such appeal be taken the warrant of
54 arrest, (if any), a transcript of the judgment, the appeal bond
55 and other papers in the case, shall be forthwith delivered by
56 the mayor to the clerk of the said court, and the court shall

57 proceed to try the case as upon indictment or presentment, and
58 render such judgment, including costs, as the law and the evi-
59 dence may require. The mayor shall from time to time recom-
60 mend to the council such measures as he may deem needful for
61 the welfare of the city. The expense of maintaining any per-
62 son committed to the jail of the county by him, except it be to
63 answer to an indictment, shall be paid by the city and taxed as
64 costs against the defendant. The mayor before acting shall
65 execute bond with good security in a penalty of not less than
66 one thousand dollars, or in such additional penalty as the coun-
67 cil may require, subject to the approval of the council, with the
68 same conditions as required in bonds executed by a justice of the
69 peace in chapter fifty of the code; and all the provisions of the
70 said chapter relating to money received by a justice shall apply to
71 like moneys received by the mayor.

Powers and Duties of Recorder.

Sec. 21. The city recorder shall keep an accurate record of the
2 proceedings of the council, and have charge of and preserve the
3 records of the city, and in case of the absence from the city or
4 in case of the sickness or inability of the mayor to act, or dur-
5 ing any vacancy in the office of mayor, he shall perform such
6 duties of the mayor as pertained to him as chief executive of the
7 city, and be vested with all powers necessary for the performance
8 of such duties, but shall not be vested with any of the authority
9 of the mayor pertaining to civil suits. He shall be a conservator
10 of the peace within the city.

Quorum.

Sec. 22. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business.

Record of Minutes and Ordinances.

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 accur-
3 ate record of all its proceedings, ordinances, acts, orders, and
4 resolutions, and in another to be called "Ordinance Book", accur-
5 ate copies of all general ordinances adopted by the council; both
6 of which shall be accurately indexed and open to the inspection of
7 any one required to pay taxes in the city, or who may be other-

8 wise interested therein. All the oaths and bonds of officers in
9 the town, and all papers of the council shall be endorsed, filed
10 and accurately kept by the recorder. The bonds of officers shall
11 be recorded in a well bound book to be called "Record of Bonds".
12 The recorder shall perform such other duties as by ordinance of
13 the council may be prescribed. The transcript of ordinances,
14 acts, orders and resolutions certified by the recorder under the
15 seal of the city shall be deemed *prima facie* correct when sought
16 to be used in any court or before any justice.

Reading of Minutes.

Sec. 24. 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. 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.

Meetings of the Council.

Sec. 26. The regular meetings of the council shall be held at
2 such times and such places in the city as they shall from time to
3 time ordain and appoint; and it shall be lawful for the council
4 by ordinance to vest in any officer of the city, or in any member
5 or number of members of their own body, the authority to call
6 special meetings and prescribe the mode in which notice of such
7 meetings shall be given. If a majority of the members of coun-
8 cil do not attend any regular or special meeting those in attend-
9 ance shall have authority to compel the attendance of absent
10 members under such reasonable penalties as they may think pro-
11 per to impose; all questions put to a vote, except such matters as
12 are herein otherwise provided for, shall be decided by a majority
13 of the members present.

To Whom Money of the City Paid.

Sec. 27. All moneys belonging to the city shall be paid
2 over 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 to his successor all the money remaining in his hands.

Duties and Powers of Council.

Sec. 28. The council of said city shall have full power and
2 authority therein to lay off, vacate, close, open, alter, grade, curb,
3 pave, and keep in good repair, the roads and streets, alleys,
4 pavements, sidewalks, crosswalks, drains, sewers, and gutters
5 therein, for the use of the citizens or the public and to improve
6 and light the same, and keep them free from obstructions of
7 every kind; to regulate the width and kind of pavements and
8 sidewalks, footways, drains, and gutters, and cause the same to
9 be kept in good order, free and clean by the owners and occu-
10 pants of the real property next adjacent thereto; to establish and
11 regulate markets, prescribe the time for holding the same, pro-
12 vide suitable and convenient buildings therefor, and prevent the
13 forestalling of said markets; to regulate the sale of all food and
14 drink products, milk, fresh meats, fish, and vegetables, and pro-
15 vide for the inspection of the same; to prevent injury or annoy-
16 ance to the public or to individuals from anything dangerous,
17 offensive or unwholesome; to prohibit or regulate slaughter-
18 houses and soap factories within the city limits, or the exercise
19 of any unhealthy or offensive business, trade or employment; to
20 regulate or prohibit the erection or maintenance, in what council
21 may deem on improper locality within the municipality, of any
22 blacksmith shop, livery stable, cow house, cattle pen, poultry house,
23 pig pen, privy, bill board, sign boards, gas or other engines, or
24 the use of walls or walks for signs; to regulate or prohibit the
25 distribution of hand bills, circulars and other advertisements of
26 like kinds on the streets, roads, alleys and public places, or in
27 private yards, buildings or other structures without first having
28 procured the consent of the owner or occupier thereof; to abate
29 all nuisances within the city limits or to compel the abatement or

30 removal thereof at the expense of the person causing the same,
31 or by, or at the expense of the owner or occupant of the ground
32 on which said nuisance is placed or found; to cause to be filled up,
33 raised or drained, by, or at the expense of the owner, any town lot
34 or tract of land covered or subject to be covered by stagnant
35 water; to prevent horses, hogs, cattle, sheep or other animals, and
36 fowls of all kinds from going or being at large in such city, and
37 as one means of prevention to provide for impounding or con-
38 fining such animals and fowls at the expense of the owner thereof,
39 and upon the failure of the owner to reclaim, for the sale
40 thereof; to regulate or prohibit street carnivals or street fairs,
41 or street parades, advertising exhibitions or other exhibitions
42 thereon, or the exhibition of material or artificial curiosities; to
43 regulate or prohibit the ringing of bells, blowing of steam
44 whistles, or use of hand organs or other musical instruments of
45 any annoying character or other music of itinerant performers in
46 the streets, roads, parks or public places of the municipality; to
47 license, regulate or prohibit auctioneering; to protect places of
48 divine worship and to preserve order in and about the premises
49 when and where such worship is held, and to prevent the desecra-
50 tion of the Sabbath day; to regulate the sale and keeping of gun-
51 powder and other inflammable or dangerous substances; and to
52 provide for the regular building of houses, or other structures,
53 and to provide for the kind of material to be used in the con-
54 struction thereof, and for making and maintaining of division
55 fences by the owners of adjoining property; to grant franchises
56 in accordance with the provisions of general laws relating to munic-
57 ipal corporations; to provide against danger or damage by fire,
58 and to organize, equip and govern fire companies and hose com-
59 panies as provided by general law; to restrain all felons and per-
60 sons guilty of offenses against the state or the United States
61 and deliver them over to the authority or court having jurisdic-
62 tion of the offense whereof such person is accused; to establish
63 a city board of health and invest it with the necessary power to
64 attain its object; to quarantine against contagious and infectious
65 diseases; to provide in or near the corporate limits of the munic-
66 ipality a cemetery or other place for the burial of the dead, and
67 to regulate interments therein, and to guard and police the same,
68 and to provide for the cremation and incineration of dead human
69 bodies when from the nature of the malady or pestilence from

70 which death ensued, the municipal board of health may direct; to
71 arrest, convict and punish for assault and battery, drunkenness,
72 profane swearing, lewd and lascivious conduct or other representa-
73 tion, adultery, and fornication, and larceny, where the amount
74 stolen is less than twenty dollars; to arrest, restrain and punish
75 vagrants, beggars, tramps, common prostitutes and their asso-
76 ciates; to arrest, convict and punish any person for keeping a
77 house of ill-fame, or for leasing or letting to another person any
78 house or other building for the purpose of being used or kept
79 as a house of ill-fame, or knowingly permitting any house owned
80 by him, or under his control, to be kept or used as a house of
81 ill-fame, or loafing, boarding or loitering in a house of ill-fame,
82 or frequenting same.

Sec. 28-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 any
4 person for cruelty, unnecessarily or needlessly beating, torturing,
5 mutilating, killing, overloading or overdriving, or wilfully depriv-
6 ing of necessary sustenance, any horse or other domestic animal;
7 to arrest, convict and punish any person for gambling or keeping
8 gaming tables, commonly called A. B. C. or E. O. table or faro
9 bank or keno table, or table of like kind, under any denomination,
10 whether the game or table be played with cards, dice, or other-
11 wise, or shall be a partner, or concerned in interest, in keep-
12 ing or exhibiting such table or bank, or keeping or maintaining
13 any slot machine, gaming device, gaming house or place, or betting
14 or gambling for money or anything of value; to arrest, convict
15 and punish any person for unlawfully carrying about his person
16 any revolver or other pistol, dirk, bowie knife, razor, slungshot,
17 billy, metallic or other false knuckles, or any other dangerous
18 or deadly weapon of like kind or character; to prohibit anything
19 against good morals and common decency and to fix punishment
20 therefor; to prevent the illegal manufacture, sale, storage and
21 keeping in possession of intoxicating drinks, mixtures and
22 preparations; to regulate the hanging of doors and the construc-
23 tion of stairways, elevators and fire escapes in theatres, churches,
24 school buildings, factories, and other places where many persons
25 are received at one time, and to require the construction of fire
26 escapes in such buildings; to protect the persons of those residing
27 or being in the city; to appoint, when necessary or advisable, a

28 police force, permanent or temporary, to assist the chief of police
29 in the discharge of his duties, who when appointed shall have the
30 same power and authority in and about the arrest of offenders as
31 the chief of police; to build or purchase, or lease a suitable place
32 of imprisonment within said city for the safe keeping or punish-
33 ment of persons charged with or convicted of a violation of the or-
34 dinances of the city, or they may adopt the county jail of Nicholas
35 county for that purpose; to purchase, lease or construct buildings
36 to be occupied by the fire department and city officers and for pub-
37 lic meetings; to purchase or condemn real estate on which to erect
38 public buildings or for carrying on any of the functions authorized
39 by this charter; to require any gas company or person furnishing
40 gas for said city or the inhabitants thereof, to put in standard
41 meters for the measurement thereof, and may appoint any person
42 to inspect the meters and remove same if not standard and in good
43 order; to prevent injury to any gas works, or any light or water
44 works, or the pollution of any gas or water used or intended to be
45 used by the public or any individual; to provide for and regulate
46 the weighing of hay and coal kept for sale within said
47 city, and to establish rates and charges for the weigh-
48 ing thereof; to create committees by ordinance and delegate
49 such authority thereto as may be deemed necessary or
50 advisable; to provide for the annual assessment of the taxable
51 property therein and for the revenue, for the city, for municipal
52 purposes and to appropriate such revenue to its expenses; and
53 generally to have power to take such measures as are deemed nec-
54 essary or advisable to protect persons and property, public and
55 private, within the city, to preserve peace, quiet and good order
56 therein and to promote the health, safety, comfort and well being
57 of the inhabitants thereof and to this end may arrest, convict
57-a and punish any person for the commission of any act inside the
57-b corporate limits of the city which is made a misdemeanor under
57-c the laws of the state, whether herein specifically mentioned or not.
58 The council shall have authority to pass all ordinances not re-
59 pugniant to the constitution and laws of the United States, or of
60 this state, which shall be necessary or proper to carry into effect
61 all the orders, by-laws, ordinances, rules and regulations of the
62 said council and all power and authority which is or shall be
63 granted to or vested in the said city, or in the council, or in any
64 officer or body of officers of said city, and to enforce any and all of

65 their ordinances by reasonable fines and penalties, and by impris-
66 oning the offender or offenders, and upon failure to pay any fine
67 or penalty imposed may compel the offender to labor without com-
68 pensation at and upon any of the public works or improvements
69 undertaken or to be undertaken by said city, or to labor at any
70 work, which the said council may lawfully employ labor upon, at
71 such a reasonable rate per diem as the council may fix, until any
72 fine or fines and costs imposed upon any such offender by said
73 city, have been fully paid and discharged, after deducting reason-
74 able charges for support while in the custody of the officers of the
75 city. And in all cases where a fine is imposed for an amount ex-
76 ceeding ten dollars and costs, or a person is sentenced to be impris-
77 oned or to labor as aforesaid for a greater term than ten days, an
78 appeal may be taken from such decision upon the same terms and
79 conditions as appeals are taken from the judgment of a justice of
80 this state. Such fines and penalties shall be imposed and recov-
81 ered, and such imprisonment inflicted and enforced, by, and under
82 the judgment of the mayor of said city, or, in case of his absence
83 or inability to act, by the recorder of said city, or if he be unable
84 to act, then by any member of the council to be appointed by the
85 council for that purpose; and for his services in trying cases,
86 whether civil, criminal, or infractions against the ordinances of the
87 city, the mayor shall be entitled to receive such fees as are paid
88 to justices of the peace for similar services, but in cases of infrac-
89 tion of the ordinances of the city, the mayor shall not be paid such
90 fees unless they are collected from the defendant; and in all such
91 cases the chief of police shall be entitled to receive such fees as
92 are paid to constables for similar services, except that for cases
93 for the infraction of the ordinances of the city he shall not receive
94 such fees unless collected from the defendant; *provided, further,*
95 that the fee for making any arrest shall be one dollar, to be paid
96 to the officer making the arrest, whether such officer be the chief
97 of police or other officer, if collected from the defendant, but
98 not otherwise.

Licenses.

Sec. 29. In addition to the powers above enumerated the said
2 city council shall have the exclusive power and authority to require
3 and grant licenses for anything to be done, carried on or exhibited
4 within said city, for which a state license is now or may hereafter

5 be required, for the keeping of hacks, carriages, carts, wagons,
6 drays and every description of wheeled vehicles for hire within
7 said city, or carrying passengers for hire in any such vehicle; to
8 license hawkers and peddlers within said city, and the keeping of
9 dogs and other animals within said city, and to subject the same
10 to such regulations as the interest of the city may require. Upon
11 all such licenses the council shall have power to levy and collect
12 a reasonable tax for the use of the city. The council may provide
13 for the killing of all dogs, the keeping of which is not so
14 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 collector
18 or treasurer before delivery to the person applying therefor.

19 All licenses, except for the keeping of dogs, shall be for such as
20 the council may determine, but no license shall extend beyond
21 the thirtieth day of June next after the beginning of the period
22 for which the same was granted.

23 Nothing in this section contained shall be construed to author-
24 ize the council of the city of Richwood to grant a license to any
25 person to carry about his person any revolver or other pistol, dirk,
26 bowie knife, slungshot, razor, billy, metallic or other false
27 knuckles, or any other dangerous or deadly weapon of like kind
28 or character.

Mayor's Docket.

Sec. 30. A well-bound book, indexed, to be denominated the
2 "Mayor's Docket", shall be kept in the office of the mayor in which
3 shall 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 judgment,
7 the costs, and in case the judgment be one of conviction the action
8 taken to enforce the same. The record of each case shall be signed
9 by the mayor and the original papers thereof, if no appeal be
10 taken, shall be kept together and preserved in his office.

Annual Levy.

Sec. 31. All the provisions of the general laws of the state of
2 West Virginia regulating the rate and manner of laying levies
3 for taxation in municipal corporations and providing penalties

4 for the illegal expenditures of public moneys, and the incurring
5 of all illegal obligations and the laying of illegal levies by the
6 tax-laying body, except as hereinafter provided, shall apply to the
7 city of Richwood.

Annual Assessment.

Sec. 32. It shall be the duty of the assessor annually to make
2 an assessment of the property within the city subject to taxation,
3 substantially in the manner and form in which assessments are
4 made by the assessors of the county and return the same to the
5 council on or before the fifteenth day of August of each year, and
6 for this purpose he shall have all the powers conferred by law
7 upon county assessors. He shall list the number of dogs and other
8 animals subject to a license tax in the city, showing which are
9 male and which are female, and the names of the persons owning
10 the same, which list shall be returned to the council at the same
11 time his assessment books are returned. But in making his assess-
12 ments on real and personal property he shall be governed by the
13 assessment on real and personal property for state and county
14 purposes for said year, and the value placed on said property shall
15 not exceed the value of such assessment for county and state pur-
16 poses. In order to aid the said assessor in ascertaining the prop-
17 erty subject to taxation by said city, he shall have access to all
18 books and public records of said Nicholas county without expense
19 to him or said city and he shall have the same power and be
20 subject to the same penalties in ascertaining and assessing the
21 property and subjects of taxation in said city, as are granted and
22 imposed on the county assessors throughout the state by general
23 law; and the council shall have authority to prescribe by general
24 ordinance such other rules and regulations as may be necessary to
25 enable and require such assessor to ascertain and properly assess
26 all property liable to be taxed by said city, so that such assess-
27 ment and taxation shall be uniform and equal, and the council
28 may enforce such rules and regulations by reasonable fines to be
29 imposed on any one failing or refusing to comply therewith. The
30 council shall have authority to correct mistakes, clerical errors
31 and all other errors made by the assessor in the land and per-
32 sonal property books of the city, except the fixing valuations,
33 in like manner, and under the same circumstances which would
34 authorize a county court to correct errors in assessments for state

35 and county taxes, and to grant relief against such erroneous
36 assessments in like manner as the county court.

Assessor's Books.

Sec. 33. The assessor shall make two copies of his assessment
2 books each year and extend the taxes in each book and deliver
3 the same when completed and sworn to, but not later than the
4 first day of September, to the city council, one of which shall be
5 retained in the office of the recorder and the other delivered to
6 the city collector, taking his receipt therefor.

Liens for Taxes.

Sec. 34. There shall be a lien on the real estate within said
2 city for the city taxes assessed thereon, and for all fines and pen-
3 alties assessed to or imposed upon the owners thereof, by the
4 authorities of said city, including expenses for making sidewalks
5 and streets from the time the same are so assessed or imposed,
6 which shall have priority over all other liens except taxes or dues
7 due the United States and the lien for taxes due the state, county
8 or district; and such lien may be enforced by the council in the
9 manner provided by law for the enforcement of the lien for state
10 and county taxes. If any real estate within said city shall be
11 returned delinquent for non-payment of city taxes due thereon, a
12 copy of said delinquent list shall be certified by the recorder to
13 the auditor of this state and the same may be sold for city taxes,
14 interest and commissions thereon in the same manner, at the same
15 time and by the same officers as real estate is sold for state and
16 county taxes; and a return of such sales made and a deed executed
17 therefor, if not redeemed, in the same manner, by the same
18 officer, and with like effect, as returns of sales of real estate sold
19 for state and county taxes are made and deeds executed therefor
20 to purchasers.

Collection of Taxes.

Sec. 35. It shall be the duty of the city collector when the
2 extended copies of the assessor's books are completed to receive
3 a copy thereof, receipting to the council for the same; and it
4 shall be his duty to collect from the parties the entire amount of
5 the taxes with which they are severally charged therein, and he
6 may proceed to collect the same at any time after the first day of

7 September and may enforce payment thereof by levy upon the
8 personal property, and sale thereof, of the person so charged with
9 taxes at any time after the first day of December, next after said
10 taxes are assessed; and shall allow a discount of one and one-half
11 per cent. to all such persons as shall pay all their taxes on or before
12 the last day of October of that year; said taxes shall be a lien
13 upon the property upon which they are assessed from and after
14 the time the assessor's books are completed, verified and returned
15 to the city council, and he shall write the word "paid" in said
16 book opposite the name of each person who pays the taxes assessed
17 against him and shall also give to the person paying such taxes
18 a receipt therefor; *provided, however,* that said collector may
19 distraint at any time for any taxes assessed against a person who
20 is about to remove or who has removed from said city after such
21 taxes are assessed, and the books returned as aforesaid. He shall
22 pay all taxes collected to the city treasurer, who shall also receive
23 such other moneys of the city as he is authorized by this act to
24 receive, and also all moneys ordered by the council to be paid to
25 him, giving receipts therefor to the parties paying the same, and
26 keeping an accurate, itemized account of all moneys received by
27 him, and his books shall at all times be open to the inspection of
28 the mayor, council, city recorder or any tax-payer of the city.
29 The treasurer shall also make up a monthly statement of the
30 money received by him and the amount paid out by him and to
31 whom, showing the amount in his hands from all sources, and shall
32 post the same in the mayor's office on the last day of each month.
33 He shall pay out the money in his hands only upon the order of
34 the city council upon orders signed by the mayor and recorder.
35 He shall at or before the last meeting of the council in each
36 year just before the expiration of the term of office of the mayor,
37 and at such other times as the council may require, present to the
38 council a full and complete statement of all the moneys with
39 which he is chargeable or that have been received by him and not
40 previously accounted for, and shall at the same time, in like man-
41 ner, furnish a complete statement, by separate items of all dis-
42 bursements made by him during such period, with his vouchers
43 evidencing the same. The collector shall receive all taxes upon
44 licenses and receipt to the party paying the same by endorsement
45 upon the permit granted by order of the council, or mayor, as the
46 case may be. The treasurer shall receive upon all moneys com-

47 ing into his hands and paid out by him as his compensation for
48 receiving and disbursing the same such sum as may be fixed by
49 the council not to exceed one and one-half per cent. thereof. He
50 shall upon the expiration of his term of office turn over to the
51 council all books and other property in his possession belonging
52 to the city except the money in his hands, which he shall turn
53 over to his successor upon the order of the council, as hereinbe-
54 fore provided; and shall, before entering upon the duties of his
55 office, execute a bond with good security payable to the city in a
56 penalty of not less than twenty thousand dollars, conditioned
57 that he will faithfully discharge the duties of his office and
58 account for and pay over as required by law and the orders, ordi-
59 nances, rules and regulations of the council of said city, all money
60 which shall come into his hands, which bond shall be subject to the
61 approval of the council. He shall be chargeable with all the city
62 taxes, levies and assessments and money of the city which shall
63 come into his hands and shall account therefor.

Condemnation of Land for Public Use.

Sec. 36. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate, for streets, alleys, roads, drains, sewers, market
4 grounds, city prisons, city halls, offices for city officials, city fire
5 department, water works, electric light plant or other works, or
6 purpose of public utility. Such proceedings shall conform to the
7 provisions of chapter forty-two of the code of West Virginia and
8 the expenses thereof shall be borne by the city, except in cases
9 where it is proper under said chapter to charge expenses or any
10 part thereof against the defendant. However, the right of con-
11 demnation shall not extend to any land north of Cherry river,
12 west of Oakford avenue and south of the main line track of the
13 B. & O. R. R., or to any land north of said river, east of Oakford
14 avenue and south of the first alley south of Main street, and south
15 of Main street, east of the end of said alley.

Bonding.

Sec. 37. The council of the said city shall have the right to
2 bond the said city for the purpose of erecting public buildings for
3 a city prison, city fire department and for use of city officials of
4 said city or for any other permanent improvement not provided

5 for in section forty-one of this act, whenever the council thereof
6 may deem the same necessary, but the aggregate indebtedness
7 of the said city for all purposes shall never at any time exceed
8 two and one-half per centum of the assessed valuation of the
9 taxable property therein according to the last assessment next
10 preceding said date, except as provided in section forty-one of
11 this act; and the said council shall provide a fund for the pay-
12 ment of the interest annually on the said indebtedness so created
13 and to pay the principal thereof within and not exceeding thirty-
14 four years; *provided*, that no debt shall be contracted hereunder,
15 unless all questions connected with the same be first submitted
16 to a vote of the qualified voters of said city, and have received
17 three-fifths of all votes cast for and against the same.

No Indebtedness to be Created for Current Expenses.

Sec. 38. The council of the said city shall not at any time or
2 for any purpose create any indebtedness against the said city,
3 except as provided in the next preceding section and in section
4 forty-one of this act, exceeding the available assets of the said
5 city for the current year; and if the said council shall create
6 such indebtedness or issue orders on the said city for an amount
7 exceeding the amount of money collected for that year for said
8 city from all sources and the amount of money then in the
9 treasury unappropriated, the members of said council shall be
10 severally and jointly liable for the payment of the excess of such
11 indebtedness or order over the amount of money applicable thereto,
12 and the same may be recovered in any court having jurisdiction
13 thereof.

Support of Poor and Maintenance of Roads and Levies for Same.

Sec. 39. 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 for
4 the support of the poor outside of the city limits, or any district
5 road taxes for the construction and maintenance of roads outside
6 the city limits.
7 In laying the annual levy the council may include therein a
8 poll tax of not exceeding three dollars each year upon each per-
9 son residing in said city who is above the age of twenty-one years
10 and not over fifty years of age, which poll tax shall be used

11 exclusively for the opening, improving and maintaining of the
12 roads, streets and alleys of the city, and shall be designated as
13 the "street tax".

14 In addition to the levy authorized by section thirty-one of this
15 act the council shall have authority to annually levy a special
16 tax of not exceeding two and one-half cents on each one hundred
17 dollars valuation of the real and personal property of the city
18 for the support and maintenance of the city's poor, which tax
19 shall be used exclusively for that purpose, and shall be desig-
20 nated as the "poor tax".

Making and Maintaining Sidewalks.

Sec. 40. The council of said city shall have power to require
2 the abutting land owners to put in and maintain such sidewalks
3 as it shall from time to time deem proper, and it shall have the
4 power to regulate the width thereof and designate the material
5 out of which the same shall be built and maintained, and to
6 establish the grade for the same, but when a grade therefor has
7 once been established by the council the same shall not after-
8 wards be changed at the expense of the abutting land owner;
9 and in case the said abutting land owner shall fail or refuse
10 to carry out any order of the council under this section in rela-
11 tion to such sidewalk, after being duly notified of the time and
12 manner in which the same shall be done, the said council shall
13 cause said work to be done and shall charge the same to the
14 abutting land owner, and the same may be collected as taxes are
15 collected and shall be a lien on the property abutting and may be
16 enforced against the same as liens for taxes are enforced, or at
17 the option of the council, the same may be enforced as the lien of
18 a judgment is enforced against real estate.

Paving.

Sec. 41. The method of grading, paving, sewerage and other-
2 wise improving the streets and alleys of municipal corporations
3 and paying for the same provided for in chapter eight of the acts
4 of the legislature of West Virginia, of the extraordinary session
5 of one thousand nine hundred and eight having been adopted by a
6 vote of the people of the town of Richwood, as provided in said
7 chapter, the same shall apply to the city of Richwood and the
8 said chapter shall be in full force and effect therein in like manner

9 as if the same had been adopted by a vote of the people of the
10 city of Richwood after the passage of this act, except as hereinafter
11 provided.

12 Whenever it shall be deemed expedient by the council to grade
13 curb, pave, sewer, macadamize or otherwise improve any of the
14 principal streets or thoroughfares of the city outside of the chief
15 commercial districts thereof, for which in the judgment of the
16 council it would be unfair and improper to require the owners of
17 the adjacent property to pay as provided in said chapter eight,
18 and there are no funds in the city treasury or available out of
19 which to pay for the same, the said council may enter its order re-
20 citing the facts aforesaid and definitely describing the improve-
21 ment proposed and directing some competent engineer designated
22 by it for the purpose to make an investigation and report to the
23 council an estimate of the probable cost of the proposed improve-
24 ment. If after said report is received and considered by the coun-
25 cil it shall by a majority vote of the whole council approve of the
26 proposed plan of improvement and decide that the said work
27 should be undertaken by the city, the council shall submit to the
28 legal voters of the city at a special election held for the purpose a
29 proposition for the issue and sale of the bonds of the city to ob-
30 tain money to carry on the proposed work. All the general laws
31 of the state of West Virginia pertaining to the issue and sale of
32 bonds by municipal corporations for purposes other than street
33 improvement shall apply to and govern the said special election
34 and the issue and sale of said bonds. And the said city may for
35 the purpose of such road and street improvement issue its bonds in
36 any amount, *provided* it does not by such issue and sale of such
37 bonds cause the aggregate of its debt of every kind whatsoever to
38 exceed five per centum of the value of the taxable property therein
39 as ascertained by the last assessment for state and county levies
40 previous to the issue of such bonds.

Appointment of Officers to Hold First Election Hereunder.

Sec. 42. The council in being in the town of Richwood at the
2 time this act shall take effect shall provide places for voting in the
3 several wards of the city and appoint commissioners residing in
4 each ward to hold and conduct the first election hereinbefore pro-
5 vided to be held, and pass all proper ordinances to give this act
6 full force and effect.

When Officers First Elected to Assume Duties of Office.

Sec. 43. The mayor, recorder and councilmen elected on the 2 first Thursday in January, one thousand nine hundred and twenty- 3 two, as hereinbefore provided, shall assume the duties of their re- 4 spective offices on the first day of February, one thousand nine 5 hundred and twenty-two, or as soon thereafter as they have quali- 6 fied; the mayor and recorder shall continue in office until the first 7 day of July, one thousand nine hundred and twenty-four, and until 8 their successors are elected and qualified, and the councilman from 9 each ward receiving the largest number of votes shall continue 10 in office until the first day of July, nineteen hundred and twenty- 11 four, and the councilman from each ward receiving the next high- 12 est number of votes shall continue in office until the first day of 13 July, one thousand nine hundred and twenty-three, and in each case 14 until their successors are elected and qualified; the terms of all 15 officers elected at any subsequent election shall begin on the date 16 and continue as provided in sections eight and nine of this act.

General Provisions.

Sec. 44. All the general laws of the state of West Virginia per- 2 taining to municipal corporations, so far as not in conflict with 3 the provisions of this act, shall apply to the city of Richwood, and 4 the said city of Richwood shall succeed to all the rights, powers 5 and responsibilities and be vested with the title to all property 6 of the town of Richwood as they exist the day preceding the day 7 on which this act takes effect, and shall enjoy such rights, exer- 8 cise such powers, and discharge such responsibilities in the same 9 manner as the same should have been enjoyed, exercised and dis- 10 charged if this act had not passed.

Existing Ordinances.

Sec. 45. All the ordinances, by-laws, resolutions and rules 2 of the town of Richwood in force on the day preceding the pas- 3 sage of this act, which are not inconsistent therewith, shall be and 4 remain in full force over the whole of said city of Richwood as es- 5 tablished by this act until the same are amended or repealed by the 6 council of said city, and the officers in office, in the town of Rich- 7 wood, at the time this act takes effect, shall remain in office until 8 their successors under this act are elected and qualified, as here-

9 inbefore provided; and after this act takes effect shall have juris-
 10 diction over all the territory embraced in the boundary specified
 11 in this act, and shall perform all the duties of such respective offi-
 12 cers under this act; but nothing in this act shall be construed or
 13 held to in any way effect or impair any of the bonds, obligations
 14 or indebtedness of the town of Richwood issued or contracted prior
 15 to the time this act takes effect, but on the contrary the said city of
 16 Richwood shall be liable for all the bonds, obligations, and in-
 17 debtedness of the town of Richwood as though the same had been
 18 created in the name of the city of Richwood.

Repeal of Inconsistent Ordinances and Acts.

Sec. 46. All ordinances of the town of Richwood as they exist
 2 at the time of the passage of this act which are inconsistent there-
 3 with are hereby abrogated, and all acts and parts of acts incon-
 4 sistent with any of the provisions of this act are hereby repealed.

CHAPTER 22

(House Bill No. 482—Mr. Wyatt.)

AN ACT to amend and re-enact section twenty-six of chapter four-
 teen of the acts of the legislature, one thousand nine hundred
 and five, at the regular session, relating to the incorporating of
 the town of Salem, and defining the powers of the city council
 thereof.

[Passed April 26, 1921. In effect from passage. Approved by the Governor
 May 2, 1921.]

Sec.
 26. Council; power regarding roads,
 streets, etc., to establish and
 regulate markets, etc.; additional
 powers and duties of.

Be it enacted by the Legislature of West Virginia:

That section twenty-six of chapter fourteen of the acts of the legis-
 lature, one thousand nine hundred and five, at the regular session, be
 amended and re-enacted so as to read as follows:

Section 26. The council of said city shall have power to lay
 2 off, vacate, close, open, alter, grade and keep in good repair the
 3 roads, streets, alleys, pavements, sidewalks, crosswalks, drains and
 4 gutters therein for the use of the citizens and the public, and to

5 improve and light the same, and to keep them free from ob-
6 structions of every kind; to regulate the width of the pavements,
7 sidewalks, footways, drains and gutters to be kept in good order,
8 free and clean by the owners or occupants of the real property
9 next adjacent thereto; to establish and regulate markets, pre-
10 scribe the time of holding the same, provide suitable and con-
11 venient buildings therefor, and prevent the forestalling of such
12 markets; to prevent injury or annoyance of the public or to in-
13 dividuals from anything dangerous, offensive or unwholesome;
14 to prohibit or regulate slaughter houses, tan houses and factories
15 within the corporate limits; and to prohibit the exercise of any
16 offensive business, trade or employment, to abate all nuisances
17 within the corporate limits, and to require or compel the abate-
18 ment or removal thereof at the expense of the person causing
19 same, or by or at the expense of the owner of the ground at
20 the place they are found; to be caused to be filled up, raised or
21 drained by or at the expense of the owner, any city lot or tract
22 of land covered or subjected to be covered by stagnant water;
23 to prevent horses, hogs, cattle, sheep and other animals and fowls
24 of all kinds from going or being at large in said town, and as
25 a means of prevention, said council may provide for the im-
26 pounding and confining of said animals and fowls; and upon
27 the failure to reclaim, for the sale thereof; to protect places of
28 divine worship, and preserve order in and about the premises
29 where and when such worship is held; to protect places of pub-
30 lic instruction and schools, and to preserve order in and about
31 all the school buildings; to regulate the keeping of gunpowder
32 and other dangerous explosives and substances; to regulate the
33 building of houses and other structures; for the maintaining
34 and making of division fences by the owners of adjacent prem-
35 ises; and for the proper drainage of town lots and other par-
36 cels of land by or at the expense of the owner or occupant there-
37 of, when such drainage shall be deemed necessary for the pro-
38 tection of the public health; to provide against danger or dam-
39 age by fire; to punish assault and batteries; to prohibit the
40 keeping of or loitering in or visiting houses of ill-fame, or con-
41 gregating or loitering in saloons or upon streets of said city;
42 to prevent lewd or lascivious conduct, the sale or exhibition
43 of indecent pictures or other representations; the desecration of
44 the Sabbath day; to prevent swearing, the illegal sale of in-

45 toxicating liquors, mixtures and other preparations, porter, beer,
 46 ale, wine or other drinks of like nature; to protect the persons
 47-50 of those residing or being within said town; to build
 51 or purchase or lease and use a suitable place of im-
 52 prisonment within said city for the safe keeping and
 53 punishment of persons charged with or convicted of the violation
 54 of ordinances; to erect, or authorize or prohibit the erection of
 55 gas or water works within the corporate limits; to prevent in-
 56 jury of such works, or the pollution of any gas or water used
 57 or intended to be by the people or by individuals; to provide
 58 for and regulate the measuring and weighing of hay,
 59 coal, lumber or other articles sold or kept or offered
 60 for sale within said town; to create by ordinance such
 61 committee and boards, and delegate such authority thereto
 62 as may be deemed necessary or advisable; to establish rates and
 63 charges for weighing and measuring of hay, coal, lumber or
 64 other articles; to regulate the running speed of engines and cars
 65 within said town; to provide for the annual assessment of taxable
 66 property therein, including dogs kept in said city, and to regu-
 67 late their running at large; to provide a revenue for the city for
 68 municipal purposes and to appropriate such revenue to its ex-
 69 penses, and to take such measures as may be deemed necessary
 70 or advisable to protect the property, public and private, within said
 71 city; to preserve and maintain peace, quiet and good order therein;
 72 and to preserve and promote the health, safety and well being
 73 of the inhabitants thereof.

CHAPTER 23

(House Bill No. 481—Mr. Wyatt.)

AN ACT to amend and re-enact chapter two of the acts of the legis-
 lature for one thousand nine hundred and fifteen, regular ses-
 sion, as codified under municipal charters, relating to the charter
 for the city of Shinnston.

[Passed April 29, 1921. In effect ninety days from passage. Approved by the
 Governor, May 3, 1921.]

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| <p>SEC.
 1. Incorporating "City of Shinnston."
 2. Corporation and ward boundaries defined.
 3. Councilmen; number, election and term of.</p> | <p>SEC.
 4. Appointive officers designated; term and duties of each.
 5. Qualifications of officers.
 6. Compensation of officers.
 7. City manager.</p> |
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<p>Sec. 8. City clerk. 9. Police court judge. 10. The city collector and treasurer. 11. City attorney. 12. City physician. 13. Chief of police. 14. Chief of fire department. 15. Public utility franchises. 16. Corporate powers vested in council. 17. Powers of the council. 18. Ordinance enactment, form prescribed. 19. Code of laws. 20. Existing indebtedness, contracts and ordinances. 21. Service of notice. 22. Bonds of employees. 23. Application of funds. 24. Depositing city funds. 25. Misappropriation of funds. 26. Financial statement. Audit. 27. Budget. 28. Contracts—Cost plus work. 29. Changes in contracts. 30. Lot subdivision. 31. Motor vehicles. 32. Assessments for removing snow, weeds, etc. 33. Eminent domain. 34. Supply water outside of city. 35. Taxes. 36. Council authorized to levy and collect taxes. 37. How taxes collected. 37-a. Collection of taxes; power of city collector. 38. All goods and chattel liable for tax. 39. Lien upon real estate. 40. Liens and penalties enforced. 41. Improvements and assessments; local improvements.</p>	<p>Sec. 42. Method of assessments. 43. Preliminary resolutions. 44. Plans for improvements. 45. Notices served. 46. Board of revision of assessments. 47. Claims for damages. 48. Final assessment. 49. Damages assessed. 50. Lands unallotted or not on duplicate. 51. Included in costs of improvements. 52. Specifying time of payment. 53. What included in assessment. 54. Time of payment when bonds are issued. 55. Lien for special assessments. 56. Docketing and collecting assessments. 57. Improvements; proceedings with work. 58. Application for assessments. 59. Sidewalks. 60. Supplementary assessments and rebates. 61. Limitation of assessments. 62. Release of liens. 63. Remedies saved. 64. Issuing bonds. 65. Bond election. 66. Assessment certificates. 67. Publication of ordinances, etc. 68. Emergency measures. 69. Removal of elective officers. 70. Succeeding to duties of officers. 71. What not to be published in code of laws. 72. Acts construed. 73. City authorized to issue and sell bonds for purchase or building of electric light plants, water works, etc. 74. Referendum.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter two of the acts of the legislature of West Virginia for the year one thousand nine hundred and fifteen, as codified under municipal charters be amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of Harrison as is within the bounds 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 of "The City of Shinnston," and as such shall have perpetual succession and a common seal and by that name shall sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary for the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows:

Beginning at an ash on the banks of the West Fork river called for in the old corporation line, and running thence S. 45° E.

5 1427.3 feet to a stake, bearing N. 64° W. 99 feet from northwest
6 corner of Morris' farm; thence N. 65° E. 5610 feet to a locust in
7 T. J. Barnes' heirs field; thence S. 76° 40' E. 2540 feet to north-
8 west corner of Mudlick cemetery; thence No. 10° W. 618 feet to a
9 point in Mudlick run, immediately under the center of a con-
10 crete bridge spanning the same; thence down the said Mudlick
11 run with its meanders, to the point of the confluence of same with
12 the West Fork river; thence up said river with its meanders and at
13 ordinary low water edge of the east bank of the same, to a stake
14 43 feet from a white oak; thence No. 11° 22' W. 373 feet, crossing
15 said river to a walnut; thence N. 80° 39' W. 2658 feet to a marked
16 stone on a point on C. A. Short's farm; thence S. 27° 55' W. 2303
17 feet to an oil well on Lucas ridge; thence S. 15° 21' W. 3731 feet
18 to the place of beginning, containing 720.37 acres. The territory
19 embraced within said city shall be divided into four wards, as
20 follows, to-wit:

21 *First Ward:* All territory on the east side of said river east of
22 a line beginning at a point at low water mark on West Fork river
23 in direct line with the center of Station street and running thence
24 with the center line of said Station street to southern boundary
25 of corporate line.

26 *Second Ward:* All the territory on east side of said river be-
27 tween the first ward and a line beginning at a point at low water
28 mark on said river in line of center of Walnut street and running
29 with the center line of said Walnut street to southern boundary
30 of corporate line.

31 *Third Ward:* All the rest and residue of the territory on the
32 east side of said river.

33 *Fourth Ward:* All that part of said territory on the west side
34 of said river.

35 And the council of said city may change the boundaries of said
36 wards, or create additional lines, as may appear to said council to
37 be proper or necessary; but no change shall be made in the bound-
38 aries of said wards, or any new wards created less than sixty days
39 before the holding of a general election for said city.

Elective Officers.

Sec. 3. The municipal elective officers of said city shall con-
2 sist of eight councilmen, two from each ward of said city, who
3 shall be elected by the qualified voters of their respective wards;

4 one councilman from each ward of said city shall be elected on the
5 first Tuesday of March one thousand nine hundred and twenty-
6 two, for a term of two years, beginning April first, one thousand
7 nine hundred and twenty-two, and a like number on each suc-
8 ceeding first Tuesday in March for a like term of years, except,
9 in case of a vacancy in such office, council shall fill the vacancy
10 only until the next regular election, when said vacancy shall be
11 filled by election for the unexpired term.

Appointive Officers.

Sec. 4. For the administration of the affairs of the city and
2 of the powers conferred upon the city council, there are created
3 the following municipal officers:

4 City manager, city clerk or recorder, who shall be *ex-officio* po-
5 lice court judge, city attorney, city physician, chief of police, and
6 chief of the fire department.

7 The city council shall have power to create additional adminis-
8 trative offices and to abolish any of the offices in this section cre-
9 ated.

10 The city council shall at its first meeting in the month of April
11 following a municipal election, or as soon thereafter as prac-
12 ticable, appoint by a majority vote, a city manager, and shall by a
13 like vote, at any regular or special meeting of the council, fill any
14 vacancy in said office.

15 The city manager shall, by and with the advice and consent of
16 the city council, appoint a city clerk or recorder who shall be *ex-*
17 *officio* police court judge, a city attorney, a city physician, a chief
18 of police and a chief of the fire department, and officers to fill any
19 other administrative offices which the council shall create. Any
20 vacancy in any of said offices shall be filled by the city manager
21 with the consent of the council. The assent of the council in all
22 cases shall be entered of record in the book containing the pro-
23 ceedings of the council.

24 The city manager shall hold office during the pleasure of the
25 council, and may at any time be removed from office by the affirm-
26 ative vote of two-thirds of all of the members of the council.

27 The administrative officers named in this section and any ad-
28 ministrative officers appointed to fill any administrative offices
29 which council may hereafter create shall hold office at the will and
30 pleasure of the city manager and may be removed from office at

31 any time by the city manager; *provided, however,* that any such
32 officer who shall be removed from office by the city manager may
33 be reinstated by the affirmative vote of two-thirds of all the mem-
34 bers of the city council.

35 The council shall by ordinance or resolution prescribed, fix and
36 limit the number of city policemen to be employed by the city.
37 and the number of employees in the fire department.

Qualifications.

Sec. 5. No person shall be elected or remain a member of the
2 city council who does not reside in the ward from which he is
3 elected, or who shall not have been assessed with personal or real
4 property to the value of not less than five hundred dollars, the
5 previous year and shall have actually paid the taxes thereon. Any
6 officer of the city who shall become or be directly or indirectly in-
7 terested in any contract or in the profits to be derived therefrom
8 with the municipality shall forthwith forfeit his office; and in ad-
9 dition thereto, any such contract shall be void and unenforceible
10 against the city; and the acceptance by any officer of any interest
11 in such contract or of any gift or gratuity from any person, firm
12 or corporation dealing with the city shall disqualify the person
13 forever from holding any office or employment in the government
14 of the city of Shinnston; and in addition, such person shall be sub-
15 ject to criminal prosecution under the ordinances of the city or
16 law of the state of West Virginia.

Compensation.

Sec. 6. Each member of the city council shall receive a fee
2 of five dollars for each regular or special meeting which he shall
3 attend: *provided, however,* that he shall not receive a total com-
4 pensation of more than seventy-five dollars for any year.

5 The city manager and other administrative officers holding the
6 offices created by section eleven of this act, or which shall here-
7 after be created by the city council, the members of the city police,
8 the employees of the fire department, and laborers employed by the
9 city, shall receive such salary, compensation and wages as the
10 city council shall from time to time by ordinances or resolution
11 fix and prescribe.

City Manager.

Sec. 7. The city manager shall occupy an office for the transaction of the public business in the building or buildings occupied by the city government, which office shall be kept open on all secular days except legal holidays for the transaction of the public business. He shall devote all of his time to the discharge of his official duties, and while holding the office shall not engage in any other business or employment or hold any other office. In addition to all other powers which may be conferred upon the city manager by the city council or by the laws of the state of West Virginia, he shall exercise the following powers:

Supervise, control and direct the affairs and business of all of the administrative offices created in this act, or which shall hereafter be created by the council under the authority therein contained, except the police department.

Appoint and remove in the manner herein provided all administrative officers and employ and discharge at will all other employees of the city.

Enforce in favor of the inhabitants of the city all terms and conditions in their favor contained in any public utility franchise and require the faithful discharge of obligations of all public utilities.

Attend and preside at all meetings of the council with the right to take part in the discussion of all measures, but with the right to vote only in the case of a tie.

Recommend to the council for adoption such measures and resolutions as he may deem expedient.

Act as budget commissioner and keep the city council fully advised as to the financial condition and needs of the city.

Determine and decide on the plan and program for paving, sewerage and otherwise improving the different streets and alleys in the city and fix and determine the order of time in which such streets and alleys shall be paved, sewerage and otherwise improved.

Determine and decide upon the kind and character of pavements, sidewalks, curbs, sewers and other improvements which shall be constructed and made upon and in any of the streets and alleys of the city.

39 Employ competent experts to advise with him in planning the
40 improvements of city streets and alleys, in specifying the kind
41 and character of pavements, sidewalks, curbs and sewers, which
42 shall be laid and constructed, and to supervise the performance
43 of the work in paving, sewerage, and improving any street or
44 streets, and alley or alleys; and by contract to specify and fix
45 the compensation which any expert so employed by the city man-
46 ager shall receive for his services, which contract shall not be-
47 come binding or effective until approved by the city council and
48 the fact of such approval entered of record.

49 Authenticated all ordinances and resolutions passed by the
50 council and sign the minutes of all meetings of the council. Im-
51 mediately upon the meeting of the council the minutes of the
52 preceding meeting shall be read and corrected if they contain
53 any errors, and they shall be signed by the city manager and
54 city clerk before the council proceeds to the transaction of any
55 business.

56 Act as purchasing agent and purchase all supplies and ma-
57 terial for all departments of the city government and make
58 sale of all property of the city not needed or suitable for the
59 public use in such manner as the council may direct. *Provided,*
60 *however,* he shall not make any contract or purchase involving an
61 expenditure in excess of \$200.00 without first obtaining the
62 assent of the council so to do. All supplies to be used by the
63 city and all material purchased by the city for the construction
64 of any public improvement shall be purchased on competitive
65 bids. All proposals for such shall be upon precise specifications,
66 and notice of the requirements of the city shall be given to
67 dealers in supplies and materials of the kind required who by
68 reason of location are best able to furnish the same at the lowest
69 price. All offers to sell supplies and materials to the city shall
70 be attached to the accepted offer and filed and preserved in the
71 office of the city clerk. All purchases shall be audited by the
72 city council and only on approval of the council shall payment
73 be made: *Provided, however,* that limited quantities of supplies
74 and materials may be purchased in cases of emergency without
75 delay necessary to secure competitive bids or offers to supply the
76 same.

77 Make and execute on behalf of the city all writings, contracts,

78 deeds, and agreements, the making of which shall be authorized
79 by the council, or by any ordinance, resolution or statute.

80 The city manager shall exercise any and all other powers con-
81 ferred by the present laws of the state of West Virginia upon
82 mayors of cities, towns or villages, or which shall be conferred
83 upon such officers by any law hereafter enacted, not in conflict
84 with the provisions of this act, except the powers herein, or in
85 such law, contained relating to the preservation of order and
86 the enforcement of penal ordinances and statutes, which powers
87 in this act are vested in the police court judge.

88 The city manager shall perform the duties of an assessor for
89 said city and shall make an assessment of all of the property
90 within said city both personal, real and mixed as of April first
91 each year hereafter; and for this purpose shall have all the
92 powers and perform all the duties with respect to making assess-
93 ments for said city as are authorized and directed by law of the
94 state of West Virginia, covering county assessors.

95 In addition to all other duties required to be performed by the
96 city manager by this act, he shall also collect all taxes, assess-
97 ments and charges authorized by law and ordinance to be levied
98 upon or collected from persons and property; and shall also be
99 treasurer of said city.

100 The said city manager, shall, before performing any act under
101 his appointment execute bond in the penal sum of not less than
102 ten thousand dollars, conditioned for the faithful performance of
103 all the duties under his employment, and to account for any pay
104 over all monies and property coming into his hands or under his
105 charge, with security to be approved by the city council, and
106 which bond shall be lodged and filed with the city clerk.

The City Clerk.

Sec. 8. The city clerk shall keep a complete record of all ordi-
2 nances, resolutions and acts of the city council. He shall enter
3 in a separate volume all ordinances of a general nature, a violation
4 of which shall subject any person to any penalty, and carefully
5 index the same. All ordinances providing for the issuing of
6 bonds, the creation of a debt, the construction of any public im-
7 provement, or of any local or temporary nature shall be entered
8 in a separate volume by the city clerk, and carefully indexed. He
9 shall keep complete books of account showing all financial trans-

10 actions of the city and of each department, all receipts and ex-
11 penditures made by the city, the sources of all income and the pur-
12 poses of all expenditures. He shall enter in the municipal assess-
13 ment docket all special assessments made for public im-
13-a provements, showing the name of the owner of the prop-
14 erty, the particular property on which the assessment is
15 levied, the date of the entry, and the minute book and
16 page showing the entry of the ordinance or resolution creating
17 the assessment, and the maturing time of the assessment. When
18 and as the installments upon principal and interest on each as-
19 sessment shall be paid, he shall enter such payments showing the
20 amount paid upon principal, the amount of interest, under the
21 heading and in the account of such special assessment. When
22 the special assessment, principal and interest, shall have been paid
23 in full, he shall make an entry in red ink on the face of the ac-
24 count showing that the special assessment is fully satisfied and
25 paid. He shall make out vouchers and pay-rolls of the city, and
26 shall do and perform all other duties which may be required of
27 him by the council by any ordinance or resolution.

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

31 He shall prepare and cause to be served all notices required to
32 be given to any person, firm or corporation, and after proper
33 service and return thereof of any notice, he shall file and preserve
34 the same.

35 He shall file in convenient form so as to be readily accessible
36 all correspondence carried on by the city, and, as custodian of all
37 the books, records and proceedings of the council, he shall make
38 and certify copies thereof whenever required and affix the cor-
39 porate seal of the city to any paper required to be sealed and to
40 any certified copy of any paper, order or proceeding which he
41 may make.

42 A copy of any record, paper, entry, order, ordinance, resolution
43 or proceeding made by the council, or by the police court judge
44 when properly certified under the seal of the city shall be ad-
45 missible as evidence in any court in the state in any proceeding
46 in which the original paper or record, if present would be admis-
47 sible.

Police Court Judge.

Sec. 9. The police court judge, filling that office by virtue of holding the office of city clerk, shall perform and discharge all duties and exercise all powers which shall be conferred upon him by any ordinance or resolution of the city council, and in addition, he shall exercise the following powers:

Enforce all ordinances and resolutions which shall subject any person or corporation to any penalty.

See to the preservation of peace and order throughout the city and the protection of property in and throughout the city.

Cause all violators of city ordinances to be apprehended and to that end issue warrants upon complaint under oath of any person or officer for the arrest of any one charged with the violation of any ordinance of the city.

Supervise and control the police department and by and with the consent of the council appoint all members of the police force, except the chief of police, and require of all members of the police force, including the chief, the proper discharge of their respective duties.

Try all offenders brought before him and punish by fine or imprisonment any person convicted for any offense, and his jurisdiction in that regard shall extend one mile beyond the city limits generally and for the violation of any ordinance or law prohibiting the pollution of the water or waters from which the city of Shinnston obtains water for domestic use his jurisdiction shall be co-extensive with the water or waters from which such supplies are drawn; *provided*, that he shall not exercise jurisdiction over any offense committed within the corporate limits of any other city, town or village.

Keep a record of all warrants issued by him, of all persons arrested and brought before him, and of all trials, fines or sentences imposed, or judgments entered by him, in a well-bound book to be known as the police court docket. A record of the entries made each day in said docket shall be signed by the police court judge at the close of the day. An appeal shall lie to the circuit court or to the criminal court of Harrison county from all judgments of the police court judge wherein and in the manner an appeal from the judgment of a mayor of a city is allowed by law.

39 Exercise the power to punish within the limits prescribed by
40 the ordinances of the city or by the laws of the state of West
41 Virginia applicable to the city and not in conflict with this
42 act.

43 Exercise all of the powers and discharge all of the duties for
44 the enforcement of the criminal or penal ordinances and laws
45 conferred or imposed upon the mayors of cities, towns, or vil-
46 lages or by this act, or by any law of the state of West Virginia,
47 or by any law which may hereafter be enacted by the law making
48-49 body of said state not in conflict with the provisions of this act,
50 except that he shall not be *ex-officio* a justice of the peace, or
51 exercise the powers of a justice of the peace.

52 All fines assessed and collected by said police court judge shall
53 be paid over to the city treasurer, for account of the general
54 fund, upon the receipt of such treasurer to such police court
55 judge covering the amount, and such receipts shall be filed by
56 said police court judge with the papers in each case. Said police
56-a court judge shall add to and collect from the convicted before
57 his court, such fees and costs as are allowed by general law to
58 justices and constables, and which fees and costs shall be paid
59 over to the officers entitled thereto.

60 Discharge any member of the police force except the chief of
61 police: *provided, however*, that council may reinstate any mem-
62 ber discharged by an affirmative vote of two-thirds of all of the
63 members elected to the council.

The City Collector and Treasurer.

Sec. 10. The city manager shall be city collector and treas-
2 urer and shall have custody of all public moneys for the city;
3 shall keep and preserve such moneys as provided by ordinance
4 or by any law applicable thereto; and shall collect and receive;
5 and shall disburse, upon warrants issued by the proper authority,
6 all public moneys. He shall keep an accurate account of all
7 moneys in his custody, or collected, received or paid out by
8 him, showing the sources from which the same were received and
9 the purposes for which disbursed.

10 The council may prescribe by ordinance or resolution the
11 manner in which a warrant for the payment of money shall be
12 issued, executed and authenticated.

13 The city collector shall keep a record of all taxes assessed and
14 levied and shall extend said levies and make out tax bills and
15 receipts to be delivered to the tax payers upon the payment of
16 taxes. He shall collect all assessments made against property or
17 property owners for local benefits and give receipts therefor.

18 He shall keep separate the accounts and funds of all levies
19 and assessments for specific purposes and shall disburse the same
20 only for the purposes for which the levies and assessments were
21 made.

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

City Attorney.

Sec. 11. The city attorney shall be a member of the bar of Har-
2 rison county in good standing and shall perform and discharge all
3 duties and exercise all powers which shall be conferred upon him
4 by any ordinance or resolution of the city council, and, in addi-
5 tion, he shall exercise the following powers:

6 Be the legal adviser of and attorney and counsel for the city and
7 for all of the administrative officers thereof, in respect to their
8 official duties.

9 Prosecute and defend all suits for or against the city and pre-
10 pare all contracts, bonds or other writings in which the city is con-
11 cerned, and endorse on each his approval of the form and correct-
12 ness thereof.

13 The city council and all administrative officers of the city may
14 require the opinion of the city attorney upon any question of law
15 involving their respective powers and duties and he shall furnish
16 the same in writing.

17 Apply in the name of the city to a court of competent jurisdic-
18 tion for an order of injunction restraining the misapplication of
19 funds of the city or the abuse of its corporate powers, or the exe-
20 cution or performance of any contract made on behalf of the city
21 in contravention of law, or which was procured by fraud or cor-
22 ruption.

23 When an obligation or contract made on behalf of the city
24 granting a right or easement, or creating a public duty is evaded
25 or violated, the city attorney when required by council shall re-
26 quire the specific performance of the duty by application for a

27 writ of mandamus or by other appropriate proceeding to a court
28 of competent jurisdiction.

29 The city manager or city council whenever the exigencies of the
30 business of the city require such action shall have the right to em-
31 ploy special counsel to assist the city attorney.

City Physician.

Sec. 12. 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 or-
4 dinance or resolution of the city council; and, in addition, he
5 shall exercise the following powers:

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

9 See that all ponds, cess-pools and swamps within or adjacent
10 to the city are drained, cleaned and rendered sanitary.

11 Institute before the police court judge all proceedings and pros-
12 ecutions necessary to enforce all laws, ordinances and regulations
13 relating to the preservation and promotion of the public health
14 and necessary to make the city sanitary, and to prevent and re-
15 strict diseases, and in so doing, he shall have the assistance of the
16 city attorney.

17 Institute and prosecute proceedings for the supervision, preven-
18 tion or abatement of nuisances and in so doing, he shall have the
19 assistance of the city attorney.

20 Provide for the sanitary inspection and supervision of the pro-
21 duction, transportation, storage and sale of food and food stuffs,
22 the regulation and inspection of weights and measures, and the
23 collection and disposal of all waste and garbage.

24 In time of epidemic or threatened epidemic, he shall enforce
25 such quarantine and isolation rules and regulations as are ap-
26 propriate for the emergency.

27 Provide for study and research into cases of poverty, delin-
28 quency, crime and disease. He shall by lectures, public instruc-
29 tions and otherwise instruct and educate the people of the com-
30 munity in matters affecting the public welfare which relate to san-
31 itation, cleanliness, and how to avoid in-so-far as possible sickness
32 and disease.

Chief of Police.

Sec. 13. The chief of police shall discharge such duties as may
2 be required of him by any ordinance or resolution of council and
3 he shall act under the orders of the police court judge in adminis-
4 tering the police department.

Chief of Fire Department.

Sec. 14. The chief of the fire department shall be under the
2 direction, authority and subject to the orders of the city man-
3 ager at all times in the administration of the fire department.
4 He shall make such inspection as may be required of building and
5 property throughout the city in relation to the matter of fire risks
6 and see to the enforcement of all fire precaution ordinances.
7 He shall, under the direction of the city manager, discharge all
8 the duties which may be imposed upon him by any ordinance or
9 resolution adopted or passed by the city council.

Public Utility Franchises.

Sec. 15. The city council may by ordinance grant or refuse
2 permission to any individual, firm or corporation to construct and
3 operate a public utility in, over and under the streets, alleys and
4 public grounds of the city under the provisions of law applicable
5 thereto; but no franchise shall be considered an emergency meas-
6 ure. It may by ordinance renew any franchise to construct and
7 operate a public utility in, over and under the streets, alleys and
8 public utility in, over and under the streets, alleys and public
9 grounds of the city, or may grant to any individual, firm or cor-
10 poration operating a public utility the right to extend the appli-
11 ances and service of such utility; but the right to use and main-
12 tain any such extension shall expire with the original grant to
13 the utility or of any renewal thereof. It shall control the dis-
14 tribution of space in, over or across all streets or public grounds
15 occupied by public utility fixtures. No franchise shall be
16 granted for a period exceeding fifty years, and no renewal thereof
17 shall exceed a like period.

Corporate Powers.

Sec. 16. All corporate powers of the city shall be vested in and
2 exercised by the council except as in this act otherwise conferred.
3 Each councilman shall have a right to vote on all

4 questions coming before the council. Five or more members of the
5 council shall constitute a quorum, and the affirmative vote of at
6 least a majority of the members of the council present at a meet-
7 ing shall be necessary to adopt any motion, resolution, or ordin-
8 ance or pass any measure.

9 The city manager, hereinbefore provided for, shall preside at all
10 meetings of the council when present, and in his absence, the coun-
11 cil shall select a presiding officer. The city manager or other
12 presiding officer shall have no power to veto any measure, resolu-
13 tion or ordinance, and shall be entitled to vote upon the passage
14 of the same only in the case of a tie. But every resolution, ordi-
15 nance or franchise passed by the council must be signed by the city
16 manager and the city clerk or recorder and must be published and
17 recorded before the same shall be effective, unless otherwise pro-
18 vided in this act.

Powers of the Council.

Sec. 17. The council of said city shall have and are hereby
2 granted power to have said city surveyed; to open, vacate, broaden,
3 change grade of, grade and pave streets, sidewalks and gutters
4 for public use, and to alter, improve, embellish and ornament and
5 light the same, and to construct and maintain public sewers and
6 laterals, and shall in all cases except as to lighting have power
7 and authority to assess upon and collect from the property bene-
8 fitted thereby all, or such part of the expense thereof, as shall be
9 fixed by ordinance, except as hereinafter provided; to have con-
10 trol of all streets, avenues, roads, alleys and grounds for public
11 use in said city, and to regulate the use thereof and driving
12 thereon, and to have the same kept in good order and free from
13 obstruction, pollution or litter on or over them; to have the right
14 to control all bridges within said city and the traffic passing there-
15 over; but all bridges within said city shall be and remain
16 the property of said Harrison county; to change the
16-a name of any street, avenue or road within said
16-b city, and to cause the re-numbering of houses on any street, ave-
17 nue or road therein; to regulate and determine the width of
18 streets, sidewalks, roads and alleys; to order and direct the curb-
19 ing and paving of sidewalks and footways for public use in said
20 city to be done and kept clean and in good order by the owners of
21 adjacent property; to enter into a contract with any internal im-
22 provement company for the joint ownership of any bridge by the

23 city and such company, upon such terms as may be prescribed in
24 the contract, but such bridge shall be a public highway; to pro-
25 hibit and punish the abuse of animals; to restrain and punish
26 vagrants, mendicants, beggars, tramps, prostitutes, drunken
27 or disorderly persons within the city, and to provide for their
28 arrest and manner of punishment; to prohibit by ordinance the
29 bringing into the city of any person or animal afflicted with con-
30 tagious or infectious disease, and to punish any violator of said
31 ordinance who knows or has reason to believe such person or ani-
32 mal to be so afflicted; to control and suppress disorderly houses
33 of prostitution or ill-fame, houses of assignation, and gaming
34 houses or any part thereof, and to punish gaming; to prohibit
35 within said city or within three miles thereof slaughter houses,
36 soap or glue factories and houses of like kind; to control the con-
37 struction and repair of all houses, basements, walls, bridges, cul-
38 verts and sewers, and to prescribe and enforce all reasonable reg-
39 ulations affecting the construction of the same, and to require
40 permits to be obtained for such buildings and structures, and
41 plans and specifications thereof to be first submitted to the
42 city council; to control the opening and construction of ditches,
43 drains, sewers, cess-pools and gutters, and to deepen, widen
44 and clear the same of stagnant water or filth, and to prevent
45 obstructions therein, and to determine at whose expense the
46 same shall be done; and to build and maintain fire station
47 houses, police stations and police courts, and to regulate the
48 management thereof; to acquire, lay off, appropriate and control
49 public grounds, squares and parks, either within or without the
50 city limits as herein defined; to purchase, sell, lease or contract
51 for and take care of all public buildings, and structures and real
52 estate, including libraries and hospitals, deemed proper for use
53 of such city; and, for the protection of the public, to cause the re-
54 moval of unsafe walls or buildings, and the filling of excavations;
55 to prevent injury or annoyance to the business of individuals
56 from anything dangerous, offensive or unwholesome; to define,
57 prohibit, abate, suppress and prevent all things detrimental to
58 the health, morals, comfort, safety, convenience and welfare of
59 the inhabitants of the city, and all nuisances and causes thereof,
60 and to that end and thereabout to summon witnesses and hear
61 testimony; to declare and enforce quarantine against the intro-
62 duction of any contagious or infectious disease prevailing in any

63 other state, county or place, and of any and all persons and things
64 likely to spread such contagion or infection; to regulate the keep-
65 ing of gun powder and other combustible or dangerous articles;
66 to regulate, restrain or prohibit the use of firecrackers, or other
67 explosives, or fireworks, and all noises or performances which
68 may be dangerous or annoying to persons or tend to frighten
69 horses or other animals; to provide for shade and ornamental
70 trees and the protection of the same; to provide for the making
71 of division fences; to make proper regulation for guardian against
72-78 danger or damage from fires; to make suitable and proper reg-
79 ulations in regard to the use of the streets and alleys for street
80 cars, railroad engines and cars, and to regulate the running and
81 operation of the same so as to prevent injury, inconvenience or
82 annoyance to the public; to prohibit prize fighting, cock and dog
83 fighting; to license, tax, regulate or prohibit theatres, circuses,
84 the exhibition of showmen and shows of any kind and the exhi-
85 bition of natural or artificial curiosities, caravans, menageries,
86 pictures, motion pictures and musical exhibitions and per-
87 formances; to regulate the construction, height and material
88 used in all buildings, and the maintenance and occupancy
89 thereof; to regulate and control the use for whatever purpose, of
90-92 the streets and other public places; to organize and main-
93 tain fire companies and to provide necessary apparatus, engines
94 and implements for the same; to regulate and control the kind and
95 manner of plumbing and electric wiring for the protection of the
96 health and safety of said city; to levy taxes on persons, property
97 and licenses; to license and tax dogs and other animals, and
98 regulate, restrain and prohibit them and all other animals and
99 fowls from running at large; to assess, levy and collect taxes for
100 general and special purposes upon all the subjects or objects
101 which the city may lawfully tax; to levy and collect assessments
102 for local improvements; to borrow money on the faith and credit
103 of the city by the issue and sale of bonds in the manner pre-
104 scribed by law; to appropriate the money of the city for all lawful
105 purposes; to create, provide for, regulate and maintain all things
106 in the nature of public works and improvements; to adopt rules
107 for the transaction of business and for its own regulation and gov-
108 ernment; to promote the general welfare of the city and to protect
109 the persons and property of citizens therein; to regulate and pro-
110 vide for the weighing of produce and other articles sold in said

111 city and to regulate the transportation thereof, and other things
112 through the streets, to have the sole and exclusive right to grant,
112-a refuse or revoke any and all licenses for the carrying on of any
113 business within said city on which the state exacts a license tax;
114 to establish and regulate markets and to prescribe the time for
115 holding the same, and what shall be sold in such market, and to
116 acquire and hold property for market purposes; to regulate or
117 prohibit the placing of signs, bill-boards, posters and advertise-
118 ments, in, on or over the streets, alleys, sidewalks and public
119 grounds of said city; to preserve and protect the peace, order and
120 safety and health of the city and its inhabitants, including the
121 right to regulate the sale and use of cocaine, morphine, opium
122 and poisonous drugs; to make, enforce and provide local police,
123 sanitary and other regulations, and fully exercise all lawful
124 police powers; to appoint and fix the places of holding city elec-
125 tions; to erect, own, lease, authorize or prohibit the erection of
126 gas works, telephone plant or electric light works in or near the
127 city, and to operate the same and sell the products or services
128 thereof, and to do any and all things necessary and incidental to
129 the conduct of such business; to provide for the purity of milk,
130 meats and provisions offered for sale in the said city, and to that
131 end provide for a system of inspecting the same and making and
132 enforcing rules for the regulation of their sale, and to prohibit
133 the sale of any unwholesome or tainted milk, meats, fish, fruit,
134 vegetables, or the sale of milk containing water or other things
135 not constituting a part of pure milk; to provide for inspecting
136 dairies and slaughter houses, whether in or outside of the city,
137 where the milk and meat therefrom are offered for sale within
138 said city; to prescribe and enforce ordinances and rules for the
139 purpose of protecting the health, property, lives, decency, mor-
140 ality and good order of the city and its inhabitants, and to pro-
141 tect places of divine worship in and about the premises where
142 held, and to punish violations of such ordinances even if the of-
143 fense under and against the same shall constitute offenses under
144 the law of the state of West Virginia or the common law; to pro-
145 vide for the employment and safe keeping of persons who may
146 be committed in default of the payment of fines, penalties or
147 costs under this act, the city ordinances and laws of this state
147-a who are otherwise unable or fail to discharge the
148 same, by putting them to work for the benefit of the city

149 upon the streets or other places provided by said city, and to use
150 such means to prevent their escape while at work as the council
151 may deem expedient; and the council may fix a reasonable rate
152 per day as wages to be allowed such person until the fine and
153-154 costs against him are thereby discharged; to prevent
155 any person, association or corporation from polluting in any
156 manner any pond, lake, basin, reservoir, stream, spring, creek, or
157 other body of water from which the city shall take water to be
158 used for domestic purposes by the inhabitants thereof, or from
159 casting into any such body of water, or on the bank thereof or in
160 such proximity thereto that the same may enter therein, any
161 filthy, unwholesome, or obnoxious substance, object, or liquid, or
162 anything whatsoever, injurious to the health of the people of the
163 city; to exercise all other powers that now are or hereafter may
164 be granted to municipalities by the constitution or the laws of the
165 state of West Virginia; and all such powers, whether expressed
166 or implied, shall be exercised and enforced in the manner pre-
167 scribed by this charter, or when not prescribed herein, in such
168 manner as shall be provided by the ordinances or resolutions of
169 the council.

170 The enumeration of particular powers of this charter shall
171 not be held or deemed to be exclusive, but in addition to the
172 powers enumerated herein, impliedly thereby, or appropriate to
173 the exercise thereof, the council shall have and exercise all other
174 powers, which, under the constitution and laws of the state of
175 West Virginia it would be competent for this charter specifically
176 to enumerate.

177 The council shall provide for the enforcement of all ordi-
178 nances by reasonable and proper penalties, consisting of fines or
179 imprisonment, or fines and imprisonment, with suitable rules
180 and regulations for the enforcement of such penalties. For all
181 such purposes the jurisdiction of the city shall, when necessary,
182 extend for one mile beyond the corporate limits of said city.
183 In order to prevent the pollution of the waters from which the
184 people of the city take water for domestic uses, the jurisdiction
185 of the city shall co-extensive with the location and extent of a
186 water from which supply is taken, except that in no event shall
187 such jurisdiction of the city of Shinnston exist within any other
188 incorporated city or towns.

Ordinance Enactment.

Sec. 18. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but the general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clauses of all ordinances passed by the council shall be "Be it ordained by the city of Shinnston:"

No ordinance, unless it be declared an emergency measure shall be passed on the day of which it shall have been introduced, unless so ordered by affirmative vote of all the members of the council.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended and the original ordinance, resolution, section or sections so amended shall be repealed.

The record shall show whenever the vote is unanimous. In all other cases the yeas and nays shall be called and recorded. No member shall vote on any matter in which he has a personal interest other than as a tax-payer of the city. Unless excused by a vote of the council all qualified members present shall vote on all roll calls. Any such member refusing to vote shall be recorded as voting nay.

Code of Laws.

Sec. 19. The council may enact laws, by-laws and ordinances which when adopted shall be printed in book form, or the same may be adopted as a whole after they are printed, and such code shall be the laws and ordinances of the city and shall be received as such in all courts of the state, and the laws, ordinances, and rules as printed therein shall be *prima facie* proof of their own correctness.

No ordinance, law, or by-law imposing any penalty or forfeiture upon any person shall be valid or of any effect until recorded in the ordinance book of the city.

Existing Indebtedness, Contracts and Ordinances.

Sec. 20. The entire indebtedness, bonded and otherwise, all other liabilities, liquidated or unliquidated, now existing and

3 enforceable against the city of Shinnston, shall be paid and dis-
4 charged by the city of Shinnston herein created or continued; all
5 ordinances of said city now existing and not in conflict with this
6 act shall continue to be ordinances of said city until altered,
7 changed or repealed by the council of said city; and all contracts
8 entered into by the city for its benefit prior to the taking effect
9 of this act shall, if valid, continue in full force and effect. All
10 public work commenced prior to the taking effect of this act shall
11 be continued and performed hereunder. The municipal cor-
12 poration herein created shall succeed to all the rights and be
13 subject to all of the liabilities of the municipal corporation which
14 it succeeds, or of which it is a continuation.

Service of Notice.

Sec. 21. Whenever any notice is required to be given by the city
2 or any department thereof, or any summons, warrant or other
3 process is required to be served or otherwise executed under the
4 provisions of this act, it shall be sufficient if such notice, summons,
5 warrant or other process be served or executed and return thereof
6 be made by any member of the police force of said city in the
7 same way or manner in which the laws of the state provide for
8 serving and executing notices, summons and warrants by state
9 officers, unless otherwise provided in this act.

Bonds of Employees.

Sec. 22. Each officer and employee of the city in each and all
2 of the departments of the city government into whose custody
3 or control shall come any of the moneys or funds belonging to
4 the city shall before receiving any such money or funds enter
5 into bond conditioned for the faithful discharge of his duties and
6 for the faithful accounting for all moneys coming into his hands,
7 custody or control by reason of his office or employment, and
8 otherwise conditioned according to law. Such bond shall be in
9 the penalty sufficient to secure the city against loss, the amount
10 thereof to be fixed by ordinance of the city council. All such
11 bonds shall be payable to the city of Shinnston, a municipal corpo-
12 ration, and all suits for the enforcement of the penalty of any
13 bond shall be in the name of the city of Shinnston. All bonds
14 required shall be of the form and tenor prescribed by the city
15 attorney and shall be approved by the city council as to the suf-

16 ficiency of the sureties thereon, and such approval as to the form
17 and tenor of the bond shall be endorsed on each bond and certified
18 and signed by the city attorney. All such bonds when executed
19 and approved shall be recorded in a book kept for that purpose
20 by the city clerk, and the original bonds shall then be delivered to
21 the city attorney who is hereby made custodian of all such bonds.
22 At the annual audit required to be made by the state tax com-
23 missioner or supervisor of public accounting for the state of West
24 Virginia, the auditor shall report to the city council whether or
25 not the bonds required and taken by said city council are in any
26 respect insufficient, or not properly executed, and the city council
27 may require of any official or employee of the city a new bond or
28 additional bond, and any new or additional bond so required by
29 the council of any official or employee shall be given within ten
30 days after notice of such requirement, and a failure to give such
31 bond shall at the expiration of ten days forfeit the office or em-
32 ployment of the official or employee failing to give the same.

Application of Funds.

Sec. 23. All revenues derived from the operation of the water
2 works system or plant, or from the sale of bonds issued for re-
3 pairing, improving, enlarging, extending or adding to said water
4 works plant shall be applied to the payment of the cost of opera-
5 tion and of making such improvements, to the payment of interest
6 upon any bonds and the sinking fund to pay off and discharge the
7 same, which the city of Shinnston is herein authorized to assume
8 and pay, whether said bonds were heretofore or may be hereafter
9 issued. Out of the revenues derived from the operation of said
10 water works, the council is authorized to pay all salaries and
11 expenses which may be incurred by it in the exercise of any
12 power in this section conferred or the performance of any duty
13 herein imposed or by general law conferred or imposed.

Depositing City Funds.

Sec. 24. It shall be the duty of the city treasurer to keep all
2 funds of the city in some bank or banks, within said city, which
3 shall pay interest on such deposits and which shall pay interest
4 on the average daily balance of such funds in all accounts of
5 the per cent equal to that paid by state depositories on all funds
6 of the state of West Virginia and in the same manner and at the

7 same time. If no bank within the city is willing at any time to re-
8 ceive deposits of the treasurer and to pay such interest thereon,
9 the treasurer shall report this fact to the council, who shall
10 thereupon designate a bank or banks in which he shall deposit
11 said funds for the time being and until some bank in said city
12 will receive such deposits on such terms.

Misappropriation of Funds.

Sec. 25. 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 shall,
4 in his official capacity or under color of his office, knowingly or
5 wilfully, or corruptly vote for, assent to or report in favor of
6 or allow, or certify for allowance, any claim or demand against
7 the city, which claim or demand shall be on account or under
8 color of any contract or agreement not authorized by or in pur-
9 suance of the provisions of this act, or the ordinances of the city,
10 or any claim or demand against the city and which claim or de-
11 mand or any part thereof shall be for work not performed for and
12 by authority of said city or for supplies or materials not actually
13 furnished thereto pursuant to law or ordinances, and every such
14 member or officer as aforesaid, who shall knowingly vote for,
15 assent to, assist or otherwise permit, or aid in the disbursement
16 or disposition of any money or property belonging to the city
17 to any other than the specific use or purpose for which such money
18 or property shall be or shall have been received or appropriated
19 or collected or authorized by law to be received, appropriated or
20 collected, shall, upon conviction thereof, be punished by imprison-
21 ment in the county jail for a period of not less than sixty (60)
22 days nor more than one year, or by a fine of not less than sixty
23 dollars, or more than two thousand dollars, or by both.

Financial Statement. Audit.

Sec. 26. At the end of each year the council shall cause a full
2 and complete audit of all the books and accounts of the city to
3 be made by the state tax commissioner, and shall make public
4 the result of such examination. At the end of the year there
5 shall be published a financial statement of the city covering
6 the transactions of the preceding fiscal year, in the manner re-
7 quired by law.

Budget.

Sec. 27. The council shall have the right to make up an estimate of the proposed improvements for any year and a budget covering the same, at such time as may be deemed most suitable without regard to the requirements of a general statute, and it may from time to time prepare and adopt additional estimates and budgets during the current year whenever in the judgment of the council the public interests will be promoted thereby.

Contracts—Cost Plus Work.

Sec. 28. Public improvements of all kinds may be made, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let after competitive bidding, either for a gross price, or upon a unit basis for the improvement; or by contract containing a guaranteed maximum and stipulating that the city shall pay within such maximum the cost of labor and materials, plus a fixed percentage of profit to the contractor. The council, by resolution, shall determine by which of the foregoing methods any improvements shall be made. Contracts may provide a bonus per day for completion of the contract prior to a specified date, and liquidation damages to the city to be exacted in like sum for every day of delay beyond a specified date.

Changes in Contracts.

Sec. 29. When it becomes necessary in the prosecution of any work, or improvement under contract, to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the council. No such order shall be effective until the price to be paid for the work and material, or both under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the city manager under authority of the council.

Lot Sub-Divisions.

Sec. 30. Any owner of lots or grounds within the city who sub-divides or lays them out for sale, shall cause to be made an accurate map or plat of such sub-division, describing with cer-

4 tainty all grounds laid out, or granted for streets, alleys, ways,
5 commons, or other public uses. Lots sold or intended for sale
6 shall be numbered by progressive number, or described by the
8 be given of each lot sold or intended for sale. Such map or plat
7 squares in which situated, and the precise length and width shall
9 shall be subscribed by the owner and lienholders, acknowledged
10 before an officer authorized to take the acknowledgement of
11 deeds, approved by the city manager, and recorded in the office of
12 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 for the uses and purposes in the instrument set forth, ex-
18 pressed, 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
21 requires the same to be opened and improved, and it shall
22 not be liable to any person in any manner whatever who may or
23 shall use any of such streets or alleys before the same shall
24 have been formally accepted by the council on the part of the
25 city and ordered to be opened and improved.

Motor Vehicles.

Sec. 31. The city council shall have power to license and regu-
2 late by ordinance all taxi-cabs, automobiles and vehicles of like
3 motive power engaged in the transportation of passengers or
4 freight for hire over the streets and alleys of the city, and may re-
5 quire bond from the owners thereof for their faithful compliance
6 with all ordinances and rules and regulations made in pursuance
7 thereof.

Assessments for Removing Snow, Weeds, etc.

Sec. 32. The city council shall have power to provide by ordi-
2 nance for assessing against the abutting property the cost of re-
3 moving from sidewalks all accumulations of snow and ice and for
4 assessing against the property the cost of removing rubbish and
5 the cutting and removing of noxious weeds from any lot or grounds
6 in the city.

Eminent Domain.

Sec. 33. The city of Shinnston as herein created or continued shall have the right under the power of eminent domain to condemn, acquire and appropriate any property and acquire the fee simple title or any lesser estate or easement therein for any public use, whether said property be located within or outside of the corporate limits of said city, including the right to acquire property for opening and widening streets, alleys and public places, and for the construction and maintenance of sewer lines, sewage disposal plants, water lines and mains, pump stations, reservoir or reservoir sites, dams for storing water, and right to create storage reservoirs by flooding adjacent properties, and for every other purpose required in the construction, maintenance and operation of water systems and plants for the purpose of supplying water to the public. The proceedings to acquire such lands, estates, or easements shall be the same as provided by general laws of the state of West Virginia for condemning and appropriating private property for public use.

Supply Water Outside of City.

Sec. 34. The city council may in its discretion supply, sell and furnish water for consumption and use outside of the city, or for use in industries located adjacent to the city and to afford fire protection for the same. All water so supplied and services rendered shall be upon such conditions and terms as the city council may prescribe or require, and reasonable charges over and above the rate charged within the city for water and like service may be made for all water supplied and services rendered outside of the city.

The city council may discontinue supplying water or furnishing service to persons, firms or corporations outside of the city whenever in the judgment of the members of the council such discontinuance is advisable in order to adequately supply the needs of water consumers in the city and to afford proper protection to property therein.

Taxes.

Sec. 35. The council shall ascertain the total expense of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum

4 of money necessary to pay interest accruing on the bonded in-
5 debtedness of said city, the amount required for the several sink-
6 ing funds for the reduction of the principal thereof, the amounts
7 necessary for the support of the various departments of the city
8 and for the improvements of its streets, alleys, avenues, and pub-
9 lic grounds, real and personal property, contingent expenses and
10 other expenses, together with an itemized statement of the es-
11 timated receipts other than that to be derived by the annual levy;
12 and after receiving such estimates, and before making the levy,
13 it shall apportion the rate thereof, including the estimated re-
14 ceipts from licenses and all other sources among the several funds
15 so ascertained and provided for, which apportionment shall be
16 spread upon the records of this city, and in making said estimate,
17 providing for the revenue for the fiscal years, etc., it shall be the
18 duty of the council to strictly observe all the provisions of chap-
19 ter nine of the acts of the legislature, one thousand nine hundred
20 and eight, entitled "An act to regulate the rate and manner of
21 laying levies for taxation in counties, magisterial and school
22-23 and independent school districts, and municipal corporations,
24 moneys, incurring of illegal obligations and the laying of
25 illegal levies by any tax levying body, and for the distribution
26 of a portion of the school fund," and all amendments thereto,
27 except where last named act shall be inconsistent with this act
28 as to limit of taxation.

Sec. 36. The council shall have authority to levy and collect
2 an annual tax on real estate and personal property in said city,
3 and to impose a license and assess a tax thereon on wheeled ve-
4 hicles for public hire and for all dogs kept within said city and
5 to impose a tax upon all other subjects of taxation under the
6 several laws of the state which shall be uniform with respect to
7 persons and property within the jurisdiction of said city, and
8 shall only be levied on such property, real, personal and mixed.
9 on which the state imposes a tax; *provided*, that no greater levy
10 shall be laid by said council on the taxable property of said city
11 than fifty cents upon each one hundred dollars of the assessed
12 valuation of the property of the municipality, unless such greater
13 levy shall be authorized by a vote of the people at an election
14 held pursuant to said chapter nine of the acts of the legislature
15 of the year one thousand nine hundred eight; and, *provided*,
16 *further*, that the council shall, in making such levy, be subject

17 to all the provisions of chapter nine of the acts of the legislature
18 of one thousand nine hundred and eight and any and all amend-
19 ments thereto, except as herein provided. There shall be a tax of
20 two dollars (\$2.00) annually assessed on each and every inhabitant
21 of said city over the age of twenty-one (21) years, who is sub-
22 ject to a capitation tax under the laws of the state of West
23 Virginia. The same shall be set out and included in the per-
24 sonal property book against every such inhabitant, and shall be
25 collected under the authority of the city at the time of collect-
26 ing other levies and taxes.

Sec. 37. The city taxes levied annually by the council shall
2 be collected as follows: Immediately after the annual levy for
3 city taxes is laid the council shall direct the proper officer of
4 the city to extend the same on the property books made out by
5 him, including therein the proper capitation tax; he shall make
6 out therefrom proper tax tickets in the following manner: That
7 is to say, instead of a single ticket for the whole amount charged
8 to any person, firm or corporation, there shall be two tickets each
9 for one-half of said amount; these half tickets shall be severally
10 numbered or designated "first" and "second" and the same, after
11 being examined and compared by the council and found to be
12 correct, shall be turned over to the treasurer of the city on the
13 first day of October following the levy and the treasurer's re-
14 ceipt for the gross amount thereof shall be returned, entered upon
15 its record and the treasurer charged therewith. The treasurer
16 shall give notice by publication for twenty (20) days in some
17 newspaper of general circulation in said city, that said tax tickets
18 are in his hands for collection, stating the penalty for non-pay-
19 ment thereof and the time and place where the same may be paid;
20 *provided, however,* that the tax payers shall have the right to an-
21 ticipate the payment of the whole or any part of the taxes as-
22 sessed against him.

23 The one-half ticket designated "first" may be paid to the treas-
24 urer of the city any time before the first day of November next
25 succeeding said levy; the one-half ticket designated "second" may
26 be paid to the treasurer of the city at any time before the first
27 day of May next succeeding said levy. To all the half tickets
28 designated "first" remaining unpaid in the treasurer's hands on
29 the said first day of November succeeding said levy, a penalty of
30 ten per cent shall be added and collected from the tax payers.

31 To all half tickets designated "second" remaining unpaid in
32 the treasurer's hands on the first day of May succeeding said levy
33 a penalty of ten per cent shall be added and shall be collected
34 from the tax payers. On said first day of November succeeding
35 said levy, all such half tickets designated "first", and on said
36 first day of May succeeding said levy all such half tickets desig-
37 nated "second" remaining unpaid in the treasurer's hands shall
38 be taken up by the council and settlement had with said treas-
39 urer on said days, respectively, or on the next succeeding days,
40 respectively, if said days shall fall upon Sunday, and thereupon
41 the council shall place said tickets in the hands of the city col-
42 lector for collection and shall take his receipt therefor, *pro-*
43 *vided, however,* that the council shall have the power any year,
44 by resolution, to extend the time within which the tickets may
45 remain in the treasurer's hands and be paid to him without adding
46 the penalty, for a period named therein not exceeding, however,
47 a total of fifteen days.

48 The city collector shall have the power to collect said tickets
49 so placed in his hands, together with the penalties thereon here-
50 inafter provided, to be added thereto, and the compensation of
51 such city collector for making such collection of the taxes afore-
52 said shall be fixed by the council.

53 The city collector shall be charged with the gross amount of
54 said tax tickets so delivered to him for collection, including the
55 penalties allowed, unless on or before the first day of August of
56 each year he makes out and returns to the council a delinquent
57 list of taxes uncollected for such year, with his oath attached
58 thereto, stating that such list is correct and just and that he has
59 received no part of the taxes mentioned therein, and that he
60 has used due diligence to find property liable to distress for taxes.
61 has found none, and that he could not collect the same.

62 Neither the treasurer nor the city collector shall take or col-
63 lect anything but money for payment of taxes.

Sec. 37-a. The city collector shall have the power to collect the
2 city taxes except as otherwise provided in this act, and he shall
3 also have the power to collect the city claims which may be placed
4 in his hands by the council for collection, except that fines im-
5 posed by the police judge shall not be collected by him.

Sec. 38. All goods and chattels belonging to a person, firm,
2 corporation or estate, assessed with any taxes, whether the same

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

Sec. 39. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of April of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record in Harrison county; *provided*, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Shinnston as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens,
13 except those for taxes due this state.

Sec. 40. Said liens for city taxes and attendant penalties may
2 also be enforced by certifying the same to the clerk of the county
3 court of Harrison county for certification to the state auditor,
4 and the same may be certified down by said auditor, and sold
5 for taxes, interest, penalties and commissions thereon, in the same
6 manner, at the same time, and by the same officer as real estate
7 is sold for taxes, interest, damages, cost and commissions due
8 the state thereon, which officer shall account therefor on settle-
9 ment with the city and pay over the same to the treasurer of the
10 city.

Improvements and Assessments.

Local Improvements.

Sec. 41. Council shall have power by ordinance to provide for
2 widening, grading, paving, curbing, sewerage and otherwise im-

3 proving in a permanent manner with suitable materials any street
4 or alley, or part thereof, in the city, either by contract or directly
5 by the employment of labor, and to provide for the payment of all
6 or any part of the costs of any such improvement by levying and
7 collecting special assessments upon abutting, adjacent and con-
8 tiguous or other specially benefited property. Any part or all
9 of the property which is to be ultimately sewerred or drained by a
10 trunk line or main sewer or sewer system, may be assessed for
11 the construction of the same. No property shall be exempt from
12 assessment for local improvements because of the ownership or
13 used to which such property is devoted. The amount assessed
14 against the property specially benefited to pay for such local im-
15 provements shall not exceed the amount of benefits accruing to
16 such property. The city manager and city engineer shall deter-
17 mine the particular properties to be assessed with the cost of con-
18 structing any sewer.

Method of Assessments.

Sec. 42. Special assessments upon the property deemed bene-
2 fited by a public improvement shall be by any one or more of the
3 following methods:

4 (a) By a percentage of the value of the property as assessed
5 for taxation.

6 (b) In proportion to the benefits which may result from the
7 improvement.

8 (c) By the foot frontage of the property bounding or abutting
9 upon the improvement.

10 If the latter method is used the property shall be divided into
11 certain classes by city blocks, or otherwise, so that all of the
12 property in any class shall be as nearly as practicable of the same
13 value a front foot, and the total amount to be raised by special
14 assessments shall be apportioned among the several classes into
15 which the properties may be divided in proportion to the values
16 of the respective classes.

17 The assessment a front foot upon any lot may be apportioned
18 between or among the respective owners of the property to an en-
19 tire lot depth in proportion to values as well as in proportion
20 to the benefits received from the improvement.

Preliminary Resolutions.

Sec. 43. When it is deemed necessary to make any improvement to be paid for in whole or in part by special assessments, the council shall declare the necessity therefor by resolution, and such resolution shall designate the street or streets, alley or alleys to be improved, and the method of assessment and mode of payment, and the number of annual installments, together with the total estimated cost of the improvement. Such resolution shall be certified to the city manager who shall thereupon proceed to make an assessment report in accordance with the method of assessment provided in the resolution, which report shall be filed with the council and shall show the lots and lands assessed and the amount of the assessment as to each, together with the amount of benefit or damage to each lot or parcel of land to be assessed, and also an estimate of the life of the improvement, and the number of annual installments in which the assessment shall be paid shall be fixed, but in no case shall they be greater in number than the estimated years of the life of the improvement.

Plans for Improvements.

Sec. 44. At the time of the passage of the resolution provided for in section fifty-four, there shall be on file at the office of the city manager plans, specifications, estimates and profiles of the proposed improvements, giving full information in detail of the work or improvement and of the kind and character of materials to be used therein, and the same shall be open to inspection by the public.

Notices Served.

Sec. 45. Upon the filing of such report the city clerk shall cause written notice to be served upon the owner of each lot or parcel of land to be assessed, or otherwise affected, or upon the persons in whose names the same may be assessed for taxation upon the tax duplicate. Said notice shall be served in the manner provided for service of summons in civil actions; and as to all non-residents and persons not found within the city publication of such notice shall be made at least once in a daily newspaper of general circulation in the city.

Said notice shall contain a statement of the character of the proposed improvements, the fact that such assessment report has

12 been filed with the council, the name or names of such assess-
13 ments, the amount of the assessments, the number of installments,
14 the total estimated cost of the improvement, the amount of benefit
15 or damage to such lot or parcel of land, and shall state a time
16 and place when complaints and claims will be heard before the
17 board of revision of assessments.

Board of Revision of Assessments.

Sec. 46. The city manager, city attorney and city engineer shall
2 constitute the board of revision of assessments which shall organize
3 and meet at times and places to be provided by its rules, and shall
4 hear all claims and objections as to the character of all improve-
5 ments to be paid for in part or in whole by special assessments,
6 the necessity therefor, and the equity of the assessments as pro-
7 vided in the assessment report. A majority of those constituting
8 the board of revision of assessments shall have power to determine
9 all complaints and objections submitted to it; and as to each im-
10 provement the board shall, after such hearing, approve, amend,
11 equalize or adjust the assessment reported in every detail and
12 shall report its findings as to the necessity for the improvements
13 and any amendment it directs in the assessments, the estimate of
14 benefit and allowance of damages, to the council.

Claims for Damages.

Sec. 47. An owner of a lot or of land bounding and abutting
2 upon a proposed improvement, claiming that he will sustain dam-
3 age by reason of the improvement, shall present such claim to the
4 board of revision of assessments within two weeks after the service
5 of notice or the completion of the publication hereinbefore pro-
6 vided. Such claim shall be in writing and shall set forth the
7 amount of damages claimed, with a general description of the
8 property with respect to which it is claimed the damage will ac-
9 crue, and shall be filed with the board of revision of assessments.
10 Any owner who fails so as to do shall be deemed to have waived
11 any such damages and shall be barred from filing a claim or in-
12 stituting any suit for damages. This provision shall apply to all
13 damage which will obviously result from the improvement, but
14 shall not deprive the owner of his right to recover damages aris-
15 ing, without his fault, from wilful or negligent acts of the city or
16 of its agents. If, subsequent to the filing of such claim, the owner
17 sells the property, or any part thereof, the right of damages, if

18 any, shall follow the ownership of the land without other trans-
19 ference of the claim. The board of revision of assessments shall
20 report to the council all such claims for damages filed with it.

Final Assessment.

Sec. 48. Whenever the board of revision of assessment shall
2 have made its final report to the council as to any improvement,
3 the council, if it determine that the improvement shall proceed,
4 shall pass an ordinance levying the assessment as reported by the
5 board of revision of assessments and directing that the improve-
6 ment proceed. In such ordinance it shall be sufficient to de-
7 scribe the lots and lands abutting upon the improvement and to
8 be assessed therefor, as all the lots and lands bounding and abut-
9 ting upon such improvement between and including the termini
10 of the improvement; and in describing lands which do not abut,
11 it shall be sufficient to describe the lots by their appropriate lot
12 numbers, and the lands by metes and bounds; and this rule of
13 description shall apply in all proceedings in which lots and lands
14 are to be charged with special assessments.

Damages Assessed.

Sec. 49. At the time of the passage of the ordinance determin-
2 ing to proceed with the improvement as hereinbefore provided, the
3 council shall determine whether the claims for damages so filed
4 shall be allowed and paid or judicially inquired into either be-
5 fore or after the completion of the proposed improvement. If
6 it decides that the damages shall be assessed before commencing
7 the improvement, the city attorney shall file a petition in the cir-
8 cuit court of Harrison county, West Virginia, in order to have
9 such damages assessed, and the court shall thereupon empanel a
10 jury of freeholders and try the question of whether said property
11 shall be damaged, and if damaged, the amount of damages to
12 which the owner is entitled. When the council decides not to
13 have the damages assessed before the completion of the improve-
14 ment for which a claim for damages has been filed as hereinbe-
15 fore provided, the property owner may at any time within six
16 months after the completion of the improvement institute a suit
17 for such damages in a court of competent jurisdiction. No such suit
18 shall be maintained unless instituted within six months from the
19 time of the completion of the improvement.

Lands Un-allotted and not on Duplicate.

Sec. 50. When special assessments are levied by the percentage of tax value of the property assessed or by the foot frontage of the property bounding and abutting upon the improvement, and there are lands subject to such assessment which are not assessed for taxation, the city manager shall fix, for the purpose of such assessment, the value of such lots as they stand and of such lands at such depths as the city manager considers a fair average of the depth of lots in the neighborhood, so that it will be a fair average of the assessed value of other lots, in the neighborhood. Where lands are not subdivided into lots, but are assessed for taxation, the city manager shall fix the value and the depth in the same manner; but the above rule shall not apply in making a special assessment according to benefits.

Included in Costs of Improvements.

Sec. 51. There shall be included in the cost of improvements which may be assessed against properties benefited 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 relation thereto, the cost of supervising the work and the damages caused to abutting property, as well as the cost of construction; 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. 52. If the council shall decide to pay for the work of improvement as the work progresses and upon completion of the work, in the ordinance directing the assessments to be made to cover the cost of such work or of any part thereof they shall provide for the payment of the assessments at such time or times as are necessary to provide funds for payment for the improvements as the work progresses, and upon the completion of the same. And in that event if any installments shall not be paid when due, there shall be added interest thereon from the time due and payable at the rate of six per centum per annum, and a penalty of five per centum of the installment not paid when due.

What Included in Assessment.

Sec. 53. The work undertaken may include widening, grading, paving, curbing, sewerage and otherwise improving a street or streets, alley or alleys, and a part of the cost of sewerage the street or streets, alley or alleys, may properly be assessable under this act upon property against which no assessment may be made for the other improvements upon such street or streets, alley or alleys, and in that event the cost charged against any lot or parcel of land which may properly be charged with a part of the cost of the entire improvement including the sewerage shall be included in a single assessment.

Time of Payment When Bonds are Issued.

Sec. 54. If the council shall decide to provide funds for widening, grading, paving, improving, curbing or sewerage any street or alley by the issue and sale of bonds in anticipation of the collecting of the special assessments hereinbefore authorized, they shall, in the ordinance making such special assessments, provide that the same shall become due and payable in equal annual installments not to exceed ten in number, and each installment shall bear interest at the rate of six per centum per annum from the date of the final assessment, and there shall be added to and collected with each installment not paid at maturity a penalty of five per centum of the amount of such installment: *Provided, however,* that any property owner and any street car or other railway company against whose property an assessment shall have been made shall have the right at any time after such assessment

15 shall have been docketed, or shall have been certified
16 to the person authorized to collect the same at maturity, to anti-
17 cipate any or all of such assessments and to pay the same at the
18 face amount with interest to the time of payment.

Lien for Special Assessments.

Sec. 55. The special assessments, together with the interest
2 and penalties aforesaid to pay for widening, grading, paving, curb-
3 ing, sewerage or any of said improvements, shall be a lien upon
4 the lots or fractional parts of lots or lands, (and in the case of a
5 street car or other railway company upon its tracks and fran-
6 chises, for the distance of said improvement) from the date
7 thereof, and said lien shall have priority over all other liens ex-
8 cept those for taxes due to the state, and shall be on a parity with
9 the taxes and assessments due the city; *provided, however,* such
10 assessments shall, after six months from the date of the acceptance
11 of said work, cease to constitute liens against said property as
12 against creditors of the owners thereof, or purchasers thereof for
13 value without actual notice of such liens, unless within said period
14 of six months a statement of said liens shall be filed for record in
15 the office of the clerk of the county court of Harrison county. Said
16 statement shall be made up and certified before the expiration of
17 of said six months period by the city clerk to the clerk of said
18 county court as to all assessments which shall remain unpaid four
19 months after the acceptance of the work, and said statement shall
20 describe the assessments generally as for street improvements,
21 give the names of the property owners assessed, the location of
22 the real estate affected, date of acceptance of the work by the
23 city, and the amount of each assessment; and it shall be a sufficient
24 description of the location of said real estate to describe it as
25 abutting upon the particular street or alley so improved included
26 between the termini of the improvement, or by the description
27 whereby said real estate appears upon the land books of Harrison
28 county. The county clerk shall record said statement in the trust
29 deed books in his office, and index the same in the name of the
30 city and also in the name of each person against whose property
31 said assessments appear therein, and for such recordation the
32 county clerk shall be paid at the same rate for each one hundred
33 words as provided by law for recording deeds of trust.

Docketing and Collecting Assessments.

Sec. 56. The city clerk shall also, so soon as such assessments
2 have been made by the council, enter the same of record in the
3 "municipal assessment docket", and when due make out bills
4 therefor against the property owners assessed, and certify the
5 same for collection to the city collector or other person authorized
6 to collect taxes for the city, who shall thereupon be charged with
7 said accounts. And upon default being made in the payment of
8 any assessment or installment thereof aforesaid, the same shall be
9 immediately reported to the council, and the council shall forth-
10 with refer the same to such officer as it may deem expedient for
11 collection; and payment of said delinquent assessments or in-
12 stallments, with the interest and penalties aforesaid, may be en-
13 forced in all respects as provided for the collection of city taxes,
14 or the lien aforesaid may be enforced by a suit in equity in the
15 name of the city in any court having jurisdiction thereof, and
16 the said delinquent assessments or any installment thereof, may
17 be collected from the person against whom the same were assessed
18 by action at law before any court or a justice of the peace having
19 jurisdiction thereof. In addition to all other remedies for the
20 collection of said delinquent assessments or installments, the city
21 may cause a certified copy of the assessment to be filed in the
22 office of the clerk of the circuit court of Harrison county, West
23 Virginia, and after ten days' notice by personal service, or after
24 two weeks' publication of a notice in all cases in which personal
25 service cannot be had upon the owner of any lot on which said
26 assessment constitutes a lien, said court shall, on motion of the
27 city of Shinnston, order the sale of the lots or property on which
28 the assessment or installment constitutes a lien to be made by the
29 city treasurer at the front door of the court house of Harrison
30 county on such terms as to payment as the court in its order may
31 prescribe. The city treasurer shall advertise the time, terms and
32 place of such sale by notice published once a week for two suc-
33 cessive weeks in some newspaper published and of general cir-
34 culation in the city of Shinnston, and by posting a copy of such
35 notice at the front door of the council chamber for at least two
36 weeks before the day fixed for such sale.

37 The city treasurer shall report any sale made hereunder to said
38 court for confirmation, and upon the confirmation of the sale, the
39 court shall authorize the city treasurer to execute and deliver to

40 the purchaser a deed for the property so sold, which shall divest
41 all the estate and interest therein of the former owner and of
42 all persons claiming under him and of all lienholders against the
43 property, and vest all such estate and interest in the purchaser
44 thereof. Out of the proceeds of any such sale the court shall allow
45 to the city treasurer all costs and expenses incurred in making
46 the sale and reasonable compensation for his services and a fee
47 of five dollars for making the deed to the purchaser, and shall
48 order to be paid out of the proceeds, if sufficient, all unpaid assess-
49 ments or installments of assessments against said property thereto-
50 fore made by the city of Shinnston, with all accrued interest
51 thereon and costs and expenses of the proceeding, including an at-
52 torney's fee of ten dollars. The residue of the purchase money
53 shall be paid to the former owner of the lot, his personal represen-
54 tative, heirs or assigns.

55 Before making any sale of real estate in any such proceeding,
56 the city treasurer shall execute a bond in like manner as required
57 by the laws of the state of West Virginia of a special commis-
58 sioner.

Proceeding With Work.

Sec. 57. In any case where the city council has decided to pay
2 for any such improvements out of funds in the city treasury not
3 otherwise appropriated in anticipation of the collection of special
4 assessments, they shall, in the same or a supplemental ordinance
5 or resolution, direct the city manager to proceed with said work
6 either directly by the purchase of material and employment of
7 labor, or by advertising for bids and proposals for furnishing
8 material and for making said improvements. If the work shall
9 be done on contract the city manager whenever in his judgment
10 it will be to the advantage of the city shall divide the work into
11 allotments or parts and advertise for contracts for the work in
12 such allotments or parts, and for the work as a whole, and the city
13 council and city manager shall, in awarding the contracts, adopt
14 the method which shall in their judgment be most advantageous
15 to the city. In any case in which council has decided to procure
16 money for paying for such work or improvement by the issuance
17 and sale of bonds of the city in anticipation of the collection of
18 special assessments as in this act authorized, the city council shall,
19 as soon as practicable after the issuance of such bonds shall have

20 been authorized by a vote of the electors of the city as in this
21 act provided, by resolution direct the city manager to proceed to
22 make said improvements in the same manner as in this section
23 provided for making improvements to be paid for out of moneys
24 in the treasury not otherwise appropriated.

25 The notice for bids or proposals for street improvements or the
26 construction of sewers, shall be published for at least fifteen days
27 in two daily newspapers. Said notice shall state where and how
28 the bids or proposals shall be made; and whether so stated in the
29 notice or not, the city may reject any and all bids for such pro-
30 posed work, being advertising for bids on the work, the city shall
31 approve and adopt plans and specifications therefor, and the ad-
32 vertisement for bids, and the contract awarded thereon, shall refer
33 to such plans and specifications.

Application of Assessments.

Sec. 58. Where provision is made to pay for any work or im-
2 provement out of funds in the treasury not otherwise appropriated
3 in anticipation of collection of special assessments, all such assess-
4 ments and interest and penalties collected thereon from the
5 specially benefited property owners, as well as all sums collected
6 from any street car or other railway company, shall be applied
7 and paid on account of the cost of such improvements (either to
8 the contractor, if he be unpaid, or to the city in re-payment of said
9 appropriation, or such part thereof as may have been paid by it
10 thereon out of other funds in the treasury) until the whole cost
11 or that part of the cost of such improvement and any interest paid
12 thereon, to pay which special assessments were made against
13 specially benefited property, has been paid in full. In any case
14 in which the council shall decide to issue and sell bonds in antici-
15 pation of the collection of said special assessments to pay for an
16 improvement, all such special assessments, interest and penalties
17 collected thereon shall be applied only to the payment of the inter-
18 est and principal of such bonds and to reimbursing the city to the
19 extent of any sum which it may have paid out of other funds upon
20 the interest and principal of such bonds which are to be paid out
21 of special assessments. Funds derived from special assessments
22 shall be paid out only for the purposes in this section authorized
23 and specified.

Sidewalks.

Sec. 59. The city council is hereby authorized and empowered to
2 cause to be put down a suitable sidewalk and curb of brick, stone or
3 other material along and for the footways and sidewalks of the pub-
4 lic street and alleys of said city, and to order and cause the grading,
5 laying or relaying or repair of sidewalks and gutters, of such
6 material and width as the council may determine; and to require
7 the owners or occupiers of the lot or lots or parts of lots facing
8 upon said streets and alleys to keep such sidewalks clean and in
9 good repair. The owners or occupiers of the lots or fractional
10 parts of lots abutting upon such streets and alleys shall not grade
11 or lay any such sidewalk, curb or gutter, unless specially requested
12 to do so by resolution adopted by the council, and then only of the
13 kind prescribed by the council; but the city may lay such sidewalk,
14 curb or gutter and grade therefor, or may let said work by contract,
15 and in either case the total cost of said work shall be charged upon
16 and assessed against the lots or fractional parts of lots abutting
17 upon the streets and alleys so improved, or specially benefited by
18 said work, in proportion to the number of feet frontage thereon
19 of each such lot or part of lot, and shall be and remain a lien
20 thereon from the date of the acceptance of the work by the city,
21 and said lien shall have priority over all other liens except those
22 for taxes due to the state, and shall be on a parity with the taxes
23 and assessments due the city, and shall bear interest from the
24 date of acceptance of the work by the city, or from the completion
25 thereof when done by the city, and shall become due and payable
26 when declared final by the council; and to each such assessment re-
27 maining unpaid thirty days after maturity there shall be added and
28 collected by the city a penalty of five per centum of the amount of
29 such assessment in addition to the interest. The amount so
30 assessed against any lot, or fractional part of lot, together with
31 the interest and penalty aforesaid, shall also be a debt against the
32 owner of such lot or part of lot. Immediately upon completion
33 of the work, if done by the city, or upon acceptance of the work
34 if done by contract, the council shall cause the city clerk to serve
35 a notice upon the owners of each lot or fractional part of lots over
36 which such sidewalks are graded, paved, curbed or laid, shall
37 describe such lot or part of lot with reasonable certainty suf-
38 ficient to identify the same, and shall also state the number of

39 feet over each lot or part of lot so graded, curbed or laid with
40 sidewalk, together with the amount assessed against each owner;
41 which notice shall be served as provided for the service of notice
42 of street assessments in this act and shall cite all said owners to
43 appear before the council at a regular meeting to be held within
44 fifteen days following the service of publication thereof and show
45 cause, if any they can, why such assessments should not become
46 final. Protests against said assessments shall be heard and de-
47 termined and said assessments shall become final and be recorded
48 by the city clerk, certified for collection, and the collection thereof
49 enforced against the property assessed and against the owner
50 thereof, and a certificate of said assessments certified to the clerk
51 of the county court for recordation, and recorded in all respects in
52 the same manner and with the same legal effect as provided in the
53 case of assessments for street paving or other local improvements in
54 this act. And all of the assessments, interest and penalties thereon
55 so collected from the abutting lot owners on account of the grading
56 and curbing and laying of said sidewalks shall be applied to the
57 cost of making the improvement for which said assessments were
58 laid, and to no other purpose.

Supplementary Assessments and Rebates.

Sec. 60. If in any case any special assessment shall be illegal
2 or void, either in whole or in part, a new assessment may be made in
3 the same manner as nearly as may be as other special assessments
4 are authorized by this act to be made to pay for the improvements,
5 the former assessment for which was illegal or void. Upon the
6 completion of any improvement the city manager shall rebate to
7 the then owner of the property which shall have been assessed to
8 pay for such improvement any surplus or excess remaining unex-
9 pended for the purpose for which such assessment was made. In
10 the event of there being a deficit in the fund provided for the
11 making of any such improvement, the city manager shall report to
12 the council a supplementary assessment within the limitations in
13 this act provided, which supplementary assessment shall be made
14 by ordinance of the council and certified and collected in the man-
15 ner provided in the original assessment for the collection of the
16 same.

Limitation of Assessments.

Sec. 61. No assessment herein authorized against or upon any
2 property for any local improvement shall, in the first instance
3 exceed in amount twenty-five per centum of the value of such
4 property after the improvement is completed. And all assess-
5 ments for local improvements which may be made against any
6 property during the fifteen years next ensuing after the first
7 assessment shall have been made, including the first assessment,
8 shall not exceed at any time in the aggregate one-third of the
9 value of such property. And during any succeeding period of
10 fifteen years the total assessments against any property for im-
11 provements shall not exceed in the aggregate one-third of the
12 value of the property together with the improvements.

Release of Liens.

Sec. 62. Whenever any assessments for sidewalks, street
2 paving, grading, sewerage or other improvements hereinabove
3 provided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying the
5 same a proper release of the lien of such assessment, which re-
6 lease shall be substantially in the form prescribed by section two
7 of chapter seventy-six of the 1913 Code of this state, (serial section
8 number three thousand eight hundred and fifty-nine) for the re-
9 lease of the lien of judgments and decrees.

Remedies Saved.

Sec. 63. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred upon
3 said city of Shinnston shall not be exclusive or in derogation of
4 any other right or remedy which it does or shall possess under
5 any law or under the constitution of the state to enforce in any
6 court of law or equity any such power, right or authority.

Issuing Bonds.

Sec. 64. If and when the city council shall have decided to
2 carry on any work of improvement and shall have assessed all or
3 any part of the cost thereof against property specially benefited,
4 and provided that such assessments shall be paid in equal annual
5 installments, it is hereby authorized to issue and sell its bonds

6 in order to provide funds for widening, grading, paving, curbing,
7 sewerage, or otherwise improving the streets and alleys of the city
8 in anticipation of the collection of the special assessments made
9 against the property which will be specially benefited by such
10 work. The bonds shall be for such an amount as will suffice to
11 pay the entire cost of such improvements, or the entire amount
12 which is to be assessed against property specially benefited, in-
13 cluding any amount which a street or other railway company
14 occupying any of the streets with its tracks shall be required to
15 pay. Such bonds shall be payable in equal annual installments
16 and shall bear interest at not to exceed the rate of six per centum
17 per annum, payable annually; the number of annual installments
18 shall be the same as the number of installments in which the
19 special assessments against property specially benefitted have been
20 ordered to be paid, and the bonds maturing each year shall be ap-
21 proximately equal in amount to the aggregate amount of the in-
22 stallments becoming payable on assessments each year. In the
23 issuance and sale of such bonds the city shall be governed by all
24 restrictions and limitations of the constitution of this state, and
25 in so far as not in conflict with the provisions of this act, by the
26 restrictions and limitations of the laws of the state, with respect
27 to the issuance and sale of bonds. All assessments with the interest
28 thereon, and all penalties collected thereon, in anticipation of the
29 collection of which bonds shall have been issued as herein pro-
30 vided, shall be applied only to the payment of the interest on the
31 bonds, and the principal thereof, as they severally mature, and to
32 that end they shall be paid to the city treasurer to be credited
33 to the sinking fund of the city and shall be invested to the best
34 advantage of the city in the manner provided by law. The
35 city shall not, by the sale of bonds or otherwise, become
36 indebted in amounts in the aggregate to exceed five per
37 centum of the value of the taxable property in the city.
38 The city shall not make, issue and sell is bonds without at
39 the same time providing for the levying of a certain annual tax
40 sufficient to pay annually the interest on such bonds and the prin-
41 cipal thereof within and not exceeding the time fixed for the
42 maturing of said bonds, if said bonds are issued against assess-
43 ments for local improvements to be liquidated by such assessments;
44 and within not to exceed thirty-four years if issued for any other
45 purpose. All of the assessments, interest and penalties collected

46 under the provisions of this section shall be applied annually to the
47 payment of the interest of any debt created for a local improvement
48 and upon the principal within and not exceeding the time in
49 which the same shall mature, and in the event that the assessments,
50 interest and penalties so collected shall not amount to a sum suf-
51 ficient to pay such annual interest and discharge the bonds at
52 maturity, then only shall the council provide for the collection of
53 so much of the authorized levy as will pay the residue of the inter-
54 est on such bonds and the residue of the principal upon the
55 maturity thereof.

Bond Election.

Sec. 65. No bonds shall be issued under the provisions of this
2 until and unless the question of issuing such bonds shall have first
3 been submitted to the vote of the people of the city and shall have
4 received three-fifths of all of the votes cast at said election for or
5 against the same. When the council shall have made provision for
6 paying for any work of improvement authorized in this act out of
7 funds derived from the sale of bonds in anticipation of the collec-
8 tion of special assessments against property specially benefited and
9 shall have made such assessments in the manner provided in this
10 act, it shall cause to be held a special election, at which shall be
11 submitted to the vote of the people the question of issuing said
12 bonds. The ordinance providing for the election need not specify
13 in detail the location of the improvements contemplated or the cost
14 thereof, or the amount of the special assessments made, and not-
15 withstanding the provisions of sections two, three and six of
16 chapter forty-seven-a of the Code of 1916, it shall be a suf-
17 ficient description of the purposes for which said election is to
18 be held if the ordinance directing the same shall recite that it
19 is to authorize the council to issue bonds for the purpose of widen-
20 ing, grading, paving, curbing, sewerage, or otherwise improving
21 the streets and alleys of the city.

22 Provision may be made in the same ordinance authorizing the
23 issuing of bonds as in this section above provided, or the issuing
24 of bonds to provide funds for any other municipal improvement.

25 Any bonds authorized to be issued to raise funds for improving,
26 extending, adding to, or replacing the water works plant shall be
27 issued and sold as provided by law, and the proceeds of any bonds
28 issued under the authority of this act shall be expended only for the
29 purposes for which the creation of the indebtedness and issuing of
30-31 said bonds were authorized.

32 The provisions of chapter forty-seven-a of the code, edition
33 1916, concerning bond elections, together with any amendments
34 thereof, shall, so far as they are not in conflict with the provisions
35 of this section, apply to and control all bond elections called or
36 held under the provisions of this act.

Assessment Certificates.

Sec. 66. Whenever the city council shall have decided to carry
2 on any work of improvements upon any street or alley in the city
3 and shall have assessed the property that will be specially bene-
4 fited by the construction of the work and made provision that
5 the assessment shall be paid in annual installments as in this act
6 authorized, they may, in order to procure funds to pay for such
7 work, issue and sell to the contractor or persons doing the work,
8 or to any other persons, assessment certificates for the amount
9 of the several assessments against the respective property owners.
10 Such certificates shall bear interest at a rate not to exceed six
11 per centum per annum, payable annually, and shall mature and
12 become payable in the same manner and at the same times that
13 the assessments are payable. The city in negotiating and selling
14 such certificates shall not be held liable as endorser or guarantor
15 or in any other way for the payment thereof, except upon a resolu-
16 tion entered of record by the council assuming such liability be-
17 fore such sale. Assessment certificates shall be paid by the
18 owners of the lots or lands assessed for the cost of such improve-
19 ments. The amount specified in each assessment certificate shall
20 be a lien as in this act provided in the hands of the holder thereof
21 upon the lands, lot or part of lot so assessed, and shall also be a
22 debt against the owner of such real estate and shall draw interest
23 at the rate and from the date specified in the certificate. The pay-
24 ment of the sums represented by assessment certificates may be
25 enforced by the holder in his own name, or in the name of the
26 city, in the manner provided in this act for the collection of assess-
27 ments, and as provided herein or by general laws for the enforce-
28 ment of liens.

29 All assessment certificates which may be issued under the pro-
30 visions of this act shall be made payable at the office of the city
31 treasurer who shall receive payment thereof when due if tendered,
32 and the interest thereon from the date of such payments shall
33 cease. The treasurer shall keep a separate and special account of

34 all moneys received by him upon assessment certificates and shall
35 hold the same in trust for the owner who thereafter shall de-
36 liver the assessment certificates to him for cancellation if paid in
37 full, or to have credited thereon the amount paid if not paid in
38 full; but the owner of assessment certificates shall not be entitled
39 to interest on the sums represented by the same after the date
40 of payment thereof to the treasurer. If and when the whole
41 amount of any assessment certificate shall have been paid to the
42 treasurer, or the treasurer shall have knowledge that the same
43 has been paid in full to the owner, he shall, when required by
44 the land-owner, execute a release of the lien of assessment and
45 certificates in the manner as in this act provided for releasing
46 liens of assessments for which no certificates may have been issued.
47 If the city shall have no treasurer, any other officer designated by
48 the council by resolution or ordinance shall discharge the duties
49 required of the treasurer in this act.

50 Assessment certificates shall be in such form and of such tenor
51 as the council shall by resolution provide and they shall have at-
52 tached thereto interest coupons for the annual interest thereon.

53 At any time before a sale of the assessment certificates the
54 property owner shall have the right, if he elects so to do, to antici-
55 pate and pay the full amount of the assessment with interest
56 to date of payment, and thereupon the assessment certificates
57 against his property shall be cancelled and the lien of the assess-
58 ment thereon released as in the manner provided in this act.

59 The proportion of the cost of any such improvement to be paid
60 by any street car or other railway company shall be due and pay-
61 able and shall be paid upon the completion of the work and if not
62 paid when due the same shall be collected with interest thereon at
63 the rate of six per centum per annum from the date payable, and
64 in addition thereto a penalty of five per centum of the amount
65 payable shall be collected.

Publication.

Sec. 67. All ordinances, resolutions and notices of every
2 kind, the publication of which is required by any provision of
3 this act, shall be published for the period of time in each par-
4 ticular instance specified, but in all cases in which the time the
5 publication is to run is not specially provided, such publication
6 shall be once a week for two consecutive weeks in a newspaper
7-20 published in Harrison county.

21 Every such publication or posting shall be held and deemed to be
22 equivalent to personal service in every case. The certificate of
23 the printer or manager of the paper publishing any notice herein
24 required, or the affidavit of the party posting any notice that
25 may be served by posting, shall be accepted as *prima facie* evi-
26 dence of the publication of the notice. Such certificate and
27 affidavit shall be filed with the city clerk and preserved as a part
28 of the records of his office.

29 The rates charged for the publication of any notice herein
30 required to be given shall not exceed the rate prescribed by the
31 laws of the state of West Virginia for the publication of notices
32 required to be published in suits in chancery in the circuit courts
33 of the state.

34 It shall not be necessary to publish any resolution, order,
35 assessment, or ordinance providing for carrying on any work of
36 improvement of any street, alley or sidewalk, in any case wherein
37 provision is made in this act for serving notice upon the parties to
38 be charged with the cost of, or directly interested in such im-
39 provement.

Emergency Measures.

Sec. 68. Emergency measures may be passed at the same meet-
2 ing of council at which they are introduced. An emergency
3 measure within the meaning of this act is an ordinance or reso-
4 lution providing for the immediate preservation of public peace,
5 property, health or the safety of the community, or for the usual
6 daily operation of a municipal department, in which the emergency
7 is set forth in the preamble thereof. Ordinances and resolutions
8 providing for improving streets and alleys, making assessments,
9 appropriating moneys, and all matters incident to such improve-
10 ments may be passed as emergency measures. No ordinance or
11 measure making a grant, renewal or extension of a franchise or
12 other special privilege, or regulating the rate to be charged for its
13 service by a public utility, or creating any office or employment,
14 shall ever be passed as an emergency measure.

Removal of Elective Officers.

Sec. 69. Any elective officer may be removed from office at any
2 time for any cause of removal of county officers, and in the man-
3 ner provided for making such removal by law.

Succeeding to Duties of Officers.

Sec. 70. The duties in this act or by any other law provided to be discharged by any officer elected or appointed under the provisions of this act shall be discharged and performed by any officer under whatever title who shall hereafter succeed any officer or office herein created and be charged with the performance of the duties and obligations entrusted to and imposed upon the holder of any office herein created.

Not to Be Published in Code of Laws.

Sec. 71. There shall not be included or published in the code of municipal laws any ordinance or resolution providing for any public improvement, making assessments, appropriating moneys, or anything incident thereto, or any traffic ordinances or regulations or any other ordinance of a temporary character and not of general interest, but all such ordinances shall be recorded in the ordinance books as herein provided, and all traffic ordinances and regulations shall be published in pamphlet form convenient for general distribution and furnished to any person requesting a copy of the same.

Act Construed.

Sec. 72. All provisions contained in this act in respect to making improvements shall be liberally construed by the council and by the courts. Immaterial and technical objections shall be disregarded; all special benefits ascertained and not contested before the board of assessment review within ten days from the ascertainment thereof shall be deemed conclusive, and in any contested case the ascertainment by said board of special benefits shall be conclusive. The purpose of the provisions of the act referred to in this section is to enable the public to make needed and essential public improvements and in all cases where feasible the act shall be construed in furtherance and aid of that general purpose.

Sec. 73. The city of Shinnston is hereby authorized to issue and sell bonds of said city for the purpose of buying and building electric light plants, water-works, gas lines and fields, gas producer plants, and distribution lines and mains, public parks and play grounds and municipal buildings, and to issue and sell bonds of said city for the purpose of providing for grading, paving and otherwise improving the streets and alleys of said city, and of

8 constructing sewers and sewer systems and sewage disposal plants
9 for said city, but in no event shall the aggregate indebtedness of
10 said city bonded, funded or otherwise exceed five percentum of the
11 assessed value of the property within said city, and *provided*,
12 *further*, that in no event shall any bonds be issued by said city
13 unless and until the question of the issuance thereof shall be
14 submitted to the legal voters thereof and be authorized by a
15 three-fifths vote in favor thereof, and *provided, further*, that
16 no bonds shall be issued unless provision be made for sufficient
17 levy to pay the interest and principal thereof as the same shall
18 become due and payable according to the tenor of said bonds;
19 said bonds may be serial bonds, and no bonds shall be issued for
20 a longer period than thirty years, and the submission and all
21 orders and ordinances in reference thereto shall be under and ac-
22 cording to the provisions of chapter forty-seven-a of the code of
23 one thousand nine hundred and sixteen, as amended now or as
24 hereafter amended, insofar as the same may be applicable.

Referendum.

Sec. 74. This act shall not become effective unless the same is
2 adopted by a majority of the voters of said city as hereinafter
2-a provided within sixty days prior to the first Tuesday of
2-b March one thousand nine hundred and twenty-two, it shall be the
3 duty of the mayor of the city of Shinnston, now in office or his
4 successor, by proper proclamation, to call an election by the
5 qualified voters of said city to pass upon the acceptance or re-
6 jection of this charter, which proclamation shall be published in
7 two successive weekly issues of the Shinnston News, prior to
8 such election. It shall be the duty of the council of said city to
9 appoint the election commissioners, challengers and clerks to con-
10 duct said election, to provide ballots, poll books and other things
11 needed for the proper conduct of said election; and said election
12 shall be conducted at the several voting places of said city as
13 heretofore established.

14 The ballots used in said election shall have printed thereon
15 substantially the following: "Election by the voters of the city of
16 Shinnston in Harrison county, West Virginia, on the day
17 of one thousand nine hundred and twenty-one, on the
18 question of adopting or rejecting the city charter as enacted by

19 the legislature of West Virginia at the one thousand nine hun-
20 dred and twenty-one regular session thereof."

21 [] For the adoption of said charter.

22 [] Against the adoption of said charter.

23 And the general laws of the state pertaining to elections in so
24 far as applicable shall govern the said election.

25 On the third day after the said election it shall be the duty of
26 the council of said city to canvass the returns of said election
27 and ascertain and declare the result thereof. If a majority of the
28 votes so cast at said election are for the adoption of this charter
29 then certificate thereof shall be published and entered in the min-
30 ute book of said council, and publication thereof be made in
31 the next succeeding issue of said newspaper. And the officers
32 for said city to be elected on the first Tuesday in March, one
35 as of April first, one thousand nine hundred and twenty-two,
36 from and after which time all the provisions of this act shall
37 apply and obtain in said city, *provided, however*, that the four
38 councilmen elected at the election held in said city during the
39 month of April, one thousand nine hundred and twenty-one, for
33 thousand nine hundred and twenty-two, shall be elected under
40 the term of two years shall continue in office under this charter
41 until April first, one thousand nine hundred and twenty-three,
42 unless disqualified for any lawful cause, and *provided, further*,
43 that at the election provided to be held on the first Tuesday of
44 March, one thousand nine hundred and twenty-two, but one
34 and according to the provisions of this act and shall take office
45 councilman shall be elected from each of the several wards of
46 said city unless there be additional vacancies.

CHAPTER 24

(Senate Bill No. 363—Mr. Hill.)

AN ACT to amend and re-enact sections seven, eight, nine, ten, eleven
and eighteen of chapter four of the acts of the legislature of one
thousand eight hundred and ninety-nine, relating to the city of
Sistersville.

[Passed April 25, 1921. In effect from passage. Approved by the Governor
May 2, 1921.]

SEC.
7. Officers.
8. Election; when held; term of
office.
9. Councilmen; who eligible; how
elected.
10. Who entitled to vote.

SEC.
11. Mode of voting; elections; how
held and conducted.
18. Term of office; the mayor, city
collector and treasurer, and city
clerk.

Be it enacted by the Legislature of West Virginia:

That section seven, eight, nine, ten, eleven and eighteen, of chapter four of the acts of one thousand eight hundred and ninety-nine, be amended and re-enacted so as to read as follows:

Officers.

Section 7. There shall be a chief of police, city attorney, superintendent of streets, commissioner of water works, city physician, city collector and treasurer, city surveyor, and city clerk, of said city; who at the time of their election or appointment shall be entitled to vote for the members of its common council. The city attorney, city physician and city surveyor, shall be appointed by the common council, to hold their respective offices for the term of one year from the first Monday in April, or until their successors shall have been appointed and qualified.

Election; When Held; Term of Office.

Sec. 8. On the fourth Thursday in March, one thousand nine hundred and twenty-two, and on said day of each succeeding second year thereafter, there shall be elected by the qualified voters of said city a mayor, city collector and treasurer, and city clerk, who shall hold their respective offices for two years and until their successors shall be elected and qualified.

Councilmen; Who Eligible; How Elected.

Sec. 9. On the same day first mentioned in the preceding section, two members of the council shall be elected in each ward in said city, who shall reside in the ward for which they are elected, and the candidates receiving the highest number of votes shall be elected for four years, from the first Monday in April, one thousand nine hundred and twenty-two, and the candidate receiving the next highest number of votes, shall be elected for one year from the first Monday in April, one thousand nine hundred and twenty-three; and on the fourth Thursday in March, one thousand nine hundred and twenty-four, and on the same day of every second succeeding year, one member of the council shall be elected in each ward in the said city, whose term of office shall be four years from the first Monday in April succeeding his election, and until his successor be elected and qualified.

Who Entitled to Vote.

Sec. 10. Every male and female person residing in said city shall be entitled to vote for all officers elected under this act; but no person who is a minor or of unsound mind, or a pauper, or who is under conviction for treason, felony or bribery in an election, or who has not been a resident of this state for one year and the city of Sistersville for six months and is a *bona fide* resident of the ward in which he offers to vote.

Mode of Voting; Elections; How Held and Conducted.

Sec. 11. In all elections by the people the mode of voting shall be by ballot; but the voter shall be left free to vote by open, sealed or secret ballot as he may elect.

The elections in said city shall be held and conducted and the result thereof certified, returned and finally determined under and in conformity with the provisions of chapter three of the code of West Virginia, and the acts of the legislature amendatory thereof.

The corporate authorities of said city shall perform the duties in relation to such elections required of county courts and officers by said chapter three of the code of West Virginia, and the acts of the legislature amendatory thereof, and which said chapter three of the code of West Virginia and acts amendatory thereof shall govern such elections and be applicable thereto; and the penalty therein prescribed for offenders relating to elections shall be re-enforced against such offenders at such corporate elections; and said act shall have the same force and effect as if it were specially applicable to such corporate elections.

Term of Office.

Sec. 18. The mayor, city collector and treasurer, and city clerk shall enter upon the duties of their respective offices on the first Monday of April, one thousand nine hundred and twenty-two, and on said day of every second year thereafter, as soon as they are qualified, and shall continue therein for a term of two years, or until their successors are elected or appointed and qualified.

CHAPTER 25

(Senate Bill No. 58—Accompanying the Governor's Message.)
(Emergency Measure.)

AN ACT creating the municipal corporation of "The City of Spencer", defining the boundaries thereof, and providing for the government of such city and defining its powers and liabilities.

[Passed January 20, 1921. In effect from passage. Approved by the Governor January 25, 1921.]

SEC.

1. The City of Spencer.
2. Boundaries.
3. To be governed in manner: assume powers, duties and liabilities, including election of officers; and be vested with powers contained in present charter of "Town of Spencer." Present officers of said town shall become and be officers until respective terms thereof would have expired as officers of said town.
4. Power to acquire real estate, interest and easements by condemnation proceedings.

SEC.

5. City to succeed to all rights and liabilities of "Town of Spencer" and "Town of Alvord"; charter of "Town of Alvord" being hereby repealed.
6. Charter not to interfere or abridge powers and liabilities of county to maintain roads thru streets; nor to maintain bridges as county bridges.
7. Provisions for a referendum vote upon petition of citizens; ballots; notice of election.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that part of Roane county 2 in the state of West Virginia, included in the boundary set out 3 in section two of this act, be, and they are hereby made a municipi- 4 pal corporation by the name of "The City of Spencer", by which 5 name they shall have perpetual succession and a common seal, 6 and by which name they may sue and be sued, plead and be im- 7 pleaded, contract and be contracted with, and purchase, otherwise 8 acquire, and hold real estate and personal property needed in the 9 discharge of the functions of government conferred by this act.

Sec. 2. The corporate boundaries of the city shall be as fol- 2 lows, that is to say: Beginning at a sycamore on south bank of 3 Tanners Run; thence south $7\frac{1}{2}$ degrees west 594 feet; south 16 4 degrees west 140.25 feet; north 80 degrees west 52.8 feet; south 5 17 west 234.3 feet; south 10 west 119.6 feet; south 20 west 660 6 feet to iron pin and stone markers on south bank of Joes Run; 7 thence southeast direction with said run 491.7 feet; south 42 de- 8 grees west 650 feet to a three-pronged elm; thence south 33 de- 9 grees west 636 feet to slippery elm on south bank of Bens Run; 10 thence south 70 degrees east 435 feet to Holswade addition; 11 thence south 46 degrees east 633 feet to corner to Byron Hol- 12 swade lot; thence south 40 degrees west 183 feet to another corner 13 of said lot; thence south 22 degrees east 587 feet to northeast

14 corner of concrete bridge across Spring Creek; thence with said
15 creek north $81\frac{1}{2}$ degrees 700 feet to line of state hospital prop-
16 erty; thence with the same, north 37 degrees east 264 feet; north
17 $8\frac{1}{2}$ east 247.5 feet; north $11\frac{1}{2}$ west 462 feet; north 23 west 132
18 feet; north 40 west 495 feet; north 29 east 462 feet to Spring
19 Creek; north 37 east 825 feet; north 43 east 607.5 feet; north
20 $47\frac{1}{2}$ east 214.5 feet; north 65 east 561 feet to a point 110 feet
21 below elm toward bridge; north 37 west 210 feet to a stake at
22 east corner of F. Mace's house; thence north 43 east 40 feet; south
23 37 east 377 feet; north 22 east 378 feet; north 22 west 728 feet;
24 south 89 east 1677.5 feet; north $33\frac{1}{2}$ west 907.5 feet; north 55
25 east 44 feet; north 23 west 189.75 feet; north 35 west 366.3 feet;
26 south 51 west 69.3 feet; north 37 west 660 feet; north 55 west 99
27 feet; south 30 west 49.5 feet; north 60 west 231 feet; north 43
28 west 891 feet, crossing Spring Creek, county road and railroad;
29 south 46 west 348 feet; south 43 west 343 feet; north 57 west
30 335 feet; south 64 west 619 feet to corner of the Jesse Tanner
31 survey; thence north $7\frac{1}{2}$ west 170 feet; north 59 west 124 feet;
32 south 42 west 387 feet to concrete road; north 65 west 1577 feet
33 to white oak, corner of Goff, Fisher and A. Gallatin survey;
34 thence south 12 east 700 feet to falls in Tanners Run, south bank;
35 thence meandering said run and with the south bank thereof,
36 about 1700 feet, to the place of beginning.

Sec. 3. Said city shall be governed in the same manner; by
2 the same laws, have the same powers, and perform the same du-
3 ties and functions as "The Town of Spencer" immediately before
4 this act shall take effect was governed by, had, could do, or might
5 perform; and the powers, duties and liabilities, including the
6 election of officers and the selection, appointment and qualifica-
7 tion thereof, of and for said city, shall in all respects be the same
8 as those exercised by "The Town of Spencer" and which it is
9 liable for under the charter and laws defining all such duties,
10 powers and liabilities thereof, immediately before this act shall
11 take effect. And said city is also vested with all of the powers
12 contained in the charter for "The Town of Spencer" and amend-
13 ments thereto, and with those contained in chapter forty-seven of
14 the code of West Virginia and the general laws of said state relat-
15 ing to the powers, duties and liabilities of municipal corporations,
16 in so far as the same are not in conflict with said charter and
17 amendments thereto; and said city shall be governed by said char-

18 ter and laws and derive its powers therefrom, and from the or-
19 dinances and by-laws of said town now in force which are not in
20 conflict with or repugnant to said charter and the laws of said
21 state relating to municipal corporations. And said city may, at
22 any time, by resolution duly adopted by its council, change any
23 and all of its ordinances and by-laws, or repeal the same, and
24 adopt any others and be governed by and enforce the same, pro-
25 vided the same are not in conflict with or repugnant to said char-
26 ter and amendments thereto, or of the laws of said state.

27 And the duties, powers and liabilities of the officers of said
28 city, and the election and tenures of office of said officers, shall
29 be the same as the officers of "The Town of Spencer" which are
30 in office immediately before the passage of this act, and all offi-
31 cers of said town at the time this act shall go into effect shall
32 thereupon become and be the officers of said city and continue in
33 office and perform the same duties and have the same powers as
34 such until their respective terms thereof would have expired as
35 the officers of said town.

Sec. 4. Said city shall have the power to acquire real estate,
2 interests and easements therein and ways over the same, by pur-
3 chase, gift and condemnation, for the use of the city for roads,
4 streets, alleys, ways, and public buildings and grounds therein;
5 and in like manner may acquire real estate, interests and ease-
6 ments therein and ways over the same for sewers and drains in
7 said city, and the discharge from such sewers and drains and for
8 the disposal of sewerage, both within and outside of said city and
9 within one mile thereof. But the manner of procedure in the
10 condemnation of any such property, interests or easements there-
11 in, or ways over the same, shall conform as nearly as practicable
12 to the provisions of law of said state in respect to the condemna-
13 tion of such property and interests therein. And said city may,
14 in the construction of any such sewers or drains, and the dispo-
15 sition of the discharge therefrom, and in the acquisition of prop-
16 erty for the construction thereof, in any of the ways herein pro-
17 vided, join with another or others in all or any of such matters,
18 if in the opinion of the majority of the council of the city it be
19 advantageous for the city to so join, whether the means provided
20 for the acquisition of such property and the construction of such
21 drains or sewers, or both, and the disposal of the discharge there-

22 from, be obtained by direct levy upon the property and inhabitants
23 of said city, or by both means.

Sec. 5. Said city shall succeed to all the rights and liabilities
2 of "The Town of Spencer" and "The Town of Alvord". And
3 the charter of "The Town of Alvord" is hereby repealed and re-
4 voked. Said city shall become and be liable for all debts and ob-
5 ligations of said two towns the same, and in the same manner,
6 whether such debts and obligations be bonded indebtedness or not,
7 as if the same has been incurred by said city in its corporate name.
8 And all property, funds and effects of each of said towns shall
9 become and be the property, funds and effects of said city, from
10 the time this act becomes effective.

Sec. 6. No provision herein contained shall interfere with or
2 abridge or limit the powers and liabilities of said county, or other
3 governmental agency as is or may be provided by law, to con-
4 struct and maintain over the streets in said city heretofore desig-
5 nated as class A roads, such roads; nor with the right of said
6 county to maintain the bridges in the city as county bridges, or
7 to construct new ones therein; nor shall this charter alter, change,
8 or in any way relieve said county in the maintenance and erection
9 of any such bridges, or its liability in respect thereto.

Sec. 7. This act shall take effect from its passage, unless with-
2 in ten days from the passage thereof, a petition signed by at least
3 one hundred free-holders residing within the corporate limits of
4 said city as fixed by section two hereof, be filed before the council
5 of "The Town of Spencer" requesting such council to call an
6 election for the purpose of permitting the duly qualified voters
7 in said city to vote upon the question of whether or not this act
8 shall be rejected or remain in force. And if such petition be filed
9 within said period of time, said council shall thereupon call an
10 election to be held at such place and time as it may designate, and
11 by such election officers as it may name, and with or without
12 registration of the voters as it may determine; and shall provide
13 ballots, poll-books and tally sheets for the holding of such elec-
14 tion. Said ballots shall be in effect as follows: "Spencer Charter
15 Ballot. For ratification. For rejection." With a square before
16 each of the two propositions to be voted on, wherein the voter
17 may make a cross indicating for which he has voted. And unless
18 a majority of all the votes cast at said election be for the rejection
19 of said act as indicated by the placing of a cross before the propo-

20 sition. "For Rejection", said act shall be and continue in full
 21 force and effect according to the terms thereof as herein provided.
 22 A notice of such election with the form of ballot to be voted,
 23 together with such other information as the council may deem
 24 proper to include therein, shall be published for at least one week
 25 prior to said election in each of the two newspapers published in
 26 said city, if such newspapers will publish such notice for the
 27 usual fees for the publication of similar notices.

CHAPTER 26

(House Bill No. 539—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact section fifty-one and section fifty-two of the acts of the legislature, regular session one thousand nine hundred and nineteen, entitled "An act to incorporate the town of South Charleston, in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said town and the officers of same."

[Passed April 29, 1921. In effect from passage. Approved by the Governor, May 4, 1921.]

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|--|---|
| <p>SEC.
51-a. Said town authorized to issue bonds for public improvements etc., "existing indebtedness;" additional bonds.</p> <p>(b) Council: duty to certify such assessments to treasurer for collection, etc</p> <p>(c) Amounts so assessed, how paid, Interest on: lien on property.</p> <p>(d) Procedure on refusal to pay same.</p> | <p>SEC.
(c) Release of liens; town to pay for all permanent improvements.</p> <p>(f) Council. to acquire or take land for street purposes, etc.; certificates; when payable; contracts.</p> <p>52. Payments by land owners for street improvements.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia :

That section fifty-one, and section fifty-two, of chapter one, of the acts of the legislature at its regular session, one thousand nine hundred and nineteen, be amended and re-enacted as follows:

Section 51. (a) Said town of South Charleston is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said town, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said

9 improvements for which such special assessments are to be lev-
10 ied; and the said town is authorized to sell said bonds, but not
11 below the par value thereof, and said bonds shall bear interest
12 not to exceed six per cent per annum, payable annually; and in
13 the issuance and sale of said bonds the said town shall be gov-
14 erned by the restriction and limitations of the constitution of and
15 the laws of this state, relating to the issuance and sales of bonds,
16 so far as such state laws are not in conflict with the provisions of
17 this act; and the assessments as provided for and required to be
18 paid herein shall be applied to the liquidation of said bonds and
19 interest thereon, and if, by reason of the penalties collected with
20 the delinquent assessments, there be any balance after the pay-
21 ment of the bonds and all accrued interest and costs, it shall be
22 turned into the town treasury to the credit of the interest and
23 sinking fund of the town.

24 But said town shall not become indebted in any manner or for
25 any purpose to an amount including existing indebtedness, in the
26 aggregate exceeding two and one-half per centum on the value of
27 all taxable property therein, as provided in chapter fifty-one of
28 the acts of the legislature of one thousand nine hundred and five,
29 except for the purpose of grading, curbing, paving, macadamiz-
30 ing or otherwise permanently improving the avenues, streets,
31 roads, and alleys therein, or constructing sewers therein or else-
32 where, or acquiring or taking land or easement therein for street
33 and sewer purposes, as provided for in this act, and for that pur-
34 pose in estimating "existing indebtedness," special assessment
35 bonds representing the cost of paving or other permanent im-
36 provements of streets, roads or alleys, or the construction of sew-
37 ers, or acquiring or taking land for such purposes, and the cost of
38 which is assessed against the abutting property on such avenues,
39 streets, roads or alleys, or specially benefitted property adjacent
40 thereto, or in such owner, shall not be included; and likewise the
41 amount in any sinking fund, or the amount invested therefor as
42 provided by law, for the payment of outstanding bonds, shall not
43 be included in the estimate of existing indebtedness; *provided,*
44 that the aggregate of its debt of every kind whatsoever, including
45 such special street permanent improvement bonds, or sewer
46 bonds, shall not exceed five per centum of the value of all taxable
47 property therein.

48 (b) And it shall be the duty of the council to immediately
49 certify such assessments to the treasurer for collection, as herein
50 provided; and for the purpose of facilitating the collection of
51 such assessments against the properties herein, the coun-
52 cil may issue assessment certificate, with interest coupons
53 attached thereto, to be delivered to and charged against
54 the town treasurer who shall collect the same, and as
55 such certificate and coupons are paid he shall deliver
56 the cancelled certificates to the party paying the same.
57 A copy of said order shall be certified by the town
58 recorder to the clerk of the county court of Kanawha
59 county, who is hereby required to index the same in
60 the proper trust deed book in the name of each person against
61 whose property assessments appear therein.

62 (c) The amounts so assessed against said abutting
63 lots and owners thereof, respectively, shall be paid in
64 ten payments, as follows, that is to say, one-tenth of
65 said amount, together with interest on the whole assess-
66 ment for one year, shall be paid into the town treas-
67 ury of the town before the first day of the follow-
68 ing May; and a like one-tenth part, together with interest for one
69 year upon the whole amount remaining unpaid before the first
70 day of May in each succeeding year thereafter, until all shall
71 have been paid. Each of said installments of one-tenth shall
72 bear interest of six per centum per annum payable annually from
73 the date of assessment, *provided, however*, that the owner of any
74 land, so assessed for the cost of paving of said avenue, street,
75 road or alley, shall have the right at any time to anticipate and
76 pay the whole of such unpaid assessment and interest thereon
77 until the first day of the following May, and have the lien against
78 the property so assessed released as hereinafter provided.

79 (d) If any such assessment shall not be paid when due, the
80 council shall cause to be enforced the payment of said assessment
81 and interest in all respects as herein provided for the collection
82 of taxes due the town; and said assessments shall be a lien upon
83 the property liable therefor the same as for taxes, which lien
84 may be enforced in the same manner as provided for the sale of
85 property for the payment of taxes and tax liens; and the liens
86 herein provided for shall have priority over all other liens ex-

87 cept those for taxes due the state and the county, and shall be
88 on a parity with taxes and assessments for the town.

89 (e) When all of said assessments for grading, paving and
90 curbing, or macadamizing, or other permanent improvements
91 shall be paid in full to the treasurer, he shall deliver to the owner
92 of said property a release of the lien therefor, which may be re-
93 corded in the office of the clerk of the county court as other re-
94 leases of liens are recorded.

95 Under this plan for the payment of the cost of such permanent
96 improvements of avenues, streets, roads and alleys, and the con-
97 struction of sewers, the contractor (if the work is let by contract)
98 shall look only to the town for the payment of the work, and in
99 no sense to the abutting land owners.

100 (f) The council may contract for such paving (including
101 grading and curbing), or alter said improvements to be as,
102 aforesaid, and may acquire or take land for street purposes
103 as aforesaid, and may, if council so elects, stipulate
104 that the costs thereof, in whole or in part, shall be
105 paid in installments by the abutting property owners,
106 as provided in (a) of section fifty so specially benefit-
107 ed property owners, as provided in (g)g of said section in five
107-a equal installments, to be evidenced by paving certificates
108 issued therefor, payable in thirty days and in two,
109 three and four years, respectively, after the date of
110 their issue, and shall bear interest not to exceed six
111 per centum per annum, payable annually, or if the coun-
112 cil deems best, in ten equal installments, to be evi-
113 denced by paving certificates issued therefor, payable in
114 thirty days, and one, two, three, four, five, six, seven,
115 eight and nine years, respectively, after the date of their issue,
116 and shall bear interest not to exceed six per centum per annum,
117 payable annually, which certificates to be signed by the mayor
118 and recorder, or other person or persons designated of record by
119 the council, may be sold, either to the contractor doing the pav-
120 ing or other of said improvements, or to any other person, and
121 which shall cover the entire cost of such work, or the cost of ac-
122 quiring or taking land for street purposes, including the cost
123 of surveys, notices and other things pertaining thereto; *provided*,
124 the town in negotiating and selling such certificates, shall not be
125 held as guarantor or in any way liable for payment
126 thereof. And the certificates covering the amount of

127 the assessment shall be paid by the owner of the land,
128 lot or fractional part thereof, so assessed for the cost of
129 said improvement on such street, road or alley so paved
130 or improved, of land acquired or taken, as aforesaid.
131 The amount specified in said assessment certificate shall
132 be a lien as aforesaid in the hands of the holder there-
133 of upon the lands, lot or part of lot assessed, and
134 shall also be a debt against the owner of such real estate, and
135 said amount shall draw interest from the date of said certificates,
136 payable annually, and the payment of the debt may be enforced as
137 provided by law for the collection of other debts, or such lien may
138 be enforced as provided in this act in the name of the holder of
139 such certificates.

140 After a contract has been made by the council to pave or other-
141 wise permanently improve any public road, avenue, street or alley
142 in said town under this act, and the paving or other permanent
143 improvements, or any stipulated part thereon, has been completed,
144 or the cost of acquiring or taking land, as aforesaid, has been as-
145 certained, the council shall assess the amount each lot shall bear
146 and shall make a written report, stating the number of lots and
147 the blocks or tracts of land when not laid off into lots and the
148 names of the owners of such lots or land when known, and the
149 amount assessed thereon; and when the said council approves said
150 report, or modifies it and then approves it, a copy of said report,
151 so adopted by the council, when certified to by the town recorder
152 of said town, may be recorded in the clerk's office of the county
153 court of Kanawha county in a trust deed book, and shall be a con-
154 tinuing tax lien upon the lot or land against which the assessment
155 is made until the certificates as aforesaid are paid, except other-
156 wise provided in section sixty-one of this act, and the recorder
157 shall index the same in the name of each lot or land owner men-
158 tioned therein."

Sec. 52. Payment is to be made by all land owners on either
2 side of such portion of any avenue, street, road or alley so paved
3 or improved in such portion of the total cost (less the portion, if
4 any, chargeable to the street or other railway company) as the
5 frontage in feet of his abutting land bears to the total frontage
6 of all the land so abutting on said avenue, street, road or alley or
7 portion thereof paved or improved as aforesaid; but the cost of

8 such paving or improvement on said avenue, street, road or alley
 9 shall not include any portion or amount paid for the paving or
 10 improvements of intersections of avenues, streets or alleys, unless
 11 upon petition in writing of not less than one-half in lineal feet of
 12 property, abutting upon said avenue, street, road or alley so im-
 13 proved.

14 When the paving or improvement of any such avenue, street,
 15 road or alley, or portion thereof, shall have been completed, under
 16 the contract awarded therefor, the council shall cause the several
 17 frontages abutting thereon to be measured, and cause the assess-
 18 ment upon each owner of land abutting thereon to be calculated,
 19 showing the proper amount to be determined as provided in the
 20 foregoing plan; and the said council shall enter the same, to-
 21 gether with the description of the lots of land as to location, front-
 22 age and ownership, upon its record, and direct on its records that
 23 such owners and lots be assessed and chargeable with the amounts
 24 so ascertained to be borne by them, respectively, and when so ap-
 25 proved and entered of record the same shall be and constitute an
 26 assessment against said owners and lots for such respective
 27 amounts.

CHAPTER 27

(House Bill No. 504—Mr. McClintic, of Kanawha.)

AN ACT to amend and re-enact sections thirty-three and thirty-six of chapter one hundred and eighteen of the acts of one thousand nine hundred and seventeen, relating to the powers and duties of the common council of the city of St. Albans relative to special assessments for side walks and paving for and within said city of St. Albans.

[Passed April 19, 1921. In effect from passage. Approved by the Governor April 30, 1921.]

<p>SEC. 33. Petitions for sidewalks, etc. 36. Council to contract for same; acquire or take land for, to be paid by abutting property owners; how, when; certificates; liens;</p>	<p>city may assume payments for certain assessments or certificates; contracts by council for permanent improvements of public roads, etc.; record in clerks office.</p>
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Be it enacted by the Legislature of West Virginia:

That sections thirty-three and thirty-six of the charter of the city of St. Albans be amended and re-enacted to read as follows:

Section 33. Upon the petition in writing of the owners of not
2 less than one-half in lineal feet of the property abutting upon any
3 any avenue, street, road or alley or part thereof, asking the city
4 grade and put down a sidewalk of brick, stone, concrete or other
5 suitable material and offering in said petition to have their prop-
6 erty so abutting as aforesaid assessed proportionately to pay for
7 the entire cost of said sidewalk, including the grading, super-
8 vision and inspection as petitioned for, the council may order such
9 work done as heretofore provided in section thirty-two and the
10 total cost thereof be charged to and paid by the owners of the
11 abutting property as hereinbefore provided.

Sec. 36. Upon the petition in writing of the owners of not
2 less than one-half in lineal feet of the property abutting upon
3 any avenue, street, road or alley or part thereof, asking the city
4 to grade, curb and pave, with suitable material, said avenue,
5 street, road or alley or to construct a sewer in said avenue, street,
6 road or alley and offering in said petition to have the property so
7 abutting as aforesaid assessed to pay for the entire cost of said
8 improvements including the grading, the cost of intersections,
9 engineering, supervision and inspection as petitioned for, the
10 council may order such work done as heretofore provided in section
11 thirty-four, and the total cost thereof be charged to and paid by
12 the owners of the abutting property. The council may contract
13 for such paving or sewer construction or other said improvements,
14 to be done as aforesaid, and may acquire or take land for street
15 purposes, as aforesaid; and may if the council so elect, stipulate
16 that the costs thereof, in whole or in part, shall be paid by the
17 abutting property owners, in five equal installments to be evi-
18 denced by five paving certificates issued therefor, payable in
19 thirty days, and one, two, three and four years, respectively,
20 after the date of their issue, with the provision that if default be
21 made in payment of any of said certificates when they become
22 due and payable then the whole amount of said assessment shall
23 become due and payable and the holder of the same may proceed
24 to collect, and said certificates shall bear interest not to exceed
25 six per centum per annum, payable annually, which certificates,
26 to be signed by the mayor and the clerk, or other person or per-
27 sons designated of record by the council, may be sold, either to the
28 contractor doing the paving or other said improvements, or to
29 any other person, and which shall cover the entire cost of such

30 work, or the cost of acquiring or taking land for street purposes,
31 including the cost of surveys, notices and other things pertain-
32 ing thereto; *provided*, the city, in negotiating and selling such
33 certificates, shall not be held as guarantor or in any way liable for
34 payment thereof, except upon the direct action of the council
35 as expressed by resolution of record before such sale. And the
36 certificates covering the amount of the assessment shall be paid
37 by the owner of the land, lot or fractional part thereof, so assessed
38 for the cost of said improvements on such avenue, street, road
39 or alley, or part thereof, so paved or improved, or land acquired
40 or taken, as aforesaid. The amount specified in said assess-
41 ment certificate shall be a lien as aforesaid in the hands of the
42 holder thereof upon the lands, lot or part of lot so assessed, and
43 shall also be a debt against the owner of such real estate, and
44 said amount shall draw interest from the date of said certificates,
45 payable annually; and the payment of the debt may be enforced
46 as provided by law for the collection of other debts, or such lien
47 may be enforced as provided in this act in the name of the holder
48 of such certificates.

49 It is further provided that the city may assume the payment
50 of such assessments or certificates covering the cost of intersection
51 and grading or any part thereof as provided in section thirty-
52 four of this act, or may reimburse the property owners, paying
53 the same out of its general levy for streets, or any surplus that
54 remain from any bond issue for street improvements, but there
55 shall be no legal obligation on the city to do so.

56 After a contract has been made by the council to pave or other-
57 wise permanently improve any public road, avenue, street or
58 alley in said city, under this act, and the paving or other
59 permanent improvements, or any stipulated part thereof, has been
60 completed, or the cost of acquiring or taking land as aforesaid has
61 been ascertained, the council shall assess the amount each lot
62 shall bear, and shall make a written report, stating the number
63 of lots and the blocks or tracts of land when not laid off into lots,
64 and the names of the owners of such lots or land when known,
65 and the amount assessed thereon; and when the said council
66 approves said report, or modifies it and then approves it, a copy
67 of said report, so adopted by the council, when certified to by
68 the city clerk of said city, may be recorded in the clerk's office
69 of the county court of Kanawha county in a trust deed book, and

70 shall be a continuing tax lien upon the lot or land against which
 71 the assessment is made until the certificates as aforesaid are paid,
 72 except as otherwise provided in section thirty-seven of this act,
 73 and the clerk shall index the same in the name of each lot or land
 74 owner mentioned therein.

CHAPTER 28

(House Bill No. 253—Mr. White.)

AN ACT to amend and re-enact the several acts incorporating the town of St. Marys, which was done by an order of the circuit court of Pleasants county, West Virginia, on the twenty-third day of April, one thousand eight hundred and eighty; and by an act of the legislature of West Virginia passed February fifteen, one thousand nine hundred and one, incorporating and creating the city of St. Marys, in Pleasants county, and approved by the governor February eighteen, one thousand nine hundred and one, and being known and denominated chapter one hundred and forty-seven of the acts of the regular session, of one thousand nine hundred and one. And also an act denominated chapter nine, of the acts of the legislature of West Virginia, regular session, of one thousand nine hundred and seven, entitled: "An act to amend and re-enact chapter one hundred and forty-seven of the acts of one thousand nine hundred and one, incorporating the city of St. Marys, in relation to section nine and twenty-nine of said act, which act was passed February nineteen, one thousand nine hundred and seven, and became a law ninety days from its passage; to take in additional territory and add certain amendments to said charter;" and providing for a charter election to be held submitting to the voters of the territory within the present city of St. Marys and to those living within the additional territory, to vote thereon at an election to be held for that purpose, to be fixed and held under the supervision of the present municipal government of the city of St. Marys.

[Passed April 13, 1921. In effect from passage. Approved by the Governor April 18, 1921.]

Sec.

1. The city of St. Marys.
2. Boundaries.
3. Wards.
4. Officers.
5. Powers of corporations.

Sec.

6. Appointive officers.
7. Same; duties, salaries.
8. Elections, when held.
9. Elective officers, how nominated.
10. Voters.

- SEC.
11. Tie vote.
 12. Contest of elections.
 13. Officials, to give bonds.
 14. Ineligibility of person elected.
 15. Mayor, duties.
 16. Quorum.
 17. Recorder to keep minute book, ordinance book, record of bonds; certified copies of same to be prima facie.
 18. Minutes, how corrected.
 19. Mayor to vote in case of tie.
 20. Mayor, protempore.
 21. Council: meetings.
 22. Council: powers and duties.
 - (a) Same: additional powers.
 - (b) Same: exception as to refining, manufacturing or petroleum, etc.
 23. Same; further powers.
 24. The "docket;" record signed by mayor; mayor to act as police judge.
 25. Council; to make annual levy; to

- SEC.
- publish statement of revenues; dog tax.
 26. Council to make copy of assessors book.
 27. Annual levy; limits.
 28. Additional levies.
 29. Unlawful expenditures, etc.
 30. Lien on property for taxes.
 31. Council; to appoint trustees of sinking fund; bond; yearly statement.
 32. Bonds, etc., payable city.
 33. Condemnation, proceedings.
 34. Inconsistent acts repealed; exceptions.
 35. Former indebtedness, etc., not affected by charter.
 36. Referendum election; form of ballots.
 37. Inconsistent acts repealed.
 38. Elective officers to hold office until successors elected and qualified.
 39. Power to change and extend corporate limits.

Be it enacted by the Legislature of West Virginia:

That in order to amend, revise and consolidate into one act, an order of the circuit court of Pleasants county, West Virginia, made and entered therein on the twenty-third day of April, one thousand eight hundred and eighty, incorporating the town of St. Marys in Pleasants county in said state; an act of the legislature of West Virginia, denominated and known as chapter one hundred and forty-seven of the acts of said West Virginia legislature of one thousand nine hundred and one, passed February fifteen, one thousand nine hundred and one, incorporating the city of St. Marys, in said Pleasants county, and also an amendment to said charter of said city of St. Marys, being chapter nine of the acts of the West Virginia legislature of one thousand nine hundred and seven, passed February nineteen, one thousand nine hundred and seven, amending sections nine and twenty-nine of said chapter one hundred and forty-seven, aforesaid, and to embody in this act and chapter all of said acts heretofore enacted and passed, that of the circuit court of Pleasants county and the acts of the West Virginia legislature; to take in additional territory and add certain amendments to said charter and to submit to the voters of said city in the territory within the present city limits and that to be included in this act, at a charter election to be fixed and held by the present municipal government now in power, and if adopted by a majority of all the legal votes cast at such election, this act from and after the date of said election shall be and remain the charter of "The City of St. Marys."

Section 1. That the inhabitants of so much of the county of 2 Pleasants as is within the bounds described by section two of this 3 act, and their successors, shall be and remain, and they are hereby 4 made a body politic and corporate by the name of "The City of 5 St. Marys," and as such shall have perpetual succession and a 6 common seal and by that name may sue and be sued, plead and be 7 impleaded, lease and hold real estate, and personal property nec- 8 essary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as 2 follows:

3 Beginning at the edge of the Ohio river, said starting point 4 being down the river 1190 feet from North corner of Cain house; 5 thence by surveys as the magnetic needle now points, S. $34\frac{3}{4}$ E. 6 1352 feet to center of run above stone quarry; thence N. 73 E. 7 2770 feet; thence N. $17\frac{1}{2}$ E. 300 feet above turn in pike; thence 7-a N. 38 E. 433 feet near water trough; thence N. $31\frac{1}{4}$ 8 E. 1600 feet; thence N. $21\frac{3}{4}$ E. 3182 feet to M. I. Creek; 9 thence down the creek with the meanders thereof, N. 51 W. 452 10 feet; N. $57\frac{1}{2}$ W. 258 feet; N. 78 W. 177 feet; S. 88 W. 570 feet 11 corner of county bridge; thence N. 85 W. 557 feet across B. & O. 12 right of way; thence parallel with the same S. 25 W. 992 feet; S. 13 $36\frac{1}{4}$ W. 1360 feet to old corporation line; thence N. $60\frac{1}{2}$ W. 222 14 feet; S. $31\frac{1}{2}$ W. 1553 feet; N. $84\frac{1}{2}$ W. 147 feet to River edge; 15 thence with meanders of same, S. $19\frac{1}{2}$ W 315 feet; S. 29 W. 975 16 feet; S. $42\frac{1}{2}$ W. 995 feet; S. 45 W. 227 feet; S. 47 W. 211 feet; S. 17 50 W. 307 feet, to place of beginning.

Sec. 3. The territory of said city is hereby divided into three 2 wards, each of which is bounded and described as follows:

3 *First ward:* All that part of the territory above described ly- 4 ing south of a line running from the thoroughfare with the center 5 of Washington street to the east line of said corporation line near 6 what is known as the Horseshoe bend, shall constitute the first 7 ward.

8 *Second ward:* All that part of said territory above described, 9 included between the center of Washington street and Cherry 10 street of said city and extending from the thoroughfare and cor- 11 poration line on the west to the east line of said corporation shall 12 be and constitute the second ward.

13 *Third ward:* All of the remainder of said territory lying north 14 and east of the said Cherry street and up to Middle Island creek,

15 beginning with the line of said corporation at a point of intersec-
16 tion of said second ward, with the eastern and northern boundary
17 thereof, and binding thereon with the line of said corporation
18 back to its intersection at the end of said second ward, shall be
19 and constitute the third ward of said city.

20 Said three wards so formed as aforesaid, to be and remain as
21 constituted and laid down until changed by the municipal author-
22 ities of said city as provided by law.

Sec. 4. The municipal authorities of said city shall consist of
2 a mayor and two councilmen from each ward, six councilmen in
3 all, until additional wards be added to said city, who, together shall
4 form the common council. The mayor to be elected bi-annually
5 and hold for the term of two years; and all councilmen, after the
6 first election, shall be elected for the term of four years. At the
7 first election one councilman shall be elected for two years and
8 one for four years, to be so designated on the ballot, they to hold
9 their office for and during the term for which they are elected and
10 until their successors are elected and qualified. The mayor must
11 be a *bona fide* free holder of said city, and the councilmen must be
12 *bona fide* residents and free holders, or if not free holders, pos-
13 sessed of at least five hundred dollars worth of personal property
14 at the time of their election. The mayor and councilmen to re-
15 ceive such compensation for their services as the council shall from
16 time to time fix and determine; but, after the first election the
17 council in being shall fix the salary and compensation for the in-
18 coming officers. And it is further provided that the mayor and
19 councilmen of said city shall not be interested directly or indi-
20 rectly in any contract for the furnishing of the city with supplies
21 or other property, or become party or privies to any contract, di-
22 rectly or indirectly whereby they can or may receive anything in
23 money from said city, other than the salary fixed and allowed for
24 by this charter. And the mayor and councilmen, or any one of
25 them may be removed from office for malfeasance in office or for
26 neglect or failure to discharge the duties imposed upon them by
27 law, upon written charges preferred against them in the same
28 manner and according to the same rule governing the removal of
29 county and district officers. And the councilmen in being at the
30 time of such removal or resignation of the mayor or any council-
31 man shall fill the same by appointment until the next general
32 election.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by said council or under their authority, except when
3 otherwise herein provided.

Sec. 6. The appointed officers of this municipality shall con-
2 sist of a recorder, chief of police and his assistants, city collector,
3 health officer, city attorney and city manager, all of whom are
4 to be appointed by the council and hold their office during the
5 pleasure of the council, subject to removal for cause.

Sec. 7. The city recorder shall be required to keep a record of
2 all proceedings, including the minutes of all meetings of the coun-
3 cil, which should be kept, in a well bound book and properly in-
4 dexed, and shall also issue all orders for moneys on the treasury,
5 which orders must be countersigned by the mayor and city re-
6 corder; and such city recorder may be required to keep any other
7 records or do such clerical work as pertains to the municipal gov-
8 ernment of said city, or that is required to be done under the direc-
9 tion and supervision of the city manager, and shall receive such
10 monthly compensation by way of salary as shall be fixed by the
11 council, payable monthly. The city collector, shall, before enter-
12 ing upon the duties of his office, give such bond as the council may
13 require, payable to the city of St. Marys for the faithful receiving
14 and accounting for of all moneys that may come into his or her
15 hands, and shall collect all moneys for taxes, license, water
16 rent, or other levies and all taxes on dogs, and shall not pay out
17 any moneys, except on orders ordered by the council and counter-
18 signed by the recorder and mayor; and shall render quarterly
19 statements to the council or finance committee of the status and
20 amount of moneys on hand, including all collections and dis-
21 bursements for each three months during his or her incumbency
22 in office; and he or she shall, at the end of their term of office ac-
23 count for and pay over all moneys remaining in his or her hands
24 and turn over all uncollected taxes, license, and bills of any kind
25 whatsoever, to his or her successor in office; and a failure so to do
26 shall not only held him or her liable under their bond, but a willful
27 neglect so to do shall be deemed a felony for which he or she may
28 be prosecuted therefor.

29 The city health officer shall perform such duties as the council by
30 ordinance may prescribe, in conjunction with the rules and regula-
31 tions governing the health department of said city and as are pre-
32 scribed by the state board of health, and he may be removed from
33 office at any time for willful neglect of duty.

34 The city attorney shall do all the legal work required to be done
35 by the council, pertaining to the affairs of said municipality, and
35-a shall advise the council at the regular or special meetings of the
35-b same and prosecute and defend all suits brought by the city or in-
35-c stituted against it; and shall advise the mayor and other officers
36 in this municipality, when so requested, and shall do and perform
36-a all other duties as may be required by the municipal government.

36-b The said council may appoint a chief of police and such assist-
37 ants as are necessary, and the mayor may in any emergency and
37-a at the time the council is not in session, appoint special police on
37-b extraordinary occasions, if deemed necessary, and said chief of po-
38 lice and police officers are subject to control absolutely of the
38-a mayor, except when the council is in session.

38-b All the foregoing officers, namely, city collector, city health offi-
39 cer, city attorney, chief of police, and police officers, shall receive
40 such pay and compensation, either monthly or otherwise, or to the
41 city collector a commission on receipts, as the council in regular
42 session may fix and determine; they to be paid monthly therefor;
43 subject to removal as aforesaid for cause, by the council.

44 The council shall, at the beginning of their term, appoint some
45 person qualified and efficient for that purpose, as city manager,
46 who shall hold his office at the pleasure of the council and have
47 full charge and authority over all the municipal affairs of said
48 city; except that pertaining to city recorder, city collector, health
49 officer, city attorney and police officers, and shall have general su-
50 pervision over the control, direction and management of the streets,
51 and alleys of said city and control the water works; and shall em-
52 ploy and install such person or persons as are competent and effi-
53 cient to do and perform the work required to be done for the bet-
54 terment of the city; supervise and control the laying of all pave-
55 ments, side walks and water lines; manage and control all connec-
56 tions for water to be made by persons, corporations or individuals
57 so requiring water; to see that the water service is properly looked
58 after and maintained, and to keep and to cause to have kept a rec-
59 ord in a book for that purpose, the names of all water con-
60 sumers to whom the city furnishes water or sells the same, ren-
61 dering to the city collector monthly accounts of all water so sold
62 to consumers within the city or elsewhere, subject to ordinances to
63 be enacted by the council. And shall see that the streets and
64 alleys of said city are kept clean and in a sanitary condition, and

65 to see that the owners of real estate do not encroach upon the city,
66 nor permit anything obnoxious, unsanitary or otherwise to be
67 kept within the corporate limits which is a menace to the health or
68 comfort of the citizens, subject, nevertheless to section 22-b; and
69 shall cause all property owners to keep and maintain their proper-
70 ty safe from fire; and in conjunction with the police of said city,
71 shall inspect all buildings at such times and under such conditions
72 as may be necessary as provided by this charter, or ordinances
73-75 passed in pursuance thereof. Said city manager to
76 do and perform such other duties as may be required of him or
77 prescribed by proper orders or ordinances adopted and entered of
78 record by the council, and shall receive such monthly compensa-
79 tion as may be fixed by the council and entered of record during
80 his term of office, payable monthly, and he may be removed for
81 cause.

Sec. 8. The first election shall be held hereunder on the second
2 Tuesday in June, one thousand nine hundred and twenty-one; be-
3 ginning on the said second Tuesday in June, one thousand nine
4 hundred and twenty-one, and thereafter every two years. At each
5 election there shall be elected a mayor for the term of two years,
6 and as hereinbefore provided, one councilman for two years in
7 each ward, and one councilman for four years in each ward; and
8 thereafter there shall only be one councilman elected in each ward,
9 biennially for two years. The terms of all officers so elected on
10 the second Tuesday in June, beginning with the second Tuesday of
11 June one thousand nine hundred and twenty-one, and thereafter
12 every two years, shall be on the first day of July following their
13 election, and they shall hold until their successors are elected and
14 qualified according to law.

Sec. 9. The elective officers under this charter shall be nom-
2 inated by a non-partisan mass convention to be held at least
3 twenty days before the regular election to be held for mayor and
4 councilmen, at which convention at least one and not more than
5 two persons shall be nominated for mayor; and after the first
6 election held under this charter, at least one and not more than
7 two persons shall be nominated for council, from each ward of
8 said city. And the municipal authorities of this city are hereby
9 relieved from holding any primary election for the nomination of
10 its elective officers, but the election to be held to be conducted
11 under the Australian ballot system, now in force in this state,
12 when this charter becomes effective.

Sec. 10. Every person residing in said city shall be entitled to
2 vote for all officers elected under this act; but no person who is a
3 minor, or of unsound mind, or a pauper, or who is under con-
4 viction of treason, felony or bribery in an election, or who has not
5 been a resident of this state for one year and of the city of St.
6 Marys for sixty days, and is not a *bona fide* resident of the ward
7 in which he or she offers to vote, shall be entitled to vote.

Sec. 11. Whenever two or more persons shall receive an equal
2 number of votes for councilman or other city officer, such tie shall
3 be decided by the council in being.

Sec. 12. All contested elections shall be heard and decided
2 by the common council for the time being; and the contest shall be
3 made and conducted in the same manner as provided for in con-
4 tests for county and district officers; and the common council shall
5 conduct their proceedings in such cases as nearly as practicable in
6 conformity with proceedings of the county court in such cases.

Sec. 13. The mayor and council and all other officers provided
2 for in this act, shall each, before entering upon the duties of their
3 office, and within one week from the date of their election or ap-
4 pointment give the bond required from any officer by this charter,
5 and take the oath prescribed by law for all officers of this state;
6 and make oath that they will truly, faithfully, and impartially, to
7 the best of their ability, discharge the duties of their respective
8 offices, so long as they continue therein. Said oath or affirmation
9 may be taken before any person authorized to administer oaths,
10 under the law now in force, or before the mayor or recorder of said
11 city.

Sec. 14. If any person elected to any office under the provis-
2 ions of this act, shall not be eligible to such office under the pro-
3 visions of this act, or shall fail to qualify as herein required, the
4 council for the time being shall declare his said office vacant and
5 shall proceed to fill the vacancy as required by this act.

Sec. 15. 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 executed.
4 He shall be *ex-officio* a justice and conservator of the peace within
5 the city, and shall within the same have, possess and exercise all
6 the powers and perform all the duties vested by law in a justice
7 of the peace; except, that he shall have no jurisdiction in civil
8 causes of action arising out of the corporate limits of the city.

9-13 Any warrant or other process issued by him may be
14 executed at any place in the county; he shall have con-
15 trol of the police of the city; and may suspend any
16 policeman for cause; and he may appoint special police
17 officers whenever he deems it necessary; and it shall be his duty
18 especially to see that the peace and good order of the city are
19 preserved, and that persons and property therein are protected;
20 and to this end he may cause the arrest and detention of all
21 riotous and disorderly persons in the city before issuing his war-
22 rant therefor. He shall have the power to issue executions for
23 all fines, penalties and costs imposed by him, or he may require
24 the immediate payment thereof, and in default of such payment he
25 may commit the party in default to the jail of the county of
26 Pleasants, or other place of imprisonment in such corporation, if
27 there be one, until the fine or penalty and costs shall be paid;
28 but the term of imprisonment in such case shall not exceed thirty
29 days. And in all cases where a person is sentenced to imprison-
30 ment, or to the payment of a fine of ten dollars or more, (and
31 in no case shall a judgment for a fine of less than ten dollars
32 be given by the mayor if the defendant, his agent or attorney ob-
33 ject thereto) such person shall be allowed an appeal from such
34 decision to the circuit court of said Pleasants county, and upon
35 the execution of an appeal bond with security deemed sufficient by
36 the mayor, in penalty double the amount of the fine and costs im-
37 posed by the mayor, with condition that the person proposing to
38 appeal will perform and satisfy any judgment which may be
39 rendered against him by the circuit court on such appeal. If
40 such appeal be taken, the warrant of arrest (if there be any)
41 the transcript of the judgment, the appeal bond, and other pa-
42 pers of the case, shall be forthwith delivered by the mayor to
43 the clerk of said court, and the court shall proceed to try the
44 case as upon indictment or presentment, and render such judg-
45 ment, including that of costs, as the law and the evidence may
46 require; *provided*, that no judgment for costs shall be rendered
47 in any such case against the city. The mayor shall from time
48 to time, recommend to the council such measures as he may
49 deem needful for the welfare of the city. The expense of main-
50 taining any person committed to the jail of the county by him,
51 except it be to answer an indictment or be under the provisions
52 of section two hundred and twenty-seven and two hundred and

53 twenty-eight of chapter fifty, of the amended code of this state,
54 shall be paid by the city. But the mayor shall not receive any
55 money belonging to the state or individuals unless he shall give
56 the bond and security required of a justice of the peace by
57 chapter fifty of the code; and all the provisions of said chapter
58 relating to money received by justices shall apply as to like
59 moneys received by the mayor. The mayor shall pay all moneys
60 received by him for fines, or by virtue of his office, belonging to
61 the city, to the city collector, within one week after he receives
62 the same.

Sec. 16. The presence of a majority of the council shall be
2 necessary to make a quorum for the transaction of business.

Sec. 17. 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 the "ordinance book", ac-
5 curate copies of all general ordinances adopted by the council;
6 both of which shall be fully indexed and open to the inspection of
7 any one required to pay taxes to the city, or who may be other-
8 wise interested. All oaths and bonds of officers in the city and
9 all papers of the council shall be endorsed, filed and securely
10 kept by the recorder. The bonds of officers shall be recorded in
11 a well bound book to be called the "record of bonds." The re-
12 corder shall perform all such other duties as may by ordinance
13 of the council be prescribed, and shall be *ex-officio* clerk of the
14 police court. All printed copies of such ordinances purporting
15 to be published under authority of the council, and transcript
16 of such ordinances, acts, orders and resolutions, certified by the
17 recorder, under the seal of the city, shall be deemed *prima facie*
18 correct, when sought to be used in any court or before any
19 justice.

Sec. 18. At each meeting of the council the proceedings of the
2 last meeting shall be read and corrected, if erroneous, and signed
3 by the presiding officer for the time being.

Sec. 19. The mayor shall have no vote on any questions, ex-
2 cept on a tie in council.

Sec. 20. The council shall, at the beginning of their term,
2 elect one of their members mayor *pro tempore* who shall be quali-
3 fied to act as mayor in his absence; or in case of the death,
4 resignation or removal of the mayor, the said person so appoint-

5 ed mayor *pro tempore* shall hold the office of mayor until the
6 mayor shall have been appointed by the council to fill such va-
7 cancy for the unexpired term, and said mayor *pro tempore* in
8 the absence of the mayor, shall be clothed with all power and
9 authority conferred by this charter upon the mayor elect. In
10 case of the absence, death or disability of the mayor, and mayor
11 *pro tempore*, then council shall select a member of council to
12 act as such.

Sec. 21. The meetings of the council shall be held at such
2 place in said city, and at such times, as they shall from time
3 to time ordain and appoint; but it shall be lawful for the council;
4 by ordinance, to vest in any officer of said city, or in any mem-
5 ber or number of members of their own body, the authority to
6 call special meetings; and it shall, by ordinance, prescribe the
7 mode in which notice of such meetings shall be given; and no
8 business shall be transacted unless a majority of all the members,
9 of which it then consists, shall be present; except, that a less
10 number may compel the attendance of absent members, under such
11 reasonable penalties as they may think proper to impose, and
12 all questions put, except in such matters as are herein provided
13 for, shall be decided by a majority of the members present.

Sec. 22. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep, in good repair,
3 the roads, streets, alleys, pavements, sidewalks, crosswalks,
4 drains, and gutters therein, for the use of the citizens or of
5 the public, and to improve and light the same, and to keep
6 them free from obstruction of every kind; to regulate the width
7 of the pavements and sidewalks on the streets and alleys, and
8 to order the pavements, sidewalks, footways, drains and gutters
9 to be kept in good order, free and clean, by the owners or oc-
10 cupants of the real property next adjacent thereto; to establish
11 and regulate markets, prescribe the time of holding the same,
12 provide suitable and convenient buildings therefor, and prevent
13 the forestalling of such markets; to prevent injury or annoy-
14 ance to the public, or to individuals from any thing dangerous,
15 offensive or unwholesome; to prohibit or regulate slaughter
16 houses, tan houses, and soap factories, within the city limits,
17 or the exercise of any unhealthful or offensive business, trade or
18 employment; to abate all nuisances within the city limits, or
19 to require and compel the abatement or removal thereof, at

20 the expense of the person causing the same, or by or at the
21 expense of the owner or occupant of the grounds on which they
22 are placed or found, subject nevertheless, to section 22-b; to cause
23 to be filled up, raised or drained, by or at the expense of the own-
24 er, any city lot or tract of land covered or subject to be covered by
25 stagnant water; to prevent horses, hogs, cattle, or other animals,
26 and fowls of all kinds, from going or being at large in such city,
27 and as one means of prevention, to provide for impounding and
28 confining such animals and fowls, and upon failure to reclaim for
29 the sale thereof; to protect places of divine worship, and pre-
30 serve order in and about the premises where and when such wor-
31 ship is held; to regulate the keeping of gun powder and other in-
32 flammable or dangerous substances, subject, nevertheless, to section
33 22-b; to provide for the regular building of houses or other struc-
34 tures, and for the making and maintaining of division fences by
35 the owners of adjoining premises, and for the proper drainage of
36 city lots or parcels of land, by or at the expense of the owner or
37 occupant thereof; to provide against danger or damage by fire; to
38 punish for assault and batteries; to prohibit the keeping or loiter-
39 ing in or visiting houses of ill-fame; or loitering in saloons, or
40 upon the streets; to prevent lewd or lascivious conduct, the sale or
41 exhibition of indecent pictures or other representations; the
42 desecration of the Sabbath day, profane swearing, the illegal
43 sale of intoxicating liquors, mixtures and preparations, beer,
44 ale, wine or drinks of like nature; to protect the persons of
45 those residing or being within the said city; to appoint, when
46 necessary, or advisable, a police force, permanent or temporary,
47 to assist the chief of police in the discharge of his duties; to
48 build or purchase, or lease and use a suitable place of im-
49 prisonment within or near the said city, for the safe keeping
50 or punishment of persons charged with or convicted of the vio-
51 lation of ordinances; to erect or authorize or prohibit the erec-
52 tion of gas, electric light or water works, within the city limits;
53 to prevent injury of such works, or the pollution of any gas
54 or water used or intended to be used by the public or individuals;
55 to provide for and regulate the weighing or measuring of hay,
56 coal, lumber and other articles sold or kept, or offered for sale,
57 within said city, and to establish rates and charges for said
58 weighing or measuring; to regulate the running and speed of
59 engines and cars within the said city; to create by ordinance

60 such committees and boards, and delegate such authority there-
61 to as may be deemed necessary or advisable; to provide for the
62 annual assessments of the taxable property therein, including
63 dogs kept in said city, and regulate their running at large,
64 and to provide a revenue for the city for municipal purposes,
65 and to appropriate such revenue to its expenses; and generally,
66 to take such measures as may be deemed necessary or advisable
67 to protect the property, public and private, within the city;
68 to preserve and maintain peace, quiet and good order therein,
69 and to preserve and promote the health, safety, comfort and
70 well being of the inhabitants thereof. The council shall have
71 authority to pass all ordinances (not repugnant to the consti-
72 tution and laws of the United States and of this state) which
73 shall be necessary or proper to carry into full effect and power
74 the authority, capacity and jurisdiction which is, or shall be,
75 granted or vested in the said city or in the council, or in any
76 officer or body of officers of said city, or to enforce any or all
77 ordinances by reasonable fines and penalties, and by imprisoning
78 the offender or offenders, and upon failure to pay any fine or pen-
79 alty imposed, by compelling them to labor without compensation
80 on any of the public works or improvements undertaken, or
81 to be undertaken by said city; or to labor at any work which
82 the said city may lawfully employ labor upon, at such a rate
83 per diem as the council may fix, but not at less rate than is
84 fixed by said city council for like labor from other employes
85 of said city, until any fine or fines imposed upon any such
86 offender or offenders by said city shall have been fully paid
87 and discharged, after deducting charges of support while in
88 the custody of the officers of said city; and all ordinances re-
89 lating to licenses and the sale of spirituous liquors, malt liquors
90 or wines, and the keeping of or dwelling or loitering in houses
91 of ill-fame; and such police regulations as may be ordained
92 for said city, and the right and power to enforce the same shall
93 extend one mile, in the state of West Virginia, beyond the cor-
94 porate limits of the city; *provided, however,* that no fine shall
95 be imposed exceeding one hundred dollars, and that no person
96 shall be imprisoned or compelled to labor, as aforesaid, more
97 than thirty days for any one offense. And in all cases where
98 a fine is imposed for an amount exceeding ten dollars, or a
99 person be imprisoned or compelled to labor as aforesaid, for

100 a term greater than ten days, an appeal may be taken from any
101 such decision, upon the same terms and conditions that appeals
102 are taken from the judgment of a justice of this state. Such
103 fines and penalties shall be imposed and recovered and such
104 imprisonment inflicted and enforced, by and under the judg-
105 ment of the mayor of the city, or in case of his absence or in-
106 ability to act, by the mayor *pro tempore* of said city, or if he be
107 unable to act, then a member of the council, to be appointed by
108 the council for that purpose. In addition to the powers above
109 enumerated, the said city council shall have power to improve,
110 amplify, expand and maintain the water works of said city, and
111 to provide for an adequate supply of pure, healthful water
112 for said city, and to do all things necessary to adequately supply
113 said city with pure, wholesome water; and provide, contract
114 for, construct and maintain an adequate sewerage system for
115 said city.

116 *Provided, however,* that no license, even if permitted by the
117 authorities of this state, shall be granted by the council for
118 said city for the sale, offer or exposing for sale of any brandy,
119 whiskey, rum, gin, wine, porter ale, or beer or any other spirit-
120 uous, vinous or malt liquors or any intoxicating liquor, drink
121 or mixture or preparation whatever within said city or within
122 one mile of the corporate limits thereof, and the same is abso-
123 lutely prohibited.

Sec. 22-a. The council shall have power by ordinances to
2 regulate the erection of buildings within said city, grant per-
3 mission therefor, and prohibit the erection of any building or
4 the material to be used therein, unless the same conforms to
5 the ordinances hereinafter enacted, that will conduce to the
6 safety of the citizens of said municipality and the adjacent prop-
7 erty owners; but nothing herein contained shall abridge or re-
8 strict the right of any property owner, lessee or tenant thereof
9 from using his property for any legitimate business; subject to
10 such rules and regulations as the council may prescribe by or-
11 dinance not repugnant to the constitution of this state; nor shall
12 the council hereafter impose any unjust or unusual restriction or
13 requirement, nor pass any ordinance or ordinances abridging the
14 rights of property owners from exercising and carrying on any
15 legitimate business, unless the same is a menace to public safety,
16 or deleterious to the lives or health of the residents of said city,

17 or which is unsanitary and offensive to the people at large; nor
18 permit any unsanitary or defective plumbing to be done or al-
19 lowed within the city or in any buildings therein, nor permit
20 or allow any defective, insufficient or dangerous electric plumbing
21 to be installed or placed in any building or buildings in said
22 city by any person, firm or corporation, unless the same is done
23 with proper and safe material and in a mechanical manner; and
24 said plumbing, both sanitary and electrical, shall be subject to
25 the inspection and condemnation of an engineer appointed by
26 the council to inspect the same; and all such work, sanitary, elec-
27 tric or other plumbing to be under the control of the council
28 or its engineer to be regulated by proper ordinances.

29 And it is *further provided*, that said council, through its city
30 manager or competent engineer shall, at least every three months
31 during the year, or oftener if necessary, inspect all buildings,
32 houses and other structures within said city, and especially all
33 public buildings, churches, school houses, theatres and places of
34 amusement including movies, and note the kind and quality of
35 plumbing and heating arrangements, and the manner and places
36 of exit to all theatres or places of amusement, including movies;
37 and in all buildings above the second story that are used by the
38 public to have proper means of exit and fire escapes if required.
39 And council shall have power to enforce this section by proper
40 ordinances.

Sec. 22-b. *Provided, however*, that no ordinance shall be enact-
2 ed or passed by said city council, or any action taken by it, relative
3 to the refining, manufacture, storing or keeping in storage of petro-
4 leum, oil and its by-products, within the said city limits; nor shall
5 there be passed or enacted by said council any ordinance common-
6 ly known as smoke ordinance in said city, nor shall said council
7 take any action in regard thereto under this charter, but all such
8 matters shall be solely governed and controlled by general state
9 laws now in force and effect, or that may hereafter be enacted.

Sec. 23. The council of said city is further granted the au-
2 thority to issue license within said city for any legitimate pur-
3 pose or business for which a state license is issued and granted,
4 and is permitted to charge the same license fee therefor, pursu-
5 ant to the provisions of chapter thirty-two of the code of West
6 Virginia of one thousand nine hundred and eighteen, *provided*,
7 the county court of Pleasants county shall have granted the same

8 or the clerk of the county court of said county, acting in lieu
9 of said court, granted the same; this shall include pool rooms,
10 bowling alleys and billiard and pool tables; and the
11 council expressly reserves the right and power to regulate the
12 hours at which pool rooms and bowling alleys shall be kept
13 open and maintained, and may for cause revoke the license,
14 and also reserves the power to itself to limit the speed and
15 manner in which automobiles, trucks and other vehicles are used
16 and operated in said city, over and across its roads, streets and
17 alleys and fix such restrictions as to speed, size, etc., of such
18 automobiles, trucks or other vehicles as will conduce to the safe-
19 ty, and comfort of the citizens of said municipality and the
20 protection of persons traveling the streets; as well as the size
21 of the motor vehicles or other cars transporting stuff over and
22 across the streets and alleys of said city, which are exclusively
23 kept up and maintained by the taxes and levies within the said
24 municipality.

Sec. 24. 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 before or tried by him, together
4 with the proceedings therein, including a statement of the com-
5 plaint, the summons, the return, the fact of appearance or non-
6 appearance, the defense, the hearing, the judgment, the costs,
7 and in case the judgment be one of conviction, the action taken
8 to enforce the same. The record of each case shall be signed by
9 the mayor, and the original papers thereof, if no appeal be taken,
10 shall be kept together and preserved in his office, and the mayor
11 shall deliver to his successors the docket and all books and papers
12 pertaining to his office. The mayor or mayor *pro tempore* shall
13 act as a police judge and try all offenders brought before him
14 or hear and make all entries in the docket and have the same
15 power and jurisdiction as justice of the peace, and shall enforce
16 criminal ordinances in force, or that may be passed in pursuance
17 to this charter, and see that the same are enforced rigidly, to
18 the end that the peace and good order of the city is observed; and
19 any willful neglect of duty on the part of the mayor or mayor
20 *pro tempore* will render him liable to be suspended from office
21 by the council and removed therefrom, on ten days notice upon
22 written charges preferred against him.

Sec. 25. The council shall cause to be made up annually 2 and spread upon its minute book, an accurate estimate of all 3 sums which are, or may be, lawfully chargeable against the city, 4 and which ought to be paid within one year; and it shall order 5 a levy of so much as will, in its judgment, be necessary to pay 6 the same. Such levy shall be upon all real property and personal 7 property subject to state and county taxes therein including a 8 poll tax of not more than fifty cents upon each citizen resident of 9 said corporation over twenty-one years of age; *provided*, that such 10 levy shall not exceed thirty-five cents on every one hundred dol- 11-12 lars of the ascertained value of such property. At least once in 13 each year the council shall cause to be made up and published 14 in one or more newspapers of the city, a statement of the rev- 15 enue received from the different sources, and of the expendi- 16 tures upon the different accounts for the preceding year, or por- 17 tion of the year, as the case may be.

18 And there shall be levied a tax of one dollar on all male dogs 19 within the corporate limits, and not to exceed five dollars on 20 each female dog; a list of which dogs shall be furnished by the 21 police officers to the recorder of said city, to be by him or her 22 transmitted to the assessor of Pleasants county, not later than 23 the thirtieth day of June of each year; and a failure on the part 24 of any police officer to make any such report and return, upon 25 complaint being lodged with the council, shall be sufficient cause 26 for his removal from office. And it is *further provided* that 27 said dog tax shall be collected by the city collector and if a per- 28 son owning such dog declines and refuses to pay the same, the 29 city collector shall report the same to the police officers, whose 30 duty it shall be to kill such dog forthwith.

Sec. 26. The council, upon the return of the assessor, shall 2 cause the said assessor's books to be correctly copied by the 3 recorder into well bound books to be provided for the purpose, 4 and the taxes extended in each book, one of which shall be de- 5 livered to the city collector, taking his receipt therefor, as well 6 as for the taxes therein contained.

Sec. 27. Annual levy by municipal council. At its session 2 held on the second Tuesday, in August, as aforesaid, the common 3 council of every municipal corporation shall ascertain the con- 4 dition of the fiscal affairs thereof, and make up an itemized 5 statement of the same, which shall set forth in detail.

6 (a) The amount due the municipality, and the amount that
7 will become due thereto and collectable during the current fiscal
8 year, from every source, but excepting the amount that will be
9 produced by the levy of taxes to be made for the year.

10 (b) The debts and demands owed by the municipality, and
11 the debts and demands that will become due and payable during
12 the current fiscal year, including interest on any indebtedness,
13 funded or bonded or otherwise.

14 (c) All other expenditures, under the several heads of ex-
15 penditures, to be made and payable out of the funds of the mu-
16 nicipality for the current fiscal year, including the cost of col-
17 lection of taxes and other claims, with proper allowances for
18 delinquent taxes and contingencies. Said statement shall also
19 set forth the total amount necessary to be raised by the levy of
20 taxes for the current fiscal year; and the proposed rate of levy
21 of taxes on the property of the municipality; and also the ag-
22 gregate of the taxable property in the municipality, stating sep-
23 arately the amount of personal property, of real estate, and of
24 the property assessed by the board of public works. A copy of
25 such statement duly certified by the clerk, recorder or other re-
26 cording officer of such municipality, shall be published as pro-
27 vided in sections one and two of chapter twenty-eight-a, Barnes'
28 code, of West Virginia, one thousand nine hundred and sixteen;
29 and posted at each voting place in the municipality at least
30 eight days before an adjourned meeting of the common council
31 to be held on the fourth Tuesday in August; at which time the
32 council shall reconvene and proceed in all respects as provided
33 in sections one and two, chapter twenty-eight-a, Barnes' code,
34 West Virginia, one thousand nine hundred and sixteen. After
35 having entered the said statement, as finally approved, in its
36 book of record of proceedings, the council shall thereupon levy
37 as many cents on each one hundred dollars of the assessed valu-
38 ation of the property of the municipality, according to the last
39 assessment thereof, as will produce the amount shown by the
40 said statement necessary to be raised for municipal purposes
41 during the fiscal year; *provided*, that such levy shall not ex-
42 ceed thirty-five cents on each one hundred dollars of said valu-
43 ation for any year, anything in this charter to the contrary, not-
44 withstanding.

Sec. 28. And the council of said city is hereby empowered
2 and authorized at any time that the necessity thereunder arises,
3 or the condition of the municipal affairs are such that a special
4 levy should be required for any purpose, the power is hereby
5 granted to the said council of the said city of St. Marys to make
6 such other further or additional levies in the manner prescribed
7 by sections five, six, seven and eight of chapter twenty-eight-a
8 of the code of West Virginia, one thousand nine hundred and
9 sixteen; and said sections five, six, seven and eight are made
10 part and parcel of this charter and held and treated the same
11 as if fully copied herein; and the council of said city is hereby
12 empowered and authorized at any time that the legislature of
13 West Virginia shall amend or change said sections five, six,
14 seven and eight of chapter twenty-eight-a, to make such amend-
15 ments conformable to this charter.

Sec. 29. And section nine of chapter twenty-eight-a, Barnes'
2 code of West Virginia, one thousand nine hundred and sixteen,
3 concerning unlawful expenditures, indebtedness and liability, is
4 made a part and parcel of this charter.

Sec. 30. There shall be a lien on personal property and real
2 estate within said city for the city taxes assessed thereon, and
3 for all fines and penalties assessed or imposed upon the owners
4 thereof by the authorities of such city from the time the same are
5 so assessed or imposed, which shall have priority over all other
6 liens, except the lien for taxes due the state and county; 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 taxes due thereon, a copy of such delinquent
11 list may be certified by the council to the auditor, and the same
12 may be sold for city taxes, interest and commissions thereon, in
13 the same manner, at the same time and by the same officers, as
14 real estate is sold for state taxes.

Sec. 31. It shall be the duty of the council of said city to,
2 at the first regular meeting in each year, appoint three persons,
3 residents of said city, to act in the capacity of trustees of the
4 sinking fund accrued from any and all special levies made and
5 collected, for the purpose of paying the interest and principal
6 upon the bonded indebtedness of said city; and it shall be the
7 duty of said trustees to take charge of and invest said sinking

8 fund in safe securities at their discretion and in such manner
9 as to yield to the said city of St. Marys the best interest thereon
10 that said trustees can obtain; which interest shall be received
11 by said trustees for the benefit of the said city, and paid over by
12 them at the time of making their settlement to such person or
13 persons as the council may direct. Before entering upon their
14 duties as trustees of said sinking fund, said three trustees so ap-
15 pointed shall execute and file with the recorder of said city, a
16 bond in a sum to be fixed by the council, sufficient to cover and
17 secure all moneys coming into their hands by reason of their
18 said office; which bond shall be executed by them, together with
19 good personal security to be approved by the council. Said
20 trustees of the sinking fund shall make and file with the council
21 a full and complete statement once each year, or as often as the
22 council may deem necessary and require, and said trustees shall
23 make a full and complete settlement and pay over all moneys
24 in their hands as such trustees, whenever required by the council
25 so to do.

Sec. 32. All bonds, obligations or other writings, taken in
2 pursuance of any provision of this act, shall be made payable to
3 "the city of St. Marys", and the respective persons and their
4 heirs, executors, administrators and assigns bound thereby, shall
5 be subject to the same proceedings on the said bond, obligation
6 and other writing, for enforcing the condition of the terms there-
7 of, by motion or otherwise, before any court of competent juris-
8 diction in and for the county of Pleasants, that collectors of
9 county levies and other sureties are, or shall be subject to, on
10 their bonds for enforcing the payment of the county levies.

Sec. 33. The council shall have the right to institute proceed-
2 ings in the name of the city, for the condemnation of real estate
3 for streets, alleys, drains, market grounds, city prison or other
4 work or purpose of public utility. Such proceedings shall con-
5 form to the provisions of chapter forty-two of the code of West
6 Virginia, and the expenses thereof shall be borne by the city.

Sec. 34. All acts or parts of acts, inconsistent with this act,
2 are hereby repealed; but this act shall not be construed to repeal,
3 change or modify any previous act consistent with this act,
4 authorizing the town of St. Marys to contract debts or to bor-
5 row money, or to take away any of the powers conferred upon
6 said town of St. Marys, or upon the mayor or council, or any

7 of the officers, conferred by general law, except so far as the
8 same are inconsistent with the powers hereby conferred; and
9 the city of St. Marys, hereby created, shall be held in all things
10 to be the legal successor to the town of St. Marys, heretofore
11 existing, and all legal obligations of the said town shall be valid
12 and binding upon the city of St. Marys.

Sec. 35. It is made part and parcel of this charter that all
2 indebtedness heretofore contracted either by bond issue or issues,
3 or the issue of orders, or evidence of indebtedness of any kind
4 against the city of St. Marys, or the former town of St. Marys,
5 shall in no wise be effected by the adoption of this charter; but
6 the city council is authorized and empowered, and it is made a
7 condition precedent that said municipality shall provide for
8 and take care of said indebtedness in the manner provided by
9 law; and said city through its municipal authorities are author-
10 ized and empowered by proper ordinances entered of record and
11 election held therefor, if necessary, and ratified by a three-fifths
12 of the voters of said municipality, at an election to be held for
13 that purpose, to fund its bonded and other indebtedness at a
14 rate of interest, not exceeding six per cent, to run for a period
15 of not longer than thirty-four years, and said council is given
16 the right and privilege hereunder of all powers conferred to
17 cities and towns in this state by chapter forty-seven of Barnes'
18 code of West Virginia, one thousand nine hundred and sixteen,
19 governing cities and towns; and especially that part of said
20 chapter, sections forty-nine-b-one, forty-nine-b-two, forty-nine-b-
21 three, forty-nine-b-four, forty-nine-b-five, forty-nine-b-six, forty-
22 nine-b-seven, forty-nine-b-eight, forty-nine-b-nine, forty-nine-b-
23 ten, and forty-nine-b-eleven.

24 Also forty-nine-one-c, forty-nine-two-c, forty-nine-three-c, forty-
25 nine-four-c down to and including forty-nine-c. Which acts
26 of said code of one thousand nine hundred and sixteen, chapter
27 forty-seven, aforesaid, are made a part and parcel of the organic
28 law of this city.

Sec. 36. It is hereby expressly provided that immediately
2 after the passage of this act and the approval by the governor
3 of this state, or its approval, by reason of his failure to sign
4 the same, the present council and municipality of the city of
5 St. Marys in being, shall cause a charter election to be held
6 at three public places in the wards designated herein, numbers

7 one, two and three, at such time and place and on a day to be
8 named therein, under the general rules and regulations for the
9 governing and controlling of general elections in this state; and
10 which election shall be held after two weeks notice is given of
11 the time and place of said election; and the ballots shall have
12 printed thereon, "For the amended charter of the city of St.
13 Marys" and "against the amended charter of the city of St.
14 Marys." And if, on the vote being taken canvassed and cer-
15 tified, within five days thereafter, a majority of all the voters
16 shall have voted in the affirmative, then said charter, so amended,
17 shall from thence on be in full force and effect, and shall be the
18 organic law governing said municipality, but if a majority of
19 the votes cast at said election are found to be against said rati-
20 fication, then said proposed charter will not have been adopted
21 and the present charter now in being will continue in force and
22 effect as it now is.

Sec. 37. In case said charter is adopted, at said charter elec-
2 tion held as aforesaid, then all acts and parts of acts incon-
3 sistent with this proposed charter, shall be deemed to have been
4 repealed, and are, hereby repealed.

Sec. 38. The mayor and council in being and all elective offi-
2 cers of the city of St. Marys, in office at the time of the passage
3 of this act, shall hold their respective offices and exercise all
4 the powers and discharge all the duties thereof until their suc-
5 cessors are elected and qualified; and shall exercise the powers,
6 perform the duties, and receive the compensation heretofore con-
7 ferred, prescribed and allowed by the former charter, by gen-
8 eral law or by the ordinances of the said town, while they shall
9 remain in office under the provisions of this act.

10 All ordinances in force in the city of St. Marys, at the time
11 of the passage of this chapter and the taking effect of the same,
12 shall continue to have full operation and effect as ordinances
13 of the city of St. Marys until amended, repealed or suspended
14 by the council of said city, except such thereof as are incon-
15 sistent with the provisions of this act.

Sec. 39. The said city council shall have full power and au-
2 thority to change and enlarge the corporate limits of said city
3 in manner and in form, and under the provisions provided by
4 sections forty-eight and forty-nine, chapter forty-seven, of Barnes'
5 code of West Virginia, edition of one thousand nine hundred
6 and sixteen.

CHAPTER 29

(House Bill No. 437—Mr. Deuley.)

AN ACT to repeal section fourteen-*a* of the charter of the city of Wellsburg, as amended and re-enacted by chapter ten of the acts of the legislature of the year one thousand nine hundred and seven, relating to the eligibility of mayor, city collector, treasurer and councilmen to hold office in said city.

[Passed April 19, 1921. In effect ninety days from passage. Approved by the Governor April 29, 1921.]

Sec.

1. Acts repealed.
2. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That section 14-*a* of the charter of the city of 2 Wellsburg, as amended and re-enacted by chapter ten of the acts 3 of the legislature of the year one thousand nine hundred and seven 4 be, and the same is hereby repealed.

Sec. 2. All acts and parts of acts inconsistent with said section 2 fourteen-*a* of chapter ten of the acts of the legislature of the year 3 one thousand nine hundred and seven are hereby repealed.

CHAPTER 30

(Senate Bill No. 307—Mr. Dinsmoor.)

AN ACT to incorporate the city of Williamstown, in the county of Wood, state of West Virginia, and fixing its corporate limits and prescribing and defining the powers and duties of said city.

[Passed April 12, 1921. In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Williamstown.
2. Corporate limits.
3. All general and special laws of state governing cities and towns not inconsistent with this act now applicable.
4. City officials composed of mayor and four councilmen; elections; when held; term of office.
5. Primary elections; candidates to meet certain requirements; ballots.
6. Government of city; council composed of mayor and four councilmen; manner of voting.
7. Departments of city government.
8. Powers and duties of mayor and councilmen; selection of other city officials.

Sec.

9. Council has power to create, fill, discontinue officers; fix compensation.
10. Salary of mayor and councilmen and other employees; how paid; officers.
11. Meetings of council; when held; open to public.
12. Ordinances appropriating money; improvement of city and granting of franchises; time limit on franchises.
13. Officers or employees not permitted to receive any passes or tickets; policemen and firemen in uniform excepted.
14. Council to create civil service board; composed of three citizens; duties of civil service board.

Sec.

15. Council to furnish itemized statements of receipts and expenses of city; summary of its proceedings; furnished to newspapers examination of books and accounts made.
16. Council has power to revise, repeal or change or make new appropriations.
17. Terms of officers; franchises; electors defined.
18. Council has power to levy and collect taxes; grant licenses and collect license taxes.
19. Paving and sewerage; two-thirds of cost to be paid by property owners; street railways' part; one-tenth to be paid each year; cost a lien upon property; statements of assessments to be recorded in office of clerk of county court; default in payment, how collected; notices describing improvements and property giving amount of assessments to be published; grievances, council to appoint day for hearing; bonds for pavements, sidewalks and sewers; how same are to be issued; not to be sold for less than par; payable in ten years; assessments applied to liquidation; debts not to exceed five per centum of taxable property; to be submitted to voters and receive

Sec.

- three-fifths of votes cast; issue not to exceed amount authorized by election; chapter forty-seven-a of the code to apply; plans, specifications, profiles and estimates to be on file for examination; notice giving nature of work and manner of payment to be published.
20. Taxes: authority to levy and collect; not to exceed ten cents on hundred dollars valuation.
21. Elective officer may be removed; procedure to effect removal; petition and election; form of ballot, person sought to be removed may succeed himself.
22. Proposed ordinances may be submitted to council by petition; may be submitted to voters; form of ballot; ordinance binding and valid.
23. Ordinances and franchises not in effect until ten days after final passage; suspended if twenty per cent of legal voters protest; council requested to submit same to voters.
24. Petitions: signed by legal voters only.
25. Taxes and license taxes: to be uniform; limited by state law; acts of one thousand nine hundred and eight.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Wood as is within the bounds prescribed by section two of this act, and their successors, shall be and remain and they are hereby constituted a body politic and corporate, by the name of "The City of Williamstown", and as such, and by that name shall have perpetual succession and a common seal and may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, and chuses 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 and assign, pledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for a 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 renew 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

21 and privileges, which were conferred upon or belonged or ap-
22 pertained to the town of Williamstown by virtue of any act or
23 acts of the general assembly of the state of Virginia or of the
24 legislature of this state heretofore passed; and shall have all
25 the rights, privileges, capacities and powers provided by chap-
26 ter forty-seven of the code of West Virginia, as contained in
27 the edition of the year one thousand eight hundred and ninety-
28 nine and for which provision is not herein otherwise expressly
29 made.

Sec. 2. The corporation limits and boundary of said city
2 of Williamstown shall be as follows:

3 Beginning at a point on the bank of the Ohio river on the
4 land of the heirs of George Henderson, deceased, from which
5 an elm 40 inches in diameter bearing N. 65 degrees 30' E.
6 2 31/100 chains distant; and running thence from said point, S.
7 42 degrees E. 45 chains to a point where a hickory 20 inches
8 in diameter bears S. 16 degrees and 30' W. 16 links distant and
9 a hickory 18 inches in diameter bears S. 75 degrees E. 71 links
10 distant; thence S. 64 degrees and 30' E. 40 chains and 45/100
11 to a point in line between Biddle and Spies where a hickory 14
12 inches in diameter bears N. 65 degrees and 30' E. 19 links dis-
13 tant, and a white oak 14 inches in diameter bears S. 8 degrees
14 and 30' W. 25 links distant; thence with said line N. 38 degrees
15 E. 6 70/100 chains to a stake near a corner to lands of Spies
16 and Ruf; thence N. 64 degrees and 10' E. 31 and 30/100 chains
17 to the east line of Joseph Bush; thence N. 34 degrees and 20'
18 E. 11 and 20/100 chains with his line to a stone at the south-east
19 corner of lands of said Bush; thence N. 58 degrees W. 1 4/100
20 chains with another of his lines; thence with the line between
21 Wanless and Arbour N. 26 degrees E. 43 and 87/100 chains to
22 the Ohio river; and thence same course continued 10 35/100
23 chains to the island known as Kerr's Island; thence same course
24 4 88/100 chains across the said island; thence same course
25 11 and 90/100 chains to low water line on the Ohio side; thence
26 down the river and with the meanders thereof N. 64 degrees
27 W. 6 chains; thence N. 69 degrees W. 20 chains; thence N. 79
28 degrees W. 12 chains; thence N. 84 degrees 30' W. 11 chains;
29 thence N. 88 degrees 30' W. 10 and 92/100 chains; thence 84
30 degrees W. 7 50/100 chains; thence S. 83 degrees 10' W. 19 and
31 4/100 chains to the mouth of the Muskingum river; thence S.

32 83 degrees W. 12 and 61/100 chains across said river; thence
33 S. 32 degrees W. 7 chains; thence S. 46 degrees 30' W. 9 chains;
34 thence 66 degrees W. 27 chains; thence 62 degrees W. 12 and
35 50/100 chains; thence S. 56 degrees W. 8 and 88/100 chains;
36 thence S. 42 degrees E. 22 chains crossing the Ohio river to
37 the place of beginning, containing 969 and 35/100 acres including
38 the Ohio river, which contains 315 and 20/100 acres, containing
39 exclusive of the Ohio river 654 and 15/100 acres, in said boundary,
40 which territory is situated in the district of Williams, in the
41 county of Wood and state of West Virginia.

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 to
4 and govern the city of Williamstown. All by-laws, ordinances
5 and resolutions lawfully passed and in force in the town of
6 Williamstown under its former organization, and not inconsis-
7 tent herewith, shall remain in force throughout the city of
8 Williamstown until altered or repealed by the council elected un-
9 der the provisions of this act. All rights and property hereto-
10 fore vested in said town of Williamstown are continued and
11 preserved in its title and property vested in said city of Williams-
12 town and no right or liability, either in favor of or against, the
13 said town of Williamstown at the time this act takes effect, and
14 no suit or prosecution of any kind, shall be effected by such
15 change, unless otherwise provided for in this act.

Sec. 4. For said city there shall be elected at the regular
2 municipal election, a mayor and four councilmen. The first
3 election under this act shall be held on the Tuesday after the
4 first Monday in January, one thousand nine hundred and twenty-
5 two, and thereafter, on the same day every two years.

6 If any vacancy occurs in any such office, the remaining mem-
7 bers of said council shall appoint a person eligible thereto to fill
8 such vacancy during the balance of the unexpired term.

9 Said officers shall be nominated and elected at large. Said
10 officers shall qualify and their terms of office shall be two years
11 and until their successors are elected and qualified, and shall
12 begin on the second Monday after the election; the terms of
13 office of mayor and councilmen of the said town of Williams-
14 town in office at the beginning of the terms of office of the mayor
15 and councilmen of the city of Williamstown first elected under

16 the provisions of this act shall then cease and determine, and
17 the terms of office of all other elective or appointive officers in
18 force in such city, except as hereinbefore provided, shall cease and
19 determine as soon as the council shall by resolution so declare.

Sec. 5. Candidates to be voted for at general municipal elec-
2 tions at which the mayor and four councilmen are to be elected
3 under the provisions of this act shall be nominated by a primary
4 election, and no other names shall be printed upon the general
5 ballot except those selected in the manner hereinafter prescribed.
6 The primary election for such nominations shall be held on
7 the second Tuesday preceding the general municipal election.
8 The judges of election shall be appointed by council for the
9 general municipal election, who shall be the judges of the pri-
10 mary election, and it shall be held at the same place as far
11 as possible, and the polls shall be closed and opened at the
12 same hours, with the same clerks as are required for said gen-
13 eral municipal election. The council of the town of Williams-
14 town as constituted at the time shall appoint the judges for the
15 first primary and general elections to be held hereunder.

16 Any person desiring to become a candidate for mayor or
17 councilman shall, at least ten days prior to said primary elec-
18 tion, file with the city clerk a statement of such candidacy,
19 in substantially the following form:

20 State of West Virginia, Wood county, ss:

21 I,, being first duly sworn, say that I
22 reside at street, city of Williamstown, county of
23 Wood, state of West Virginia; that I am a qualified voter there-
24 in; that I am a candidate for nomination to the office of (mayor
25 or councilman) to be voted upon at the primary election to
26 be held on the Tuesday of, 19...., and I
27 hereby request that my name be printed upon the official pri-
28 mary ballot for nomination by such primary election for such
29 office.

30 Signed

31 Subscribed and sworn to (or affirmed) before me by
32 on this day of 19....

33 Signed

34 and shall at the same time file therewith the petition of at
35 least twenty-five qualified voters requesting such candidacy.
36 Each petition shall be verified by one or more persons as to

37 the qualifications and residence, with street location of each of
38 the persons so signing the said petition, and the said petition
39 shall be in substantially the following form:

40 *Petition Accompanying Nominating Statement.*

41 The undersigned, duly qualified electors of the city of Wil-
42 liamstown, and residing at the places set opposite our respective
43 names hereon, do hereby request that the name of (name of
44 candidate) be placed on the ballot as candidate for nomination
45 for (name of office) at the primary election to be held in such
46 city on the, one thousand nine hundred and
47 We further state we know him to be a qualified elector
48 of said city and a man of good moral character, and qualified,
49 in our judgment, for the duties of such office.

50 Names of qualified electors..... Number..... Street.....

51 Immediately upon the expiration of the time of filing the
52 statements and petitions for candidates, the said clerk of the
53 municipality shall cause to be published in proper form, the
54 names of the persons as they are to appear upon the primary
55 ballot, which publication may be made by posting copies thereof
56 at four of the most public places in the said city of Williams-
57 town, including the place of meeting of the council and the
58 mayor's office, at least ten days immediately preceding the pri-
59 mary election, or if the council so order, by publication in the
60 last issue of some newspaper published in said city of Williams-
61 town immediately preceding such primary election; and the
62 said clerk shall thereupon cause the primary ballots to be printed,
63 authenticated with a *fac simile* of his signature. Upon the said
64 ballot the names of the candidates for mayor, arranged alpha-
65 betically, shall first be placed, with a square to the left of each
66 name and immediately below the words "vote for one". Follow-
67 ing these names, likewise arranged in alphabetical order, shall
68 appear the names of the candidates for councilmen, with a
69 square at the left of each name, and below the names of such
70 candidates shall appear the words "vote for four". The ballots
71 shall be printed upon plain substantial white paper and shall
72 be headed:

73 "Candidates for nomination for mayor and councilmen of
74 the city of Williamstown, at the primary election;" but shall
75 have no party designation or mark whatever. The ballot shall
76 be in substantially the following form:

77 (Place a cross in the square preceding the names of the par-
 78 ties you favor as candidates for the respective offices.)

79 *Official Primary Ballot.*

80 Candidates for nomination for mayor and councilmen of the
 81 city of Williamstown at the primary election.

82 For Mayor

83 [] (Names of Candidates)

84 (Vote for One)

85 For Councilmen.

86 [] (Names of Candidates)

87 (Vote for four)

88 Official ballot, attest:

89 Signature

90 City Clerk.

91 Having caused said ballots to be printed, the said city clerk
 92 shall cause to be delivered at each polling place a number of said
 93 ballots equal to twice the number of votes cast in such polling
 94 precinct at the last general election for mayor. The persons
 95 who are qualified to vote at the general municipal election shall
 96 be qualified to vote at such primary election, and challenges
 97 can be made by not more than two persons, to be appointed
 98 at the time of opening the polls by the judges of election; and
 99 the law applicable to challenges at a general municipal elec-
 100 tion shall be applicable to challenges made at such primary
 101 election. Judges of election shall, immediately upon the clos-
 102 ing of the polls, count the ballots and ascertain the number of
 103 votes cast in such precinct for each of the candidates, and make
 104 return thereof to the city clerk without unnecessary delay. On
 105 the day following the said primary election the said clerk shall
 106 canvass said returns so received from all the polling precincts, and
 107 shall make and publish in some newspaper of said city at least
 108 once, the result thereof or post the same as provided above for the
 109 primary ballot. Said canvass by the city clerk shall be publicly
 110 made. The two candidates receiving the highest number of votes
 111 for mayor shall be the candidates and the only candidates whose
 112 names shall be placed upon the ballot for mayor at the next suc-
 113 ceeding general municipal election, and the eight candidates re-
 114 ceiving the highest number of votes for councilmen, or all such
 115 candidates if less than eight, shall be the candidates and the only
 116 candidates whose names shall be placed upon the ballot for coun-

117 cilmen at such municipal election. In the event of the death or
118 resignation of a nominee before the election, the candidate receiv-
119 ing the next highest number of votes at the primary shall be placed
120 on the ticket in his stead.

121 The ballot at such general municipal election shall be in the
122 same general form as for such primary election, so far as ap-
123 plicable, and in all elections in such city the election precincts,
124 voting places and announcing of results, shall be the same as by
125 law provided for election of officers in said city, so far as the
126 same are applicable to and not inconsistent with the provisions
127 of this act.

Sec. 6. Said city shall be governed by a council, consisting
2 of the mayor and four councilmen chosen as provided in this
3 act, each of whom shall have the right to vote on all questions
4 coming before the council. Three members of the council shall
5 constitute a quorum, and the affirmative of three members shall
6 be necessary to adopt any motion, resolution or ordinance, or
7 pass any measure. Upon every vote the yeas and nays shall be
8 called and recorded, and every motion, resolution or ordinance
9 shall be reduced to writing and read before the vote is taken
10 thereon. The mayor shall preside at all meetings of the council;
11 he shall have no power to veto any measure, but every resolution
12 or ordinance passed by the council must be signed by the mayor,
13 or by three councilmen, and be recorded before the same shall
14 be in force.

Sec. 7. The council shall have and possess, and the council
2 and its members shall exercise all executive, legislative and ju-
3 dicial powers conferred upon cities, towns and villages by the
4 general law of the state and by this act.

5 The executive and administrative powers, authority and duties
6 in said city shall be distributed into and among five departments
7 as follows:

- 8 (a) Department of public affairs,
- 9 (b) Department of accounts and finance,
- 10 (c) Department of public safety,
- 11 (d) Department of streets, parks, public improvements and
12 public property,
- 13 (e) Department of waterworks and sewers.

14 The council shall determine the powers and duties to be per-
15 formed by, and assign them to, the appropriate department, shall

16 prescribe the powers and duties of officers and employees, may
17 assign particular officers and employees to one or more of the
18 departments; may require an officer or employee to perform du-
19 ties in two or more departments; and may make such other rules
20 and regulations as may be necessary or proper for the efficient
21 and economical conduct of the business of the city.

Sec. 8. The mayor shall be superintendent of the department
2 of public affairs and *ex-officio* city judge, and the council shall,
3 at the first regular meeting after election of its members, desig-
4 nate, by majority vote, one councilman to be superintendent of
5 the department of accounts and finance, one to be superintendent
6 of the department of public safety, one to be superintendent of
7 the department of streets, parks, public improvements and pub-
8 lic property, and one to be superintendent of the department of
9 water works and sewers; but such obligation shall be changed
10 whenever it appears that the public service would be benefitted
11 thereby.

12 The council may, at the first meeting, or as soon as practicable
13 thereafter, elect by a majority vote the following officers: a clerk,
14 solicitor, city civil engineer, city physician, chief of police, chief
15 of fire department, city collector, street commissioner, and such
16 other officers and assistants as shall be provided for by ordi-
17 nance and necessary to the proper and efficient conduct of the
18 affairs of the city. Any officer, assistant or employee elected,
19 appointed, or employed, may be removed at any time by a vote
20 of a majority of the members of the council, under such regula-
21 tions as council may prescribe.

Sec. 9. The council shall have power from time to time to
2 create, fill and discontinue offices and employments other than
3 herein prescribed, according to their judgment of the needs of
4 the city, and may, by resolution or otherwise, prescribe, limit
5 or change the compensation of such officers or employees.

Sec. 10. The mayor and council shall have an office or offices
2 and their total compensation shall be as follows: The annual
3 salary of the mayor shall not exceed one hundred dollars, and
4 each councilman fifty dollars, which salaries shall be pay-
5 able in equal monthly installments.

6 Every other officer or assistant shall receive such salary or
7 compensation as the council shall by ordinance provide, payable
8 in equal monthly installments.

9 The salary and compensation of all other employees of said
10 city shall be fixed by the council, and shall be payable monthly
11 or at such shorter periods as the council may determine.

Sec. 11. Regular meetings of the council shall be held on
2 the second Monday after the election of councilmen, and there-
3 after at least twice each month. The council shall provide by
4 ordinance for the time for holding regular meetings, and special
5 meetings may be called from time to time by the mayor or two
6 councilmen. All meetings of the council, whether regular or
7 special, at which any person not a city officer is admitted, shall
8 be open to the public.

9 The mayor shall be president of the council and preside at
10 all meetings, and shall supervise all departments and report to
11 the council for its action all matters requiring attention in any
12 department. The superintendent of the department of accounts
13 and finance shall be vice-president of the council, and in case of
14 vacancy in the office of mayor, or the absence or inability of the
15 mayor, shall perform the duties of mayor.

Sec. 12. Every ordinance or resolution appropriating money
2 or ordering any street improvement or sewer, or making or au-
3 thorizing the making of any contract, or granting any franchise
4 or right to occupy or use the streets, highways, bridges or public
5 places in the city for any purpose, shall be complete in the
6 form in which it is finally passed, and remain on file with the
7 city clerk for public inspection at least one week before the final
8 passage or adoption thereof. No franchise or right to occupy
9 or use the streets, highways, bridges or public places in said
10 city shall be granted, renewed or extended, except by ordinance.
11 No franchise shall be granted for a period exceeding thirty
12 years, and no amendment or addition thereto shall extend beyond
13 the termination of the original franchise.

Sec. 13. 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 territorial 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, and frank, free pass, free ticket, or free service, or
8 accepts or receives, directly or indirectly, from any such person,
9 firm or corporation, any other service upon terms more favorable

10 than is granted to the public generally. Any violation of the
11 provisions of this section shall be a misdemeanor, and every such
12 contract or agreement shall be void.

13 Such prohibition of free transportation shall not apply to po-
14 licemen or firemen in uniform; nor shall any free service to city
15 officials heretofore provided by any franchise or ordinance be
16 effected by this section.

Sec. 14. Council may create by appointment, a civil service
2 board, consisting of three residents of the city, whose duty it
3 shall be to examine all applicants for positions in the departments
4 of police, fire, and such other departments as may be ordained,
5 including the chiefs of such departments; and shall define the
6 terms and prescribe the duties of the members of said board.
7 All appointments to said departments shall be made from ap-
8 plicants recommended by said board, and when appointed, shall
9 be removed only for cause.

Sec. 15. The council may each month print a pamphlet for
2 a detailed itemized statement of all receipts and expenses of
3 the city and a summary of its proceedings during the preceding
4 month, and furnish printed copies thereof to the state library,
5 the weekly newspapers of the city, and to persons who apply
6 therefor at the office of the city clerk. At the end of each year
7 the council shall cause a full and complete examination of all
8 books and accounts of the city to be made by competent account-
9 ants and shall publish the results of such examination in the
10 manner provided for publication of statements of monthly ex-
11 penditures.

Sec. 16. If, at the beginning of the term of office of the first
2 council elected in said city under the provisions of this act, the
3 appropriations for the expenditures of the town of Williams-
4 town for the current fiscal year have been made, the council of
5 the city of Williamstown shall have power by ordinance, to re-
6 vise, repeal or change said appropriations, and to make new and
7 other and different appropriations.

Sec. 17. In the construction of this act the following rules
2 shall be observed, unless such construction would be inconsistent
3 with the manifest intent, or repugnant to the context.

4 (a) When an "officer" or "officers" is named in any law referred
5 to in this act it shall, when applied to said city, be construed
6 to mean the officer or officers having the same functions or

7 duties under the provisions of this act, or under ordinances
8 passed under authority thereof.

9 (b) The word "franchise" shall include every special privi-
10 lege in the streets, highways and public places of the city, whether
11 granted by the state or the city, which does not belong to citizens
12 generally by common right.

13 (c) The word "electors" shall be construed to mean persons
14 qualified to vote for elective officers at regular municipal elec-
15 tions.

Sec. 18. Council shall have the right to levy and collect
2 taxes on property, real and personal, and to grant licenses, and
3 to assess and collect taxes on such licenses as are taxable under
4 the laws of the state of West Virginia, not to exceed in amount
5 and rate the tax on such licenses imposed by the state of West
6 Virginia.

Sec. 19. The council of the city may cause any street or
2 alley or part thereof, to be paved with cobblestone, brick, con-
3 crete or other suitable material, curbing and suitable sidewalks
4 laid, and a sewer or sewers to be constructed therein, or to have
5 such paving done without the construction of such sewer or
6 sewers, or a sewer or sewers constructed without such paving
7 under such regulations, not inconsistent with the provisions of
8 this section, as shall be fixed by council, upon the lowest and
9 best terms to be obtained by the council by advertising for bids
10 or proposals therefor, and two-thirds of the cost thereof (which
11 cost shall include the cost and expense of preliminary and other
12 survey, of printing and publishing all notices required to be pub-
13 lished in relation thereto, and the cost of construction) shall be
14 assessed to and paid by the owners of the lots or fractional
15 parts of lots abutting or bounding on that part of the street
16 so improved, paved or sewered; and against the said lots or
17 fractional parts of lots abutting or bounding on that part of
18 the street so improved, paved or sewered; and against the said
19 lots or fractional parts of lots in proportion to the number of
20 feet frontage owned by each, and one-third of the cost thereof and
21 the whole of the cost of paving and sewerage intersections of streets
22 and public alleys, and the proportion for lots, or parts of lots, or
23 property against which no assessment can be legally made, shall be
24 assessed to and paid by the city; *provided, further*, in case of a
25 street or public alley occupied by street car tracks or other railway,

26 the cost of paving the space between the rails, and for two feet
27 additional outside each rail, shall be assessed to and paid by the
28 street car or other railway company.

29 The amount assessed against such abutting lots, or fractional
30 parts of lots, to the said abutting property owners, the city and
31 street car or other railway company, as aforesaid, respectively,
32 shall be paid in ten payments as follows: that is to say, one-
33 tenth of said amount, together with the interest at the rate of
34 six per centum from the acceptance of the work by the city on
35 the whole assessment, shall be paid to the city on or before the
36 first day of May next after the work is accepted, and a like
37 one-tenth, together with interest for one year upon the whole
38 amount remaining unpaid, on or before the first day of May
39 in each succeeding year, thereafter, until all has been paid; and
40 each installment shall bear interest at the rate of six per centum
41 per annum from the date of its maturity; and, moreover, to
42 each installment remaining unpaid on the days herein speci-
43 fied for the payment thereof, a penalty of ten per centum per
44 annum of said installment shall be added and collected by the
45 city. *Provided, however,* that any abutting property owner,
46 the city, or street car or other railway company, against whom
47 or against whose property said assessments have been made,
48 shall have the right at any time after such assessments shall
49 have been certified to the superintendent of the department of
50 accounts and finance for collection, as hereinafter provided, to
51 anticipate any or all of such assessments and shall be allowed
52 to pay the face of said assessments with interest only to the
53 time of payment.

54 (a) The sum or sums of money so assessed, together with
55 the interest and penalty aforesaid, for paving or sewerage, or
56 other said improvements, shall be a lien upon the lots or fractional
57 parts of lots, and in case of a street car or other railway company,
58 upon its tracks for the distance of said improvement, from the date
59 of acceptance of said work by the city, and said lien shall have pri-
60 ority over all other liens, except those for taxes due to the state,
61 and shall be on a parity with the taxes and assessments due the
62 city; *provided, however,* such assessments shall, after six months
63 from the date of the acceptance of said work, cease to constitute
64 liens against said property as against creditors of the owners
65 thereof or purchasers thereof for value without actual notice of

66 such liens unless within six months a statement of said liens,
67 certified as hereinafter provided, shall be filed for record in the
68 office of the clerk of the county court of the county in which said
68-a property is situated.

69 (b) Immediately upon the acceptance of the work by the
70 city, the clerk shall make out bills for the sums of money
71 assessed as aforesaid against the property owners aforesaid, and
72 shall at the same time make and certify a statement of the
73 assessments aforesaid in which shall be given the location of the
74 real estate affected, and the name of the owner, the date of the
75 acceptance of said work by the city, and the amount of the
76 assessment, and it shall be sufficient description of the location of
77 said real estate to describe it as abutting upon said improve-
78 ment included between the terminal of said improvement, or
79 by the description by which it is described on the land books of
80 the county in which said lots are situated, and shall cause said
81 statement to be immediately recorded in the office of the clerk of
82 the county court of the county in which such property is sit-
83 uate; and it shall be, and it is hereby made the duty of said
84 county clerk, to record said statement in the trust deed books
85 in the name of the city and also in the name of each person
86 against whose property said assessments appear therein, and
87 said clerk shall be paid for recording said statement the same
88 fees as for recording deeds of trust. And said bills for said
89 assessment shall be charged to the superintendent of the de-
90 partment of accounts and finance and immediately certified and
91 delivered for collection.

92 (c) Upon default being made in the payment of any install-
93 ment of the assessment aforesaid, the same shall be immediately
94 reported to the council by the superintendent of the depart-
95 ment of accounts and finance, and the council shall forthwith
96 refer the same to such officer as it may deem expedient, for col-
97 lection, and payment of said delinquent installments, with the
98 interest and the penalty aforesaid, may be enforced in all re-
99 spects as provided for the collection of city taxes, or the lien
100 aforesaid may be enforced by a suit in equity in the name of the
101 city in any court having jurisdiction thereof; and the said de-
102 linquent assessments or any installment thereof, may be collected
103 from the person against whom the same were assessed by action
104 at law before any court or a justice of the peace having juris-
105 diction thereof.

106 (d) Immediately upon the completion and acceptance of
107 any of the work aforesaid, constructed by virtue of this sec-
108 tion, the council shall direct the clerk to cause to be prepared
109 a notice which shall name and describe the location of the street
110 or alley upon which said work shall have been constructed; give
111 the names of the owners of each lot or fractional part of lot
112 abutting or bounding upon said street or alley, and also the
113 name of any street car or other railroad company having tracks
114 upon said street or alley, where assessed for paving, if known,
115 and if the name or names of the owners or owner of any lot
116 or fractional part of lot, or of such street car or other railway
117 company are unknown, such lot or fractional part of lot, or of
118 such street car or other railway company, are unknown, such
119 lot or fractional part of lot, and the location of the paving
120 assessed to such street car or other railway company, shall be
121 described with reasonable certainty so that the same may be
122 identified. The number of feet that each lot or a fractional
123 part of lot abuts upon said street or alley, the street or alley
124 intersections and all abutting city property and property not
125 liable to assessment, and the number of square feet or yards
126 to be paid for by said street car or other railway company, also
127 the amount assessed against the city, as well as the amount as-
128 sessed against any street car or other railway company, shall
129 be stated. Said notice shall cite all owners of lots or fractional
130 parts of lots abutting upon the streets or alleys aforesaid, and
131 also said street car or other railway company, to appear before
132 the council at a regular meeting thereof within thirty days
133 from the first publication thereof and show cause, if any,
134 they can, why the assessments aforesaid should not become final,
135 which notice shall be published once a week for two successive
136 weeks in one or more newspapers of general circulation pub-
137 lished in said county, and affidavits of the publication of such
138 notices showing the publication thereof as herein provided.
139 shall be recorded in the minutes of the council at their next
140 regular meeting. The council shall, upon the request of any
141 one or more of the owners of said lots or fractional parts of
142 lots, or of said street car or other railway company, appoint
143 a day for hearing the grievances of said owner or owners, street
144 car or other railway company, and may correct or amend any
145 assessment made against them, or any one of them, for good

146 cause shown. The clerk shall give notice to all persons claim-
147 ing to be injured by said assessment, of the time and place of
148 hearing said matters, which meeting shall be held within ten
149 days after the expiration of the thirty days mentioned in said
150 notice. The council may adjourn the hearing from time to
151 time. In case any owner or owners of abutting property, or
152 street car or other railway company, fail to complain of any
153 damage or injury they may have suffered or may suffer, by
154 reason of the assessments aforesaid, and shall fail to appear for
155 the purpose of having the same corrected, the assessments as to
156 them, as laid, shall be final, and the said assessments shall
157 then be recorded in the book in which the plans, specifications,
158 profiles and estimates are recorded under the provisions hereof
159 and next following the same therein. The finding of said council
160 shall be conclusive. The rights conferred by this section are
161 cumulative and shall not be exhausted as to any particular
162 street or alley by reason of having been once exercised.

163 (e) Whenever it is deemed expedient by the council to pro-
164 vide for paving, sidewalks, curbing or sewers in or upon any
165 of the streets or alleys of the city by the issue and sale of
166 bonds of the city, it shall, by resolution entered of record on the
167 minutes of its proceedings, so declare and thereupon the city
168 shall be and is hereby empowered and authorized to issue its
169 bonds for the purpose of providing for paving, laying sidewalks,
170 curbing the streets and alleys of the city, in anticipation of
171 special assessments to be made upon the property abutting upon
172 the streets and alleys so improved, and upon street car and
173 other railway companies occupying the said streets or alleys
174 with tracks, and such bonds may be in such amount as shall
175 be sufficient to pay the entire cost and expense of said improve-
176 ments for which such special assessments are levied; and said
177 city is also authorized to sell said bonds as a whole issue at
178 one time or in separate lots or parcels from time to time as
179 the council may deem advisable; *provided*, that the price for
180 which they are sold shall not be below the par value of said
181 bonds; said bonds shall be payable not to exceed ten years
182 from the date of the issue thereof and shall bear interest at
183 the rate not to exceed six per centum per annum, payable
184 semi-annually, and in the issuance and sale of said bonds the
185 city shall be governed by all the restrictions and limita-

186 tions of the constitution of the state, and, so far as not
187 in conflict with the provisions of this section, by the restrictions
188 and limitations of this state with respect to the issuance and
189 sale of other bonds; and the assessments, as paid and provided
190 for in this section, shall be applied to the liquidation of said
191 bonds and the interest thereon and to that end paid to the
192 trustees of the sinking fund of the city to be by them invested
193 for the best advantage of the city, anything in any general or
194 special statute of the state notwithstanding to the contrary; and
195 if by reason of penalties collected with the delinquent install-
196 ments there may be any balance after the payment of said bonds
197 and all accrued interest and costs, the said balance shall be
198 turned into the city treasury to the credit of a fund for street
199 improvements for said city and use for no other purpose; *pro-*
200 *vided*, that the city shall not by the sale or issue of such bonds
203 therein; nor shall said city make such issue and sale without at
204 the same time providing for the collection of a direct annual tax
205 sufficient to pay annually the interest on such debt and principal
206 thereof within and not exceeding ten years.

207 All the assessments, interest and penalties thereon collected
208 from the abutting property owners on account of the grading,
209 paving, sewerage or otherwise improving the streets and alleys
210 of the city, under the provisions of this section, shall annually
211 be applied to the annual tax required to pay the interest on
212 such debt and such principal within and not exceeding ten years;
213 and in the event that the assessments, interest and penalties
214 so collected should not amount to the sum sufficient to pay
215 annually the interest on such debt and the principal thereof
216 within and not exceeding ten years, then the council shall collect
217 so much of said levy as will pay annually the interest on such
218 debt and the principal thereof within and not exceeding ten
219 years.

220 (f) It is especially provided that no bonds shall be issued
221 under the provisions of this section, unless and until the ques-
222 tion of issuing said bonds shall have first been submitted to
223 a vote of the people of the city and shall have received three-
224 fifths of all votes cast at said election for or against the same.
225 The council may provide by ordinance for an election every
226 year at which the question shall be submitted to the
227 people as to whether the city shall be authorized to

228 issue bonds for the purpose and under the provisions
229 of this section, to an amount not to exceed in the
230 ensuing year the amount recommended by said ordinance
231 for said ensuing year; but the ordinance providing for
232 said election need not specify in detail the location of
233 the improvements contemplated to be paid for during
234 the ensuing year out of said aggregate issue authorized
235 for said year; and it shall be sufficient description of
236 the purpose for which said election is held, if the
237 ordinance calling the same shall cite that it author-
238 izes the council to issue bonds for the purpose of
239 paving, curbing, laying sidewalks or sewerage the streets
240 and alleys of said city, at such time as the council
240-241 and alleys of said city, at such time as the council
242 shall see fit during the ensuing year ending on the
243 day of 19.., to an amount not
244 exceeding in the aggregate during said year the sum of \$.....;
245 and when the council shall have once been authorized by a
246 vote of the people to issue bonds for the said purpose and to a
247 sum not to exceed the amount set forth in the ordinance call-
248 ing the said election, no further election shall be necessary for
249 the issuing of bonds during said ensuing year up to the amount
250 stipulated in said ordinance calling said election; but the coun-
251 cil shall from time to time during the ensuing year by ordi-
252 nance authorize the issue of said bonds, in such sums, and for
253 the improvements of such streets and alleys as to it may seem
254 best; *provided*, the requirements of this section are complied
255 with. The aggregate amount of bonds authorized by said
256 annual election shall not be exceeded during said year,
257 unless and except the same be authorized by a special
258 election held at a subsequent time in said year and duly called
259 as provided for the calling of the annual bond election.

260 The provisions of chapter forty-seven-a of the code con-
261 cerning bond elections, shall, so far as they are not in conflict
262 with the provisions of this section, apply to the annual bond
263 elections and special bond elections herein provided for.

264 (g) Whenever it is deemed expedient by the council to pro-
265 vide for paving, curbing, sidewalks or sewers, or any other im-
266 provements on any streets or alleys of the city in whole or
267 part, either by the issue of bonds theretofore authorized as

268 herein provided, or by the appropriation of funds in the city
269 treasury not otherwise appropriated, it shall first, having on file in
270 the city clerk's office plans, specifications, profiles and estimates
271 of the proposed improvements, showing the proposed grade of the
272 street, or alley, after completion with reference to the abutting
273 property, declare by resolution the expediency of the work; and
274 said plans, specifications, profiles and estimates shall be open to
275 public inspection.

276 Said resolutions shall determine the general nature of the work,
277 the method of paying for the same, whether by an appropriation
278 from the funds in the treasury not otherwise appropriated, or
279 whether or not the bonds theretofore, as in this section provided,
280 should be issued and sold; said resolution shall be complete in the
281 form in which it is finally passed and remain on file with the city
282 clerk for public inspection one week before the final passage or
283 adoption thereof. Immediately upon the filing of said resolution
284 with the clerk, a copy thereof shall be published once in some
285 newspaper of general circulation in the city, and affidavits of the
286 publishers of said newspapers showing the publication, with a
287 copy of the notice attached, shall be spread upon the minutes of
288 the meeting of the council at which said resolution is passed or
289 adopted. Said resolution shall be posted at the front door of the
290 building where the council holds its meetings on the day it is filed
291 as aforesaid, and affidavit thereof shall be recorded in the min-
292 utes of the council at the next regular meeting.

293 Until said resolution is finally passed, the council shall hear all
294 persons interested in relation thereto at any regular meeting, and
295 if it decides to proceed with the improvement, it shall pass said
296 resolution. And then said council may by resolution correct or
297 amend said plans, specifications, profiles and estimates and ap-
298 prove and adopt them as so corrected, or as they were in their or-
299 iginal form as to it may seem proper; and said plans, specifica-
300 tions, profiles and estimates shall be forthwith filed with the city
301 clerk and by him recorded and attested in a well bound and per-
302 manent record book to be kept in his office. Both resolutions
303 shall be in effect when finally passed.

304 The council may then adopt and pass ordinances for said pur-
305 pose which shall provide generally the character of the work,
306 make appropriations for the payment thereof, fix the time of
307 payment of assessments therefor and the manner of giving notice

308 of said assessment and correcting the same and providing adver-
309 tisements for bids for said work; shall also set forth the streets
310 and alleys upon which the property is to be assessed for said im-
311 provements, the general character of materials which may be bid
312 upon therefor, the mode of payment for same and a reference to
313 the resolution theretofore passed for said improvements, giving
314 the date of passage, and a statement of the intention of council to
315 proceed therewith in accordance with said resolution and
316 in accordance with the plans, specifications, estimates and pro-
317-318 files provided for such improvements.

319 In any case where the council has determined to pay for any
320 of such improvements out of the funds in the city treasury not
321 otherwise appropriated, and not by the issuance or sale of bonds,
322 said ordinance shall be passed and become effective as provided
323 in section twelve of this chapter; but in the event it has been
324 determined to issue and sell bonds for the payment thereof, the
325 said ordinance shall not be effective so as to permit any con-
326 tract to be made or work to be done thereunder until, in addi-
327 tion to the compliance with the provisions of section twelve,
328 the fact that the proceeds of the sale of said bonds have been
329 received by the city shall be certified by the superintendent of
330 the department of accounts and finance and such certificate
331 entered upon the minutes of the council.

332 (h) When the whole or any portion of the improvements
333 authorized by this section passes through or by a public market,
334 space, park, cemetery, structure for the fire department, water
335 works, school building, infirmary, market house, work house,
336 hospital, house of refuge, bridge, gas works, public prison,
337 church, or any other public structure or public grounds, within
338 said city, and belonging to said city, or to the county, state,
339 board of education, or any church association or eleemosynary
340 institution, the council shall direct the proper proportion of
341 the cost and expenses of the improvements to be certified to
342 the clerk of the county court of the county, wherein said city
343 is situate, and the same shall thereupon be recorded by said clerk
344 in the proper trust deed book and shall thereupon become a lien
345 against said property and collectable as other assessments are
346 collected against individuals under this section; and it shall
347 be the duty of those persons, having charge of the fiscal affairs

348 of any such property or institution, to make proper arrange-
349 ments for meeting of such assessments when due and payable.

350 (i) All acts or parts of acts, whether special or general,
351 which are in conflict with the provisions of this act, so far
352 as they may apply to the city of Williamstown are to that
353 extent repealed, except that said city may continue to pave
354 sidewalks as the town of Williamstown has authorized, and
355 nothing herein contained shall in anywise effect or impair the
356 right of the city to enforce the collection of any and all paving,
357 sewerage or sidewalk bills or assessments, heretofore issued,
358 laid or levied by the said city of Williamstown or town of Wil-
359 liamstown, by virtue of any authority had by it.

Sec. 20. The council shall have authority to levy and collect
2 an annual tax for the purpose hereinafter specified, on the per-
3 sonal property and real estate in said city subject to taxation
4 by said city, not to exceed in any year ten cents on
5 every hundred dollars of the assessed value thereof; the money
6 so collected shall be used for the purpose of paying its proportion
7 of the cost of paving or re-paving streets and alleys and for
8 constructing sewers in said city, in accordance with the provisions
9 of section nineteen of this act; and such money shall in no case
10 be used to pay for repairs or streets or alleys or sewers, or for
11 any other purpose than for paving or for sewers. *Provided*, that
12 the total levy for all purposes shall not exceed the total levy
13 authorized by law.

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 in-
6 cumbent 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
10 be removed, shall be filed with the city clerk; which petition
11 shall contain a general statement of the grounds for which the
12 removal is sought. The signatures to the petition need not be
13 appended to one paper, but each signer shall add to his signa-
14 ture his place of residence, giving the street number. One of
15 the signers of each such paper shall make oath before an

16 officer competent to administer oaths, that the statements therein
17 made are true as he believes, and that each signature to the pa-
18 per appended is the genuine signature of the person whose name
19 it purports to be. Within ten days from the date of filing such
20 petition, the city clerk shall examine, and from the voters' reg-
21 ister ascertain whether or not said petition is signed by the requi-
22 site number of qualified electors, and if necessary, the council
23 shall allow him to have extra help for that purpose, and he shall
24 attach to said petition his certificate showing the result of said
25 examination. If by the clerk's certificate, the petition is shown
26 to be insufficient, it may be amended within ten days from the
27 date of said certificate. The clerk shall, within ten days after
28 such amendment, make like examination of the amended petition
29 and if his certificate shall show the same to be insufficient, it
30 shall be returned to the person filing the same; without prejudice,
31 however, to the filing of a new petition to the same effect. If
32 the petition shall be deemed to be sufficient, the clerk shall sub-
33 mit the same to the council without delay. If the petition shall
34 be found to be sufficient, the council shall order and fix a date
35 for holding said election, not less than thirty days nor more than
36 forty days from the date of the clerk's certificate to the council
37 that a sufficient petition is filed.

38 The council shall make, or cause to be made, publication of
39 notice and all arrangements for holding such election, and the
40 same shall be conducted, returned, and the result thereof de-
41 clared in all respects as are other city elections. So far as ap-
42 plicable, except as otherwise herein provided, nominations here-
43 under shall be made without the intervention of a primary
44 election by filing with the clerk, at least ten days prior to said
45 special election, a statement of candidacy accompanied by a pe-
46 tition signed by electors entitled to vote at said special election,
47 equal in number to at least ten per centum of the entire vote for
48 all candidates for the office of mayor at the last preceding general
49 municipal election; which said statement of candidacy and peti-
50 tion shall be substantially in the form set out in section five of
51 this act, so far as the same is applicable, substituting the word
52 "special" for the word "primary" in such statement and pe-
53 tition and stating therein that such person is a candidate for
54 election instead of nomination.

55 The ballot for such special election shall be in substantially
56 the following form:

57 *Official Ballot.*

58 Special election for the balance of the unexpired term of
59, as

60 For

61 (Vote for one only)

62 (Name of candidate)

63 []

64 []

65 Name of present incumbent.

66 Official ballot, attest:

67 Signature.....

68 City Clerk.

69 The successor of any officer shall hold office during the un-
70 expired term of his predecessor. Any person sought to be re-
71 moved may be a candidate to succeed himself, and unless he re-
72 quests otherwise in writing, the clerk shall place his name on
73 the official ballot without nomination. In any such removal
74 election, the candidate receiving the highest number of votes
75 shall be declared elected. At such election, if some other person
76 than the incumbent receives the highest number of votes, the
77 incumbent shall thereupon be deemed removed from office upon
78 qualification of his successor. In case the party who received
79 the highest number of votes shall fail to qualify within ten days
80 after receiving notification of election, the office shall be deemed
81 vacant. If the incumbent receives the highest number of votes,
82 he shall continue in office. The said method of removal shall
83 be cumulative and additional to the methods heretofore provided
84 by law.

Sec. 22. Any proposed ordinance may be submitted to the
2 council by petition signed by electors of the city equal in num-
3 ber to the percentage hereinafter required. The signatures, veri-
4 fications, inspection, certification, amendment and submission of
5 such petition shall be the same as provided for petition under
6 section twenty-one hereof.

7 If this petition accompanying the proposed ordinance be
8 signed by electors equal in number to twenty per centum of the
9 votes cast for all candidates for mayor at the last preceding
10 general election, and contain a request that the said ordinance

11 be submitted to a vote of the people, if not passed by the council,
12 such council shall either—

13 (a) Pass such ordinance without alteration within twenty
14 days after attachment of the clerk's certificate to the accom-
15 panying petition; or,

16 (b) Forthwith, after the clerk shall attach to the petition
17 accompanying such ordinance his certificate of sufficiency, the
18 council shall call a special election, unless the general municipal
19 election is fixed within ninety days thereafter, and at such special
20 or general municipal election, if one is fixed, such ordinance shall
21 be submitted without alteration to the vote of the electors of
22 said city. But if the petition is signed by no less than ten per
23 centum of the electors, as above defined, then the council shall
24 within twenty days, pass said ordinance without change, or sub-
25 mit the same at the next general city election, occurring not more
26 than ninety days nor less than thirty days after the clerk's cer-
27 tificate or sufficiency is attached to said petition.

28 The ballots used when voting upon said ordinance shall con-
29 tain these words: "for the ordinance" and "against the or-
30 dinance" (stating the nature of the proposed ordinance). If
31 the majority of the qualified electors voting on the proposed or-
32 dinance shall vote in favor thereof, such ordinance shall there-
33 upon become a valid and binding ordinance of the city; and
34 any ordinance proposed by petition or which shall be adopted
35 by a vote of the people, cannot be repealed or amended except
36 by a vote of the people. Any number of proposed ordinances
37 may be voted upon at the same election in accordance with the
38 provisions of this section; but there shall not be more than one
39 special election in any period of six months for such purpose.

40 The council may submit a proposition for the repeal of any
41 such ordinance or for amendment thereto, to be voted upon at
42 any succeeding general city election; and should such proposi-
43 tion so submitted receive a majority of the votes cast thereon at
44 such election, such ordinance shall thereby be repealed or amend-
45 ed accordingly. Whenever any ordinance or proposition is re-
46 quired by this act to be submitted to the voters of the city at
47 any election, the city clerk shall cause such ordinance or prop-
48 osition to be published once in one of the newspapers published
49 in said city; such publication to be not more than twenty nor

50 less than five days before the submission of such proposition or
51 ordinance to be voted on.

Sec. 23. No ordinance or franchise passed by the council,
2 except when otherwise required by the general laws of the state
3 or by the provisions of this act, except no ordinance for the
4 immediate preservation of the public peace, health or safety, which
5 shall contain a statement of its urgency, shall go into effect be-
6 fore ten days from the time of its final passage, and not then
7 unless within two days after passage, Sundays and holidays ex-
8 cepted, copies of the same shall have been posted and left posted
9 at the mayor's office and at least three other public places in
10 the said city. And if during said ten days a petition signed by
11 electors of the 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 municipal election at which a mayor
14 was elected, protesting against the passage of such ordinance or
15 franchise, be presented to the council, the said ordinance or
16 franchise shall thereupon be suspended from going into oper-
17 ation; and it shall be the duty of the council to reconsider such
18 ordinance or franchise, and if the same is not entirely repealed,
19 the council shall submit the ordinance or franchise, as if pro-
20 vided by sub-section "b" of section twenty-two of this act, to
21 the vote of the electors of the city, either at a general election
22 or at a special municipal election to be called for that purpose;
23 and such ordinance or franchise shall not go into effect or be-
24 come operative unless a majority of the qualified electors voting
25 on the same shall vote in favor thereof. Said petition shall be
26 in all respects in accordance with the provisions of said section
27 twenty-two, except as to the percentage of signers, and be ex-
28 amined and certified to the clerk in all respects as therein pro-
29 vided.

Sec. 24. Petitions provided for in this act shall be signed by
2 none but legal voters of the city. Each petition shall contain
3 in addition to the names of the petitioners, the street on which
4 petitioner resides, his age and length of residence in the city.
5 It also shall be accompanied by the affidavit of one or more legal
6 voters of the city, stating that the signers thereof were at the
7 time of signing, legal voters of said city, and the number of
8 signers at the time the affidavit was made.

Sec. 25. The council shall have authority to levy and collect
2 an annual tax on real estate and personal property in said city,
3 and to impose a license and assess a tax thereon on wheeled
4 vehicles for public hire and for all dogs kept within said city,
5 and to impose a tax upon all other subjects of taxation under the
6 several laws of the state, which shall be uniform with respect to
7 persons and property within the jurisdiction of said city, and
8 shall only be levied on such property, real, personal and mixed on
9 which the state imposes a tax; *provided*, that no greater levy shall
10 be laid by said council on the taxable property of said city than is
11 permitted to be laid under any state law, relating to municipali-
12 ties, except as herein provided; and, *provided, further*, that the
13 council shall in making such levy, be subject to all the provisions
14 of chapter nine of the acts of the legislature of one thousand nine
15 hundred and eight and any and all amendments thereto, except
16 as herein provided.

CHAPTER 31

(House Bill No. 128—Mr. Otto.)

AN ACT to amend and re-enact sections six, nine, twenty-three, fifty, fifty-nine, seventy-five, seventy-seven, eighty-four 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.

[Passed April 21, 1921. In effect after June 30, 1921. Became a law without the approval of the Governor.]

SEC.

- 6. City council; members, term, qualifications, duties.
- 9. Same; salary.
- 23. Same; power to enforce ordinances relating to vehicles.
- 50. Same; eminent domain; damages, how ascertained.
- 59. Police court judge; jurisdiction.
- 75. County assessor; to furnish transcript of city assessments; compensation.
- 84. City authorized to issue and sell bonds; conditions; ordinance specifying purpose and amount for which such bonds are issued; no bonds shall be issued, unless first submitted to qualified vot-

SEC.

- ers; ballots provided for; publication of; election governing; ordinance submitted, proclamation issued, denomination of bond; date payable, interest on, advertising and sale of bonds, penalty for misusing funds derived from sale of bonds.
- 98. Civil service commission; to be appointed by council; to examine applicants for various departments; eligible list to be furnished city manager; examination papers to be kept on file in city clerk's office; restrictions as to members of commission; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section six 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) be amended and re-enacted so as to read as follows:

Section 6. Said city shall have a city council of not less than 2 eleven members. All councilmen shall take office on the first day 3 of July, following their election, and shall serve for a term of two 4 years and until their successors are elected and have qualified, 5 unless sooner removed from office as hereinafter provided. They 6 shall be residents of the city and qualified voters therein. No one 7 elected a member of such city council shall be eligible to hold office 8 as such member, who shall be interested directly or indirectly in 9 the profits or emoluments of any contract, job, work or service for 10 the city, or in any sale to it of any property, real or personal; or 11 be, directly or indirectly, a holder or owner of any bond or stock 12 of any public utility corporation enjoying a franchise, privilege

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

Sec. 9. Councilmen shall be paid ten dollars each for every
2 regular meeting they attend, and the mayor shall be paid fifteen
3 dollars for like attendance, but no compensation shall be allowed
4 for special meetings, nor for any committee meeting of the council.

5 No extra compensation shall be granted or allowed to any mem-
6 ber of council, agent or servant of the city, or contractor therewith
7 after the services shall have been rendered or the contract made;
8 nor shall any payment be made of any claim or part thereof,
9 created against the city, under any agreement or contract made
10 without express authority of law; and all such unauthorized
11 agreements shall be null and void. Nor shall the salary or com-
12 pensation of any member of council be increased or diminished
13 during his term of office. No member of the council shall receive
14 any additional emolument, allowance or perquisite on any account,
15 save the compensation hereinbefore in this section provided.

Sec. 23. "The council of the city of Wheeling shall have the
2 power to enact and enforce ordinances and regulations limiting the
3 speed of vehicles upon its streets, alleys and other public thorough-
4 fares within its limits, and likewise limiting the size and weight of
5 vehicles, and the weight per inch width of tire, upon such
6 streets, alleys and other public thoroughfares within its limits as
7 are not designated by the state road commission as connecting
8 parts of the road system. The council of the city of Wheeling
9 shall also have power to regulate or forbid the parking of vehicles
10 upon any designated streets, alleys and other public thoroughfares
11 within its limits, and to regulate the progress of traffic at street
12 intersections."

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, playgrounds and other municipal purposes, in-
4 cluding occupation by sewer, water pipes, gas pipes, heating pipes,
5 compressed air pipes and electric or other subways, any private
6 property within the city. (and where such use is to secure or im-
7 prove the water supply, or for park, playground, sanitary or ceme-
8 tery purposes, outside the limits of the city), but no such property
9 shall be taken or damaged without just compensation. The com-
10 pensation, if it cannot be determined by agreement with the owner
11 of the property so taken or damaged, shall be ascertained in such
12 manner as is or may be, prescribed by general law for the condem-
13 nation of land for public purposes. In addition to all other levies
14 provided by law the council of the city of Wheeling shall have the
15 right to levy annually one cent on each one hundred dollars of the
16 assessed valuation of the property within the limits of the city
17 according to the last assessment thereof for state and county pur-
18 poses, for the purpose of obtaining and maintaining playgrounds
19 and recreation centers.

Sec. 59. The judge of the police court shall have jurisdiction
2 over all offenses against, or violation of, the ordinances of said
3 city, and full authority to punish in any manner lawfully pre-
4 scribed by such ordinances, the offenders against or violators of the
5 same; *provided, however*, that no jury shall be allowed in any
6 trial in said court for the violation of any ordinance of said city.

7 The said judge of the police court shall have the same criminal
8 and civil jurisdiction and powers within the county of Ohio as
9 is provided by law for justices of the peace elected in said county.

Sec. 75. The county assessor or other officer assessing property
2 in Ohio county, for taxation for state and county purposes, shall
3 furnish to the council of the city of Wheeling, a transcript of the
4 assessment of real and personal property within said city liable to
5 taxation by the state, on or before the first day of August of each
6 year, and he shall receive such compensation therefor as may be
7 fixed by said council.

Sec. 84. Said city of Wheeling is hereby authorized to issue
2 and sell its bonds. *Provided*, that the said city shall not by such
3 issue and sale of bonds cause the aggregate of its debts of every
4 kind whatsoever to exceed five per centum of the valuation of the
5 taxable property therein, which value shall be ascertained by the

6 last assessment for state and county taxes previous to the issue of
7 said bonds, nor shall said city make such issue and sale without at
8 the same time providing for the collection of a direct annual tax
9 of an amount sufficient to pay the annual interest of such debt and
10 the principal thereof within and not exceeding thirty-four years.

11 No bonds shall be issued by said city unless all questions con-
12 nected with the same shall have been first submitted to the quali-
13 fied voters of said city and have received three-fifths of all the
14 votes cast for and against the same.

15 When the council shall deem it expedient to issue bonds, an
16 ordinance specifying the purpose and amount for which such
17 bonds are to be issued shall be adopted by them at a regular
18 meeting and it shall then be the duty of the mayor of the city to
19 issue a proclamation reciting said ordinance and appointing a day
20 at which an election shall be held by the qualified voters of the
21 city to decide whether they will ratify or reject said ordinance.
22 Any bond ordinance may be voted on at the time of holding any
23 general municipal election or a special election may be held for
24 the purpose of submitting said ordinance to a vote of the people.
25 If a bond ordinance is submitted to a vote at the time of a gen-
26 eral municipal election, separate ballots shall be provided therefor.
27 Such proclamation shall be published in two newspapers of oppo-
28 site politics published in the city, once a week for two successive
29 weeks previous to the day of election.

30 Such election shall be conducted in all things according to the
31 laws governing elections in force at the time said election is being
32 held and according to the provisions of the charter of the city.
33 All persons qualified to vote at other municipal elections in the
34 city shall vote at such elections as are herein mentioned.

35 The person voting for the ratification of any such ordinance shall
36 have written or printed on his ballot "for ratification" and the
37 person voting against ratification shall have written or printed on
38 his ballot "against ratification."

39 More than one ordinance may be submitted at any election, but
40 each ordinance shall be separately voted upon; any ordinance may
41 specify more than one purpose for which said bonds are to be
42 issued; *provided, however*, that the amount to be appropriated for
43 each purpose is also specified therein. The proclamation issued by
44 the mayor, as hereinbefore provided, shall specify the aggregate
45 amount of indebtedness, outstanding and authorized, of the city

46 existing at the date of the proclamation.

47 Bonds issued by the city shall be of the denomination of one
48 hundred dollars or multiples thereof, not exceeding one thousand
49 dollars. They shall be payable not less than one nor more than
50 thirty-four years after date. They shall bear not more than six
51 per cent interest and the interest shall be payable annually or
52 semi-annually. No debt shall be created by the city as a bonded
53 debt except when issued under the provisions of this charter.

54 It shall be unlawful for the officers of the city to privately
55 issue or sell directly or indirectly any bond or bonds to be used in
56 payment for work or materials to be furnished, but all such bonds
57 shall be publicly sold to the highest bidder in writing to be ap-
58 proved by the officers conducting the sale, for cash or its equivalent
59 in bonds previously issued by the city, and the money arising there-
60 from shall be used for the purpose specified in the ordinance pro-
61 viding for the issuing of same; before any sale of such bonds, said
62 sale shall be advertised in some newspapers, not exceeding four, in
63 or out of said city, once a week for four weeks previous to said sale.

64 The treasurer of the city of Wheeling and his sureties shall be
65 liable for the sinking fund and the amount levied for may be
66 levied for a sinking fund and to pay interest on the bonded debt,
67 and it shall be applied to the purposes for which it was levied or
68 for investment in United States bonds, or bonds of the city, as the
69 council may direct, to be used for the payment of principal and
70 interest of any bonded debt of the city.

71 Bonds of the city shall not be sold at less than their par value.
72 The council shall provide in its ordinance that bonds of the city
73 be signed by the mayor and city clerk and sealed with the seal of
74 the city.

75 Should any of the fund derived from the issuance and sale of
76 bonds of the city be diverted by the council or any officer or
77 officers of the city from the purpose for which said bonds were
78 issued and sold, such councilman or city officer using same or
79 consenting to or aiding in the use thereof for such other purpose,
80 shall be guilty of a misdemeanor and be punished by a fine of not
81 less than one hundred dollars nor more than five hundred dollars,
82 or by imprisonment for not less than thirty days nor more than
83 one year, or both fine and imprisonment.

84 The city may issue and sell its bonds for any of the purposes
85 authorized in sections twenty-nine, forty-eight, fifty and fifty-two

86 of chapter twenty-one (Municipal Charters) of the acts of one
87 thousand nine hundred and fifteen, passed by the legislature of
88 West Virginia, on February thirteenth, one thousand nine hun-
89 dred and fifteen. After the council shall have passed an ordinance
90 providing for the submission of a bond issue to the voters of the
91 city, the mayor, with the consent and approval of council, shall ap-
92 point a committee consisting of not less than five residents and cit-
93 izens of the city of Wheeling, which committee shall act in an ad-
94 visory capacity, with the city council in all matters relating to the
95 issuance and sale of such bonds, and in the awarding of contracts
96 and expenditures of the funds derived from a sale of such bonds.
97 The names of the members of such committee shall be published in
98 the proclamation issued by the mayor prior to the holding of the
99 election on any such bond issue.

Sec. 98. The city council is empowered to appoint a civil
2 service commission for the purpose of examining applicants for
3 positions in the police, fire, water and health departments. Said
4 commission shall consist of three citizens, not all of whom shall
5 be of one political party. Any vacancies occurring in the com-
6 mission shall be filled by council. For the purpose of conducting
7 tests in the departments specified they shall conduct practical
8 examinations annually or oftener, fixing grades and classifications
9 as they may determine, and a list of those successfully passing
10 the examinations prescribed shall be furnished the city manager,
11 Such list shall be known as the eligible list, and, unless for good
12 cause shown, selections must be made from among the three appli-
13 cants rated highest for the appointments necessary to be made.
14 Said list and all examination papers shall be kept on file in the
15 office of the city clerk and available to the public at all times;
16 *provided*, that appointees in the departments under civil service
17 may be subjected to examinations from time to time in the interest
18 of efficiency, and that the passing of the required examinations
19 prior to entering the city's employ shall not constitute a life tenure
20 in office. No member of the civil service commission during his
21 incumbency shall be holder of any state, county, or municipal
22 office.

23 All parts of chapter twenty-one, acts of the legislature of West
24 Virginia, of one thousand nine hundred and fifteen (Municipal
25 Charter) and all amendments thereto, inconsistent or in conflict
26 with this act are hereby repealed.