

# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1919

### REGULAR SESSION

#### CHARTERS

##### CHAPTER 1.

(House Bill No. 147—Mr. Hackney.)

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 February 15, 1919. In effect from passage. Became a law without the Governor's approval.]

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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 Kanawha 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 Town of South Charleston," 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 town shall hereafter be as follows:

Courses and distances of the boundaries of the above named survey are:

Beginning at a point on the north side of Kanawha river, at pool water mark and in the west line of Patrick street of the city of Charleston, West Virginia, (the said west line of Patrick street extended to the south side of the river is the present corporation line of the said city of Charleston) thence running with the said corporation line of the city of Charleston to the south side of the Kanawha river at pool water mark; thence running down the river along pool water mark nine hundred and fifty feet, more or less, to the east bank of Joplin branch; thence running up Joplin branch along its east bank five thousand two hundred and fifteen feet, more or less, to a stake with a small sycamore pointed on the east bank, and a large beech pointer on the west bank; thence leaving Joplin branch north seventy-five degrees west two thousand six hundred feet, more or less, to a stake at the southeast back corner of the Shepherd reservation; thence with back line of said Shepherd reservation, south seventy-nine degrees twenty-eight west one thousand and forty-three feet, more or less, to the southwest corner of the Shepherd reservation; thence leaving said



23 reservations south sixty-two degrees fifteen minutes west seven  
24 thousand and seventy-five feet, to a stake on the west bank of Davis  
25 creek, about one hundred feet above the mouth of a small left-  
26 hand branch, called \_\_\_\_\_ branch; thence along the west  
27 bank of Davis creek to pool water mark of Kanawha river; thence  
28 north forty-four degrees west crossing Kanawha river about six  
29 hundred feet to pool water mark on the north side of said river;  
30 thence running up the river along pool water mark about three  
31 (3) miles to the beginning, containing about three (3) square  
32 miles, more or less.

Sec. 3. The municipal authorities of the town of South  
2 Charleston shall consist of a mayor and six councilmen who,  
3 together shall constitute and be known as "the common coun-  
4 cil of the town of South Charleston" who shall be elected by  
5 the voters of the entire town.

Sec. 4. In addition to the municipal authorities mention-  
2 ed in section three of this act, said town may have a treasurer,  
3 recorder, city solicitor, chief of police, chief of fire department,  
4 city engineer, street commissioner, health commissioner, and  
5 such other officers and agents as the said council may, from  
6 time to time, create or employ. The selection of all appointive  
7 officers named or provided for in this section, and the power to  
8 fix their salaries, shall be vested in the council, unless otherwise  
9 herein provided. The duties, in addition to these prescribed  
10 herein, of all appointive officers named or authorized in this act,  
11 shall be prescribed by the council by ordinance, and all such  
12 appointive officers, and all agents, servants, or employees of said  
13 town, shall be subject to removal from office, or employment at  
14 the will of the council of said town.

15 The recorder shall be elected by the voters of the entire  
16 town.

Sec. 5. The mayor and councilmen as soon as they shall  
2 be elected and qualified, as herein provided, shall be a body po-  
3 litic and corporate by the name of "The Corporation of South  
4 Charleston," and shall have perpetual succession and a com-  
5 mon seal; and by that name may sue and be sued, plead and be  
6 impleaded, contract and be contracted with, and may purchase  
7 and hold real estate and other property necessary or proper to  
8 enable it to discharge its duties, and needful for the good order,  
9 government and welfare of said corporation.

Sec. 6. All the corporate powers of the said town shall

2 be exercised by the said council or under its authority, except  
3 when otherwise provided.

Sec. 7. The council of said town shall have and are here-  
2 by granted power to have said town surveyed; to open, vacate,  
3 broaden, change of, grade and pave streets, sidewalks and gut-  
4 ters 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 except as to lighting  
7 have power and authority to assess upon and collect from the  
8 property benefited thereby all, or such part of the expense  
9 thereof, as shall be fixed by ordinance, except as hereinafter  
10 provided; to have control of all streets, avenues, roads, alleys  
11 and grounds for public use in said town, and to regulate the  
12 use thereof and driving thereon, and to have the same kept in  
13 good order and free from obstruction, pollution or litter on or  
14 over them; to have the right to control all bridges within said  
15 town, and the traffic passing thereover; to change the name of  
16 any street, avenue or road within said town, and to cause the  
17 re-numbering of houses on any street, avenue or road therein;  
18-19 to regulate and determine the width of streets, sidewalks,  
20 roads, walks and footways for public use in said town to be done  
21 and kept clean and in good order by the owners of adjacent prop-  
22 erty; to enter into a contract with any internal improvement  
23 company for the joint ownership of any bridge by the town and  
24 such company, upon such terms as may be prescribed in the  
25 contract, but such bridge shall be a public highway; to prohibit  
26 and punish the abuse of animals; to restrain and punish vag-  
27 rants, mendicants, beggars, tramps, prostitutes, drunken or  
28 disorderly persons within the town, and to provide for their  
29 arrest and manner of punishment; to prohibit by ordinance  
30 the bringing into the town of any person or animal afflicted  
31 with contagious or infectious disease, and to punish any vi-  
32 olator of said ordinance who knows or has reason to believe  
33 such person or animal to be so afflicted; to control and suppress  
34 disorderly houses of prostitution or ill-fame, houses of assign-  
35 nation, and gaming houses or any part thereof, and to punish  
36 gaming; to prohibit within said town or within three miles  
37 thereof slaughter houses, soap or glue factories and houses of  
38 like kind; to control the construction and repair of all houses,  
39 basements, walls, bridges, culverts and sewers, and to prescribe  
40 and enforce all reasonable regulations affecting the construc-

41 tion of the same, and to require permits to be obtained for such  
42 buildings and structures, and plans and specifications thereof  
43 to be first submitted to the town council; to control the open-  
44 ing and construction of ditches, drains, sewers, cess-pools and  
45 gutters, and to deepen, widen and clear the same of stagnant  
46 water or filth, and to prevent obstructions therein, and to deter-  
47 mine at whose expense the same shall be done; and to build  
48 and maintain fire station houses, police stations and police  
49 courts, and to regulate the management thereof; to acquire.  
50 lay off, appropriate and control public grounds, squares and  
51 parks, either within or without the town limits as herein de-  
52 fined; to purchase, sell, lease or contract for and take care of  
53 all public buildings, and structures and real estate, including  
54 libraries and hospitals, deemed proper for use of such town;  
55 and, for the protection of the public, to cause the removal of  
56 unsafe walls or buildings, and the filling of excavation to pre-  
57 vent injury or annoyance to the business of individuals from  
58 anything dangerous, offensive or unwholesome; to define, pro-  
59 hibit, abate, suppress and prevent all things detrimental to the  
60 health, morals, comfort, safety, convenience and welfare of the  
61 inhabitants of the town, and all nuisances and causes thereof,  
62 and to that end and thereabout to summon witnesses and hear  
63 testimony to declare and enforce quarantine against the in-  
64 troduction of any contagious or infectious disease prevailing  
65 in any other state, county or place, and of any and all persons  
66 and things likely to spread such contagion or infection; to reg-  
67 ulate the keeping of gunpowder and other combustible or dan-  
68 gerous articles; to regulate, restrain or prohibit the use of fire-  
69 crackers, or other explosives, or fireworks, and all noises or  
70 performances which may be dangerous, annoying to persons or  
71 tend to frighten horses or other animals; to provide and main-  
72 tain proper places for the burial of the dead and to regulate  
73 interments therein upon such terms and conditions as to price  
74 and otherwise as may determine; to provide for shade and  
75 ornamental trees and the protection of the same; to provide for  
76 the making of division fences; to make proper regulation for  
77 guarding against danger or damage from fires; to provide for  
78 the poor of the town, and to that end may contract with the  
79 proper authorities of Kanawha county to keep and maintain  
80 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  
84 same so as to prevent injury, inconvenience or annoyance to  
85 the public; to prohibit prize fighting, cock and dog fighting; to  
86 license, tax, regulate or prohibit theaters, circuses, the exhibi-  
87 tion of showmen and shows of any kind and the exhibition of  
88 natural or artificial curiosities, caravans, menageries, pictures,  
89 motion pictures and musical exhibitions and performances;  
90 to regulate the construction, height and material used in all  
91 buildings, and the maintenance and occupancy thereof; to reg-  
92 ulate and control the use for whatever purpose, of the streets  
93 and other public places; to create, establish, abolish and or-  
94 ganize employments and fix the compensation of all employees;  
95 to organize and maintain fire companies and to provide nec-  
96 essary apparatus, engines and implements for the same; to  
97 regulate and control the kind and manner of plumbing and  
98 electric wiring for the protection of the health and safety of  
99 said town; to levy taxes on persons, property and licenses; to  
100 license and tax dogs and other animals and regulate, restrain  
100-a and prohibit therein all other animals and fowls from running  
101 at large; to assess, levy and collect taxes for general and spe-  
102 cial purposes upon all the subjects or objects which the town  
103 may lawfully tax; to levy and collect assessments for local im-  
104 provements; to borrow money on the faith and credit of the  
105 town by the issue and sale of bonds in the manner prescribed  
106 by law; to appropriate the money of the town for all lawful  
107 purposes; to create, provide for, regulate and maintain all  
108 things in the nature of public works and improvements; to  
109 adopt rules for the transaction of business and for its own reg-  
110 ulation and government; to promote the general welfare of the  
111 town and to protect the persons and property of citizens there-  
112 in; to regulate and provide for the weighing of produce and  
113 other articles sold in said town and to regulate the transporta-  
114 tion thereof, and other things through the streets; to have the  
115 sole and exclusive right to grant, refuse or revoke any and all  
116 licenses for the carrying on of any business within said town on  
117 which the state exacts a license tax; to establish and regulate  
118 markets and to prescribe the time for holding the same, and  
119 what shall be sold in such market, and to acquire and hold  
120 property for market purposes; to regulate or prohibit the plac-

121 ing of signs, bill-boards, posters and advertisements in, or over  
122 the streets, alleys, sidewalks and public grounds of said town;  
123 to preserve and protect the peace, order and safety and health  
124 of the town and its inhabitants, including the right to regulate  
125 the sale and use of cocaine, morphine, opium and poisonous  
126 drugs; to make, enforce and provide local police, sanitary and  
127 other regulations, and fully exercise all lawful police powers;  
128 to appoint and fix the places of holding town elections; to  
129 erect, own, lease, authorize or prohibit the erection of gas  
130 works, system of water works or electric light works in or near  
131 the town, and to operate the same and sell the products or serv-  
132 ices thereof, and to do any and all things necessary and inci-  
133 dental to the conduct of such business; to provide for the  
134 purity of milk, meats and provisions offered for sale in said  
135 town, and to that end provide for a system of inspecting the  
136 same and making and enforcing rules for the regulation of  
137 their sale, and to prohibit the sale of any unwholesome or  
138 tainted milk, meats, fish, fruit, vegetables, or the sale of milk  
139 containing water or other things not constituting a part of  
140 pure milk; to provide for inspecting dairies and slaughter  
141 houses, whether in or outside of the town, where the milk and  
142 meat therefrom are offered for sale within the said town; to  
143 prescribe and enforce ordinances and rules for the purpose of  
144 protecting the health, property, lives, decency, morality and  
145 good order of the town and its inhabitants, and to protect  
146 places of divine worship in and about the premises where held,  
147 and to punish violations of such ordinances even if the offense  
148 under and against the same shall constitute offenses under the  
149 law of the state of West Virginia or the common law; to pro-  
150 vide for the employment and safe keeping of persons who may  
151 be committed in default of the payment of fines, penalties or  
152 costs under this act, who are otherwise unable or fail to dis-  
153 discharge the same, by putting them to work for the benefit of  
154 the town upon the streets or other places provided by said  
155 town, and to use such means to prevent their escape while at  
156 work as the council may deem expedient; and the council may  
157 fix a reasonable rate per day as wages to be allowed such per-  
158 son until the fine and costs against him are thereby discharg-  
159 ed; to compel the attendance at public meetings of the mem-  
160 bers of the council; to prevent any person, association or cor-  
161 poration from polluting in any manner any pond, lake, basin,

162 reservoir, stream, spring, creek, or other body of water from  
163 which the town shall take water to be used for domestic pur-  
164 poses by the inhabitants thereof, or from casting into any such  
165 body of water, or on the bank thereof or in such proximity  
166 thereto that the same may enter therein, any filthy, unwhole-  
167 some, or obnoxious substance, object, or liquid, or anything what-  
168 soever, injurious to the health of the people of the town; to ex-  
169 ercise all other powers that now are or hereafter may be granted  
170 to municipalities by the constitution or the laws of the state of  
171 West Virginia; and all such powers, whether expressed or im-  
172 plied, shall be exercised and enforced in the manner prescribed  
173 by this charter, or when not prescribed herein, in such manner  
174 as shall be provided by the ordinances or resolutions of the coun-  
175 cil.

176 The enumeration of particular powers of this charter shall not  
177 be held or deemed to be exclusive, but in addition to the powers  
178 enumerated herein, impliedly thereby, or appropriate to the ex-  
179 ercise thereof, the council shall have and exercise all other powers,  
180 which, under the constitution and laws of the state of West Vir-  
181 ginia it would be competent for this charter specifically to  
182 enumerate.

#### *Qualification of Voters.*

Sec. 8. Every male person residing in said town shall be  
2 entitled to vote for all officers elected under this act; except no  
3 person who is a minor, or of unsound mind, or a pauper, or who  
4 is under conviction of treason or bribery in an election, or who has  
5 not been a resident of this state for one year, of said town for six  
6 months next preceding the election in which he desires to vote, or  
7 unless he is *bona fide* resident he shall not be permitted to vote.

Sec. 9. No person shall be eligible to the office of mayor,  
2 treasurer, recorder or councilman, unless at the time of his elec-  
3 tion he is legally entitled to vote in the town election for a mem-  
4 ber of the common council, and he was for the preceding year  
5 assessed with taxes upon real or personal property within the said  
6 town of the assessed aggregate value of at least one hundred  
7 (\$100.00) dollars, and shall have actually paid the taxes so as-  
8 sessed.

Sec. 10. On the first Tuesday in April, one thousand nine  
2 hundred and twenty, and every two years thereafter, there shall be

3 elected by the qualified voters of said town a mayor, recorder and  
4 six councilmen; the term of office of said mayor, recorder and  
5 councilmen shall be for the period of two years, beginning on the  
6 first day of May next after their election and until their successors  
7 shall be elected and qualified.

Sec. 11. In all elections for mayor, recorder and council-  
2 men, the officers shall be nominated by a mass convention. Any  
3 political party or any number of persons desiring to place a ticket  
4 upon the ballot to be voted for in said election, shall present to the  
5 council at a regular session thereof, not later than the twentieth  
6 day of March preceding said election, a petition containing the  
7 names of legal voters of said town equal to at least ten percent  
8 (10%) of all the voters of said town, asking said council to call  
9 a mass convention for the purpose of nominating officers to be  
10 voted for at said election. The council shall receive and examine  
11 said petition and if found to comply with the provisions of this  
12 act, shall order a nominating convention to be held in some public  
13 assembly room in said town not later than five days after said pe-  
14 tition is received, and shall order the recorder to post at least five  
15 notices in public and conspicuous places in said town; said notices  
16 to give the purpose, place, date and hour of said convention. Said  
17 council shall designate two persons, who shall be legal voters of  
18 said town, one of whom shall act as temporary chairman and the  
19 other as temporary secretary of said mass convention; said per-  
20 sons so appointed by said council as temporary chairman and sec-  
21 retary of said mass convention shall go to the place designated  
22 in said notice for holding said convention at the hour named there-  
23 in, and shall call said convention to order and shall then appoint  
24 a committee of three, who shall register all the legal voters pres-  
25 ent at said mass convention; said registration shall show the  
26 names, ages, and the length of time each person has resided within  
27 said town, and shall be made in duplicate, one copy of which shall  
28 be turned over to the temporary chairman of said convention and  
29 the other copy delivered to the recorder of said town. Said tem-  
30 porary chairman shall then, after the registration of said qualified  
31 voters having been delivered to him by said committee, proceed  
32 with the election of a chairman of said convention. After a chair-  
33 man having been duly elected by said convention, the tempo-  
34 rary chairman shall turn said convention over to said chairman  
35 so elected. Said elected chairman shall then proceed with the  
36-37 said convention in the nomination of the officers and shall con-

38 duct said convention in a proper and legal manner. Said chairman  
39 and secretary shall certify to the council within twenty-four hours  
40 after said convention has been held, a list of the officers nominated  
41 by said convention; the office for which each of said persons were  
42 nominated; the name of said ticket if named by the said conven-  
43 tion, together with a report of all the acts and resolutions of said  
44 convention, and the names of all the voters participating therein,  
45 which record shall be certified to by said chairman and said sec-  
46 retary. All questions submitted to said convention shall be de-  
47 cided by "aye and nay" vote, and all nominations and the election  
48 of a permanent chairman shall be made by "aye and nay" vote, and  
49 no person shall be permitted to vote, or to be heard in said cou-  
50 convention, unless he is a legal voter of said town and his name is  
51 registered in said list of voters submitted to the temporary chair-  
52 man by the committee appointed by him for that purpose. No  
53 person's name shall be placed upon the ballot to be voted for in  
54 any town election unless he has been nominated by the legal  
55 voters of the said town as above provided, except if there be no pe-  
56 titions filed with said council asking said council to call a mass  
57 convention, as above provided, on or before the twentieth day  
58 of March preceding said election; then, and in that event, the  
59 council shall, by ordinance, call a mass convention to be held within  
60 said town for the purpose of nominating officers to be voted for at  
61 said election. Said council shall order the recorder to give notice  
62 of said convention as above provided, and shall name some legal  
63 voter of said town to act as temporary chairman of said conven-  
64 tion, and said recorder shall act as temporary secretary of said  
65 convention. Said convention so called by said council shall be  
66 held and conducted as hereinbefore provided, and in event any  
67 person appointed by said council to act as temporary chairman  
68 of any convention does not appear at the place and time of hold-  
69 ing said convention, or if he appears and fails or refuses to act  
70 as same, then such person designated by said council to act as tem-  
71 porary secretary of said meeting shall act as said chairman, and in  
72 so acting shall call some legal voter present at said convention to  
73 act as his secretary. The acts and proceedings of said conven-  
74 tion so held shall be so certified and returned to said council as  
75 hereinbefore provided.

Sec. 12. And further, any person voting or participating in  
2-3 any convention as above provided, shall not be allowed or per-  
4 mitted by the chairman, or officers, of any other convention held



5 under this provision, to vote on any question submitted to said  
6 convention upon the election of any chairman, or the nomination  
7 of any candidate, whose name was presented at such convention  
8 for nomination. And it shall be the duty of the recorder of the  
9 said town to furnish to the temporary chairman of any convention  
10 a list of names furnished him by the chairman and secretary of  
11 any other convention which had been previously called for the  
12 purpose of nominating officers for said election, and said officers  
13 of said convention shall not permit any voter whose name appears  
14 upon said list of said previous convention to participate in, or  
15 vote for chairman, or for the nomination of any candidate, or upon  
16 any question submitted to said convention being so held.

#### *Elections.*

Sec. 13. The first election under this act shall be held on  
2 the first Tuesday in April, in the year one thousand nine hundred  
3 and twenty, and on the same day every two years thereafter. Such  
4 election and all subsequent elections shall be held in such man-  
5 ner as is or shall be prescribed by law.

Sec. 14. The council shall meet in special session on the last  
2 Monday in March and fix the place or places within said town  
3 where said election shall be held; shall appoint three commission-  
4 ers and two clerks, for each voting precinct, at which said election  
5 is to be held, and shall appoint one member of said council to act  
6 with the recorder as a ballot commissioner, which commission  
7 shall have the ballot prepared and ready to deliver to the election  
8 officers on the day before said election, and said election commis-  
9 sioners and clerks so appointed by said council shall hold and  
10 conduct said election in such manner as is or may be prescribed  
11 by law; they shall open said polls at sun-up and close the same  
12 at sundown; shall tabulate the vote at each voting precinct and  
13 certify to the council the result of the vote of the precinct which  
14 they are serving as such election officers and shall return to the  
15 said town recorder a copy of such certificate, together with the  
16 ballots, tally sheets, registration books, all of which shall be sealed  
17 in an envelope or other container.

Sec. 15. Said council shall meet on the first Monday fol-  
2 lowing said election and canvas the vote of said election and  
3 shall ascertain, publish and declare the result thereof; they shall  
4 keep a record of its proceedings and shall take down and record  
5 any evidence, motion, and any paper filed or offered by any candi-

6 date, which record shall be open to the public and kept in the cus-  
7 tody of the recorder.

Sec. 16. The council shall, on the first Monday in March, one  
2 thousand nine hundred and twenty, appoint such registration offi-  
3 cers as it deems necessary to register all the legal voters within  
4 the corporate limits of said town, and shall furnish said election  
5 officers herein provided with a list of all the said voters entitled  
6 and qualified to vote at said town election, and said election officers  
7 shall not permit any person or persons to vote at said election un-  
8 less his or their names appear upon said registration book, or list  
9 of qualified voters made by said registrars.

Sec. 17. Said council may at its regular meeting prior to  
2 said election, register any legal voter or voters whose name has  
3 been omitted by said registrars, and said council shall give five  
4 days' notice of said meeting, which notice shall state the time  
5 and place of said meeting and its intention to correct the registra-  
6 tion of voters of said town and the registrars appointed by said  
7 council shall be present and assist said council in correcting said  
8 registration at said meeting.

Sec. 18. The first officers elected under the provisions of this  
2 act shall enter upon their official duties on the second Monday in  
3 May, one thousand nine hundred and twenty, and shall serve for a  
4 term of two years, or until their successors are elected and quali-  
5 fied, unless sooner disqualified, impeached or dismissed; and it is  
6 *further provided* that the officers elected on the second day of  
7 January, one thousand nine hundred and nineteen, shall serve  
8 in the official capacity in which they were elected until the second  
9 Monday in May, one thousand nine hundred and twenty, or until  
10 their successors are elected and qualified, unless sooner disquali-  
11 fied, impeached or dismissed.

Sec. 19. And be it *further provided* as there were only five  
2 councilmen elected on the second day of January, one thousand  
3 nine hundred and nineteen, and this charter provides for six  
4 councilmen, the said five councilmen so elected and the mayor  
5 and recorder shall elect from the qualified voters of said town  
6 another councilman, who shall serve until the second Monday in  
7 May, one thousand nine hundred and twenty, or until their suc-  
8 cessor is elected and qualified, unless sooner disqualified or im-  
9 peached. And after said councilman is so elected, the recorder  
10 elected on the second day of January, one thousand nine hundred

11 and nineteen, shall not vote on any ordinance, resolution or ques-  
12 tion before said council.

Sec. 20. All officers so elected, shall, before taking their seat  
2 or performing any of the duties of their respective offices for  
3 which they were elected, take and subscribe an oath of affirmation  
4 that they possess the qualifications prescribed by this act to hold  
5 such office and are not subject to any of the disqualifications pre-  
6 scribed therein; that they will support the constitution of the  
7 United States, and the constitution of this state, and honestly dis-  
8 charge the duty of the office to which they are elected to the best  
9 of their skill and judgment, which oath shall be taken and sub-  
10 scribed to within twenty days after said election, and be filed and  
11 preserved with the other papers and books of the town.

#### *The Tie Vote; How Decided.*

Sec. 21. Whenever two or more persons receive an equal num-  
2 ber of votes for mayor or councilman, such ties shall be decided by  
3 the council in existence at the time the election is held; *provided*,  
4 that the council in office at the time of the institution of such  
5 contest proceeding shall hold over and remain in office for the  
6 purpose of passing upon and deciding such contest, and for such  
7 purposes only; and nothing herein provided shall be construed to  
8 interfere with the duties, power and authority of the new or incom-  
9 ing council.

#### *Contested Elections.*

Sec. 22. All contested elections shall be heard and deter-  
2 mined by the council in existence at the time the election is held,  
3 and the contest shall be made and conducted in the manner as pro-  
4 vided for in contests for county and district officers, and the coun-  
5 cil by their proceedings in such cases shall, as nearly as practicable,  
6 conform with the like proceedings of the county court in such cases.

#### *Officers.*

Sec. 23. The mayor shall be the chief executive officer of the  
2 town, and shall take care that the orders, by-laws, ordinances, acts  
3 and resolutions of the council thereof are faithfully executed. He  
4 shall be *ex officio*, a justice and conservator of the peace within the  
5 town and shall, within the same, have, possess and exercise all the  
6 powers and perform all the duties vested 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 the  
10 town, 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 town  
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 town 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 on default of such payment  
19 thereof, may commit the offending party to the jail of Kanawha  
20 county or other place of imprisonment in such corporation, if  
21 there be one, until the fine or penalty and costs shall be paid, but  
22 the term of imprisonment in such cases shall not exceed thirty  
23 days. In all cases where a person is sentenced to imprisonment,  
24 or to the payment of a fine of ten dollars or more, (and in no  
25 case shall a judgment for a fine of less than ten dollars be ordered  
26 or given by the mayor, if the defendant, his agent or attorney,  
27 object thereto), such person shall be allowed an appeal from such  
28 decision to the intermediate court of Kanawha county, upon the  
29 entering into a recognizance before the mayor, with surety deemed  
30 sufficient, to appear before said court on the first day of the next  
31 term thereof, to answer for the offense wherewith he is charged  
32 and to not depart thence without leave of the court. If such  
33 appeal be taken, the warrant of arrest (if there be any), the  
34 transcript of the judgment, the appeal bond and other papers of  
35 the case shall be forthwith delivered by the mayor to the clerk of  
36 said intermediate court; and the said court shall proceed to try  
37 such case in its order, and render such judgment, including that of  
38 costs, as the law and evidence may require, but no judgment shall  
39 be rendered against said town for costs on such appeal.

Sec. 24. The mayor may from time to time recommend  
2 to the council such measures as he may deem needful for the wel-  
3 fare of the town. The expense of maintaining any person com-  
4 mitted to the jail of the county, or to any place of imprisonment  
5 in said town, by him, except it be to answer an indictment, or be  
6 under provisions of section \_\_\_\_\_ and \_\_\_\_\_ of  
7 chapter \_\_\_\_\_ of the code of West Virginia, shall be paid by said  
8 town. Said mayor shall pay all moneys received by him for fines

9 or by virtue of his office, belonging to said town or to the town  
10 collector and treasurer of the town within one week after he re-  
11 ceives the same. He shall receive a compensation for his services,  
12 to be fixed by the council, exclusive of fees, and which shall not  
13 be increased or diminished during his term in office.

Sec. 25. The town recorder shall keep a journal of the pro-  
2 ceedings of the council, and have charge of and preserve the rec-  
3 ords of the town, in the building safe or vault, if there be one.  
4 In the absence from the town of, or in the case of sickness or  
5 inability of the mayor, or during any temporary vacancy in the  
6 office of the mayor, the town recorder shall perform the duties of  
7 the mayor which pertain to him as the chief executive of said  
8 town, and be vested with all powers necessary for the performance  
9 of such duties. He shall be conservator of the peace within  
10 the town.

Sec. 26. It shall be the duty of the town attorney or solic-  
2 itor, to prepare, when directed by council, all ordinances for the  
3 town, to represent the said town in all matters and proceedings in  
4 any court in which the said town is interested and perform such  
5 office duties as may be ordered by the council, and he shall re-  
6 ceive a compensation for his services, to be fixed by the council.

Sec. 27. It shall be the duty of the chief of the police to  
2 preserve order and quiet in said town and to see that all sub-  
3 ordinate police officers faithfully perform their official duties, and  
4 he may for good cause appearing to him, for neglect of duty, or  
5 insubordination, suspend any such officer from duty and report  
6 his actions and his reasons therefor to the next regular meeting  
7 of council for action thereon; he shall make a list of all dogs  
8 within said town liable to tax, collect the license tax thereon,  
9 and pay the same to the treasurer, as may be provided by ordi-  
10 nance of said town; he shall be present in the police court when-  
11 ever the same shall be in session, and see that all its orders and  
12 requirements are properly executed; he shall, before entering  
13 upon the discharge of his duties, execute a bond conditioned for  
14 the faithful performance by him of the duties of his office, and  
15 for the accounting for, and paying over, as required by law, of  
16 all money which may come into his hands by virtue of his office,  
17 with sureties to be approved by council; said bond to be in the  
18 penalty of not less than three thousand five hundred dollars, nor  
19 more than five thousand five hundred dollars, as the council may

20 prescribe; he shall receive such compensation as may be fixed  
21 by council.

Sec. 28. In case a violation of any ordinance of said town is  
2 committed in the presence, or within view of the chief of police,  
3 or other officer, the offender may be forthwith apprehended and  
4 taken before the mayor, and a complaint under oath, stating such  
5 violation, there lodged and filed; and thereupon such offender  
6 may be tried and dealt with according to law, without summons.  
7 The chief of police shall execute with the county of Kanawha,  
8 when directed to him, any process properly issued by the mayor  
9 in proceedings for the enforcement of ordinances; and shall col-  
10 lect by levy of execution or otherwise, and duly account for all  
11 fines assessed and costs imposed in such proceedings. He shall  
12 also have the right and powers, within said town in regard to  
13 the arrest of persons, the collection of claims and executions and  
14 the return of process, that are or may be lawfully exercised by a  
15 constable of a district within the same, and shall be entitled to  
16 the compensation therefor; and he and his sureties upon his  
17 official bond, shall be liable to all fines, penalties and forfeitures  
18 for which a constable is liable, for any dereliction of duty in  
19 office, to be recovered in the same manner and in the same courts  
20 that such fines, penalties and forfeitures are recovered against  
21 constables. He shall pay over all fines or sums collected by him  
22 to the treasurer forthwith.

Sec. 29. The presence of a majority of the council shall  
2 be necessary to make a quorum for the transaction of business.

Sec. 30. The council shall cause to be kept by the town  
2 recorder in a well-bound book, to be called the journal, an accurate  
3 record of all the proceedings, ordinances, acts, orders and resolu-  
4 tions, and in another book, to be called the book of ordinances,  
5 accurate copies of all general ordinances adopted by the council,  
6 both of which books shall be completely indexed and be open to  
7 the inspection of any citizen of the town of South Charleston, or  
8 any one required to pay taxes therein, or who may otherwise be  
9 interested. All oaths of office and bonds of the officers of said  
10 town, and all papers of the council shall be endorsed, filed and  
11 securely kept by the said town recorder. The bonds of officers  
12 shall be recorded in a well-bound book to be called the "record  
13 of bonds." Said town recorder shall perform all such duties as  
14 may by ordinance of the council be prescribed. Said council

15 may bind and print in pamphlet form all the general ordinances  
16 of said town, and transcripts of such ordinances, acts, orders  
17 and resolutions, certified by the town recorder under the  
18 seal of the town, shall be deemed *prima facie* correct  
19 when sought to be used before any court or before any  
20 justice. The recorder shall also keep a book called the "order  
21 book," entering in said book, to whom paid, the amount and date  
22 of all orders of council to pay money out of the town funds.

Sec. 31. The mayor shall have no vote on questions before  
2 the council, except in case of a tie, which tie shall be decided by  
3 the vote of the mayor.

Sec. 32. The meetings of the council shall be held at such  
2 place in said town, and at such time 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 town, or in any mem-  
5 ber, or number of members of their own body, the authority to  
6 call special meetings; and it shall prescribe by ordinance the  
7 mode in which notice of such meetings shall be given, and no  
8 business shall be transacted at such special meeting unless a  
9 majority of all members of the council shall be present, except  
10 that a less number may compel the attendance of absent members  
11 under such reasonable penalties as they may think proper to  
12 impose.

Sec. 33. Whenever anything for which a state license is  
2 required is to be done within said town, the council may require  
3 a town license therefor, and may impose a tax thereon for the  
4 use of the said town.

5 The council of said town shall have authority within said  
6 town to require and grant licenses to owners of horses, hacks,  
7 carts, wagons, drays, bicycles, automobiles and every description  
8 of wheeled vehicles and carriages kept for hire, and levy and col-  
9 lect taxes thereon, and subject the same to such regulations as  
10 the interests and conveniences of the inhabitants of said town,  
11 of the protection of paved streets in the opinion of the council  
12 shall require; also to license and tax hawkers, auctioneers, junk  
13 dealers and peddlers within said town, and persons who tem-  
14 porarily station themselves upon a street to sell or exhibit ar-  
15 ticles, and all butchers and vendors of meats, fruits or vegetables  
16 on the streets of the town may be required by the council to take  
17 out a license therefor. But nothing herein contained shall be

18 construed to require any inhabitant of the county of Kanawha  
19 to obtain a town license for the purpose of selling to the inhab-  
20 itants of said town any meat, fruit or vegetables raised or pro-  
21 duced by such inhabitant within said county. No license to per-  
22 mit the permanent occupancy for private use of an open street,  
23 alley or public square, or any part thereof, or a use for private  
24 purposes that obstructs the free use of the streets, shall be given  
25 or granted. And said council shall have the authority, by town  
26 ordinance, to grant or refuse to grant a license to keepers of  
27 hotels, inns, taverns and boarding houses, but no license shall be  
28 granted for anything prohibited by a state tax.

Sec. 34. It shall be the duty of the town collector and treas-  
2 urer to receive one copy of the assessor's book, receipting to the  
3 council for the same, and for the taxes therein extended, and it  
4 shall be his duty to collect from the parties the entire amount  
5 of taxes which they are severally charged from and after the first  
6 day of October, in each year, until the first day of June, of the  
7 following year, and he shall in said book write the word "paid"  
8 opposite the name of the person so paying, and shall also receipt  
9 to said taxpayer for the taxes so paid.

10 (a) He shall also receive such other moneys of the town  
11 as he is authorized by this chapter to receive, and all moneys  
12 ordered paid to him by the council, giving receipts to the parties  
13 paying, and shall keep an accurate account of the same; and his  
14 books at all times shall be open for the inspection of any tax-  
15 payer or attorney of the town, and he shall produce said books  
16 to said council for inspection at any meeting thereof upon order  
17 of said council.

18 (b) He shall, on or before the first Monday in July of  
19 each year, furnish to the council a full, complete and detailed  
20 statement of all moneys of which he is chargeable, or may have  
21 been received by him, up to the first day of July of that year,  
22 and shall, at any time in like manner, furnish a statement of  
23 all disbursements made by him during such previous year, with  
24 vouchers evidencing the same. He shall, upon the order of the  
25 council, at any time, submit a statement of amount of which he  
25-a is chargeable, and his disbursements.

26 (c) He shall receive all taxes upon licenses and receipt to  
27 the party paying the same, by the endorsement upon the permit  
28 granted by order of council, which permit shall be furnished



29 him by the town recorder, and charge himself with the amount so  
30 received, and report to the council at its next regular meeting  
31 the amount so received by him.

32 (d) He shall, upon all moneys coming into his hands as  
33 such town collector and treasurer, and on all moneys duly paid  
34 or turned over to him upon orders of the council, receive as  
35 compensation therefor a sum to be fixed by the council, not ex-  
36 ceeding five per centum of the amount so collected.

37 (e) He shall, upon the expiration of his term of office,  
38 turn over to the council all moneys, books and other property  
39 in his possession belonging to the said town; and shall, before  
40 entering upon the duties of his office, execute a bond with good  
41 security, payable to the town of South Charleston, in the penalty  
42 of not less than five thousand dollars, conditioned for the faith-  
43 ful performance of the duties of his office, and for the accounting  
44 for and paying as required by law of all money which may come  
45 into his hands by virtue of his office, and the said town collector  
46 and treasurer shall be chargeable with all of the town taxes,  
47 levies and assessments, and all money of the town that may come  
48 into his hands, and shall account therefor.

49 (f) The council shall prescribe by ordinance therein  
50 stating what licenses of all kinds shall be applied for and which  
51 may be granted, the term of their extension, and shall require  
52 the payment of the taxes thereon before the delivery thereof to  
53 the applicant.

54 (g) The general provisions of the state law, as embodied  
55 in the code of West Virginia, relating to state licenses, shall be  
56 deemed applicable to licenses of a similar character therein men-  
57 tioned, when granted by or under the authority of the council  
58 of the town of South Charleston.

Sec. 35. Licenses for the keeping of dogs shall expire on  
2 the thirtieth day of April next after they are granted, and all  
3 other licenses may be for such time as the council may determine.

Sec. 36. The council shall have the right to institute pro-  
2 ceedings in the name of the town of South Charleston for the  
3 condemnation of real estate, for streets, alleys, drains, market  
4 grounds, city buildings, or other work or purpose of public utility.  
5 Such proceedings shall conform to the provisions of chapter  
6 forty-two of the code of West Virginia of one thousand nine hun-

7 dred and thirteen, and the expense thereof shall be borne by the  
8 said town.

*Vacancies.*

Sec. 37. If a vacancy shall occur in the office of the mayor,  
2 the council shall, at their next regular meeting fill the vacancy  
3 by the appointment of some qualified person. All vacancies  
4 occurring in the council shall be filled by the council. If any  
5 vacancy occurs in any appointed office the same shall be filled  
6 subject to the regulations of the original appointment.

Sec. 38. The council shall have and is hereby granted  
2 power and authority to remove from office any elected or ap-  
3 pointed officer or employee of the said town if said official or  
4 employee be found guilty of misappropriation of any funds be-  
5 longing to the town, or drunkenness, or failing or refusing to per-  
6 form his official duty, or if he be found guilty of any other mis-  
7 conduct in office. And the council is hereby specially authorized  
8 to remove the mayor of said town from office if he should fail or  
9 refuse to enforce the ordinances of said town, or if he should  
10 refuse to permit the ordinances of the said town to be enforced,  
11 or should said mayor interfere, or in any way hinder the en-  
12 forcement of the ordinances of said town.

Sec. 39. Any official of said town or any responsible citizen  
2 therein, desiring to prefer charges against any official under the  
3 provision of this act, shall file with the town recorder a written  
4 specification in duplicate, the duplicate of which, with notice of  
5 the time of hearing, shall be served upon the official against whom  
6 said charges are preferred, at which hearing the official so charged  
7 shall have the right to be represented before the council in per-  
8 son or by attorney, the right to require all witnesses to be sworn  
9 and to testify under oath before said council.

Sec. 40. If any one who shall have been elected to any  
2 office in said town shall not be eligible as herein prescribed, or  
3 shall fail or refuse to take the oath or affirmative of office as re-  
4 quired under this act within twenty days from the time he is so  
5 elected, the council may declare his office so vacant and fill the  
6 vacancy as hereinbefore provided.

*How Funds Shall be Deposited and Disbursed.*

Sec. 41. All moneys belonging to the town shall be paid  
2 over to the town collector and treasurer; and no money shall be

3 paid out by him except as the same shall have been appropriated  
4 by the council, and upon an order signed by the mayor and re-  
5 corder, and not otherwise.

Sec. 42. All moneys received by the treasurer shall be im-  
2 mediately deposited in some bank within the town, which bank  
3 shall be known as the town depository, and said depository shall  
4 not pay out any funds so deposited by said treasurer except upon  
5 an order signed by the mayor and recorder and endorsed on  
6 the back thereof by the treasurer.

Sec. 43. The town council shall designate some bank or  
2 banks within said town as town depository, in which bank or  
3 banks all of the funds belonging to said town shall be deposited  
4 therein by the treasurer of said town, which bank or banks so  
5 designated by said treasurer shall execute such bond as the coun-  
6 cil may, from time to time designate, which bond shall be pay-  
7 able to the town of South Charleston and in such penalty and  
8 with such surety as the council may fix, and the council may re-  
9 quire said bank or banks so designated to pay interest not exceed-  
10 ing three per cent (3%) on the average daily balance of such  
11 funds of said town so deposited in said bank or banks.

#### *Franchises.*

Sec. 44. Franchises shall be granted by the council, allow-  
2 ing to persons or corporations, for a limited time such occupancy  
3 of portions of the street as may be necessary for works of public  
4 utility and service, such as steam railway tracks, street railway  
5 tracks, poles and trolley wires, telephone and telegraph poles  
6 and subways, electric light and other electric poles, wires and  
7 subways, and gas and steam pipe lines, water, water lines and  
8 pipes. But no such franchise shall hereinafter be granted except  
9 under the following restrictions:

10. (1) No ordinance, granting any franchise for the use of  
11 the streets, alleys or public grounds for the town for any of the  
12 purposes of public utility above named, or for any other purpose  
13 of like nature, shall be passed unless it shall have been first pro-  
14 posed in the council and notice of the object, nature and extent  
15 of the franchise shall have been published at least thirty days,  
15-a by the applicant, in some newspaper of general circulation in the  
16 town of South Charleston, Kanawha county, before being acted  
17 upon, and shall have received a vote of the majority of the mem-

18 bers of the council at a regular meeting after said publication.  
19 The votes thereon shall be taken by ayes and noes, and the same  
20 entered upon the journal. No such ordinance shall take effect  
21 until the expiration of twenty days after its passage, and if  
22 within the said twenty days a petition be filed with the town  
23 recorder signed by one-fourth of the qualified voters of the said  
24 town, based upon the number of votes cast at the last election,  
25 requesting it, the council shall submit such ordinance to the  
26 qualified voters of the town for ratification or rejection, at a  
27 special election to be held for that purpose within forty-five days  
28 after such petition is presented and the vote for ratification and  
28-a for rejection cast at such election shall be entered upon  
29 the journal. If a majority of the votes cast at such election  
30 shall be in favor of ratification, then such ordinance shall take  
31 effect from the time the vote is entered upon the journal.

32 (2) Every grant of any such franchise shall be for a lim-  
33 ited period of time. If no limit be expressly provided in the  
34 grant, the franchise shall be valid for one year only. In no case  
35 shall the franchise extend for a period exceeding fifty years.

36 (3) No grant of any such franchise shall be made without,  
37 at the time of making it, providing that the grantee shall indem-  
38 nify the town against all damages caused by the construction  
39 of such work. All reasonable additional provisions and condi-  
40 tions may be made for the protection of the public from unne-  
41 cessary damage or inconvenience by reason of such works and the  
42 operation thereof.

43 (4) No grant of a franchise or the extension of, or an  
44 addition to, any line of such work, over any additional street or  
45 territory of the town, shall be made for a period extending be-  
46 yond the time limited for the expiration of the franchise of the  
47 principal work of which it is an extension; and if the franchise  
48 of the principal company or work is one which was granted be-  
49 fore this act goes into effect, and is not limited as to time, the  
50 franchise granted for the extension or addition shall nevertheless  
51 be made subject to the conditions hereof, including a time limit  
52 of not exceeding fifty years. If a franchise be secured from  
53 the town by an individual or by an independent or new company,  
54 and the work constructed thereunder afterwards becomes a part  
55 of it, or be operated as a part of a larger work of the same kind  
56 whose franchise was previously obtained and is limited to expire

57 earlier, such later franchise shall, by reason of such annexation,  
58 merger, or single operation, expire simultaneously with such  
59 earlier franchise.

60 (5) The council shall, in suitable, practicable terms, make  
61 it an express condition of the grant of any such franchise where  
62 it is for a work that is useful chiefly to the local public, that at  
63 the expiration of such franchise the grantee shall, if required  
64 by council, sell to the town the physical plant, at what it is then  
65 worth, independent of any value based upon the earning power  
66 thereof, and may also provide a means by arbitration or other-  
67 wise for determining what such value of that plant may be.

#### *Nuisances.*

Sec. 45. The council of said town shall have authority to  
2 abate and remove all nuisances in said town. They may compel the  
3 owners, agents, assignees, occupants or tenants of any lots, prem-  
4 ises, 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, cess pools, sinks, plumbing drains, yards, lots,  
10 area ways, pens, stables and other places where offensive, unsightly,  
11 unwholesome, objectionable or dangerous substances or liquids are,  
12 or may accumulate, and provide penalties for the violation of such  
13 regulations, which may be enforced against the owner, agents,  
14 assignee, occupant or tenant of any premises, or structure where  
15 such violation may occur. It shall be the duty of all police officers  
16 to report to the council the facts as to the existence of any nuisance  
17 known to them.

18 (a) If the owner, agent, tenant, assignee or occupant of any  
19 such premises, lots, 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 to comply with the provisions of any such  
22 ordinance and the regulations herein contained, the council may  
23 have said nuisance abated or the provisions of said ordinance or  
24 ordinances carried out, after reasonable notice to said owner, oc-  
25 cupant, tenant, agent or assignee of his intention so to do, and  
26 collect the expenses thereof, with one per centum per month in-  
27 terest added from the date of said notice, from the said owner,  
28 occupant, tenant, agent, or assignee, by distress or sale, in the

29 same manner in which taxes levied upon real estate for the benefit  
30 of said town are herein authorized to be collected, and the expense  
31 shall remain a lien upon said lot, or part of lot, the same as taxes  
32 levied upon real estate in said town; which lien may be enforced  
33 by a suit in equity before any court having jurisdiction, as other  
34 liens against real estate are enforced. In cases of non-resident  
35 owners of real estate such notice may be served upon any tenant,  
36 occupant, assignee, or rental agent, or by publication thereof once  
37 a week for not less than two consecutive weeks in two newspapers  
38 of opposite politics, of general circulation in said town.

39 (b) And in all cases where any tenant, occupant or agent is  
40 required to abate and remove any nuisance under the provisions of  
41 this 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 tenant, occupant or agent  
45 may recover the amount so paid from the owner, unless other-  
46 wise especially agreed upon.

47 (c) Any expense incurred by the council as herein provided,  
48 in the manner aforesaid, may be collected in the manner herein  
49 provided, notwithstanding the imposition of any other penalty or  
50 penalties upon any of the persons named herein, under any of the  
51 provisions of this act. The abatement or removal of any such  
52 nuisance by the town at the expense of said town, as herein pro-  
53 vided, shall be *prima facie* proof that the said notice to the owner,  
54 occupant, agent or assignee, was given as herein prescribed.

55 (d) The council may require all owners, tenants or occu-  
56 pants of improved property which may be located upon or near  
57 any street or alley along which may be extended any sewer or  
58 system of sewerage, which the said town may construct, own, or  
59 control, to connect with such sewer, or system of sewerage, all  
60 privies, ponds, water closets, cess pools, drains or sinks, located  
61 upon their respective properties or premises, so that their con-  
62 tents may be made to empty into such sewer or system of sewer-  
63 age.

#### *Estimate of Expenses and Levy.*

Sec. 46. The council shall, on or before the first day of  
2 August in each year, prepare an estimate of the amount of money  
3 necessary and advisable to be expended for the purpose of the town  
4 for the current year next ensuing and to be provided for by the

5 levy of taxes as herein provided for such current year; in which  
6 estimate the council shall include a detailed itemized estimate of  
7 the money necessary to pay interest on the bonded indebtedness  
8 of said town, the amount required for the several sinking funds  
9 for the reduction of the principal thereof, the amount to be ex-  
10 pended severally for streets, alleys, curbing, police department,  
11 fire department, street paving, sewers, salaries, parks, real and  
12 personal property, contingent expenses and other expenses, to-  
13 gether with an itemized statement of the estimated receipts, other  
14 than that to be derived by the annual levy, and council shall ap-  
15 portion the rate thereof (including the estimated receipts for  
16 licenses, and all other sources) among the several funds so as-  
17 certained and provided for, which said apportionment, when  
18 adopted, shall be spread upon the record of the council.

19 (a) Upon such estimate of expenses, the council shall there-  
20 upon, by an ordinance, lay a levy for the ensuing tax year of a  
21 sum not to exceed thirty-five cents on each one hundred dollars  
22 assessed valuation of all taxable property, real and personal, sub-  
23 ject to taxation in said town, as well as the capitation tax of not  
24 to exceed two dollars upon every male inhabitant of said town over  
25 the age of twenty-one years, who is subject to a capitation tax  
26 under the laws of the state of West Virginia, and said council is  
27 authorized to levy to such maximum of thirty-five cents on each  
28 one hundred dollars of valuation, notwithstanding any general  
29 laws now in force, or which may be enacted, restricting the powers  
30 of municipal corporations to levy taxes.

31 (b) Whenever anything for which a state license is required  
32 is to be done within said town, or within one mile of the corporate  
33 limits thereof, the municipal authorities, as herein provided, may  
34 require a town license to be had for doing the same, and may, in  
35 any case require from any person licensed, a bond with sureties  
36 and in such penalty and with such conditions as it may deem  
37 proper, and the council, on notice, may revoke such license at any  
38 time if the conditions of the said bond be broken.

39 The municipal authorities may prescribe, impose and enforce  
40 reasonable fines and penalties, including imprisonment under the  
41 order of the mayor of said town, or the person lawfully exercising  
42 his functions, upon any person carrying or attempting to carry on  
43 any business for which the said license is required without first  
44 obtaining a town license therefor and paying the town license  
45 tax assessed thereon. All license provided for in this chapter shall

46 be paid to the treasurer. For the purpose of enforcing the pro-  
47 visions of this section, the town shall have police jurisdiction for  
48 one mile beyond the corporate limits thereof.

49 (d) The council shall have the power to make all regulations  
50 and pass all ordinances necessary and proper concerning the  
51 granting and revoking of all licenses.

*Taxes; How Collected.*

Sec. 47. The town taxes annually levied by said council shall  
2 be collected as follows:

3 Immediately after the annual levy for town taxes is laid, the  
4 recorder shall extend the same on the property books made out by  
5 him, including thereon the proper capitation taxes; he shall make  
6 out proper tax tickets and the same after being examined, com-  
7 pared and found to be correct by the council, shall be turned over  
8 to the treasurer by the first day of October following the levy.  
9 The treasurer's receipt for the gross amount thereof shall be re-  
10 turned and entered upon record and the treasurer charged there-  
11 with. The treasurer shall give notice by posting notices for twenty  
12 days in five conspicuous places in said town, stating that said tax  
13 tickets are in his hands for collection, the penalty for non-pay-  
14 ment thereof, and the time and place when the same may be paid;  
15 *Provided, however,* that the taxpayer shall have the right to an-  
16 ticipate the payment of the whole or any part of the taxes assessed,  
17 but on all the tickets remaining unpaid in the treasurer's hands on  
18 the first day of January, succeeding said levy, a penalty of five per  
19 cent shall be added and collectible, together with six per cent in-  
20 terest per annum until paid; *Provided, however,* that the council  
21 shall have the power any year, by resolution, to extend the time  
22 that such tax tickets may remain in the treasurer's hands and be  
23 paid to him before adding the penalty, for a period not to exceed  
24 thirty days.

25 The council may by ordinance allow a discount for prompt  
26 payments.

27 (a) The treasurer shall have power to collect said taxes  
28 so placed in his hands, together with the penalty and interest  
29 thereon, heretofore provided, to be added thereto.

30 (b) The treasurer shall be charged with the gross amount of  
31 said tax tickets so delivered to him for collection and no deduc-  
32 tion therefrom shall be allowed, unless on or before the first day  
33 of September of each year, he makes out and returns to the coun-



34 cil a delinquent list of the taxes uncollected for the year previous,  
36 is correct and just; that he has received no part of the taxes men-  
36-a tioned thereon; that he has used due diligence to find property  
37 to distress for said taxes, and has found none, and that the same  
38-40 is uncollectable.

41 (c) Penalties and interest provided for in this section to  
42 be added to such taxes, shall not be deemed or considered as any  
43 part of the limitation in this act hereinbefore prescribed, restrict-  
44 ing the annual town levy to thirty-five cents on each one hundred  
45 dollars valuation.

46 (d) The treasurer shall not take or collect anything but  
47 money for the payment of taxes.

48 (e) The treasurer shall perform such other duties con-  
49 nected herewith, as the council may require, and receive such com-  
50 pensation as shall be fixed by the council.

51 (f) All goods or chattels belonging to a person, firm or  
52 corporation or estate, assessed with any town taxes, whether the  
53 same be a capitation tax or a tax upon real or personal property,  
54 or an assessment for paving or other improvements, shall be liable  
55 for said taxes and may be distrained therefor in whosoever pos-  
56 session they may be found, and the treasurer shall have the same  
57 power to collect said taxes or assessments from any person owing  
58 debts to or having in his possession any estate belonging to a  
59 person assessed with any tax or assessment of any kind, that the  
60 sheriff has to collect state taxes in such cases. The treasurer may  
61 distrain and sell for all such taxes and assessments and in all re-  
62 spects have the power to enforce the collection thereof as the sheriff  
63 has to enforce the collection of state taxes.

64-65 (g) There shall be a lien upon all real estate within said  
66 town for the town taxes assessed thereon, including such penal-  
67 ties and interest added thereto for non-payment thereof, as are pre-  
68 scribed by this act, from the first day of January of the year in  
69 which said taxes are assessed. Said liens may be enforced by  
70 appropriate suit in any court of record in Kanawha county; *pro-*  
71 *vided*, such suit be instituted within five years from the time the  
72 said liens attached as herein provided, and such suit may either  
73 be by and in the name of the town of South Charleston as plain-  
74 tiff, or said town may intervene by petition in any suit pending to  
75 sell or enforce lien against any real estate, which is subject to  
76 such liens for said taxes. The liens herein created shall have

77 priority over all other liens, except those for taxes due the state  
78 and county.

79 (h) Said liens for town taxes and attendant penalties, as  
80 well as for improvement assessments, may also be enforced by  
81 certifying the same to the clerk of the county court of Kanawha  
82 county for certification to the state auditor and the same may be  
83 certified down by said auditor and sold for the taxes, interest, pen-  
84 alties and commissions thereon, in the same manner, at the same  
85 time, and by the same officer as real estate is sold for the taxes,  
86 interest, damages, costs and commissions due the state thereon,  
87 which officer shall account therefor on settlement with the coun-  
88 cil and pay the same over to the treasurer.

89 (i) The council may appoint or employ some person or firm  
90 to make the extension of the levy for town taxes and relieve the  
91 recorder of that duty, and compensate such person or firm for  
92 making said extension.

Sec. 48. The council may appoint some person or persons to  
2 assist the treasurer in collecting the taxes as herein provided, and  
3 may authorize said person so appointed to distrain, advertise, and  
4 make sale of any property in said town on which there is a lien  
5 for taxes due said town. Said person so appointed shall have all  
6 the power in the collection of taxes as is given to the treasurer  
7 herein, and all proceedings entered and acts performed by such per-  
8 son or persons so appointed shall be in the name and on behalf of  
9 the treasurer as hereinbefore provided.

Sec. 49 The council may appoint the chief of police to per-  
2 form these duties in addition to his other duties as chief of police,  
3 but said officer so appointed, if he is not already under bond, shall,  
4 before entering upon his duties, execute a bond in such penalty  
5 as the council may fix, and all moneys collected by said person so  
6 appointed shall immediately turn the same over to the treasurer  
7 and demand a receipt therefor. In no event shall the chief of  
8 police act as treasurer of the town.

#### *Street Paved.*

Sec. 50 (a) The town council of the town of South  
2 Charleston may order and cause any avenue, street, road or alley  
3 therein to be graded, or curbed, or recurbed with stone, concrete  
4 or other suitable material, or paved or repaved, between curbs,  
5 with brick wooden blocks, asphalt or other suitable material, or  
6 to be graded and curbed or recurbed and paved or repaved as

7 aforesaid, or to be macadamized, or to be otherwise permanently  
8 improved or repaired, under such supervision as may be directed  
9 by ordinance or resolution, upon the best bid to be obtained by  
10 advertising for proposals therefor, except the town may do the  
11 work without letting it to contract as hereinafter provided in (d)  
12 of this section ; and may purchase or condemn land for opening or  
13 widening avenues, streets, roads and alleys. The entire cost, or  
14 any part thereof designated by the council, of such grading, curb-  
15 ing and paving, or macadamizing, or other permanent improve-  
16 ments, of any of the avenues, streets, roads, and alleys as afore-  
17 said, from and including the curb of either side thereof to the  
18 middle thereof, and the cost, or any part thereof, of purchasing  
19 or condemning land as aforesaid for street purposes, may be as-  
20 sessed to and required to be paid by the owners of the land, lots  
21 or fractional parts of the lots fronting or bounding on such ave-  
22 nue, street, road or alley so improved, except as otherwise pro-  
23 vided in (g) of this section.

24 (b) Payment is to be made by all land owners on either  
25 side of such portion of any avenue, street, road or alley so paved,  
26 opened, widened, or improved in such proportion of the total cost  
27 as the frontage in feet of his abutting land bears to the total front-  
28 age of all the land so abutting on said avenue, street, road or alley  
29 or portion thereof opened, widened, paved or improved as afore-  
30 said ; but the cost of such paving or improvement on said avenue,  
31 street, road or alley (not including opening or widening) shall not  
32 include any portion or amount paid for the paving or improvement  
33 of the intersection of avenues, streets, roads or alleys, un-  
34 less the work to be done, and the payment made therefor, as espe-  
35 cially otherwise provided therein, as follows, to-wit :

36 (c) Upon petition in writing of the owners of not less than  
37 one-half in lineal feet of property abutting upon any avenue,  
38 street, road or alley in said town, asking the town to grade, curb,  
39 pave, or macadamize or otherwise to permanently improve, such  
40 avenue, street, road or alley, and offering in said petition to have  
41 their property so abutting as aforesaid assessed not only with their  
42 part of the cost of such improvement abutting upon their property,  
43 as therein otherwise provided, but also offering to have their said  
44 property proportionately assessed with the total cost of the paving,  
45 grading and curbing, or macadamizing or other permanent im-  
46 provement, of the intersection of the avenue, street, road or alley  
47 so paved or otherwise permanently improved, as petitioned for,

48 the council may order such work to be done as heretofore pro-  
49 vided in this section, and the total cost thereof, including cost  
50 of intersection, to be charged to and paid by the owners of the  
51 property abutting on such avenue, street, road or alley, and that  
52 the paving assessment or certificate made or issued to cover the cost  
53 of paving, grading and curbing or otherwise permanently improv-  
54 ing such intersections shall be made a separate and one of the  
55 last assessments or certificates due against him and their prop-  
56 erty so assessed; and the town may assume the payment of such  
57 assessment or certificate covering the cost of such intersections, or  
58 may reimburse the property owners paying the same out of its  
59 general levies for streets, but there shall be no legal obligation on  
60 the town to do so.

61       (d) The town itself may do such work and charge and col-  
62 lect the cost thereof in the manner set out in section fifty-one here-  
63 in. The decision of the town to do such work may be without no-  
64 tice or after the publication of the notice mentioned in this section,  
65 or after the rejection of all bids for the doing of the work.

66       (e) The cost of grading, curbing and paving, or otherwise  
67 improving the intersections, or parts of intersections, of avenues,  
68 streets, roads or alleys, on the plans adopted by the council for  
69 such work, shall be paid by the town except as otherwise pro-  
70 vided in paragraph (c) of this section.

71       (f) And if any such avenues, streets, roads or alleys be occu-  
72 pied by street car tracks or tracks of other railroads, the cost  
73 of said improvement of the space between the rails and two addi-  
74 tional feet outside of each rail shall be assessed to and borne and  
75 paid entirely by the person or company owning or operating such  
76 street car or other railway line, unless otherwise provided by the  
77 franchise of such street car or other railway company granted  
78 previous to the passage of this act.

79       (g) *Provided*, the council, if it so elects, may order and  
80 cause any avenue, street, road or alley, public park or public place  
81 to be widened, graded or changed in grade and curbed and re-  
82 curbed, and paved and repaved, with brick, concrete, asphalt or  
83 other suitable materials, or macadamized, or otherwise perman-  
84 ently improved, including the construction of the retaining walls,  
85 sewers, drains, water pipes, water dam and water courses, in con-  
86 nection therewith, and may purchase land, or condemn land as  
87 provided in this act, for any public avenue, street, road or alley,  
88 or part thereof, or park or other public purpose and the council

89 may assess all or any part of the entire cost of such improvement  
90 (or taking of land, or both) upon the abutting, adjacent, con-  
91 tiguous or other lots or land especially benefited by such im-  
92 provements.

93 The council, when it decides to order the improvements  
94 under this plan, shall, by ordinance or resolution before doing  
95 the same fix the total amount of the special benefits to be de-  
96 rived from such improvements to the abutting, adjacent, con-  
97 tiguous and other specially benefited land or lot so assessed,  
98 setting out the names of the owners, the amount of the special  
99 benefits and the approximate amount of the total cost of the pro-  
100 posed improvements; and the council may, in fixing such as-  
101 sessment, take into consideration the assessed value of the lot  
102 or land as fixed, for the last assessment year, for state and  
103 county purposes.

104 (h) When the council shall deem it expedient and proper  
105 to cause any avenue, street, road or alley, or any portion thereof,  
106 in such town, to be graded, or graded and paved, curbed or  
107 macadamized, or otherwise permanently improved, or land to  
108 be acquired or taken for street purposes, as provided in (a) of  
109 this section, or shall deem it expedient and proper to cause the  
110 construction of any public sewer in or under any such avenue,  
111 street, road or alley, or land or easement therein to be acquired  
112 or taken therefor, or elsewhere, as provided in section fifty-five  
113 of this act, it shall by ordinance or resolution, order the work  
114 done, stating the method of payment thereof, and, if it be let  
115 to contract, notice shall be in the following manner, to-wit:

116 (i) The notice for bids or proposals for doing such im-  
117 provements, either for street improvements or the construction  
118 of sewers, shall be published for at least fifteen days in two news-  
119 papers of opposite politics, of general circulation, in the town.  
120 If the publication of the notice cannot be procured in any news-  
121 paper in said town at reasonable rates, then said notice may be  
122 given in the manner directed by the council. Said notice shall  
123 state where and how the bids or proposals shall be made; and  
124 whether so stated in the notice or not, the town may reject any  
125 and all bids, for such proposed work. Before advertising for bids  
126 on the work, the town shall approve and adopt plans and specifi-  
127 cations therefor, and the advertisement for bids, and the con-  
128 tract awarded thereon, shall refer to such plans and specifications.  
129 The fact that such contract shall be let for said work shall be

130 *prima facie* proof that the notice mentioned above was given as  
131-132 required therein.

133 (j) The cost of said paving, macadamizing or other per-  
134 manent improvement may be paid in one or two ways (to be  
135 specified by ordinance by the council), either as set out in sec-  
136 tion fifty-one or in section fifty-three of this act.

137 (k) If the abutting land on any such avenue, street, road  
138 or alley, sought to be improved as aforesaid, or in which a  
139 sewer is ordered laid, is not laid off into lots by a map of record,  
140 the council, may, for the purpose of making the assessments  
141 provided for in this section and section fifty-five therein, lay  
142 off such lands into lots of such size as the council deems ad-  
143 visable for the purpose of laying a proper assessment against  
144 such land.

Sec. 51. (a) Said town of South Charleston is hereby  
2 authorized to issue its bonds for the purpose of providing for  
3 the cost of grading, paving and curbing, or macadamizing, or  
4 otherwise permanently improving the avenues, streets, roads and  
5 alleys of the said town, in anticipation of special assessment to  
6 be made upon the property abutting upon the avenues, streets,  
7 roads and alleys so improved. Said bonds may be in such an  
8 amount as shall be sufficient to pay the entire costs and expenses  
9 of said improvements for which such special assessments are  
10 to be levied; and the said town is authorized to sell said bonds,  
11 but not below the par value thereof, and said bonds shall bear  
12 interest not to exceed six per cent per annum, payable annually;  
13 and in the issuance and sale of said bonds the said town shall  
14 be governed by the restriction and limitations of the constitu-  
15 tion of this state, and the restriction and limitations of the  
16 laws of this state, relating to the issuance and sales of bonds,  
17 so far as such state laws are not in conflict with the provisions  
18 of this act; and the assessments as provided for and required to  
19 be paid herein shall be applied to the liquidation of said bonds  
20 and interest thereon, and if, by reason of the penalties collected  
21 with the delinquent assessments, there be any balance after the  
22 payment of the bonds and all accrued interest and costs, it shall  
23 be turned into the town treasury to the credit of the interest  
24 and sinking fund of the town.

25 But said town shall not become indebted in any manner or  
26 for any purpose to an amount including existing indebtedness,  
27 in the aggregate exceeding two and one-half per centum on the

28 value of all taxable property therein, as provided in chapter fifty-  
29 one of the acts of the legislature of one thousand nine hundred  
30 and five, except for the purpose of grading, curbing, paving,  
31 macadamizing or otherwise permanently improving the avenue,  
32 streets, roads, and alleys therein, or constructing sewers therein  
33 or elsewhere, or acquiring or taking land or easement therein  
34 for street and sewer purposes, as provided for in this act, and  
35 for that purpose in estimating "existing indebtedness," special  
36 assessment bonds representing the cost of paving or other perma-  
37 nent improvements of streets, roads or alleys, or the construc-  
38 tion of sewers, or acquiring or taking land for such purposes,  
39 and the cost of which is assessed against the abutting property  
40 on such avenues, streets, roads or alleys, or specially benefited  
41 property adjacent thereto, or on such owner, shall not be in-  
42 cluded; and likewise the amount in any sinking fund, or the  
43 amount invested therefor as provided by law, for the payment  
44 of outstanding bonds, shall not be included in the estimate of  
45 existing indebtedness; *provided, that* the aggregate of its debt  
46 of every kind whatsoever, including such special street perma-  
47 nent improvement bonds, or sewer bonds, shall not exceed five  
48 per centum of the value of all taxable property therein.

49 (b) And it shall be the duty of the council to immediately  
50 certify such assessments to the treasurer for collection, as herein  
51 provided; and for the purpose of facilitating the collection  
52 of such assessments against the properties herein, the council  
53 may issue assessment certificates, with interest coupons attached  
54 thereto, to be delivered to and charged against the town  
54-a treasurer who shall collect the same, and as such certificate and  
55 coupons are paid he shall deliver the cancelled certificates to  
56 the party paying the same. A copy of said order shall be cer-  
57 tified by the town recorder to the clerk of the county court of  
58 Kanawha county, who is hereby required to index the same in  
59 the proper trust deed book in the name of each person against  
60 whose property assessments appear therein.

61 (c) The amounts so assessed against said abutting lots and  
62 owners thereof, respectively, shall be paid in ten payments, as  
63 follows, that is to say, one-tenth of said amount, together with  
64 interest on the whole assessment for one year, shall be paid into  
65 the town treasury of the town before the first day of the follow-  
66 ing May; and a like one-tenth part, together with interest for one

66-a year upon the whole amount remaining unpaid before the first  
67 day of May in each succeeding year thereafter, until all shall  
68 have been paid. Each of said installments of one-tenth shall  
69 bear interest of six per centum per annum payable annually from  
70 the date of assessment; *provided, however*, that the owner of any  
71 land, so assessed for the cost of the paving of said avenue, street,  
72 road or alley, shall have the right at any time to anticipate and  
73 pay the whole of such unpaid assessment and interest thereon  
74 until the first day of the following May, and have the lien against  
75-76 the property so assessed released as hereinafter provided.

77 (d) If any such assessment shall not be paid when due,  
78 the council shall cause to be enforced the payment of said as-  
79 sessment and interest in all respects as herein provided for the  
80 collection of taxes due the town; and said assessments shall be a  
81 lien upon the property liable therefor the same as for taxes,  
82 which lien may be enforced in the same manner as provided for  
83 the sale of property for the payment of taxes and tax liens; and  
84 the liens herein provided for shall have priority over all other  
85 liens except those for taxes due the state and the county, and  
86 shall be on a parity with taxes and assessments for  
87 the town.

88 (e) When all of said assessments for grading, paving and  
89 curbing, or macadamizing, or other permanent improvements  
90 shall be paid in full to the treasurer, he shall deliver to the owner  
91 of said property a release of the lien therefor, which may be  
92 recorded in the office of the clerk of the county court as other  
93 releases of liens are recorded.

94 Under this plan for the payment of the cost of such per-  
95 manent improvements of avenues, streets, roads and alleys, and  
96 the construction of sewers, the contractor (if the work is let to  
97 contract) shall look only to the town for the payment of the  
98 work, and in no sense to the abutting land owners.

99 (f) The council may contract for such paving (including  
100 grading and curbing), or other said improvements to be as afore-  
101 said, and may acquire or take land for street purposes, as afore-  
102 said, and may, if council so elects, stipulate that the costs thereof,  
103 in whole or in part, shall be paid in installments by the abutting  
104 property owners, as provided in (a) of section fifty so specially  
105 benefited property owners, as provided in (g) of said section, in  
106 five equal installments, to be evidenced by five paving certificates  
107 issued therefor, payable in thirty days and one, two, three and



108 four years, respectively, after the date of their issue, and shall  
109 bear interest not to exceed six per centum per annum, payable  
110 annually, or if the council deems best, in ten equal installments.  
111 to be evidenced by ten paving certificates issued therefor, pay-  
112 able in thirty days, and one, two, three, four, five, six, seven, eight  
113 and nine years, respectively, after the date of their issue, and  
114 shall bear interest not to exceed six per centum per annum, pay-  
115 able annually, which certificates to be signed by the mayor  
116 and recorder, or other person or persons designated of record by  
117 the council, may be sold, either to the contractor doing the paving  
118 or other of said improvements, or to any other person, and which  
119 shall cover the entire cost of such work, or the cost of acquiring or  
120 taking land for street purposes, including the cost of surveys,  
121 notices and other things pertaining thereto; *provided*, the town  
122 in negotiating and selling such certificates, shall not be held as  
123 guarantor or in any way liable for payment thereof, except upon  
124 the action of the council as expressed by resolution of record be-  
125 fore such sale. And the certificates covering the amount of the  
126 assessment shall be paid by the owner of the land, lot or fractional  
127 part thereof, so assessed for the cost of said improvement on such  
128-29 street, road or alley so paved or improved, of land acquired or  
130 taken, as aforesaid. The amount specified in said assessment  
131 certificate shall be a lien as aforesaid in the hands of the holder  
132 thereof upon the lands, lot or part of lot assessed, and shall also  
133 be a debt against the owner of such real estate, and said amount  
134 shall draw interest from the date of said certificates, payable an-  
135 nually, and the payment of the debt may be enforced as provided  
136 by law for the collection of other debts, or such lien may be en-  
137 forced as provided in this act in the name of the holder of such  
138 certificates.

139 After a contract has been made by the council to pave or oth-  
140 erwise permanently improve any public road, avenue, street or  
141 alley in said town under this act, and the paving or other perma-  
142 nent improvements, or any stipulated part thereon, has been com-  
143 pleted, or the cost of acquiring or taking land, as aforesaid, has  
144 been ascertained, the council shall assess the amount each lot  
145 shall bear and shall make a written report, stating the number  
146 of lots and the blocks or tracts of land when not laid off into lots  
147 and the names of the owners of such lots or land when known,  
148 and the amount assessed thereon; and when the said council ap-  
149 proves said report, or modifies it and then approves it, a copy of

150 said report, so adopted by the council, when certified to by the  
151 town recorder of said town, may be recorded in the clerk's office  
152 of the county court of Kanawha county in a trust deed book, and  
153 shall be a continuing tax lien upon the lot or land against which  
154 the assessment is made until the certificates as aforesaid are paid,  
155 except as otherwise provided in section sixty-one of this act, and  
156 the recorder shall index the same in the name of each lot or land  
157 owner mentioned 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 of  
6 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 im-  
10 provement of intersections of avenues, streets or alleys.

11 When the paving or improvement of any such avenue, street,  
12 road or alley, or portion thereof, shall have been completed, under  
13 the contract awarded therefor, the council shall cause the several  
14 frontages abutting thereon to be measured, and cause the assess-  
15 ment upon each owner of land abutting thereon to be calculated,  
16 showing the proper amount to be determined as provided in the  
17 foregoing plan; and the said council shall enter the same, together  
18 with the description of the lots of land as to location, frontage and  
19 ownership, upon its record, and direct on its records that such own-  
20 ers and lots be assessed and chargeable with the the amounts  
21 so ascertained to be borne by them, respectively, and when so ap-  
22 proved and entered of record the same shall be and constitute an  
23 assessment against said owners and lots for such respective  
24 amounts.

Sec. 53. The council may, if it so elects, cause the costs of  
2 any such grading, paving, curbing or macadamizing or other per-  
3 manent improvements, to be paid in the following manner, to-wit:

4 Whenever the council shall contract for such paving or other  
5 permanent improvements to be done, and that it shall be paid in  
6 installments by the property owners, fronting on such streets, ave-  
7 nues, or alleys as aforesaid, the council may cause the mayor and  
8 town recorder to issue to the contractor doing the paving, or other  
9 said improvement, a certificate for each installment of the amount

10 of assessment to be paid by the owner of the lot, or fractional part  
11 thereof, fronting on such street, avenue, road or alley; and the  
12 amount specified in said assessment certificate shall be a lien as  
13 aforesaid in the hands of the holder thereof, upon the lot or part  
14 of lot fronting on the street, avenue, road or alley so improved,  
15 and said amount shall draw interest from the date of said assess-  
16 ment, and the payment may be enforced as set out in this act, in  
17 the name of the holder of such certificate; and after a contract has  
18 been made by the council to pave or otherwise permanently im-  
19 prove any public highway, street or alley in said town, under this  
20 act, and paving or other permanent improvements, or any stipu-  
21 lated part thereof, has been completed, the said council shall assess  
22 the amount each lot shall pay for the improvement so made, and  
23 shall make a written report, stating the number of lots and the  
24 blocks and the names of the owners of such lots when known and  
25 the amount assessed thereon; and when the said council approves  
26 said report, or modifies it and then approves it, a copy of said re-  
27 port, so adopted by the board, when certified to by the town re-  
28 corder of said town, may be recorded in the clerk's office of the  
29 county court of Kanawha county, in the trust deed book, and shall  
30 be a continuing tax lien upon the lot against which the assessment  
31 is made, until the certificates as aforesaid are paid, and the record-  
32 er shall index the same in the name of each lot owner mentioned  
33 therein; and upon the presentation by the lot owner of all the cer-  
34 tificates issued as aforesaid against the lot owner, the clerk of  
35 said court shall mark upon the margin of the book in which said  
36 certified report is recorded, that the lien is released as to the lot  
37 mentioned in the certificate produced.

38       The council may order any such avenue, street, road or alley,  
39 between the curbs and between designated points, to be graded or  
40 graded and paved or otherwise permanently improved in the man-  
41 ner authorized and provided in section fifty hereof, and may order  
42 proper curbs of stone, cement or other suitable material to be set  
43 on both sides of the avenue, street or alley so paved or improved,  
44 and the entire cost of grading, paving and setting of curbs may be  
45 assessed to the owners of the lots or fractional parts of the lots  
46 fronting or bounding on such avenue, street or alley between such  
47 designated points in proportion to the distance so fronting or  
48 bounding owned by each, except the case of intersection, which  
49 shall be borne and paid by the city. The cost of such grading,  
50 paving and setting of curbs to be borne by the abutting owners as

51 herein provided, shall be paid in installments as provided in section  
52 fifty-one hereof, and shall become liens and be enforceable as pro-  
53 vided by section fifty-one hereof and the work hereby authorized  
54 to be done by the council and the assessment therefor, hereby  
55 authorized to be made, shall be subject to sections fifty and fifty-  
56 one hereof, and the council shall proceed in relation thereto in ac-  
57 cordance with said sections fifty and fifty one.

Sec. 54. Upon the petition in writing of the owners of not  
2 less than one-half in lineal feet of property abutting upon any  
3 avenue, street or alley in said town asking the council to grade,  
4 curb, pave or macadamize or otherwise permanently improve such  
5 avenue, street or alley, and offering in said petition to have their  
6 property so abutting as aforesaid assessed not only with their  
7 part of the cost of such improvements abutting upon their prop-  
8 erty as provided for in section fifty of this act, but also offering  
9 to have their said property proportionately assessed with the total  
10 cost of the paving, grading, curbing or macadamizing or other  
11 permanent improvements of the intersection of the avenue, street  
12 or alley so paved or otherwise permanently improved as petitioned  
13 for, the council may order such avenue, street or alley to be paved  
14 or otherwise permanently improved as provided in section fifty  
15 herein and the paving certificates issued to cover such intersection  
16 shall be made separate and the last certificate due against them  
17 and their property so agreed to be assessed; and the town may pay  
18 such last mentioned certificate, or may re-imburse the property  
19 owners paying the same, out of the general levy for streets and  
20 wharves, but there shall be no legal obligations on said town to  
21 do so.

#### *Sewer Assessment.*

Sec. 55. The terms "sewer," and "sewering," as employed  
2 in this act, shall be construed in their most comprehensive sense,  
3 so as to authorize and include mains, laterals, connections, traps,  
4 incinerating and disposal plants, as well as the paving, repair-  
5 ing and improving streets, and all other necessary, convenient  
6 and useful accessories to a modern, sanitary, and efficient sew-  
7 erage system. But it is understood that should a sewer be laid  
8 in a street, highway or alley of the town, which has not been  
9 permanently paved, that then the terms above shall not include  
10 the paving, repairing and improving thereof.

11 Whenever the council shall deem it expedient to construct  
12 public sewer in any one or more town blocks, or any part thereof,  
13 or in any street or alley, or any part of a street or alley; or to  
14 provide at once adequate incinerating and disposal plants, or any  
15 part thereof, for said town, it shall so order, and the improve-  
16 ment thus ordered shall be made in accordance with the follow-  
17 ing conditions, to-wit:

18 (1) The council shall adopt a general, comprehensive plan  
19 for sewerage and sewage disposal inclusive of a proper outlet or  
20 incinerating and disposal plants, approved by some competent  
21 sewerage engineer, and of sufficient capacity to serve the whole  
22 territory within the town limits.

23 (2) Upon the adoption of such plan the council shall fix  
24 by order, the time when and place where the work upon such  
25 improvement shall be begun, and whether the same shall be  
26 undertaken as a whole, or, for the time being, confined to cer-  
27 tain designated sections, blocks, squares and streets; and if less  
28 than the whole improvement be authorized, the construction of  
29 such part or parts thereof as shall be so ordered shall be executed  
30 in accordance with the specifications therefor embraced in said  
31 general plan, so that when completed the whole shall form a  
32 properly co-ordinated system conforming to said general plan.

33 (3) The contract for such work, whether for the whole or  
34 for parts of said system, shall be submitted to competitive bid-  
35 ding, after an advertisement of not less than once a week for  
36 two successive weeks in two newspapers of general circulation in  
37 said town, and awarded to the lowest and best responsible bid-  
38 der. The council, however, shall have the right to reject any  
39 and all bids; and no contract shall be made in pursuance of this  
40 authority except upon the express condition that, before the  
41 same becomes binding upon the town, the contractor, or some  
42 one for him, shall enter into and acknowledge bond, with security  
43 to be approved by the council, in a penalty double the price  
44 named in the contract for the work therein specified, with con-  
45 ditions that he will faithfully perform the duties and promptly  
46 and skillfully perform and complete the work provided for in  
47 said contract, and pay all costs and damages that may be sus-  
48 tained by said town or by any citizen, inhabitant, resident or  
49 taxpayer thereof, in respect to both persons and property, in  
50 the execution thereof, and save it and them harmless in the  
51 premises. If the council should reject all bids, it may cause the

52 work to be done by the town, by proper ordinance, under the  
53 direction of the mayor and the supervision of the commissioner  
54 of streets.

55 (4) The contractor shall look alone to the town for pay-  
56 ment for the work covered by such contract.

57 (5) The contractor shall receive payment for his services,  
58 not to exceed the contract price, at such times and in such sums  
59 as the council may by said contract prescribe; but ten per cen-  
60 tum, at least, of the contract price shall be retained by the  
61 council for ninety days after the completion of the work speci-  
62 fied in the contract as additional security for the proper exe-  
63 cution of the work. The contract may contain all such other  
64 safeguards, limitations, provisions and conditions, as are usual  
65 and as to the council may seem fair and right.

66 (6) The total cost of the disposal and incinerating plants,  
67 including the acquisition and purchase of the ground, if any,  
68 necessary therefor, as well as the acquisition and purchase of  
69 any other real estate necessary to the work as a whole, shall be  
70 borne by the town.

71 (7) The total cost of laying sewers in public squares,  
72 and in squares formed by the intersection of streets and alleys,  
73 shall be borne by the town.

74 (8) The total cost of all other work and material inci-  
75 dental to the laying of such sewer or sewers in any town block  
76 or blocks, and in the streets and alleys of the town not herein  
77 made a special charge against the town, shall be borne and paid  
78 by the abutting property owners on either side of such portion  
79 of any avenue, street, road or alley so sewered in proportion of  
80 such total cost as the frontage in front of their abutting land  
81 bears to the total frontage of all the land so abutting on said  
82 avenue, street, road or alley in which such sewer is to be con-  
83 structed; except that corner lots shall be estimated on a basis  
84 not exceeding one hundred and fifty feet in depth.

85 (9) When said sewer is completed, in whole or in part,  
86 and connected up with the disposal plant, or other outlet, ready  
87 for use, then, as to so much and such part or parts thereof as  
88 have been so completed and connected up, the town engineer or  
89 other person or persons having said work in charge, shall report  
90 to the council in writing the total cost, together with a descrip-  
91 tion of the lots and lands abutting thereon, their location,  
92 frontage, depth and ownership, so far as ascertainable, with the

93 amount chargeable against each lot and owner thereof estimated  
94 on the basis above named. The council shall verify said report,  
95 and correct any errors that appear upon the face thereof, and  
96 give notice by publication once a week for two successive weeks  
97 in some newspaper of general circulation published in said town  
98 that, on a day named in said notice, an assessment under this  
99 act will be laid against abutting property and the owners thereof  
100 in the amounts and against the owners, respectively, appearing in  
101 said report, for the sewers constructed in the blocks, streets and  
102 alleys in the notice designated. Any owner or owners of abut-  
103 ting property shall have the right to appear before the council  
104 on or before the day fixed in said notice and move the review  
105 and revision of any such proposed assessment. The council  
106 shall have the power, in its discretion, to make any proper cor-  
107 rection and adjustment of the proposed assessment complained  
108 of; *provided*, the application therefor be made within the time  
109 limited by said notice, but not, if made afterwards. At the  
110 expiration of the time fixed by said notice if no application  
110-a for review or revision of any assessment be pending  
111 or, if pending, then upon the determination thereof, the council  
112 shall proceed to lay an assessment on the basis aforesaid against  
113 the lots and lands abutting on such sewer, and the respective  
114 owners thereof, and cause the same to be entered upon its rec-  
115 ords, together with a description thereof substantially as re-  
116 ported by said commissioner, and from the date of such entry  
117 the amounts so reported, laid and found, shall constitute an  
118 assessment against the lots and lands, and the owners thereof,  
119 and in the amounts therein named, respectively.

120 It is expressly *provided, however*, that in apportioning said  
121 cost the amount assessed against the abutting property owner  
122 shall in no case exceed a sum equal to a charge of one dollar  
123 and twenty cents per front foot for inside and one dollar and  
124 seventy-five cents per front foot (calculated to a depth of not  
125 exceeding one hundred and fifty feet) for corner lots.

126 A copy of the order making such assessment, certified by  
127 the town recorder, shall be filed for record with the clerk of  
128 the county court of Kanawha county, and be recorded and in-  
129 dexed by him in the proper deed-of-trust book, or judgment lien  
130 docket, in the name of each owner against whose property as-  
131 sessments appear therein.

132 Immediately upon the entry of such assessments the council

133 shall certify the same to the treasurer for collection, and from  
134 the time of filing the same for record in the office of the clerk  
135 of the county court such assessments shall be a lien against the  
136 lots and lands in respect to which the assessment was made.

137       The amounts so assessed against said lots and lands and  
138 the owners thereof shall be payable in ten installments as fol-  
139 lows: One-tenth thereof within sixty days from the date the  
140 same is certified to the treasurer for collection; one-tenth thereof,  
141 with interest from date of entry, on the first day of May next  
142 ensuing; and one-tenth thereof, with interest from the date of  
143 entry, payable May first of each year, on the first of May in each  
144 year thereafter, until the whole thereof shall have been paid;  
145 *provided, however,* that any owner or owners so liable for any  
146 part of the costs of such sewers shall have the right at any time  
147 within sixty days after certification as aforesaid, to anticipate  
148 the payment of such installments, or any of them, and to dis-  
149 count the same for cash on the basis of two and one-half per  
150 cent. To each of said installments remaining unpaid at ma-  
151 turity, or to any part thereof, a penalty of five per cent shall be  
152 added, in addition to the interest, and payment thereof enforced  
153 in all respects as provided for the collection of other town levies;  
154 all of which charges, assessments and penalties shall be a lien  
155 upon the property liable therefor the same as other town levies  
156 and enforced in the same manner. The liens herein provided  
157 for shall have priority over all other liens, except for state and  
158 county levies, and shall be on a parity with other taxes and  
159 assessments made for the benefit of the town. Upon payment of  
160 any such assessment the treasurer shall deliver to the party  
161 making payment a release of the lien therefor substantially in  
162 the form and to the effect provided by the statutes of West Vir-  
163 ginia for the release of liens created by deeds of trust, judg-  
164 ments, or otherwise, which shall be admitted to record by the  
165 clerk of the county court in the same manner as other releases,  
166 should such assessment not be paid to the treasurer, or being  
167 paid to him not be turned over by him to the treasurer, and it  
168 be made to appear to the satisfaction of the council that the  
169 same has been actually paid to any person authorized to receive  
170 the same, the council may direct the mayor or recorder, or treas-  
171 urer or other person specially designated for the purpose, to exe-  
172 cute a release of the lien securing the same, and the recordation  
173 thereof shall release said lien.



174       (10) The owner or owners of any lot abutting upon any  
175 street in said town in which a public sewer is or may hereafter  
176 be laid and constructed, on which lot any business or residence  
177 building is or shall hereafter be erected, and which building is  
178 not otherwise lawfully connected with a public sewer, a part of  
179 the sewerage plan aforesaid, may be required and compelled by  
180 the council, or by the board of health of the town, to connect  
181 such building with such sewer. Notice to so connect shall be  
182 deemed sufficient if given to the owner, lessee, or occupant of  
183 such building. Each day's failure to comply with such notice,  
184 and to make such connection by such owner or owners, after the  
185 lapse of ten days from the day such notice is given, shall be a  
186 misdemeanor, and a separate and new offense under this act,  
187 and each such offender shall be punishable, on conviction by a  
188 fine of not less than five dollars nor more than twenty-five dol-  
189 lars. Jurisdiction to hear, try, determine and sentence for vio-  
190 lations of this section is vested in the police court of said town.  
191 Notwithstanding anything herein, however, if said owner or  
192 owners shall fail to comply with such notice, the council may  
193 also, by ordinance, order such connection to be made at the  
194 expense of the owner, and the cost thereof to be certified to the  
195 clerk of the county court of Kanawha county for record, and  
196 the same shall constitute a lien upon the lots and lands of said  
197 owner or owners abutting on such sewer from the date of filing  
198 said certificate for record with the same force and effect and  
199 with the same penalties and remedies as in the case of the as-  
200 sessments hereinbefore provided for.

201       (11) Whenever the council deems it expedient to per-  
202 manently pave or re-surface any street or alley, or any part  
203 thereof, of said town, not then served by a public sewer, and it  
204 is in the interest of economy that a sewer should first be laid  
205 therein, in anticipation of being later made a part of the general  
206 sewerage system hereinbefore mentioned, it shall have the power,  
207 and it is hereby authorized, to order the construction of such  
208 sewer and to assess against and collect of the abutting property  
209 owners the same proportion of the cost thereof, upon the same  
210 terms, with the same rights, remedies and penalties in all re-  
211 spects, as provided for the construction of the general sewerage  
212 system hereinbefore set forth; excepting, however, that the right  
213 to lay such assessments and to collect the same shall not be

214 dependent upon the connection of such sewer with the disposal  
215 plant, or outlet, as a matter precedent to the payment therefor.

216 (12) The council of said town is also authorized and em-  
217 powered to order and cause to be constructed in said town, or  
218 part within and part outside the limits of said town, any public  
219 sewer, either main or lateral, or both, by contract, or direct by  
220 the town, for the benefit of said town or any part thereof, and to  
221 purchase land or easement therein, or to condemn land and ease-  
222 ment therein, in the manner provided in this act, for such sewer;  
223 and when the board shall order the construction of any such  
224 sewer or any part thereof in said town, the owners of the prop-  
225 erty abutting thereon, or abutting upon an avenue, street, road  
226 or alley, in which such sewer shall be constructed, or abutting on  
227 any land or easement therein specially procured for the purpose  
228 of the construction of a sewer therein, may be charged with all  
229 or any part of the cost thereof, including the cost of such sewer  
230 at and across intersections at avenues, streets, roads and alleys  
231 adjacent thereto. If said work is let to contract, the provision  
232 of section fifty shall apply.

233 (13) When said sewer is completed in any block, or be-  
234 tween two designated points, the council shall cause a report to  
235 be made in writing, setting out the total cost of such sewer and  
236 a description of the lots or land as to location, frontage and own-  
237 ership liable therefor, including the cost of acquiring or taking  
238 land or easement therein for such purposes and cost of surveys,  
239 notices, etc., therefor, together with the amount chargeable  
240 against each lot or piece of land and the owner thereof. If any  
241 lot fronts on two streets, or on a street and a road, or on a street  
242 (or road) and alley, in which a sewer is constructed, it may be  
243 assessed on both said street, or street and road, or street and  
244 alley. Said council shall enter an order upon its records setting  
245 forth the location and owner or each lot or piece of land, and  
246 the amount of said sewer assessments there against, calculated  
247 in the same way as provided for street paving in section fifty  
248 herein. The entry of such order shall constitute and be an  
249 assessment for such proportionate amount so fixed therein against  
250 said respective lots and land and the owners thereof; and said  
251 board shall thereupon certify the same to the treasurer for col-  
252 lection; and for the purpose of facilitating the collection of such  
253 assessments against the properties herein, the council may issue  
254 assessment certificates, with interest coupons attached thereto,

255 to be delivered to and charged against the town treasurer who  
256 shall collect the same, and as such certificates and coupons are  
257 paid he shall deliver the cancelled certificates to the party paying  
258 the same; and the town recorder shall file a certified copy of said  
259 order with the clerk of the county court of Kanawha county, who  
260 shall record same in the proper trust deed book, and index the  
261 same in the name of each owner of any lot or land thus charged  
262 with said assessment, and the assessments so made shall con-  
263 stitute and be a lien upon said lots or land, respectively, which  
264 shall have priority over all other liens except for taxes due the  
265 state and county, and shall be on a parity with other taxes and  
266 assessments due the town.

267 (14) The amounts so assessed against said abutting lots  
268 or land, and which shall be a lien there against, shall be collected  
269 in the manner provided in this act for the collection of paving  
270 liens. Said assessments shall be divided into five installments,  
271 each for one-fifth of the amount thereof, and the first due and  
272 payable in thirty days, the second in one year, and the third in  
273 two years, the fourth in three years and the fifth in four years,  
274 from the time of certifying the same to the treasurer except as  
275 hereinafter provided in this section, all bearing interest at six  
276 per centum per annum from such date, payable annually; and  
277 the town council may issue sewer certificates thereon, as of said  
278 date, as further evidence of said indebtedness and lien therefor,  
279 and said certificates may be sold or negotiated, at not less than  
280 par and without any kind of discount, to the contractors doing  
281 such work, or other person if the board deem it expedient;  
282 *provided*, the town in negotiating and selling such certificates  
283 shall not be held as guarantor in any way liable for payment  
284 thereof, except upon the direct action of the council as expressed  
285 by resolution of record before such sale. But the owner of the  
286 land or lot so assessed may at any time anticipate and pay such  
287 assessment or certificate with interest thereon on the whole un-  
288 paid amount till the time when the next certificate shall be-  
289 come due. If such assessment shall not exceed fifteen dollars, it  
290 shall be in one amount, due and payable thirty days from date;  
291 if more than fifteen dollars and less than thirty dollars, then in  
292 two installments of equal payments, due and payable in thirty  
293 days and one year respectively, from date; and if more than  
294 thirty dollars, then in five equal installments and payable as  
295 first aforesaid.

296 *Provided*, the council may, if it so elects, order and cause  
297 the construction of any such sewer, and may acquire or take  
298 land or easement therein, either in or outside said town, or both,  
299 for said sewer purposes, and assess all or any part of the cost  
300 thereof upon and against the abutting, adjacent, contiguous and  
301 other lots or land especially benefited by the construction of  
302 such sewer, and said assessment shall be a lien upon such lots  
303 or lands, and a debt against the owners thereof for the amount  
304 so charged against them respectively, which debt may be col-  
305 lected as provided by law for the collection of other debts of  
306 like kind, and which lien may be enforced in the same manner as  
307 provided for the enforcement of paving liens in this act.

308 The council, when it decides to order the construction of  
309 the sewer under this plan, shall, before doing the same, fix, by  
310 ordinance or resolution, the total amount of the special bene-  
311 fits to be derived from such improvements to the abutting, ad-  
312 jacent, contiguous, and other specially benefited land or lots  
313 so assessed, setting out the names of the owners, the amount of  
314 the special benefits, and the approximate amount of the total  
315 cost of the proposed sewer, and the board may, in fixing such  
316 assessments, take into consideration the assessed value of the  
317 lots or land as fixed, for the last assessment year, for state and  
318 county purposes.

Sec. 56. It shall be lawful for said town of South Charleston  
2 to issue and sell its bonds, as provided in this act for the sale of  
3 other paving and sewer bonds, to pay the town's part of the cost  
4 of the construction of said sewers and the paving or other perma-  
5 nent improvements of streets and alleys, as required by this act;  
6 and said town may levy taxes, in addition to all other taxes, au-  
7 thorized by law, to pay such bonds and interest thereon; *provided*,  
8 that the total indebtedness of the town for all purposes shall not  
9 exceed five per centum of the total value of all taxable property  
10 therein.

11 (a) It is especially provided that no bonds shall be issued  
12 under the provisions of this act, unless and until the question of  
13 issuing said bonds shall have first been submitted to a vote of the  
14 people of said town, and shall have received three-fifths of all  
15 votes cast at said election for and against the same. The council  
16 of said town may provide by ordinance for submitting to the  
17 people at any regular election, or special election called for that  
18 purpose, the question of whether or not said town shall be author-

19 ized to issue bonds for the purpose specified in this act ; but the or-  
20 dinance relating to the issuance of said bonds, and the submission  
21 of the same to the vote of the people, need not specify in detail the  
22 location of the improvements contemplated to be paid out of said  
23 aggregate issue authorized thereby; and if at such election the  
24 people, by their vote thereon, shall authorize the issuance of said  
25 bonds, said council may order the sale of same, as needed for said  
26 improvements, dealing with all the requirements set forth in this  
27 act; and notwithstanding the provisions of sections two, three and  
28 six of chapter forty-seven-a of the code, it shall be sufficient de-  
29 scription of the purpose for which said election is held for the  
30 ordinance calling the same, or submitting said question to a  
31 vote at any general election, if it shall recite that it authorizes the  
32 council to issue bonds for the purpose of grading, paving, curbing,  
33 sewerage, or otherwise permanently improving the streets, roads  
34 and alleys of said town, at such times as to the council shall seem fit  
35 or expedient.

36 The provisions of chapter forty-seven-a of the code, concern-  
37 ing bond elections, shall, so far as they are not in conflict with the  
38 provisions of this chapter, apply to the bond election and special  
39 bond election herein provided for.

Sec. 57. For the purpose of leasing, purchasing or erecting  
2 owning, maintaining and operating a system of water works, elec-  
3 tric or other lighting systems for the town and the inhabitants  
4 and industries thereof, and the territory adjacent to the town of  
5 South Charleston which the council may from time to time agree  
6 to supply from the town water works or lighting system, as pro-  
7 vided for in this or any other act of the legislature, said town of  
8 South Charleston is hereby authorized to issue and sell its bonds,  
8-a which shall bear interest not to exceed six per cent per annum,  
9 interest payable annually, by which to procure funds for such pur-  
10 pose, and for said purpose the town may issue and sell its bonds to  
11 an amount equal to two and one-half per centum on the taxable  
12 property therein in addition to the aggregate of its debts for all  
13 other purposes, and of every kind whatsoever; *provided*, that the  
14 total indebtedness of said town for all purposes shall not exceed  
15 five per centum of the total value of all taxable property therein.

16 But said town shall not 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 such debt  
19 and the principal thereof within and not exceeding thirty years,

20 and for the purpose of aiding in the payment of any bonds issued  
21 under the provisions of this act, to enable the town to lease, own,  
22 operate and maintain a water works and electric light-  
23 ing system, the council of the town are hereby authorized to lay a  
24 levy of not exceeding ten cents on the one hundred dollars valu-  
25 ation of all taxable property in the town, which said levy may be,  
26 in addition to the aggregate of all other levies authorized by law;  
27 and any revenue derived from said water works and electric light-  
28 ing system over and above the expense of operating and maintain-  
29 ing the same, shall be applied to the payment of the bonds issued  
30 therefor.

Sec. 58. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall include the cost  
3 and expenses of making the assessments, the expenses of the pre-  
4 liminary and other surveys, and of printing and publishing all no-  
5 tices required to be published and serving the notices on property  
6 owners, and the cost of construction.

7 Proceedings with respect to improvements shall be liberally  
8 construed by the council and the courts, to secure a speedy comple-  
9 tion of the work at a reasonable cost and the speedy collection of the  
10 assessments after the time has elapsed for their payments, and  
11 merely immaterial objection in such cases shall be disregarded.

Sec. 59. In setting forth the lots and lands abutting upon  
2 the improvements, it shall be sufficient to describe them as the lots  
3 and lands bounding and abutting upon said improvement between  
4 and including the termini of said improvement, or by the descrip-  
5 tion by which they are described on the land books of the county  
6 in which said lots are situate; and this rule of description shall  
7 apply in all proceedings in which lots or lands are to be charged  
8 with a special assessment.

Sec. 60. When work shall have been completed on any ave-  
2 nue, street, road or alley, or part thereof, as provided in section fifty  
3 or section fifty-one, or the construction of any sewer or other work  
4 shall have been completed on any avenue, street, road or alley, or  
5 part thereof, or elsewhere, as provided in section sixty-one, and said  
6 assessments thereagainst shall have been calculated as provided in  
7 this act, the council shall give notice, by publication at least once  
8 a week for two successive weeks in two newspapers of opposite  
9 politics, of general circulation, in said town, that an assessment  
10 under this act is about to be made against the property so assessed  
11 and the owners thereof, mentioning the kind of work and the

12 location thereof, and the owners of said property shall have a right  
13 to appear before said council, either in person or by attorney or  
14 agent, at any regular or special meeting called for that purpose.

*Sidewalks and Shade Trees.*

Sec. 61. The council is authorized and empowered to cause to  
2 be put down a suitable curb of brick, stone or other material along  
3 and for the footways and sidewalks of the avenues, streets, roads  
4 or alleys of said town, and to order and cause the laying or re-lay-  
5 ing or repair of sidewalks and gutters of such material and widths  
6 as the council may determine, and the planting or re-planting of  
7 and caring for shade trees along said avenues, streets, and roads  
8 at such points and in such manner as the council may determine,  
9 and to require the owners or occupiers of the land or lots or  
10 parts of lots facing upon said avenues, streets, roads or alleys to  
11 keep such side sidewalks clean and in good repair, and to grade  
12 the plot of ground on either side of the sidewalk between the street  
13 curb and the property line and keep the same sodded with grass  
14 and free of weeds and obstructions, and otherwise in good condi-  
15 tion and repair. The owners or occupiers of the land or lots abut-  
16 ting upon such avenues, streets, roads or alleys shall not lay any  
17 such sidewalk, curb or gutter, or plant any such shade trees, unless  
18 specially required to do so by resolution adopted by said council,  
19 and then only in the manner prescribed by said council, but said  
20 town may lay such sidewalk, curb or gutter and plant or re-plant  
21 and care for said shade trees, or may let said work to contract,  
22 and in either case the total cost of said work, or such part thereof  
23 as the council may direct, shall be charged upon and against the  
24 land or lots abutting upon such avenue, street, road or alley, which  
25 assessment shall be and remain a lien upon said land or lots the  
26 same as taxes levied upon real estate in said town, which lien may  
27 be enforced by a suit in equity before any court having jurisdic-  
28 tion as other liens against real estate are enforced. The amount  
29 so assessed against any land or lot shall also be a debt against the  
30 owner of such land or lot, which may be collected as other debts  
31 are collected, in any court having jurisdiction, and shall be due  
32 and payable in ninety days from the completion and acceptance of  
33 such work as certified to by the council, with six percent interest  
34 thereon from the date of such record acceptance. And in ascer-  
35 taining the amount to be assessed against any corner lot

36 for the cost of laying any such sidewalk and planting trees in  
37 front or alongside thereof, the council may assess the total cost of  
38 laying such sidewalk, and planting trees, in front or alongside  
39 said lot and extended to the curb or gutter of the intersection of  
40 the avenues, streets, roads or alleys at that point.

41 When such work is done by the town, and not to contract, the  
42 council shall certify such assessments to the treasurer of the town  
43 for collection, who shall account for the same as directed by the  
44 council or by ordinance, and the treasurer shall accept payment,  
45 when tendered, of the amount of said assessment with interest  
46 to the date of payment, and unless said assessments shall have  
47 been paid within ninety days from the date of such assessment,  
48 then a copy of such report shall be certified by the town recorder  
49 to the clerk of the county court of Kanawha county, who is hereby  
50 required to record and index the same in the proper trust deed  
51 book in the name of each person against whose property assess-  
52 ments appears therein. If any such assessment shall not be paid  
53 when due, the council shall cause to be enforced the payment of  
54 said assessment and interest in all respects as herein provided for  
55 the collection of taxes due the town; and said assessment shall be  
56 a lien upon the property liable therefor, the same as taxes, which  
57 lien may be enforced in the same manner as provided for the sale  
58 of property for the non-payment of taxes and tax liens; and the  
59 liens herein provided for shall have priority over all other liens  
60 except those for taxes due the state and county, and shall be on  
61 a parity with taxes and assessments due the town. When such  
62 assessment shall have been paid in full, and a lien therefor shall  
63 be of record in the county clerk's office, the treasurer shall execute  
64 and deliver to the owner of said property a release of said lien,  
65 which may be recorded in the office of the county clerk as other  
66 releases of liens are recorded.

67 The council may, if it so elect, let said work to contract, and  
68 certificates may be issued for the amount of said assessments  
69 which may be sold to the contractor doing the work, or other per-  
70 son in full of the total cost, in the same manner as provided for  
71 paving certificates in section fifty-three herein; *provided*, the  
72 town, in negotiating and selling such certificates, shall not be  
73 held as guarantor or in any way liable for payment therefor, ex-  
74 cept upon the direct action of the council as expressed by resolu-  
75 tion of record before such sale. Said certificates, to be signed by  
76 the mayor or town treasurer, or other person or persons designated



77 of record by the council, shall bear date as of the time when such  
78 work is accepted and certified by the council, and shall be due and  
79 payable in ninety days from date hereof, with six per cent interest.  
80 When the council shall have received said work, it shall at the  
81 same time make said assessments upon written report; and at the  
82 end of ninety days from date thereof, upon the demand in writ-  
83 ing filed with the town treasurer of the holder or holders of the  
84 unpaid certificates issued to cover said assessments, said town  
85 treasurer shall certify a copy of said report, only in so far as it re-  
86 lates to the owners against whom said exhibited certificates re-  
87 main unpaid, to the clerk of the county court of Kanawha county,  
88 who shall record and index the same as other liens of like kind are  
89 recorded and indexed, and the same shall be and remain a lien  
90 upon the real estate against which said assessments are made, as  
91 set out in said certified report and said lien may be enforced, in  
92 the name of the holder of such certificate in the same manner as  
93 set out in section fifty-three in this act.

94 Before letting such work to contract, the council shall adver-  
95 tise the same once a week for two consecutive weeks in two news-  
96 papers of opposite politics in the town of South Charleston, of  
97 general circulation, setting out the time and place for receiving  
98 proposals for such work and referring to the specifications made  
99 therefor; and the town reserve the right, whether stated in such  
100 notice or not, to refuse any and all bids for the work. On re-  
101 fusals of said papers to publish said notice at reasonable rates,  
102 the council may, by resolution, direct how such notice may be  
103 given. The fact that such contract shall be awarded for said  
104 work shall be *prima facie* proof that said notice was given as  
105 required herein. Such lien, as represented by certificate, may  
106 be released of record in the office of the county clerk in the same  
107 manner as paving liens, represented by certificate, are released  
108 of record, as provided for in section sixty-two herein; and in no  
109 event shall such assessment be and remain a lien in said certified  
110 report so recorded in the office of the county clerk, unless at the  
111 end of said one year period a suit shall be pending for the en-  
112 forcement of said lien, or the amount thereof shall, in some way,  
113 be involved in a suit pending at the end of said one year period.  
114 All such work, whether done by the town direct, or through  
115 contractors, shall be under the supervision of the street depart-  
116 ment of the town or some person designated for that purpose by  
117 the council.

119 If the owner or occupier of any such lot or land shall be re-  
120 quired by the council to lay or re-lay, clean or repair any such  
121 sidewalk, curb or gutter, or shall be required to grade the space  
122 on either side of the sidewalk between the street curb and the  
123 property line, and keep the same sodden and free from weeds or  
124 obstruction, and otherwise in good condition and repair, written  
125 or published notice shall be given to such owner or occupier in the  
126 manner provided by ordinance or resolution adopted by the coun-  
127 cil, and the neglect or refusal of such owner or occupier to do the  
128 work, in the manner and within the time required by the council,  
129 as set out or referred to in said notice, shall be an offense and  
130 may be punished as provided by ordinance; and after the expira-  
131 tion of the time set out in said notice for the doing of said  
132 work, and the same remains undone, the council may do or cause  
133 to be done, said work and assess and collect the cost thereof in the  
134 manner, upon either plan, and to the full extent set out in this  
135 section.

#### *Release of Lines.*

Sec. 62. In addition to the provisions for the release of  
2 said assessment liens, either for street paving or other per-  
3 manent street improvements, or construction of sewers, as else-  
4 where set out in this act, on the presentation by the land  
5 or lot owned of any of the certificates issued as aforesaid against  
6 him or his predecessor in title to such lot, the clerk of the county  
7 court shall mark upon the margin of the trust deed book at which  
8 said certified report is recorded, that the lien is released to the  
9 land or lot mentioned in such certificate to the extent of the  
10 amount of the certificates thus exhibited; and the county recorder  
11 shall thereupon write across the face of each of said certificates  
12 the date of their production to him for the release of lien and  
13 shall sign his name thereto in his official capacity for which he  
14 shall receive in advance a fee of twenty-five cents for each certi-  
15 ficate so marked, from the person demanding the release of the  
16 lien aforesaid; but if more than one of the serial certificates  
17 against the land or lot or lots shall be produced at the same time,  
18 the fee of the county recorder shall not exceed twenty-five cents  
19 for the release of the liens as to all of the certificates thus produced  
20 and relating to the same real estate.

21 *Provided*, that the owner of any lot or land against which

22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county recorder an affidavit, or  
24 some person for such owner shall make and produce such affida-  
25 vit, setting out therein that such certificate (or certificates) has  
26 been paid in full, and after diligent search, cannot be found, said  
27 county recorder shall, upon the payment of a fee of twenty-five  
28 cents, file and preserve said affidavit as a public document and  
29 shall forthwith note the release of said lien to the extent of said  
30 lost certificate (or certificates) and the lots or land against which  
31 it is a lien upon the margin of the trust deed book, as aforesaid,  
32 and noting therewith the filing of said affidavit; which shall  
33 operate as a release of such lien to the extent of such marginal  
34 notation. If the affidavit so filed be false, the person making  
35 oath and subscribing thereto shall be guilty of a felony, and up-  
36 on conviction thereof shall be fined not to exceed five hundred  
37 dollars, or sentenced to be confined in the penitentiary for a  
38 term of not more than one year, or both, in the discretion of the  
39 court passing sentence.

40 *Provided, further,* that any paving or sewer lien, which may  
41 be created in consequence of the provision of this act, or any  
42 lien, which may have heretofore been created in consequence of  
43 an act of which this is an amendment, for an assessment, the  
44 last payment of which is not yet due, shall not, under any cir-  
45 cumstances, be a lien against the lot or land or fractional part  
46 of the lot or land, against which it may have been assessed and  
47 made a lien, for a longer period than one year after the last  
48 assessment or certificate of the same date and group, represent-  
49 ing such lien, shall have become due and payable, unless some  
50 suit or action, at the termination of said one year period, shall  
51 be pending for the enforcement of such lien, or unless the amount  
52 of the lien or some part thereof is in some way involved in a  
53 suit or action pending at the end of said one year period; and  
54 further, that no such paving or sewer lien heretofore placed  
55 to record in said county court clerk's office for an assessment,  
56 the last payment of which is past due, shall remain or be a lien  
57 against the real estate therein described for a longer period  
58 than one year from the time this act takes effect, unless a suit  
59 shall be pending at the end of each one year period for the en-  
60 forcement of said lien, or the amount thereof shall in some way  
61 be involved in some action then pending.

62 All of the assessment certificates, which may be issued under,  
63 the provisions of this act, shall be made payable at the office of  
64 the treasurer, who shall receive payments thereon when due if,  
65 tendered to him, and interest thereon from the date of such  
66 payments shall cease. The treasurer shall keep a separate and  
67 special account of all said sums of money received by him, and  
68 he shall hold said money in trust for the person who thereafter  
69 deliver to the treasurer for cancellation any and all certificates  
70 on which said treasurer has received full payment as required;  
71 but the owner of said certificates shall not be entitled to interest  
72 on said sum after the date of payment thereof to the treasurer.  
73 When the whole amount of any such assessment lien shall have  
74 been paid to the treasurer as aforesaid, or the treasurer shall be  
75 convinced that all of the paving or sewer certificates against any  
76 land, lot or fractional part of lot, shall have been paid in full,  
77 he shall, when demanded, execute a release of said lien in the  
78 manner hereinbefore provided for the release of paying liens.

Sec. 63. All existing ordinances of the town of South  
2 Charleston not inconsistent with this charter or applicable  
3 under the altered form of municipal government provided by this  
4 charter shall be and continue in full force and effect as ordinances  
5 of the town of South Charleston, until amended or repealed or  
6 until they expire by their own limitations; and no existing right,  
7 action (civil or penal), suit or proceedings, or contracts, shall  
8 be effected in the change of the form of government of the terri-  
9 tory set out in section two of this act; but all shall continue  
10 as though no such change had taken place; and all debts, penal-  
11 ties and forfeitures which have accrued, or which may hereafter  
12 accrue by virtue of anything heretofore done or existing, shall  
13 inure to the benefit of the town and may be sued for and recov-  
14 ered by said town as though this charter had not been adopted.  
15 Nothing herein, however, shall legalize or make legal any invalid  
16 indebtedness of the town of South Charleston heretofore contract-  
17 ed or incurred or impair any defense against the payment of the  
18 same; nor shall the adoption of this charter in any wise interfere  
19 with any proceedings heretofore instituted relating to the levy and  
20 collection of taxes, special assessments, or levies of any nature,  
21 or with any proceedings to enforce the payment of the same, and  
22 all contracts heretofore entered into by the town of South Charles-

23 ton shall remain in full force and effect and be completed under  
 24 ordinances existing at the time of the adoption of this charter.

Sec. 64. All acts and parts of acts inconsistent herewith are  
 2 hereby repealed.

## CHAPTER 2.

(House Bill No. 44—Mr. Neale.)

AN ACT to amend and re-enact chapter three of the acts of the legis-  
 lature of one thousand nine hundred and nine, incorporating the  
 city of Huntington, as amended by chapter seventy-three of the  
 acts of the legislature of one thousand nine hundred and thirteen,  
 and chapter seven of the acts of the legislature of one thousand  
 nine hundred and fifteen, and to repeal certain sections of the  
 said chapters of said acts, and to repeal all acts or parts of acts  
 inconsistent with the provisions of this act, and to consolidate  
 into one act the whole charter of the city of Huntington.

[Passed January 30, 1919. In effect from passage. Became a law without the  
 Governor's approval.]

Sec.	Sec.
1. City of Huntington.	30. Official bonds.
2. Describing corporation limits.	31. Tenure of elective office.
3. Boundaries of wards.	32. Tenure of appointive office.
4. Municipal authorities.	33. Salaries; how paid.
5. Corporate powers.	34. Salaries of assistants.
6. Board of commissioners; duties, powers, privileges.	35. Special workmen and day laborers.
7. Citizens' board.	36. Duties of appointive officer.
8. President and vice-president of citi- zens' board.	37. Meetings of board of commis- sioners.
9. City clerk <i>ex-officio</i> clerk of the citizens' board.	38. Special meetings.
10. Enter upon duties, when.	39. Vote, how taken.
11. Vacations on board; how filled.	40. Minutes of the meetings.
12. Vacancy in office of president; how filled.	41. Meetings of citizens' board.
13. Approval of franchises by citizens' board.	42. Special meetings.
14. Charges against members of board of commissioners.	43. Attendance of witnesses; punish- ment for contempt.
15. Removal from office of commis- sioner.	44. Quorum.
16. Rules for government of citizens' board.	45. Vacancies in office of commissioner; how filled.
17. Departments of city government.	46. Absence of officers.
18. Describing departments of city gov- ernment.	47. Cannot hold any other office.
19. Public offices to be maintained.	48. Appointive officers cannot hold other office.
20. In case of tie vote; how decided.	49. Purchase of supplies.
21. Mayor; duties and powers.	50. Police judge; police officers; powers and duties of police judge.
22. Additional officers.	51. }
23. Qualification of voters.	52. }
24. Primary election for selection of candidates; method of holding same; registration of voters for.	53. } Franchises; granting of; provisions relative thereto.
25. }	54. }
26. }	55. }
26-a. } Elections; date of and method.	56. }
27. }	57. Licenses; granting and revocation of same.
28. Contested elections.	58. Declaring and abating nuisances.
29. Oaths of office.	59. Sewage connection may be required.
	60. Sidewalks and shade trees.
	61. }
	62. }
	63. Taxes, levies, assessments, ascer-

Sec.		Sec.	
64.	} taining expenses; laying levies; collecting taxes, fines, licenses.	78.	Civil service board for examining persons for office.
65.		79.	Tenure of appointive officers; removals; misconduct to participate in elections.
66.		80.	Preference to applicants for positions.
67.	} Street paving; grading, curbing, paving, assessments for; bonds, etc.	81.	Term of office in police and fire department; charges against.
69.		82.	Code of laws and ordinances.
70.	Contracting for paving.	83.	Serving of notices, summons, warrants and other processes.
71.	Construction of sewage; completion of same; assessment of costs, etc.	84.	Present officers to continue in power until successors are elected and qualify.
72.	Release of liens.	85.	City clerk custodian of records.
73.	Issuance and sale of bonds to pay city's part of costs.	86.	Election of political committees.
74.	Water works; purchase, erection, maintenance and operation of same.	87.	Repealing all acts or parts of acts not consistent.
75.	Costs of printing and publishing notices.	88.	Act in effect from passage.
76.	Description of lots and lands abutting upon improvements.		
77.	Publication of notice of assessment.		

*Be it enacted by the Legislature of West Virginia:*

That chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of West Virginia of one thousand nine hundred and thirteen, and as amended by chapter seven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, be amended and re-enacted, and that certain sections of the said chapters and acts be repealed, and that all acts and parts of acts inconsistent with the provisions of this act be repealed, and to incorporate and consolidate into one act a charter for said city of Huntington as constituted by this act to read as follows:

ARTICLE I.

*The City of Huntington.*

Section 1. That part of the county of Cabell included in the 2 limits hereafter mentioned in section two is hereby made a city 3 corporate and body politic by the name of "The City of Hunting- 4 ton," and as such shall have perpetual succession and a common 5 seal, and by that name may sue and be sued, plead and be im- 6 pleaded, and purchase, lease, sell and hold real and personal prop- 7 erty necessary to the purposes of said corporation.

Sec. 2. The corporation territory limit of the city of Hunt- 2 ington shall be as follows, to-wit:

3 Beginning at a stake at low water mark on the Ohio river 4 (southerly side thereof), about one-half mile above the mouth of 5 Four Pole Creek, and at the intersection of the easterly line of the 6 Williams land with said low water mark; thence easterly and up 7 the Ohio river, with low water mark thereof, to its intersection

8 with low water mark of the easterly side of the Guyandotte river;  
9 thence southerly, with the low water mark of the Guyandotte river,  
10 with the easterly side thereof, to a point directly opposite the  
11 mouth of the Crump branch, a tributary of said Guyandotte  
12 river on the westerly side thereof; thence westerly in a straight  
13 line and crossing Guyandotte river to the mouth of said Crump  
14 branch; thence southerly with the westerly line of the Isaac Cump  
15 lands to what is known as the Military line; thence westerly with  
16 said Military line to its intersection with the south-easterly cor-  
17 poration line of the city of Huntington as heretofore constituted  
18 by chapter one hundred and fifty of the acts of the legislature of  
19 one thousand nine hundred and one, it also being the easterly line  
20 of the lands of the Huntington Land Company (formerly the  
21 Central Land Company of West Virginia); thence with said  
22 corporation line (and likewise line of said land company), in a  
23 south-westerly direction, crossing Four Pole creek, to the south-  
24 east corner of the lands of said land company (and likewise the  
25 south-east corner at said corporation boundary); thence following  
26 the lines of said corporation line (and likewise the lines of said  
27 land company), in a westerly and northerly direction, respectively,  
28 to and crossing said Four Pole creek to the north bank thereof;  
29 thence in a westerly direction and down Four Pole creek with  
30 the north bank thereof, to the intersection of said creek with the  
31 southerly line of the right of way of the Chesapeake and Ohio  
32 Railway company; and continuing westerly with said southerly  
33 line of said railway right of way to its intersection with the  
34 easterly line of the Williams land; **thence northerly with said**  
35 easterly line of said Williams land to the beginning, and the  
36 corporate limits of the city of Huntington as defined and em-  
37 braced within this act and charter shall be and remain unchanged  
38 hereby and in exact accordance with the limits thereof prior to  
39 the passage and at the time of the passage of this act.

*Boundaries of Wards.*

- Sec. 3. The territory of said city shall be divided into seven  
2 (7) wards, and such divisions shall be as follows:  
3 First ward—To include the territory lying west of First street  
4 east, projected southerly to the south corporation line.  
5 Second ward—To include the territory lying east of First  
6 street and west of Tenth street, and between the Ohio river and  
7 the Chesapeake and Ohio right of way.

8 Third ward—To include the territory east of Tenth street and  
9 west of Seventeenth street, between the Ohio river and the Ches-  
9-a peake and Ohio right of way.

10 Fourth ward—To include the territory east of Seventeenth  
11 street and west of Twenty-eighth street, between the Ohio river  
12 and the Chesapeake and Ohio right of way.

13 Fifth ward—To include the territory east of Twenty-eighth  
14 street between the Ohio river and Chesapeake and Ohio right of  
15 way to Guyandotte river, and that portion of the city of Hunting-  
16 ton east of Guyandotte river.

17 Sixth ward—To include the territory east of First street and  
18 west of Sixteenth street between the Chesapeake and Ohio right of  
19 way and the south corporation line.

20 Seventh ward—To include the territory east of Sixteenth  
21 street to Guyandotte river, and between the Chesapeake and Ohio  
22 right of way and the south corporation line.

23 It is *provided, however*, that the board of commissioners here-  
24 after provided for, after the expiration of three years from the  
25 time this act takes effect, may, by ordinance, fix the boundaries and  
26 increase the number of wards, but such ordinance shall not be  
27 effective until it is confirmed by the citizens' board by a majority  
28 of said board.

## ARTICLE II.

### *Municipal Authorities.*

Sec. 4. The municipal authorities of the city of Huntington  
2 shall be four 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."

### *Corporate Powers.*

Sec. 5. All the corporate powers of said city shall be vested in  
2 and exercised by the board of commissioners, or under its authority,  
3 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 ordi-  
9 nance, 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 to  
12 have the same kept in good order and free from obstruction, pol-  
13 lution or litter on or over them; to have the right to control all  
14 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 owners 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 pro-  
25 portionate part thereof as it may pay for; to prohibit and punish  
26 the abuse of animals; to restrain and punish vagrants, mendi-  
27 cants, beggars, tramps, prostitutes, drunken or disorderly persons  
28 within the city, and to provide for their arrest and manner of  
29 punishment; to prohibit and punish by fine, the bringing into the  
30 city by steamboats, railroads, or other carriers, of paupers, or  
31 persons afflicted with contagious diseases; to control and suppress  
32 disorderly houses, houses of prostitution or ill fame, houses of  
33 assignation and gaming houses, or any part thereof, and to punish  
34 gaming; to prohibit within said city or within one mile thereof  
35 slaughter houses, soap, or glue factories and houses of like kind;  
36 to control the construction and repair of all houses, basements,  
37 walls, bridges, culverts and sewers, and to prescribe and enforce  
38 all reasonable regulations affecting the construction regulations  
39 of the same and to require permits to be obtained for such build-  
40 ings and structures, and plans and specifications to be first sub-  
41 mitted to a city architect or building inspector; to control the  
42 opening and construction of ditches, drains, sewers, cesspools and  
43 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 main-  
46 tain fire station houses, police stations, and plice courts, and to  
47 regulate the management thereof; to acquire, lay off, appropriate  
48 and control public grounds, squares and parks, either within or

49 without the city limits as hereinafter defined, and, when the board  
50 of commissioners determines that any real estate is necessary to  
51 be acquired by said city for any such purposes, or for any public  
52 purpose, the power of eminent domain is hereby conferred upon  
53 said city, and it shall have the right to institute condemnation  
54 proceedings against the owner thereof in the same manner, to the  
55 extent and upon the same conditions as such power is conferred  
56 upon public corporations by chapter forty-two of the code of West  
57 Virginia, of the edition of one thousand nine hundred and six,  
58 and as now amended; to purchase, sell, lease or contract for and  
59 take care of all public buildings and structures and real estate,  
60 including libraries and hospitals, deemed proper for the use of  
61 said city; and for the protection of the public; to cause the re-  
62 moval of unsafe walls, or buildings, and the filling of excavations;  
63 to prevent injury or annoyance to the business of individuals from  
64 anything dangerous, offensive or unwholesome; to abate or cause  
65 to be abated all nuisances, and to that end and thereabout to sum-  
66 mon witnesses and hear testimony; to regulate the keeping of gun  
67 powder and other combustible or dangerous articles; to regulate,  
68 restrain or prohibit the use of firecrackers or other explosives or  
69 fireworks, and all noises or performances, which may be dan-  
70 gerous, annoying to persons or tend to frighten horses or other  
71 animals; to provide and maintain proper places for the burial of  
72 the dead, and to regulate interments therein upon such terms and  
73 conditions as to price and otherwise as may be determined; to  
74 provide for shade and ornamental trees and the protection of the  
75 same; to provide for the making of division fences; to make  
76 proper regulations for guarding against danger of damage from  
77 fires; to provide for the poor of the city, and to that end may con-  
78 tract with the proper authorities of Cabell county to keep and  
79 maintain the poor or any number thereof, upon terms to be agreed  
80 upon; to make suitable and proper regulations in regard to the use  
81 of the streets and alleys for street cars, railroad engines and cars,  
82 and to regulate the running and operation of the same as to pre-  
83 vent injury, inconvenience or annoyance to the public; to prohibit  
84 prize fighting, cock and dog fighting; to license, tax, regulate or  
85 prohibit theaters, circuses, the exhibit of showmen and shows of  
86 any kind, and the exhibition of natural or artificial curiosities,  
87 caravans, menageries and musical exhibitions, and performances,  
88 and other things or business on which the states does or may exact  
89 a license tax, to organize and maintain fire companies and to

90 provide necessary apparatus, engines, and implements for the  
91 same; to regulate and control the kind and manner of plumbing  
92 and electric wiring for the protection of the health and safety of  
93 said city; to levy taxes on persons, property and licenses; to  
94 license and tax dogs and other animals, and regulate, restrain and  
95 prohibit them and all other animals and fowls running at large;  
96 to provide revenue for the city and appropriate the same to its  
97 expenses; to adopt rules for the transaction of business and for  
98 its own regulation and government; to promote the general wel-  
99 fare of the city, and to protect the persons and property of citi-  
100 zens therein; to regulate and provide for the weighing of produce  
101 and other articles sold in said city and to regulate the trans-  
102 portation thereof, and other things, through the streets; to have  
103 the sole and exclusive right to grant, refuse or revoke any and  
104 all licenses for the carrying on of any business within said city  
105 on which the state exacts a license tax; to establish and regulate  
106 markets and to prescribe the time for holding the same; and  
107 what shall be sold in such market, and to acquire and hold  
108 property for market purposes; to regulate the placing of signs,  
109 bill boards, posters and advertisements in, on or over the streets,  
110 alleys, sidewalks and public ground of said city; to preserve and  
111 protect the peace, order and safety and health of the city, and its  
112 inhabitants, including the right to regulate the sale and use of  
113 cocaine, morphine, opium, and poisonous drugs; to appoint and  
114 fix the places of holding city elections; to erect, own, lease, au-  
115 thorize or prohibit the erection of gas works, telephone plants  
116 electric light works and water works, or ferry boats, in or near the  
117 city, and to operate the same, and sell the products and services  
118 thereof to the inhabitants and industries of the city, and the in-  
119 habitants and industries of the territory outside of the city, under  
120 such rules and regulations, and for such compensation as the board  
121 of commissioners may from time to time prescribe, and to do any  
122 and all things necessary and incidental to the conduct of such  
123 business, including the right in any franchise hereafter granted to  
124 fix and change the charges and prices for which the service or  
125 article of the person or company operating any such plant or  
126 works, or any other public utilities or public service corporation  
127 under such future franchise, may be held by their patrons or con-  
128 sumers; to build, hold, purchase, own and operate toll bridges; to  
128-a provide for the purity of water, milk, meats and provisions of-  
129 fered for sale in said city, and to that end provide for a system of

130 inspecting the same and making and enforcing rules for the regu-  
131 lation of their sale, and to prohibit the sale of any unwholesome or  
132 tainted milk, meats, fish, fruit, vegetables, or the sale of milk con-  
133 taining water or other things not constituting a part of pure milk ;  
134 to provide for inspecting dairies and slaughter houses, whether in  
135 or outside of the city ; where the milk and meat therefrom are of-  
136 fered for sale within said city ; to prescribe and enforce ordinances  
137 and rules for the purposes of protecting the health, property, lives,  
138 decency, morality and good order of the city and its inhabitants,  
139 and to protect places of divine worship in and about the premises  
140 where held, and to punish violation of such ordinances even if the  
141 offense under and against the same shall constitute offenses under  
142 the law of the state of West Virginia or the common law ; to pro-  
143 vide for the employment and safe keeping of persons who may be  
144 committed in default of any payment of fines, penalties or costs  
145 under this act, who are otherwise unable or fail to discharge the  
146 same, by putting them to work for the benefit of the city upon the  
147 streets or other places provided by said city, and to use such means  
148 to prevent their escape while at work as the board of commis-  
149 sioners may deem expedient ; and the board of commissioners may  
150 fix a reasonable rate per day as wages to be allowed such persons  
151 until the fine and costs against them are thereby discharged ; to  
152 compel the attendance at public meetings of the members of the  
153 board of commissioners ; to have and exercise such additional  
154 rights, privileges and powers as are granted to municipalities by  
155 chapter forty-seven of the code of West Virginia of the edition of  
156 one thousand nine hundred and six. For all such purposes, except  
157 that of taxation, the board of commissioners shall have jurisdic-  
158 tion, when necessary, for one mile beyond the corporate limits of  
159 said city, excepting any other municipal corporation or part of any  
160 other state within said one mile limit ; *provided, however,* that  
161 nothing herein contained shall be construed as limiting the city  
162 from going beyond its territorial limits to lease, purchase or erect,  
163 operate and maintain a water plant, or system, or any part thereof,  
164 or from furnishing and selling water to consumers outside the  
165-166 city.

167 Said city of Huntington, as constituted by this act, shall re-  
168 tain, keep and succeed to all rights, privileges, property, interest,  
169 claims and demands heretofore acquired by, vested in or trans-  
170 ferred to the said city of Huntington, and said city of Central  
171 City, and the town of Guyandotte as heretofore constituted.

172       And the board of commissioners shall have the right to estab-  
173 lish, construct and maintain landings, ferries, wharves and docks  
174 on any ground which does or shall belong to said city, or which it  
175 shall acquire, and to sell, lease, repair, alter, or remove any such  
176 landings, ferries, wharves, buildings, or docks which have been, or  
177 shall be so constructed, and to levy and collect reasonable duty on  
178 vessels, and other crafts coming to, or using said landings, ferries,  
179 wharves, docks and buildings, and to preserve and protect the  
180 peace and good order at the same, and regulate the manner in  
181 which they shall be used; and to have the sole right, under state  
182 laws and in the same manner as now control county courts, to es-  
183 tablish, construct, maintain, regulate and control all such wharves,  
184 docks, ferries and landings within the corporate limits.

185       To the end that the city and its inhabitants and industries  
186 may be furnished with an adequate supply of water for all needful  
187 purposes, the said city is hereby authorized to acquire and hold by  
188 gift, purchase, condemnation, or otherwise, such real estate or  
189 interest therein or personal property either within or without the  
190 city limits, as may from time to time be necessary or convenient,  
191 for use in connection with such plants, works, structures, pipe  
192 lines or other property, in and about leasing, constructing, operat-  
193 ing and maintaining a water works and system; which water  
194 works and system may also be used to supply water to the in-  
195 habitants and industries of such territory outside the city, as the  
196 board of commissioners may from time to time elect, for adequate  
197 compensation.

198       The water rates shall be fixed by the board of commissioners  
199 on the principle only of producing revenue, and discrimination in  
200 rates is prohibited in said city; and the city is hereby given the  
201 same power and authority to collect water rents by distress, levy  
202 and sale as are conferred upon it from the collection of taxes.

203       To carry into effect these enumerated powers, and all other  
204 powers conferred upon said city expressly or by implication in this  
205 and other acts of the legislature, the board of commissioners of  
206 said city shall have the power in the same manner herein pre-  
207 scribed, to adopt and enforce all needful orders, rules and ordi-  
208 nances not contrary to the laws and constitution of this state; and  
209 to prescribe, impose and enforce reasonable fines and penalties in-  
210 cluding imprisonment; and, with the consent of the county court  
211 of Cabell county entered on record, shall have the right to use the

212 jail of said county for any purpose necessary to the administra-  
213 tion of its affairs.

Sec. 7. The city of Huntington shall have an additional board  
2 to be known and styled "Citizens Board of the City of Hunting-  
3 ton," and shall be comprised of three persons from each ward of the  
4 city, who shall be voted for and elected by the voters of each ward  
5 respectively in the manner hereinafter prescribed. The members  
6 of said board shall be allowed the sum of five dollars each for his  
7 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 qualified,  
3 elect one of its members president of the body, whose term of  
4 office shall be for three years, and at the same time shall elect a  
5 vice president, who shall have the same term of office and who, in  
6 the absence of the president, shall set 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 the  
3 duties of their offices, as a body, and supercede 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 election,  
3 or shall after having qualified, resign from the board, or move from  
4 the city, his office shall be vacated, and the citizens board shall, by a  
5 majority vote of the members voting thereon, fill such vacancy for  
6 the unexpired term with some person from the same ward and of  
7 the same political party as the person whose vacancy of office is  
8 being filled.

Sec. 12. The citizens board shall, likewise by a majority vote  
2 of the members voting thereon, fill any vacancy in the office of  
3 president of its body by electing another member of the board to  
4 the office of president for the unexpired term.

Sec. 13. No franchise, or extension of franchise, shall be  
2 valid unless it shall have been ratified and approved by a majority  
3 of all the members elected to the citizens board, and the vote of  
4 said board shall be taken by roll call of the members and entered  
5 of record in the minutes of the meeting of said board.

Sec. 14. The citizens board shall have the right to hear, con-  
2 sider and act on charges against any member of the board of com-

3 missioners, and, after having heard proof of such charges, may re-  
4 move such commissioner and declare his office vacant by two-thirds  
5 vote of all the members elected on said board, and the vote thereon  
6 shall be by roll call of the members and entered of record in the  
7 minutes of the meeting. But before such commissioner shall be  
8 put on trial on said charges, he shall have at least ten days' written  
9 notice of the nature of said charges, and the time and place of a  
10 hearing of said charges, shall remove said commissioner from office,  
11 thereby declaring a vacancy in his said office of commissioner, it  
12 shall, through its president or otherwise, cause its action there-  
13 about to be at once certified to the 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 four  
3 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 provisions  
3 of this act or the authority vested in the board of commissioners;  
4 and it shall cause a record of its meetings and proceedings to be  
5 kept and recorded by its clerk in a well bound book, which shall re-  
6-7 main in the custody and at the office of the city clerk, open to  
8 public inspection. The minutes of the meeting and proceedings of  
9 said board, after recordation and when signed by its president,  
10 shall be admitted as evidence in any court of record in this state.

### ARTICLE III.

#### *Department of City Government.*

Sec. 17. The government of the city of Huntington shall be  
2 divided into five (5) departments, to-wit:

3 Department of fire, police and law.

4 Department of finance and taxation.

5 Department of streets and sewers.

6 Department of health and charity.

7 Department of public utilities, wharf, public buildings and  
8 grounds.

Sec. 18. The mayor shall be at the head of the department of  
2 fire, police and law, and shall, at the first regular meeting of the  
3 board of commissioners following their election and qualification,  
4 designate himself as such, and each of the other commissioners at  
5 the head of one of the said departments of government, and the said  
6 commissioner thus assigned shall be styled commissioner of that

7 department, and the commissioner of finance and taxation shall be  
8 the treasurer of the city of Huntington, and as such shall perform  
9 all the duties pertaining to said office, and shall execute the bond  
10 as provided for in section thirty-nine of this act, and shall be al-  
11 lowed an assistant treasurer to be selected by him and confirmed by  
12 the board of commissioners.

13 And the commissioners assigned to the department of streets  
14 and sewers shall also discharge all the duties of street commissioner  
15 and all other duties pertaining to said department, and shall be  
16 allowed an assistant commissioner of streets, to be appointed by  
17 him and confirmed by the board of commissioners.

18 And the commissioner at the head of the department of health  
19 and charity shall perform the duties pertaining to said depart-  
20 ment and may be allowed such assistants to be selected by him and  
21 confirmed by the board of commissioners as may be deemed neces-  
22 sary, and said commissioner shall be and act as the police judge of  
23 said city and shall perform and discharge all the duties pertaining  
24 to the office of police judge.

Sec. 19. The commissioner of each department shall keep a  
2 public office at which he may be found or communicated with dur-  
3 ing stated hours to be fixed by him for the convenience of the pub-  
4 lic, unless his official duties call him elsewhere.

Sec. 20. 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. 21. The mayor shall have and exercise all the rights,  
2 powers and duties of mayor conferred by the constitution and laws  
3 of this state, and those conferred by the terms of this act. He shall  
4 be presiding officer of the board of commissioners, and a mem-  
5 ber thereof, and as such shall have the right to vote on all ap-  
6 pointments made by the board of commissioners and on all ques-  
7 tions arising before the board. He shall be chief executive officer of  
8 the city and shall see that the laws and ordinances of the city and  
9 resolutions and orders of the board of commissioners are enforced,  
10 and that peace and good order of the city are preserved, and that  
11 the persons and property therein are protected. He shall per-  
12 form such other duties of the office of mayor or commissioner as  
13 the board of commissioners may from time to time prescribe, and  
14 shall also as head of the department of police, fire and law, appoint  
15 the chief of police and the chief of fire department, and by the



16 advice and consent of the board of commissioners shall appoint all  
17 members of the police force, but such members of said police force  
18 shall be chosen from the lists provided by the civil service board  
19 under the provisions of this act.

#### ARTICLE IV.

##### *Additional Officers.*

Sec. 22. In addition to the municipal authorities mentioned  
2 in section four of this act, said city shall have a city clerk, treas-  
3 urer, auditor, police judge, city attorney, chief of police, chief of  
4 fire department, city engineer, city building inspector and health  
5 officer, and such other officers and agents as the board of commis-  
6 sioners from time to time may create and employ, but that no new  
7 office shall be made or created by the board of commissioners with-  
8 out the approval of the citizens board. The election of all ap-  
9 pointive officers named or provided for in this section shall be  
10 vested in the board of commissioners, except as otherwise provided  
11 by the provisions of this act.

#### ARTICLE V.

##### *Qualification of Voters.*

Sec. 23. Every person qualified by law to vote for members  
2 of the legislature of the state, and who shall have been a resident of  
3 the 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 held in said city by or  
6 under the corporate authorities thereof.

Sec. 24. Candidates to be voted for at any municipal or gen-  
2 eral election for mayor or members of the board of commissioners,  
3 or members of the citizens board, shall be nominated by a primary  
4 election held upon the fourth Monday in April preceding said  
5 election, in the manner hereinafter prescribed; *provided, however,*  
6 that where said candidates are to be nominated other than by  
7 political party, in that case the nomination may be made by peti-  
8 tion in accordance with the statute law of the state of West Vir-  
9 ginia; and provided further that no political party shall nominate  
10 more than one candidate for the office of board of commissioners  
11 from the same ward, and if two or more candidates of the same  
12 political party, and of the same ward, shall receive a greater num-

13 ber of votes than candidates of other wards for the same office,  
14 then the candidate receiving the highest number of votes of said  
15 ward shall be nominated, and the vote received by the other can-  
16 didates of the same ward shall be disregarded. And should a va-  
17 cancy occur upon any ticket for any office after the nominations  
18 have been made, the city clerk shall forthwith notify the chair-  
19 man of the city committee of the political party to which such  
20 candidate belonged and the said committee shall fill the vacancy  
21 and certify the same to the city clerk. The nominations for officers  
22 shall be made by a primary election held under the direction of  
23 the city, which shall be known as a general primary election, and  
24 all the candidates for office, of whatsoever political party, shall be  
25 nominated therein. The expense of such primary shall be paid by  
26 the city out of the contingent fund, and such precincts shall be  
27 maintained and kept open on the election day as will give the peo-  
28 ple of the city a fair opportunity to vote. The officers for both  
29 primary elections and general election held under this act after  
30 the election of May twenty-sixth, one thousand nine hundred and  
31 nineteen, shall be selected from the two political parties which cast  
32 the highest number of votes in the next preceding election, and the  
33 majority of such election officers shall be so selected from such  
34 political party as elected the mayor of said city at such preceding  
35 election. *Provided, however,* that any political party which may  
36 have a candidate upon the ballot shall be entitled to have in each  
37 precinct a challenger, who shall have the right to remain in said  
38 precinct until the ballots are counted and the returns certified.  
39 The election officers for all elections held under this act shall con-  
40 sist of the same number of commissioners and clerks as are re-  
41 quired by the state election laws, but no city official or employee  
42 shall be appointed or serve as an election officer. The returns from  
43 all primary elections shall be certified by the election officers hold-  
44 ing same to the city clerk, and after the election of May twenty-  
45 sixth, one thousand nine hundred and nineteen, same shall be can-  
46 vassed by the citizens board, as a canvassing board, and the result  
47 ascertained and declared within three days after such primary  
48 election, and said board shall certify forthwith after such canvass  
49 the names of the successful candidates of all the political parties  
50 to the city clerk, whose duty it shall be, in conjunction with two  
51 ballot commissioners of opposite political parties, appointed by  
52 the citizens board, to make up and have printed, in accordance  
53 with the statute of the state, the ballot for the general city elec-

54 tion, and immediately upon receiving the certification of the result  
55 of said primary the clerk of the city shall forthwith publish the  
56 same in two newspapers of general circulation in said city of  
57 Huntington, said publication to be made each day for ten days at  
58 least preceding said election. All primary elections shall be  
59 opened and closed, and in every particular conducted in accord-  
60 ance with the law of the state applicable to primary and general  
61 elections, except as herein provided. And person desiring to be-  
62 come a candidate in any primary for the office of mayor, commis-  
63 sioner, or member of the citizens board, shall file with the clerk of  
64 the said city a written request that his name be placed upon the  
65 primary ballot for the office for which he is a candidate, which re-  
66 quest shall give the full name of the party so desiring to become a  
67 candidate, and his address and the political party to which he  
68 belongs, and the office for which he is a candidate.

69 At least twenty-five (25) days prior to the time set for any  
70 primary election held after the twenty-sixth day of May, one thou-  
71 sand nine hundred and nineteen, the said citizens board, known as  
72 the election board, shall appoint two ballot commissioners of op-  
73 posite political parties who, with the city clerk, who shall be chair-  
74 man of the said primary election ballot commission, shall twenty  
75 days before said primary meet and make up the said ticket to be  
76 voted in the said primary, and who shall be governed in all par-  
77 ticulars with respect to the said primary election as are ballot  
78 commissioners for general elections in this state, and when so made  
79 by the said primary ballot commission the ticket shall be pub-  
80 lished at least two weeks before said primary election in two news-  
81 papers with general circulation of opposite politics in said city of  
82 Huntington; and the said city clerk, as chairman of said ballot  
83 commission, shall have the necessary ballots prepared and neces-  
84 sary books in which returns from various precincts may be kept,  
85 made, and shall turn over same to the commissioner of said pri-  
86 mary election in the same manner as required by the county clerk  
87 in general elections; and the number of ballots delivered at each  
88 polling place shall be equal to twice the number of votes cast in  
89 the precinct at the last general election in said city. Persons who  
90 are qualified to vote at the general city election shall be qualified to  
91 vote at the said primary election, and no person shall be permitted  
92 or allowed to vote in any primary or general election held under  
93 this charter unless he has been registered as hereinafter provided.

94 For the purpose of the primary election to be held under this

95 act on the twenty-eighth day of April, one thousand nine hundred  
96 and nineteen, and the general election to be held hereunder on the  
97 twenty-six day of May, one thousand nine hundred and nineteen,  
98 all persons shall be taken as duly qualified voters in the registra-  
99 tion lists of voters of the various voting precincts of the said city  
100 of Huntington used as such registration lists in the general elec-  
101 tion held under the laws of the state of West Virginia on Tuesday,  
102 November fifth, one thousand nine hundred and eighteen, and  
103 now of record in the office of the clerk of the county court of said  
104 Cabell county.

105 It shall be the duty of the clerk of the said city of Hunting-  
106 ton to procure from the clerk of the county court of said Cabell  
107 county, two (2) duly certified copies of such registration lists of  
108 voters as used in the general election held November fifth, one  
109 thousand nine hundred and eighteen, for each voting precinct in  
110 said city of Huntington, and he shall so procure same and furnish  
111 one copy thereof to each of the respective registrars for such pre-  
112 cincts to be used by them in making up the registration lists of  
113 voters for the said city elections as hereinafter prescribed, the  
114 costs of procuring which shall be paid by the said city.

115 The registrars appointed as provided for in this act shall, im-  
116 mediately upon their appointment as such, appear before the clerk  
117 of the said city of Huntington and qualify and take the oath in  
118 the manner and form prescribed by the election laws of the state  
119 of West Virginia before acting as such, and the said registrars  
120 shall sit at the respective voting places in the two precincts for  
121 which they were so appointed registrars on the sixteenth and  
122 seventeenth days of April, one thousand nine hundred and nine-  
123 teen, for the purpose of registering all qualified voters of such  
124 precincts whose names do not appear in the registration lists used  
125 in the general election of November fifth, one thousand nine hun-  
126 dred and eighteen, and to add the names of such qualified voters  
127 to such lists and to amend and correct the said registration lists  
128 for use in the primary election to be held under this act on the  
129 twenty-eighth day of April, one thousand nine hundred and nine-  
130 teen, and the said registrars shall in like manner sit at such re-  
131 spective voting place in said precincts for which they were so ap-  
132 pointed on the fifteenth and sixteenth days of May, one thousand  
133 nine hundred and nineteen, for the purpose of in like manner pre-  
134 paring, adding thereto, amending and correcting the registration  
135 lists of qualified voters for use in the election to be held under

136 this act on the twenty-sixth day of May, one thousand nine hun-  
137 dred and nineteen, and which said registration and addition of  
138 the names of qualified voters and amendments and corrections of  
139 such registration lists shall be made in the manner and form pre-  
140 scribed by the general election laws of the state of West Virginia,  
141 and in strict conformity therewith, but before sitting as such  
142 registrars for the purposes aforesaid the said respective registrars  
143 shall give ten days' notice of such sittings and the purpose thereof  
144 by publication for such period in two newspapers of opposite  
145 politics published in the said city of Huntington.

146 The said registrars shall be vested with all the powers and  
147 shall perform all the duties required of registrars in elections held  
148 in said state of West Virginia by the general election laws thereof.

149 The said registrars shall immediately after such sittings, as  
150 hereinabove prescribed, return such registration lists to the clerk  
151 of said city of Huntington, who shall preserve the same and shall  
152 furnish such respective lists to the officers holding said primary  
153 election of April twenty-eighth, one thousand nine hundred and  
154 nineteen and such general election of May twenty-sixth, one  
155 thousand nine hundred and nineteen, as the legal registration lists  
156 for such elections, and all whose names appear upon such reg-  
157 istration lists shall be taken to be legally qualified voters at such  
158 elections and entitled to vote thereat, and no one whose name is  
159 not on such lists shall be permitted to vote in such elections.

160 The said registrars shall receive for their services as such the  
161 sum of five dollars per day each and ten cents each for the name of  
162 every additional voter registered, to be paid by the city of Hunt-  
163 ington.

164 For all elections, primary and general, held under this act,  
165 after the election of May twenty-sixth, one thousand nine hun-  
166 dred and nineteen, the said primary and general elections shall be  
167 held under the general election laws of the state of West Virginia,  
167-a as far as applicable hereto, and the registration of voters for  
168 such elections shall be had and proceeded with as prescribed  
169 by the general election laws of the state of West Virginia for the  
169-a registration of voters for such state elections.

170 The citizens board shall appoint the registrars to prepare the  
171 registration lists of legal voters prescribed by this act at least  
172 thirty (30) days prior to any election, primary or general, to be  
173 held hereunder.

174 The officers of all primary elections shall take the same oath

175 that is prescribed to be taken by the state law of the state of  
176 West Virginia by officers of an election in a general election, and  
177 in the same manner, and any commissioner or election clerk ap-  
178 pointed as aforesaid by the said election board, who shall wilfully  
179 or negligently fail to perform the duties required of him under  
180 this act, shall be guilty of a misdemeanor and on conviction there-  
181 of shall be fined not less than twenty-five nor more than one hun-  
182 dred dollars.

183 The names of the said candidates in all primary elections  
184 shall be arranged alphabetically, or in the manner provided by the  
185 state law, upon the said ballot under a heading which shall desig-  
186 nate the politics of the said candidates, and each ticket shall be  
187 upon a separate ballot.

188 The method of voting in all elections, primary and general,  
189 shall be the same as is prescribed by statute laws of the state of  
190 West Virginia for such primary and general elections.

191 The election commissioners, when the polls have been closed,  
192 shall certify the returns as are the returns in a general election  
193 certified, and deliver the ballot boxes containing the election  
194 records and ballots to the clerk of the said city upon the evening  
195 of the day the said primary shall be held, and said clerk shall be  
196 custodian thereof until such returns have been canvassed by the  
197 citizens board, known as the election board.

198 All the provisions of the state law governing general elections  
199 with regard to illegal voting or any corrupt practice in connection  
200 with any primary election held under this act are made applicable  
201 thereto, and the said commissioners of the said primaries are  
202 given all the powers given to the commissioners of election by the  
203 general laws of the state of West Virginia, and no policeman or  
204 member of the fire department shall take part therein, or in any  
205 general elections, except to vote, and if such policeman or member  
206 of the fire department shall take part in any election held under  
207 this act, either for or against any candidate, he shall forfeit his  
208 office or position, and upon complaint to the mayor of said city of  
209 any citizen that any such policeman or member of fire department  
210 has taken any part in any such election, except to vote, he shall  
211 suspend such policeman or member of fire department, without  
212 pay, until a hearing shall be had on such complaint. All such  
213 complaints shall be in writing setting forth the particulars in  
214 which such person or persons has violated this provision, signed  
215 and sworn to by the party making same and filed with the mayor,

216 and it shall be the duty of the mayor upon the filing of said com-  
217 plaint with him to suspend, without pay, the person or persons  
218 named in the complaint, and thereupon the board of commission-  
219 ers shall hear and determine the charge made. The suspended em-  
220 ployee or appointee shall have at least ten days' notice of the time  
221 and place set for hearing of said complaint, and a copy of said  
222 complaint shall be served upon the person accused at the time  
223 notice is served, and if upon the hearing of such complaint said po-  
224 liceman or member of the fire department is found guilty thereof,  
225 he shall be immediately discharged by the said board and he shall  
226 be ineligible to reappointment to said place, office or employment.  
227 For the purpose of holding the first general primary elec-  
228 tion and general election under this act a special election board  
229 is hereby created, consisting of six persons, three republicans and  
230 three democrats, viz: W. F. Kahler, Erskine McClain and T. C.  
231 Preston, republicans, and William Arnett, James Murphy and  
232 F. F. McCullough, democrats, and it shall be the duty of said  
233 special election board, or a majority thereof, to meet at least  
234 twenty-five days prior to the time set for the holding of said  
235 primary election of April twenty-eighth, one thousand nine  
236 hundred and nineteen, and appoint two registrars for each voting  
237 precinct in the said city of Huntington, who shall be of opposite  
237-a politics and appoint two ballot commissioners of opposite  
238 political parties who with the city clerk, shall constitute a ballot  
239 commission as required by this act and the laws of the state for  
240 the purpose of preparing ballots for a general election in this  
241 state. And it shall be the duty of said special election board to  
242 appoint the ballot commissioners and registrars and the election  
243 officers to hold the first general primary and the first general  
244 election under this act, and they shall be governed in making  
245 said appointments by the provisions of this act and the general  
246 laws of the state, and the election officers so appointed shall be  
247 vested with all powers and perform all duties devolving upon  
248 like election officers appointed under the general election laws  
249 of the state of West Virginia for its elections, and the dominant  
250 party shall have the majority of the election officers at each  
251 precinct for the election to be held by the special election board  
252 hereby created, and the dominant party shall be held to be the  
253 party which elected the mayor at the last city election. And  
254 the said special election board so created for the purpose of hold-  
255 ing and conducting the said primary election of April twenty-

256 eighth, one thousand nine hundred and nineteen, and the gen-  
257 eral election of May twenty-sixth, one thousand nine hundred  
258 and nineteen, shall, in respect to said two elections, be vested  
259 with all the powers vested in and devolving upon the county  
260 court of said Cabell county with respect to elections held, both  
261 primary and general, under the laws of the state of West Vir-  
262 ginia, insofar as such duties and powers are not in conflict with  
263 other provisions of this act.

264 In all elections, both primary and general, held for the city  
265 of Huntington under the provisions of this act, after the elec-  
266 tion of May twenty-sixth, one thousand nine hundred and nine-  
267 teen, the citizens board of the said city of Huntington shall be  
268 vested with all the powers and perform all the duties vested in  
269 and devolving upon the county court of Cabell county under  
270 the general election laws of the state of West Virginia with re-  
271 spect to state elections, and in appointing the election officers for  
272 any city election the dominant party shall be entitled to a  
273 majority representation on the election boards at each precinct  
274 in said city, and the dominant party shall be held to be  
275 the party that elected its mayor of the city at the next preced-  
276 ing election, and the clerk of the said city of Huntington in all  
277 elections of said city held under the provisions of this act shall  
278 be vested with all the powers and perform all the duties vested in  
279 and devolving upon the clerk of the county court of the said  
280 Cabell county under the said election laws of said state of West  
281 Virginia.

## ARTICLE VI.

### *Election of Officers.*

Sec. 25. On the fourth Monday in May, one thousand nine  
2 hundred and nineteen, there shall be elected by the qualified voters  
3 of the city, a mayor and two commissioners, who shall hold their  
4 offices from the time of their qualification on and from the second  
5 Monday in June, then succeeding, for the term of three years  
6 and until their successors are elected and a majority thereof shall  
7 qualify, and the two commissioners, Mat Miser and L. D. New-  
8 man, who are now holding the office of commissioner under the  
9 present laws governing said city by election by the people shall re-  
10 main in office until the expiration of the term for which they



11 were elected and until their successors shall be chosen in the man-  
12 ner herein provided. When the terms of office of the said two  
13 present commissioners shall expire or if the term of either or both  
14 of them shall be otherwise sooner terminated, their successors  
15 shall be chosen in the same manner as provided in the act for  
16 the filling of vacancies in the office of commissioner, and on the  
17 fourth Monday in May, one thousand nine hundred and twenty-  
18 two, and on the same day in every third year thereafter, there  
19 shall be elected by the qualified voters of the city, a mayor and  
20 four commissioners who shall hold their offices from the time of  
21 their qualification on and from the second Monday in June, then  
22 next succeeding, for the term of three years and until their suc-  
23 cessors are elected and a majority of them shall qualify. *Pro-*  
24 *vided, however,* that if this act is not in effect a sufficient time to  
25 make the registration of voters and hold the primary election for  
26 the first election, herein provided, then the said primary election  
27 for the first election hereunder shall be held on the second Mon-  
28 day in August, one thousand nine hundred and nineteen, and the  
29 general election hereunder shall be held on the second Monday in  
30 September, one thousand nine hundred and nineteen, and all the  
31 provisions of this act relating to the registration of voters, ap-  
32 pointment of ballot commissioners, appointment of election officers,  
33 the holding of said election, canvassing of returns of said election,  
34 for said first election shall apply to such primary and general  
35 election. And all persons elected to office at such first election  
36 shall hold their office until the next general election as in this  
37 act provided, and until their successors are elected and qualified.  
38 In the event that said first election shall be held on the second  
39 Monday in September, one thousand nine hundred and nineteen,  
40 the commissioners of Huntington as now constituted and the  
41 citizens' board shall hold their offices, respectively, until the elec-  
42 tion and the qualification of a majority of the commissioners  
43 and a majority of the citizens' board under said first election.

Sec. 26. At the election at which the mayor and commis-  
2 sioners shall be elected there shall also be elected by the qualified  
3 voters of each ward of the city of Huntington three 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 nineteen, and  
12 they shall be superseded by the persons elected to said board at  
13 said election. A majority of said citizens' board shall constitute  
14 a quorum for the transaction of business. The city clerk shall  
15 be *ex-officio* clerk of the citizens' board and shall perform all  
16 duties pertaining thereto required of him and he shall keep in  
17 a well-bound book, to be part of the city records, a full and com-  
18 plete record of all acts and proceedings of said citizens' board  
19 and of all orders made by it.

Sec. 26-a. No person shall be eligible to the office of mayor,  
2 commissioner or members of the citizens' board except they be a  
3 citizen entitled to vote at the election at which commissioners are  
4 elected.

Sec. 27. All elections, of whatsoever kind, held under this  
2 act shall be conducted, returned and the results thereof ascer-  
3 tained and declared in the manner prescribed by the laws of the  
4 state insofar as they are not in conflict or inconsistent with the  
5 provisions of this act, and all penalties and fines of any sort  
6 whatsoever prescribed by the laws of the state relating to elections  
7 shall be applicable to all elections held hereunder. Election  
8 officers for the general elections in the city of Huntington shall be  
9 selected as follows: The citizens' board, as hereinafter provided,  
10 shall be and be known as the election board, and the president of  
11 the citizens' board shall be the chairman thereof; said board shall  
12 have the sole power to appoint registrars, ballot commissioners  
13 and all the election officers for all elections to be held under this  
14 charter, except the primary election of April twenty-eight, one  
15 thousand nine hundred and nineteen, and the general election of  
16 May twenty-six, one thousand nine hundred and nineteen, other-  
17 wise provided for herein. Such registrars, ballot commissioners  
18 and election officers, commissioners and clerks shall be by the said  
19 board appointed in accordance with the general laws in this state,  
20 except that any political party which has candidates upon the  
21 ballot shall be entitled to have a challenger within the precinct  
22 present at the holding of the said election, and at the counting of  
23 the ballots, until the same are sealed for delivery to the clerk  
24 of the city by such election commissioners. The commissioners  
25 and other election officers may be selected upon the recommenda-

26 tion of the committees from the various parties, but the said  
27 election board shall have the right in all respects to use their  
28 judgment with regard to the appointment of such election officers,  
29 and may refuse to appoint any person as election officer who,  
30 in the opinion of the board, should not be appointed.

31 The said election board shall canvass the returns of all pri-  
32 mary elections and general elections and ascertain and declare  
33 the results thereof in the manner provided by the election laws of  
34 the state, and shall have and exercise all the powers and duties in  
35 relation to the appointment of election officers, registrars and  
36 ballot commissioners and canvassing returns of an election imposed  
37 on the county court of a county by the state election laws.

#### *Contested Election.*

Sec. 28. All contested elections shall be heard and decided  
2 by the board of commissioners for the time being, and the con-  
3 test shall be made and conducted in the same manner as provided  
4 for in such contests for county and district offices; and the board  
5 of commissioners shall conduct its proceedings in such cases as  
6 nearly as practicable in conformity with the proceedings of the  
7 county court in such cases.

#### *Oaths of Officers.*

Sec. 29. 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  
5 best of their skill and judgment; that they will not administer  
6 their respective offices with the aim to benefit any political party;  
7 and, in the case of commissioners, they shall add in their oath  
8 that they will not during their term of office become pecuniarily  
9 interested directly, in any contract with the city, or the purchase  
10 of any supplies therefor. When the officer shall have made such  
11 oath in writing and filed the same with the city clerk, and shall  
12 have given bond required of and accepted from him, he shall be  
13 considered as having qualified for the office to which he was  
14 elected or appointed; *provided*, that if any person elected to the  
15 office of commissioner shall not qualify for said office as herein  
16 prescribed within ten days after he shall have been officially de-

17 clared elected thereto, said office shall *ipso facto* become vacant,  
18 and said vacancy shall be filled in the manner provided for in  
19 this act.

Sec. 30. Each member of the board of commissioners, and  
2 the city clerk, treasurer, auditor, city attorney, city physician,  
3 superintendent of water works, and collector of water rents, chief  
4 of police, chief of fire department, shall, before entering upon  
5 the discharge of their duties, give an official bond, conditioned  
6 for the faithful performance of their respective duties as prescribed  
7 in this act or any ordinance now or hereafter passed, in amounts  
8 as follows: Each commissioner, five thousand dollars; the treas-  
9 urer, sixty thousand dollars; superintendent of water works, five  
10 thousand dollars; the collector of water rents, twenty thousand  
11 dollars; the auditor, two thousand dollars; the city clerk, chief of  
12 police and the chief of fire department, each one thousand dollars.

13 The board of commissioners may require additional bond  
14 from any of said appointive officers, and may likewise require a  
15 bond in whatever sum they may fix, of any other appointive  
16 officer. All bonds of appointive officers shall before their accept-  
17 ance, be approved by the board of commissioners; and the bond  
18 of the commissioners shall be approved by the retiring board of  
19 commissioners (common council in the first instance.) All other  
20 bonds of whatsoever kind shall not be accepted until first approved  
21 by the board of commissioners. The minutes of the meeting of  
22 the board shall show all matters touching the consideration or  
23 approval of all bonds, and when said bonds are approved and  
24 accepted they shall be recorded by the city clerk in a well-bound  
25 book kept by him at his office for that purpose, which book shall be  
26 open to public inspection; and the recordation of such bonds are  
27 as aforesaid, shall be *prima facie* proof of their correctness, and  
28 they, as so recorded, shall be admitted as evidence in all the courts  
29 of this state. The city clerk shall be the custodian of all bonds,  
30 except those given by him, and as to them the city treasurer shall  
31 be custodian.

32 All bonds, obligations or other writing taken in pursuance  
33 of any provisions of this act shall be made payable to "The City  
34 of Huntington," and the respective persons, and their heirs, ex-  
35 ecutors, administrators and assigns bound thereby, shall be sub-  
36 jected to the same proceedings on said bonds, obligations and other  
37 writings, or enforcing the conditions of the terms hereof, by  
38 motion or otherwise, before any court of record held in and for

39 the county of Cabell, that collectors of county levies and other  
40 sureties are or shall be subject to on their bonds for enforcing the  
41 payment of the county levies.

Sec. 31. The term of office of the mayor, the members of the  
2 board of commissioners, and the members of the citizens' board,  
3 shall be for three years commencing on the second Monday in  
4 June next after the general election and ending on the Sunday  
5 next preceding the second Monday of June in the third year  
6 thereafter, or until their successors are elected and qualified.

Sec. 32. All appointive officers (except those under civil  
2 service) 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.

Sec. 33. The salary of the mayor shall be \$3,600 per annum,  
2 and his salary may be increased by the citizens' board, if said  
3 board should deem it advisable, to a sum not exceeding \$4,200,  
4 and the salary of the members of the board of commissioners shall  
5 be \$3,000 per annum, which may be increased by the citizens'  
6 board to any sum not exceeding \$3,600 each. All salaries to  
7 officers and city employees shall be paid by city vouchers payable  
8 to the order of such officer or employee. *Provided, however,* that  
9 the board of commissioners shall make all appointments of ap-  
10 pointive officers required of them to be made under this act on or  
11 before the first day of July next following their election and  
12 qualification, and if the said board shall fail to make such appoint-  
13 ment in the time aforesaid their salaries shall cease until such  
14 appointments are made; and the mayor, city clerk and treasurer  
15 shall take official notice of such failure to fill said appointive  
16 offices and shall not issue any order for nor otherwise pay to the  
17 commissioners their salary for the period of their failure to  
18 make said appointment.

Sec. 34. The board of commissioners shall fix the salary of  
2 all assistants to the heads of departments, and all appointive  
3 officers, except that of the city auditor; the city auditor shall be  
4 appointed by the citizens' board and he shall hold office at the  
5 pleasure of said board, and said board shall also fix his salary  
6 which shall be paid by the city.

Sec. 35. 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.

*Duties of Appointive Officers.*

Sec. 36. The duties in addition to those prescribed herein, 2 of all appointive officers named or authorized in this act shall be 3 prescribed by the board of commissioners.

ARTICLE VII.

*Meetings of Board of Commissioners.*

Sec. 37. The board of commissioners shall meet at some 2 place provided for that purpose at least once each week, on a stated 3 day and at an hour fixed by ordinance or rules governing the board.

Sec. 38. Special meetings of the board may be called by 2 the mayor or any two members of the board by personal notice 3 given to the other members thereof, and like notice to the public 4 through and by at least one publication in two daily newspapers 5 of the city of opposite politics, stating the time and object of the 6 meeting; and no business, except that stated in said notice, shall 7 be considered or acted upon at said meeting. All meetings of the 8 board shall be open to the public.

*How Vote Taken.*

Sec. 39. The vote upon any question or motion before the 2 board of commissioners may be *viva voce* when unanimous; but 3 if the question or motion does not receive the unanimous vote 4 of the members present, then the vote shall be taken by roll call 5 of the members and made a part of the minutes of the meeting; 6 and when the vote is unanimous the minutes shall so state.

*Minutes of the Meetings.*

Sec. 40. The city clerk shall be *ex-officio* clerk of the board 2 of commissioners. Said board shall cause detailed minutes of 3 its meetings and proceedings to be kept by the city in a well-bound 4 book for that purpose, which shall remain in the custody of the 5 city clerk at his office and open to public inspection. The minutes 6 of every regular or special meeting shall be read publicly at the 7 next regular meeting of the board, and, after being corrected, 8 shall be signed by the mayor and city clerk, and, if thus recorded

9 and signed, they shall be admitted as evidence in any court of  
10 record in this state.

*Meetings of the Citizens' Board.*

Sec. 41. The citizens' board shall meet on the first Monday  
2 of each month at an hour and at the place to be fixed by it by the  
3 rules governing its body.

Sec. 42. Special meetings of the citizens' board may be called  
2 by its president, or any ten members thereof, or by the board of  
3 commissioners, or by the mayor, by notice published in two daily  
4 newspapers of the city of opposite politics, for three successive  
5 days, stating the time and object of the meeting. The holding  
6 of a special meeting of the citizens' board shall be *prima facie*  
7 evidence that the said notice required therefor was given as pre-  
8 scribed in this section.

*Attendance of Witnesses, Punishing Contempts, etc.*

Sec. 43. The board of commissioners and the citizens' board  
2 in the exercise of their respective powers and the performance of  
3 their respective duties, as prescribed by this act and by the laws  
4 of the state, shall have the power to enforce the attendance of  
5 witnesses, the production of books and papers, and the power to  
6 administer oaths in the same manner and with like effect, and  
7 under the same penalties as notaries public, justices of the peace  
8 and 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 con-  
11 ferred on county courts by section thirteen of chapter thirty-one  
12 of the code. All process necessary to enforce the powers con-  
13 ferred by this act on the board of commissioners and citizens'  
14 board shall be signed by the mayor (or acting mayor) and the  
15 president of the citizens' board, respectively, and shall be ex-  
16 ecuted by any member of the police force.

*Quorum.*

Sec. 44. A majority of the members of the board of com-  
2 missioners and a majority of the members of the citizens' board  
3 shall be necessary for the transaction of business before said re-  
4 spective boards.

*Filling Vacancies in Office of Commissioner.*

Sec. 45. If there shall occur at any time a vacancy in the  
2 office of mayor, or in the office of commissioner, the citizens' board  
3 shall have the right and power to fill such vacancy by appoint-  
4 ment in the manner hereinafter provided, and for that purpose  
5 said citizens' board shall immediately convene and fill such vacan-  
6 cies for the unexpired term, but the person or persons so ap-  
7 pointed to fill such vacancies shall be of the same political party  
8 as the mayor or commissioner whose office was vacated and is  
9 being filled. *Provided, however,* that the members of the same  
10 political party on the citizens' board that the mayor or commis-  
11 sioner was a member of at the time the vacancy occurred shall  
12 have the right to select the person to be appointed to such vacancy,  
13 and the citizens' board shall appoint the person so recommended  
14 and selected. The person so appointed shall take and subscribe  
15 to the oath of office required by this charter, and execute any  
16 bond that may be required by law.

*Absence of Officers.*

Sec. 46. When any member of the board of commissioners or  
2 any appointive officer of the city shall from sickness or other causes  
3 be unable, for a short space of time, to attend to the duties of  
4 his office, the board of commissioners, in case of the absence of a  
5 commissioner, may designate another commissioner to attend to  
6 the duties of such absent commissioner in addition to the duties  
7 already devolving upon him in the capacity of commissioner;  
8 and, in case of the absence of any appointive officer, the board  
9 may appoint some other officer of the city or other person to per-  
10 form the duties of such officer, during his absence, either with  
11 or without the salary, in whole or in part, of such absent officer.

*Cannot Hold Any Other Office.*

Sec. 47. The members of the board of commissioners can-  
2 not 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 compen-  
4 sation, nor hold any other office or position, with or without com-  
5 pensation, which may interfere with the faithful discharge of  
6 their duties as commissioner.



Sec. 48. No appointive officer of the city shall hold two  
2 official offices with the city at the same time, nor shall become the  
3 employee of the city in any other capacity, without first having  
4 the consent of the board of commissioners.

*Purchasing Supplies.*

Sec. 49. 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. And, when practicable, the board shall advertise by  
5 reasonable notice in at least two daily newspapers of opposite  
6 politics, for bids on supplies to be furnished, and shall award  
7 contract therein (unless all bids are rejected) to the lowest bid-  
8 der taking from such bidder a written contract and bond therein,  
9 to be approved by the board, for the faithful performance of said  
10 contract. *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.

ARTICLE VIII.

Sec. 50. All persons elected or appointed to the offices  
2 named in this act shall be conservators of the peace within said  
3 city, and they, and any other officer provided for under this act,  
4 may be given authority of police officers by the board of com-  
5 missioners.

6 The police judge shall be *ex-officio* a justice of the peace,  
7 with authority to issue warrants or other process for all offenses  
8 committed within the police jurisdiction of the city of Hunt-  
9 ington of which a justice of the peace has jurisdiction under the  
10 state laws, and for all violations of any city ordinances; in order  
11 to preserve the peace and good order of the city, and protect the  
12 persons and property therein, riotous and disorderly persons in  
13 the city may be arrested and detained before issuing any warrant  
14 therefor. The police judge may without fees or other compen-  
15 sation commit persons charged with felony or misdemeanor to  
16 jail or take bond for their appearance before the grand jury of the  
17 circuit court or criminal court of Cabell county; and he shall have  
18 power to issue executions for all fines, penalties and costs imposed  
19 by him. And he may require the immediate payment thereof,

20 and, in default of such payment, may commit the person so in  
21 default to jail until the fine and penalty and costs shall be paid  
22 or satisfied, and to be employed during imprisonment as pro-  
23 vided by this act. If any person is sentenced to imprisonment,  
24 or any person or corporation is assessed with a fine of ten dollars  
25 or more, such person or corporation shall be allowed an appeal  
26 from said decision of the police judge to the criminal court of  
27 Cabell county upon the execution of an appeal bond, with surety  
28 deemed sufficient by the police judge, in a penalty double such  
29 fines and costs, conditioned that the person proposing to appeal  
30 will perform and satisfy any judgment which may be recorded  
31 against him by the appellate court on such appeal, and in no case  
32 shall a fine of less than ten dollars be given by the police judge  
33 if the defendant, his agent or attorney demand that such fine be  
34 made as much as ten dollars. If such appeal be taken the war-  
35 rant of arrest, the transcript of the judgment, the appeal bonds  
36 and other papers of the case shall be forthwith delivered by the  
37 police judge to the clerks of the criminal court, and said crim-  
38 inal court shall proceed to try the case as upon indictment or pre-  
39 sentment and render such judgment, including that of cost, as the  
40 law and evidence may demand.

## ARTICLE IX.

### *Vote on Franchise, Ordinances, Officers, Etc.*

Sec. 51. No franchise or ordinance shall be passed, and no  
2 contract shall be awarded nor any money appropriated for any  
3 one purpose in a greater sum than twenty-five dollars, and no  
4 appointment of any officer shall be made, nor any vacancy in  
5 office declared without the affirmative vote of at least four mem-  
6 bers of the board of commissioners.

Sec. 52. If any ordinance passes the board of commissioners  
2 it shall become and remain effective as therein prescribed unless  
3 vetoed by the citizens' board at its next regular meeting time, or  
4 special meeting time called to act on said ordinance.

Sec. 53. When the citizens' board shall express its vote on  
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 vote thereof, and its written rea-  
5 sons therefor, addressed to the board of commissioners, to be

6 transmitted to the city clerk, and the city clerk shall submit the  
7 same to the board of commissioners at its regular meeting or  
8 special meeting called for that purpose, which shall be noted in  
9 the minutes of said meeting, but a failure to transmit such ordi-  
10 nance within said time shall not render such veto void. If the  
11 said ordinance shall be changed and again passed by the board of  
12 commissioners, it shall be treated as a new or original ordinance  
13 and subject to the veto power of the citizens' board.

Sec. 54. If there shall be a tie vote on the passage of any  
2 franchise before the board of commissioners, the mayor shall at  
3 once transmit such franchise, with a written statement of that  
4 vote on the passage of the same before the board of commission-  
5 ers was a tie, to the president of the citizens' board, who shall lay  
6 the same before said citizens' board at its next regular meeting  
7 time thereafter, or prior special meeting time called for that pur-  
8 pose. If upon consideration of said franchise by the citizens' board  
9 a majority of all the members elected to said citizens' board shall  
10 vote for the passage of said franchise as transmitted from the  
11 board of commissioners, it shall be considered passed and adopted,  
12 and shall become effective, as prescribed by the terms thereof.

13 The citizens' board, through its president or otherwise, shall  
14 at once transmit the same, with the action of the citizens' board,  
15 addressed to the board of commissioners, to the city clerk, who  
16 shall call the same to the attention of the board of commissioners,  
17 at their next regular meeting, or special meeting called for the  
18 purpose, at which shall be noted in the minutes the action of the  
19 citizens' board on said franchise.

Sec. 55. Publication of notice to present franchise, and  
2 other preliminaries prescribed by the laws of the state relating  
3 thereto, shall be had in the manner prescribed by state laws, before  
4 the board of commissioners shall act on any such franchise; but  
5 the passage of any franchise shall be *prima facie* proof that such  
6 notice was given as prescribed by law.

7 The word "franchise," whenever used in this act, shall in-  
8 clude every special privilege in, under and over the streets, high-  
9 ways and public grounds of the city which does not belong to  
10 the citizens generally by common right.

Sec. 56. The style of any ordinance enacted by the board of  
2 commissioners shall be, "Be it ordained by the Board of Commis-  
3 sioners of the City of Huntington."

## ARTICLE X.

*Licenses.*

Sec. 57. Concerning anything for which a state license is  
2 required to be done within the said county, the board of commis-  
3 sioners may require a city license therefor, and may impose a  
4 tax thereon for the use of the city; and the board of commissioners  
5 shall have the power to grant, refuse or revoke any such license  
6 of owners or keepers of hotels, carts, wagons, drays and every  
7 other description of wheeled carriages kept or used for hire in said  
8 city, and to levy and collect tax thereon and to subject the same to  
9 such regulations as the interest and convenience of the inhabitants  
10 of said city, in the opinion of the board of commissioners, may  
11-21 require. The board of commissioners shall require from the  
22 person so licensed a bond, with approved security, payable to said  
23 city in such penalty, and with such conditions as it may think  
24 proper, and may revoke such license at any time if the condition  
25 of the bond is broken; and the board of commissioners shall have  
26 authority to subject any person or persons, who without having  
27 paid the tax imposed by the board of commissioners for the  
28 privilege shall do any act or follow any employment of business  
29 in the said city upon which the said board is or shall be authorized  
30 to impose a tax to any fine or imprisonment which it is or may be  
31 authorized to impose or inflict for the enforcement of its ordi-  
32 nances.

*Nuisances.*

Sec. 58. 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,  
9 appointees 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, cess-pools, 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, assignee,  
16 occupant or tenant, of any premises or structure where such  
17 violation may occur.

18 If the owner, agent, tenant, assignee or occupant of any  
19 such 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 to comply with the provisions of any such  
22 ordinance, and the regulations herein contained, the said board of  
23 commissioners may have said nuisance abated or the provisions of  
24 said ordinance or ordinances carried out, after reasonable notice  
25 to said owner, occupant, tenant, agent or assignee of its intentions  
26 so to do, and collect the expense thereof, with one per centum per  
27 month interest added from the date of said notice, from the said  
28 owner, occupant, tenant, agent or assignee, by distress or sale, in  
29 the same manner in which taxes levied upon real estate for the  
30 benefit of said city are herein authorized to be collected, and the  
31 expense shall remain a lien upon said lot, or part of lot, the same  
32 as taxes levied upon real estate in said city; which lien may be  
33 enforced by a suit in equity before any court having jurisdiction  
34 as other liens against real estate are enforced. In case of non-  
35 resident owners of real estate such notice may be served upon  
36 any tenant, occupant, assignee, or rental agent, or by publication  
37 thereof for not less than two consecutive weeks in two newspapers  
38 of opposite politics, published in said city.

39 And in all cases where any tenant, occupant or agent is re-  
40 quired to abate and remove any nuisance under the provisions of  
41 this 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 tenant, occupant or agent  
45 may recover the amount so paid from the owner, unless otherwise  
46 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,  
51 under any of the provisions of this act. The abatement or re-  
52 moval of any such nuisance by the board of commissioners at

53 the expense of said city, as herein provided, shall be *prima facie*  
54 proof that the said notice to the owner, occupant, tenant, agent  
55 or assignee, was given as herein prescribed.

Sec. 59. The board of commissioners may require all own-  
2 ers, tenants and occupants of improved property which may be  
3 located upon or near any street or alley along which may extend  
4 any sewer or system of sewerage, which the said city may con-  
5 struct, own or control, to connect with such sewer or system of  
6 sewerage, all privies, water closets, cess-pools, drains, or sinks  
7 located upon their respective properties or premises so that their  
8 contents may be made to empty into such sewer or system of  
9 sewerage.

#### *Sidewalks and Shade Trees.*

Sec. 60. The board of commissioners are authorized and  
2 empowered to cause to be put down a suitable curb of brick,  
3 stone or other materials along and for the footways and side-  
4 walks of the avenues, streets, roads or alleys of said city, and to  
5 order and cause the laying or relaying or repair of sidewalks and  
6 gutters 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 own-  
10 ers or occupiers of the land or lots or parts of lots facing upon  
11 said avenues, streets, roads, or alleys to keep such sidewalks  
12 clean and in good repair, and to grade the plot of ground on  
13 either side of the sidewalk between the street curb and the  
14 property line and keep the same sodded with grass and free of  
15 weeds and obstructions, and otherwise in good condition and  
16 repair. The owners or occupiers of the land or lots abutting  
17 upon such avenues, streets, roads or alleys shall not lay any  
18 sidewalks, curb or gutter, or plant any such shade trees, unless  
19 specially required to do so by resolution adopted by said board,  
20 and then only in the manner prescribed by said board; but said  
21 city may lay such sidewalk, curb or gutter, and plant or re-  
22 plant and care for said shade trees, or may let said work to  
23 contract, and in either case the total cost of said work, or such  
24 part thereof as the board may direct shall be charged upon and  
25 against the land or lots abutting upon such avenue, street, road,  
26 or alley, which assessments shall be and remain a lien upon said

27 land or lots the same as taxes levied upon real estate in said  
28 city, which lien may be enforced by a suit in equity before any  
29 court having jurisdiction as other liens against real estate are  
30 enforced. The amounts so assessed against any land or lot shall  
31 also be a debt against the owner of such land or lot, which may  
32 be collected as other debts are collected, in any court having  
33 jurisdiction, and shall be due and payable in ninety days from the  
34 completion and acceptance of such work as certified to by the  
35 board of commissioners, with six per cent interest thereon from  
36 the date of such record acceptance. And in ascertaining the  
37 amount to be assessed against any corner lot for the cost of lay-  
38 ing any such sidewalk and planting trees in front or alongside  
39 thereof, the board may assess the total cost of laying such side-  
40 walks, and planting trees, in front or alongside said lot and ex-  
41 tended to the curb or gutter of the intersections of the avenues,  
42 streets, roads or alleys at that point.

43 When such work is done by the city, and not let to contract  
44 the board shall certify such assessments to the treasurer of the  
45 city for collection, who shall account for the same as directed  
46 by the board or by ordinance; and the treasurer shall accept  
47 payment, when tendered, of the amount of said assessment with  
48 interest to the date of payment, and unless said assessment shall  
49 have been paid within ninety days from the date of such assess-  
50 ment, that a copy of such report shall be certified by the city  
51 clerk to the clerk of the county court of Cabell county, who is  
52 hereby required to record and index the same in the proper trust  
53 book in the name of each person against whose property assess-  
54 ments appear therein. If any such assessment shall not be paid

55 when due, the board of commissioners shall cause to be enforced  
56 the payment of said assessment and interest in all respects as  
57 herein provided for the collection of taxes due the city; and said  
58 assessments shall be a lien upon the property liable therefor, the  
59 same as for taxes, which lien may be enforced in the same manner  
60 as provided for the sale of property for the non-payment of  
61 taxes and tax liens; and the liens herein provided for shall have  
62 priority over all other liens except those for taxes due the state

63 and the county, and shall be on a parity with taxes and assess-  
64 ments due the city. When such assessments shall have been  
65 paid in full, and a lien therefor shall be of record in the county  
66 clerk's office, the treasurer shall execute and deliver to the owner  
67 of said property a release of said lien, which may be recorded in

68 the office of the county clerk as other releases of liens are  
69 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 or paving certificates, in this act; *provided*, the city in negotiating  
75 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 and 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 work,  
84 it shall at the same time make said assessments upon written  
85 report; and at the end of ninety days from date thereof, upon the  
86 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 certificates  
90 remain unpaid, to the clerk of the county court of Cabell county,  
91 who shall record and index the same as other liens of the like  
92 kind are recorded and indexed, and the same shall be and remain  
93 a lien upon the real estate against which said assessments are  
94 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  
96 same manner as set out in this act.

97 Before letting such work to contract, the board shall adver-  
98 tise the same once a week for two successive weeks in two news-  
99 papers of opposite politics published in the city of Huntington,  
100 or in one paper in case publication cannot be had in two such  
101 papers, setting out the time and place for receiving proposals  
102 for such work and referring to the plans and specifications made  
103 thereof; and the city reserves the right whether stated in such  
104 notice or not, to refuse any and all bids for the work. On re-  
105 fusual of said papers to publish said notice at reasonable rates,  
106 the board may, by resolution, direct how such notice may be given.  
107 The fact that such contract shall be awarded for said work shall  
108 be *prima facie* proof that said notice was given as required herein.



109 Such lien, as represented by certificates, may be released of record  
110 in the office of the county clerk in the same manner as paving  
111 liens, represented by certificate, are released of record as pro-  
112 vided for in this act; and in no event shall such assessment be  
113 and remain a lien of record for a longer period than one year  
114 from the date set out in said certified report so recorded in the  
115 office of the county clerk unless at the end of said one year period  
116 a suit shall be pending for the enforcement of said lien, or the  
117 amount thereof shall, in some way, be involved in a suit pending  
118 at the end of said one year period.

119 All such work, whether done by the city direct, or through  
120 contractors, shall be under the supervision of the street depart-  
121 ment of the city or some person designated for that purpose by  
122 the board of commissioners.

123 If the owner or occupier of any such lot or land shall be  
124 required by the board to lay, or relay, clean or repair any such  
125 sidewalk 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 pro-  
129 vided by ordinance or resolution adopted by the board, and the  
130 neglect or refusal of such owner or occupier to do the work, in  
131 the manner and within the time required by the board, as set  
132 out or referred to in said notice, shall be an offense and may be  
133 punished as provided by ordinance; and after the expiration of  
134 the time set out in said notice for the doing of said work, and  
135 the same remains undone, the board may do, or cause to be done,  
136 said work and assess and collect the cost thereof in the manner,  
137 upon either plan, and to full extent set out in this section.

## ARTICLE XI.

### *Taxes, Levies, Assessments, Etc.*

Sec. 61. The board of commissioners shall annually, before  
2 the levying of taxes provided for and authorized by this act, ascer-  
3 tain the total expense of said city to be provided for by levy  
4 for the fiscal year in which said levy is made, and it shall ascer-  
5 tain the sum of money necessary to pay interest accruing on the  
6 bonded indebtedness of said city, and what amounts it shall ex-  
7 pend for the support of its various departments, and for the

8 improvements of its streets, alleys, avenues, and public grounds,  
9 or for its contingent expense; and before making such levy it shall  
10 apportion the rate thereof among the several funds so ascertained  
11 and provided for, which apportionment shall be spread upon the  
12 records of said board and a copy of a statement thereof shall be  
13 annually published by direction of said board as soon as the same  
14 is recorded, in at least two newspapers of said city of opposite  
15 politics, and for the purpose of paying the interest on the present  
16 bonded indebtedness, and creating a sinking fund to pay off such  
17 indebtedness when due, that is now owed by the city of Hunting-  
18 ton and the city of Central City before the enacting of this act,  
19 the territory now comprising the city of Huntington and the city  
20 of Central City shall each constitute a separate special levy dis-  
21 trict in which district a separate levy shall be annually laid by  
22 said board of commissioners to pay the interest and create a sink-  
23 ing fund in said respective districts to pay off and discharge the  
24 said bonded indebtedness of each of said cities respectively, and as  
25 soon as such indebtedness has been paid by such special levy in  
26 either of said districts, then that district shall thereby be abolished,  
27 and the remaining levy district retained and such special levy  
28 aforesaid annually laid until said indebtedness of that district be  
29 fully discharged, in consequence of which that district shall also  
30 be abolished, so that the bonded indebtedness of each of the munic-  
31 ipal corporations, namely, Huntington and Central City, the  
32 territory of each being embraced and included in this act, with  
33 the accrued and accruing interest against each, shall be provided  
34 for and paid out of levies on property and taxable subjects of  
35 each, within the boundaries of said corporations respectively, as  
36 they were respectively just prior to the passage of this act; and  
37 said boundaries shall be observed and recognized in making levies  
38 and assessments for the payment of said bonds and interest as  
39 separate taxable districts for said purposes only; and that the  
40 territory embraced in this act, not within the boundaries of either  
41 of said former municipalities, shall not become liable or taxed to  
42 pay any part of the said indebtedness or interest thereon of said  
43 corporations.

Sec. 62. The board of commissioners shall have authority  
2 to levy and collect an annual tax on real estate and personal  
3 property in said city, and to impose a license and assess a tax  
4 thereon on wheeled vehicles for public hire, and upon all dogs  
5 kept within said city, and to impose a tax upon all other subjects

6 of taxation, under the several laws of the state, which taxes shall  
7 be uniform with respect to persons and property within the juris-  
8 diction of said city, and shall only be levied on such property,  
9 real, personal and mixed, and on capital, on which the state im-  
10 poses a tax; *provided*, that no greater levy shall be laid by said  
11 board of commissioners except the ten cents levy authorized by  
12 this act, on the taxable property of said city than is now per-  
13 mitted to be laid under the state law relating to municipalities,  
14 except, however, that the said board of commissioners may, by  
15 the unanimous vote of its members, by ordinance, lay an addi-  
16 tional levy not to exceed twenty cents on the one hundred dollars  
17 of all the taxable property within said city; but said ordinance  
18 laying said additional levy shall not become effective or operative if  
19 two-fifths of all the members elected to the citizens' board shall  
20 express a veto to said ordinance, in the manner prescribed by this  
21 act.

Sec. 63. All taxes assessed upon the real estate within the  
2 said city, shall remain a lien thereon from the time the same are  
3 so assessed, which shall have priority over all other liens, except  
4 for taxes due the state, county or district, and all taxes whether  
5 assessed upon realty or personalty or otherwise may be enforced  
6 and collected in the same manner and by the same remedies as  
7 is now or may hereafter be provided by law for the enforcement  
8 of liens and levies for state and county taxes, or in such manner  
9 as the board of commissioners may by ordinance prescribe. And  
10 in levying taxes and collection thereof, and the return of prop-  
11 erty delinquent for non-payment of taxes, the duties of the city  
12 clerk shall be similar to the duties of the county clerk of Cabell  
13 county in that behalf: the duties of the treasurer in the collection  
14 of taxes, licenses and money due the city and accounting for the  
15 same and the return of property delinquent for the non-payment  
16 of taxes, shall be similar to the duties of the sheriff of Cabell  
17 county; except the board of commissioners may make such regu-  
18 lations and ordinances prescribing the duties of the city clerk and  
19 city treasurer and their manner of performance as the board may  
20 deem necessary. And the board shall, through itself and such  
21 officers and employees as it may appoint or employ under such  
22 regulations and ordinances as it may enact (not contrary to the  
23 laws of this state), have such authority and power as may be  
24 necessary for the levying and collection of taxes, tithables, fines,  
25 licenses, 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. 64. No taxes or levies shall be assessed upon or col-  
2 lected from the taxable persons or property within the corporate  
3 limits of said city, for the construction, improvement or keep-  
4 ing in repair of roads or the building, leasing, repairing of school  
5 houses, or the purchase of lands for the same, or for the support  
6 of the schools, or for the support of the poor of Cabell county,  
7 outside of said corporate limits, for any year in which it shall  
8 appear that said city shall at its own expense provide for its own  
9 poor and keep its own roads, streets, and bridges in good order.  
10 And neither the county court of Cabell county, nor the authori-  
11 ties of the district in which said city is situated, shall have or  
12 exercise jurisdiction within the corporate limits with relation to  
13 the roads, streets, alleys, bridges, wharves, docks, ferries, schools  
14 or school houses, but the same shall be and remain under the  
15 exclusive jurisdiction and control of the municipal authorities of  
16 said city, except that the board of education in the independent  
17 school district of the city of Huntington shall have jurisdiction,  
18 supervision and control of the schools and school houses in said  
19 district; and said city shall be liable only for the construction,  
20 improvement, repair and good order of the roads, streets, alleys,  
21 wharves and bridges in its corporate limits.

Sec. 65. There shall be a tax of two dollars annually as-  
2 sessed on each and every male inhabitant of said city, over twenty-  
3 one and under fifty years of age, by the board of commissioners,  
4 and the same shall be set out and included in the personal prop-  
5 erty book against every such inhabitant, and shall be collected  
6 by the city treasurer or other officer of the city acting in lieu  
7 thereof and under the authority of the board of commissioners, at  
8 the time of collecting other levies and taxes. All money collected  
9 under this section shall go into the street and wharf fund, or like  
10 fund, to be expended upon the roads, streets, and alleys, side-  
11 walks, crosswalks, drains, gutters, wharf and bridges of said city.

Sec. 66. It shall be the duty of the city treasurer to keep  
2 all 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 will-  
6 ing at any time to receive deposits of the treasurer and to pay  
7 such interest thereon the treasurer shall report this fact to the

8 board of commissioners who shall thereupon designate a bank or  
9 banks in which he shall deposit said funds for the time being and  
10 until some bank in said city will receive such deposits on such  
11 terms. Before receiving any such deposits said bank or banks  
12 shall give bond in the penalty prescribed by the board of com-  
13 missioners, and with sureties to be approved by said board, con-  
14 ditioned for the prompt payment, whenever lawfully required, of  
15 all the city moneys, or parts thereof which may be deposited with  
16 them, which bonds shall be renewed at such times as the board of  
17 commissioners may require.

### *Street Paving.*

Sec. 67-(a). The board of commissioners of the city of  
2 Huntington may order and cause any avenue, street, road or  
3 alley therein to be graded, or curbed or recurbed with stone,  
4 concrete or other suitable material, or paved or repaved, between  
5 curbs, with brick, wooden blocks, asphalt or other suitable ma-  
6 terials, or to be graded and curbed or recurbed and paved or  
7 repaved as aforesaid, or to be macadamized or to be otherwise  
8 permanently improved or repaired, under such supervision as  
9 may be directed by ordinance or resolution, upon the best bid  
10 to be obtained by advertising for proposals therefor, except the  
11 city may do the work without letting it to contract as herein-  
12 after provided in (d) of this section; and may purchase or con-  
13 demn land for opening or widening avenues, streets, roads and  
14 alleys. The entire cost, or any part thereof designated by the  
15 board of commissioners, of such grading, curbing and paving or  
16 macadamizing, or other permanent improvements, of any of the  
17 avenues, streets, roads and alleys as aforesaid, from and in-  
18 cluding the curb of either side thereof to the middle thereof and  
19 the cost, or any part thereof, of purchasing or condemning land  
20 as aforesaid for street purposes, may be assessed to and required  
21 to be paid by the owners of the land, lots or fraction parts of  
22 the lots fronting or bounding on such avenue, street, road or  
23 alley so improved, except as otherwise provided in (g) of this  
24 section.

25 (b) Payment is to be made by all land owners on either  
26 side of such portion of any avenue, street, road or alley so paved,  
26-a 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 or  
32 improvement on said avenue, street, road or alley (not including  
33 opening or widening) shall not include any portion or amount  
34 paid or the paving or improvement of intersections of avenues,  
35 streets, roads or alleys, unless the work to be done, and the pay-  
36 ment made therefor, as especially provided herein, as follows,  
37 to wit:

38 (c) Upon petition in writing of the owners of not less  
39 than one-half in lineal feet of property abutting upon any ave-  
40 nue, street, road or alley in said city, asking the city to grade,  
41 curb, pave or macadamize, or otherwise to permanently improve,  
42 such avenue, street, road or alley, and offering in said petition  
43 to have their property so abutting as aforesaid assessed not only  
44 with their part of the cost of such improvement abutting upon  
45 their property, as herein otherwise provided, but also offering to  
46 have their said property proportionately assessed with the total  
47 costs of 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 improved,  
50 as petitioned for, the board of commissioners may order such  
51 work to be done, as heretofore provided in this section, and the  
52 total cost thereof, including cost of intersection, to be charged  
53 to and paid by the owners of the property abutting on such ave-  
54 nue, street, road or alley, and that the paving assessment or  
55 certificate made or issued to cover the cost of paving, grading  
56 and curbing or otherwise permanently improving such inter-  
57 section shall be made a separate and one of the last assessments  
58 or certificates due against them and their property so assessed;  
59 and the city may assume the payment of such assessments or  
60 certificates covering the cost of such intersection, or may reim-  
61 burse the property owners paying the same, out of its general  
62 levy for streets, but there shall be no legal obligation on the city  
63 to do so.

64 (d) The city itself may do such work and charge and  
65 collect the cost thereof in the manner set out in this act. The  
66 decision 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 other-  
70 wise improving, the intersections, or parts of intersections, of  
71 avenues, streets, roads or alleys, on the plans adopted by the  
72 board of commissioners for such work, shall be paid by the city,  
73 except as otherwise provided in (c) of this section.

74 (f) And if any such avenue, street, road or alley be occu-  
75 pied by street car track or tracks of other railroads, the cost  
76 of said improvements of the space between the rails and two  
77 additional feet outside of each rail shall be assessed to and borne  
78 and paid entirely by the person or company owning or operating  
79 such street car or other railway line, unless otherwise provided  
80 by the franchise of such street car or other railway company  
81 granted 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  
89 water courses, in connection therewith, and may purchase land,  
90 or condemn land as provided in this act, for any public avenue,  
91 street, road or alley, or part thereof or park or other public pur-  
92 pose; and the board may assess all 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 of  
104 said city, and no further proceedings under such order shall be  
105 had until such citizens' board shall have passed on such appeal,  
106 and the citizens' board in passing on such appeal shall have the  
107 power to ratify or reject and shall ratify or reject the said order  
108 of the board of commissioners as to such paving or sewer, and  
109 if such order of the board of commissioners is set aside by said

110 citizens' board, the same shall be invalid, and upon such appeal  
111 and a vote taken to ratify said order of the board of commis-  
112 sioners a majority of all members elected to said citizens' board  
113 must vote to ratify said order of the board of commissioners, or  
114 the said appeal shall be held sustained and the said order re-  
115 jected 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 benefitted 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 of  
123 the proposed improvements; and the board may, in fixing such  
124 assessments, take into consideration the assessed value of the lots  
125 or land as fixed, for the last assessment year, for state and county  
126 purposes.

127 (h) When the board of commissioners shall deem it ex-  
128 pedient 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 permanent 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 taken therefor, or elsewhere, as provided in  
136 this act, they shall by ordinance or resolution, order the work  
137 done, stating the method of payment thereof, and, if it be let  
138 to contract, notice shall be in the following manner, to-wit:

139 (i) The notice for the bids or proposals for doing such  
140 improvements, either for street improvements or the construc-  
141 tion 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 that  
154 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  
158 the 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  
163 assessments provided for in this section and other sections herein,  
164 lay off said land into lots of such sizes as the board deems ad-  
165 visable for the purpose of laying the proper assessment against  
166 such land.

Sec. 69 (a), Said city of Huntington is hereby authorized  
2 to 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, in anticipation of special assessments to be made upon  
6 the property abutting upon the avenues, streets, roads and alleys  
7 so improved. Said bonds may be in such an amount as shall be  
8 sufficient to pay the entire costs and expenses of said improve-  
9 ments for which such special assessments are to be levied; and  
10 said city is authorized to sell said bonds, but not below the par  
11 value thereof. The amount for which said bonds are issued shall  
12 be made up of five bonds, payable in two, four, six, eight and ten  
13 years, respectively, from the date of their issue, and shall bear  
14 interest not to exceed six per cent per annum, payable annually;  
15 and in the issuance and sale of said bonds the said city shall be  
16 governed by the restriction and limitations of the constitution  
17 of this state, and the restriction and limitations of the state laws  
18 of this state relating to the issuance and sales of bonds, so far  
19 as such state laws are not in conflict with the provision of this  
20 act; and the assessments as provided for and required to be paid  
21 herein shall be applied to the liquidation of said bonds and in-  
22 terest thereon, and if, by reason of the penalties collected with  
23 the delinquent assessments, there be any balance after the pay-  
24 ment of the bonds and all accrued interest and costs, it shall be

25 turned into the city treasury to the credit of the interest and  
26 sinking fund of the city.

27 But said city shall not become indebted in any manner or  
28 for any purpose to an amount, including existing indebtedness,  
29 in the aggregate exceeding two and one-half per centum on the  
30 value of all the taxable property therein, as provided in chapter  
31 fifty-one of the acts of the legislature of one thousand nine hun-  
32 dred and five, except for the purpose of grading, curbing, paving,  
33 macadamizing, or otherwise permanently improving the avenues,  
34 streets, roads and alleys therein, or constructing sewers therein  
35 or elsewhere, or acquiring or taking land or easement therein  
36 for street and sewer purposes, as provided for in this act, and for  
37 that purpose in estimating "existing indebtedness." special assess-  
38 ment bonds representing the cost of paving or other improve-  
39 ments of streets, roads, or alleys, or the construction of sewers,  
40 or acquiring or taking land for such purposes, and cost of which  
41 is assessed against the abutting property on such avenues, streets,  
42 roads or alleys, or specially benefited property adjacent thereto,  
43 or on such owner, shall not be included; and likewise the amount  
44 in any sinking fund, or the amount invested therefor as pro-  
45 vided by law, for the payment of outstanding bonds, shall not  
46 be included in the estimate of existing indebtedness, provided,  
47 that the aggregate of its debt of every kind whatsoever, including  
48 such special street permanent improvement bonds, or sewer bonds,  
49 shall not exceed five per centum of the value of all taxable prop-  
50 erty therein.

51 (b). And it shall be the duty of the board of commissioners  
52 to immediately certify such assessments to the treasurer for col-  
53 lection, as herein provided; and for the purpose of facilitating  
54 the collection of such assessments against the properties herein,  
55 the board of commissioners may issue assessment certificates,  
56 with the interest coupons attached thereto, to be delivered to and  
57 charged against the city treasurer who shall collect the same,  
58 and as such certificates and coupons are paid he shall deliver the  
59 cancelled certificates to the party paying the same. A copy of  
60 the said order shall be certified by the city clerk to the clerk of  
61 the county court of Cabell county, who is hereby required to  
62 record and index the same in the proper trust deed book in the  
63 name of each person against whose property assessments appear  
64 therein.

65 (c). The amounts so assessed against said abutting lots and

66 owners thereof, respectively, shall be paid in ten payments, as  
67 follows; that is to say, one-tenth of said amount together with  
68 interest on the whole assessment for one year shall be paid into  
69 the treasury of the city before the first day of the following Jan-  
70 uary; and a like one-tenth part, together with interest for one  
71 year upon the whole amount remaining unpaid before the first  
72 day of January in each succeeding year thereafter, until all shall  
73 have been paid. Each of said installments of one-tenth shall bear  
74 interest at six per centum per annum payable annually from the  
75 date of assessment. *Provided, however,* that the owner of any  
76 land, so assessed for the cost of the paving of said avenue, street,  
77 road or alley, shall have the right at any time to anticipate and  
78 pay the whole of such unpaid assessment and interest thereon  
79 until the first day of the following January, and have the lien  
80 against the property so assessed released as hereinafter provided.

81 (d). If any assessment shall not be paid when due, the board  
82 of commissioners shall cause to be enforced the payment of said  
83 assessment and interest in all respects as herein provided for the  
84 collection of taxes due the city; and said assessments shall be a  
85 lien upon the property liable therefor the same as for taxes, which  
86 lien may be enforced in the same manner as provided for the sale  
87 of property for the payment of taxes and tax liens; and the liens  
88 herein provided for shall have priority over all other liens except  
89 those for taxes due the state and the county, and shall be on a  
90 parity with taxes and assessments due the city.

91 (e). When all of said assessments for grading, paving and  
92 curbing or macadamizing or other permanent improvements shall  
93 be paid in full to the treasurer, he shall deliver to the owner of  
94 said property a release of the lien therefor, which may be recorded  
95 in the office of the clerk of the county court as other releases of  
96 liens are recorded.

97 Under this plan for the payment of the cost of such per-  
98 manent improvements of avenues, streets, roads and alleys, and  
99 the constructions of sewers, the contractor (if the work is let to  
100 contract) shall look only to the city for the payment of the work,  
101 and in no sense to the abutting land owners.

Sec. 70. The board of commissioners may contract for such  
2 paving (including grading and curbing), or other said improve-  
3 ments, to be done as aforesaid, and may acquire or take land for  
4 street purposes, as aforesaid, and may if the board so elect stipu-  
5 late that the costs thereof, in whole or in part, shall be paid in in-

6 stallments by the abutting property owners, as provided in (a) of  
7 section sixty-seven, or specially benefited property owners, as  
8 provided in (g) of said section, in five equal installments, to be  
9 evidenced by five paving certificates issued therefor, payable in  
10 thirty days, and one, two, three and four years, respectively, after  
11 the date of their issue, and shall bear interest not to exceed six  
12 per centum, per annum, which certificates, to be signed by the  
13 mayor and clerk, or other person or persons designated of record  
14 by the board, may be sold, either to the contractor doing the pay-  
15 ing or other said improvements, or to any other person, and which  
16 shall cover the entire cost of such work, or the cost of acquiring or  
17 taking land for street purposes, including the cost of surveys,  
18 notices and other things pertaining thereto; *provided*, the city in  
19 negotiating and selling such certificates, shall not be held as guar-  
20 antor or in any way liable for payment thereof, except upon the  
21 direct action of the board of commissioners as expressed by reso-  
22 lution of record before such sale. And the certificates covering  
23 the amount of the assessment shall be paid by the owner of the  
24 land, lot or fractional part thereof, so assessed for the cost of said  
25 improvement on such avenue, street, road or alley so paved or im-  
26 proved, of land acquired or taken, as aforesaid. The amount  
27 specified in said assessment certificates shall be a lien aforesaid in  
28 the hands of the holder thereof upon the lands, lot or part so as-  
29 sessed, and shall also be a debt against the owner of such real  
30 estate, and said amount shall draw interest from the date of said  
31 certificates, payable annually, and the payment of the debt may be  
32 enforced as provided by law for the collection of other debts, or  
33 such lien may be enforced as provided in this act in the name of the  
34 holder of such certificates.

35 After a contract has been made by the board to pave or other-  
36 wise permanently improve any public road, avenue, street or alley  
37 in said city under this act, and the paving or other permanent  
38 improvements, or stipulated part thereon, has been completed, or  
39 the cost of acquiring or taking land, as aforesaid, has been ascer-  
40 tained, the board shall assess the amount each lot shall bear and  
41 shall make a written report, stating the number of lots and the  
42 blocks or tracts of land when not laid off into lots, the amount  
43 the owners of such lots or land when known, and the amount as-  
44 sessed thereon; and when the said board approves said report, or  
45 modifies it and then approves it, a copy of said report, so adopted  
46 by the board when certified to by the city clerk of said city, may

47 be recorded in the clerk's office of the county court of Cabell  
48 county in a trust deed book and shall be a continuing tax lien  
49 upon the lot or ground against which the assessment is made until  
50 the certificates as aforesaid are paid, except as otherwise provided  
51 in this act, and the clerk shall index the same in the name of each  
52 lot or land owner mentioned therein. Provided that any property  
53 owner shall have the right to pay any assessment against his  
54 property as soon as the same shall have been ascertained and  
55 anticipate all payments.

Sec. 71. The board of commissioners of said city are author-  
2 ized and empowered to order and cause to be constructed, in said  
3 city, or part within and part outside of the limits of said city, a  
4 public sewer, either main or lateral, or both, by contract or direct  
5 by the city, for the benefit of said city or any part thereof, and  
6 to purchase land or easement therein or to condemn land or ease-  
7 ment therein in the manner provided in this act, for such sewer;  
8 and when the board shall order the construction of any such sewer  
9 or any part thereof in said city, the owners of the property abut-  
10 ting thereon or abutting upon an avenue, street, road or alley in  
11 which such sewer shall be constructed, or abutting on any land or  
12 easement therein specially procured for the purpose of the con-  
13 struction of a sewer therein, may be charged with all or any part  
14 of the cost thereof, including the cost of such sewer at and across  
15 intersections at avenues, streets, roads and alleys adjacent there-  
16 to. If said work is let to contract, the provision of (i) of section  
17 sixty-seven shall apply.

18 When said sewer is completed in any one block, or between  
19 two designated points, the board of commissioners shall cause a  
20 report to be made in writing setting out the total cost of such  
21 sewer and a description of the lots or land as to location, frontage  
22 and ownership liable therefor, including the cost of acquiring or  
23 taking land or easement therein for such purpose and cost of sur-  
24 veys, notices, etc. therefor, together with the amount chargeable  
25 against each lot or piece of land and the owner thereof. If any lot  
26 fronts on two streets, or on a street and road, or on a street (or  
27 road) and alley in which a sewer is constructed, it may be assessed  
28 on both said streets, or street and road, or street and alley. Said  
29 board shall enter an order upon its records setting forth the loca-  
30 tion and owner of each lot or piece of land, and the amount of  
31 said sewer assessments there against, calculated in the same way  
32 as provided for street paving in (g) of section sixty-seven herein.

33 The entry of such order shall constitute and be an assessment for  
34 such proportionate amounts so fixed therein against respective  
35 lots and land and the owners thereof; and said board shall there-  
36 upon certify the same to the treasurer for collection; and for the  
37 purpose of facilitating the collection of such assessments against  
38 the properties herein, the board of commissioners may issue as-  
39 sessment certificates, with interest coupons attached thereto, to be  
40 delivered to and charged against the city treasurer who shall col-  
41 lect the same and as such certificate and coupons are paid he shall  
42 deliver the canceled certificates to the party paying the same and  
43 the city clerk shall file a certified copy of said order with the clerk  
44 of the county court of Cabell county, who shall record the same in  
45 the proper trust deed book, and index the same in the name of  
46 each owner, of any lot or land thus charged with said assessment,  
47 and the assessments so made shall constitute and be a lien upon  
48 said lots or land, respectively, which shall have priority over all  
49 other liens except those for taxes due the state and county, and  
50 shall be on a parity with other taxes and assessments due the city.

51 The amounts so assessed against said abutting lots or land  
52 and which shall be a lien thereagainst, shall be collected in the  
53 manner provided in this act for the collection of paving liens.  
54 Said assessments shall be divided into three installments, each for  
55 one-third of the amount thereof, and the first due and payable  
56 in thirty days, the second in one year, and the third in two years  
57 from the time of certifying the same to the treasurer, except as  
58 hereinafter provided in this section, all bearing interest at six  
59 per centum per annum from such date, payable annually; and  
60 the board of commissioners may issue sewer certificates thereon,  
61 as of said date, as further evidence of said indebtedness and lien  
62 therefor, and said certificates may be sold or negotiated, at not  
63 less than par and without any kind of discount to the contractors  
64 doing such work, or other person if the board deem it expedient;  
65 provided, the city in negotiating and selling such certificates shall  
66 not be held as guarantor or in any way liable for payment thereof,  
67 except upon the direct action of the board of commissioners as  
68 expressed by resolution of record before such sale. But the owner  
69 of the land or lot so assessed may at any time anticipate and pay  
70 such assessment or certificate with accrued interest thereon. If  
71 such assessment shall not exceed fifteen dollars, it shall be in one  
72 amount due and payable in thirty days from date; if more than  
73 fifteen dollars and less than thirty dollars, then in two install-

74 ments of equal amounts, due and payable in thirty days and one  
75 year, respectively, from date; and if more than thirty dollars,  
76 then in three equal installments due and payable as first afore-  
77 said.

78 *Provided*, the board of commissioners may, if they so elect,  
79 order and cause the construction of any such sewer, and may  
80 acquire or take land or easement therein, either in or outside  
81 said city, or both for said sewer purposes, and assess all or any  
82 part of the cost thereof upon and against the abutting, adjacent,  
83 contiguous and other lots or land especially benefited by the  
84 construction of such sewer, and said assessments shall be a lien  
85 upon such lots or lands, and a debt against the owners thereof  
86 for the amount so charged against them respectively, which debt  
87 may be collected as provided by law for the collection of other  
88 debts of like kind, and which lien may be enforced in the same  
89 manner as provided for the enforcement of paving liens in this act.

90 The board of commissioners, when they decide to order the  
91 construction of a sewer under this plan, shall, before doing the  
92 same, fix, by ordinance or resolution, the total amount of the  
93 special benefits to be derived from such improvements to the abut-  
94 ting, adjacent, contiguous, and other specially benefited land or  
95 lots so assessed, setting out the names of the owners, the amount  
96 of the special benefits, and the approximate amount of the total  
97 costs of the proposed sewer, and the board may, in fixing such as-  
98 sessment, take into consideration the assessed value of the lots or  
99 land as fixed, for the last assessment year, for state and county  
100 purposes.

#### *Release of Liens.*

Sec. 72. In addition to the provisions for the release of said  
2 assessment liens, either for street paving or other permanent  
3 street improvements, or construction of sewers, as elsewhere set  
4 out in this act, on the presentation by the land or lot owner of  
5 any of the certificates issued as aforesaid against him or his pre-  
6 decessor in title to such lot, the clerk of the county court shall  
7 mark upon the margin of the trust deed book at which said cer-  
8 tified report is recorded, that the lien is released to the land or  
9 lot mentioned in such certificate to the extent of the amount of  
10 the certificates thus exhibited; and the county clerk shall there-  
11 upon write across the face of each of said certificates the date of

12 their production to him for the release of lien, and shall sign  
13 his name thereto in his official capacity, for which he shall re-  
14 ceive in advance a fee of twenty-five cents for each certificate so  
15 marked, from the person demanding the release of the lien afore-  
16 said; but if more than one of the serial certificates against the  
17 land or lot or lots shall be produced at the same time, the fee of  
18 the county clerk shall not exceed twenty-five cents for the release  
19 of the liens as to all of the certificates thus produced and relating  
20 to the same real estate.

21 *Provided*, that the owner of any lot or land against which  
22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county clerk, or some person for  
24 such owner shall make and produce such affidavit, setting out  
25 therein that such certificate (or certificates) has been paid in  
26 full, and after diligent search, cannot be found, said county clerk  
27 shall upon the payment of a fee of twenty-five cents, file and pre-  
28 serve said affidavit as a public document and shall forthwith note  
29 the release of said lien to the extent of said lost certificate (or  
30 certificates) and the lots or land against which it is a lien upon  
31 the margin of the trust deed book, as aforesaid, and noting there-  
32 with the filing of said affidavit, which shall operate as a release  
33 of such lien to the extent of such marginal notation. If the affi-  
34 davit so filed be false, the person making oath and subscribing  
35 thereto shall be guilty of a felony; and upon conviction thereof  
36 shall be fined not to exceed five hundred dollars, or sentenced to  
37 be confined in the penitentiary for a term of not more than one  
38 year, or both, in the discretion of the court passing sentence.

39 *Provided, further*, that any paving or sewer lien, which may  
40 be created in consequence of the provisions of this act, or a lien  
41 which may have heretofore been created in consequence of an act  
42 of which this is an amendment for an assessment, the last pay-  
43 ment of which is not yet due, shall not, under any circumstances,  
44 be a lien against the lot or land or fractional part of the lot or  
45 land, against which it may have been assessed and made a lien,  
46 for a longer period than one year after the last assessment or  
47 certificate of the same date and group, representing such lien,  
48 shall have become due and payable, unless some suit or action, at  
49 the termination of said one year period, shall be pending for the  
50 enforcement of such lien, or unless the amount of the lien or some  
51 part thereof is in some way involved in a suit or action pending  
52 at the end of said one year period; and further, that no such



53 paving or sewer lien heretofore placed to record in said county  
54 court clerk's office for an assessment the last payment of which is  
55 past due, shall remain or be a lien against the real estate therein  
56 described for a longer period than one year from the time this act  
57 takes effect, unless a suit shall be pending at the end of each one  
58 year period for the enforcement of said lien, or the amount thereof  
59 shall in some way be involved in some action then pending.

60 All of the assessment certificates, which may be issued under  
61 the provisions of this act, shall be made payable at the office of  
62 the treasurer, who shall receive payments thereon when due, if  
63 tendered to him, and interest thereon, from the date of such  
64 payments shall cease. The treasurer shall keep a separate and  
65 special account of all said sum of money received by him, and he  
66 shall hold said money in trust for the person who thereafter de-  
67 livers to the treasurer for cancellation any and all certificates on  
68 which said treasurer has received full payment as aforesaid; but  
69 the owner of said certificates shall not be entitled to interest on  
70 said sum after the date of payment thereof to the treasurer.  
71 When the whole amount of any such assessment lien shall have  
72 been paid to the treasurer as aforesaid, or the treasurer shall be  
73 convinced that all of the paving or sewer certificates against any  
74 land, lot or fractional part of lot, shall have been paid in full, he  
75 shall, when demanded, execute a release of said lien in the manner  
76 hereinbefore provided for the release of paving liens. If the city  
77 shall have no person for treasurer, the clerk, unless some other  
78 person is designated by ordinance, which the board of commis-  
79 sioners is hereby authorized to enact, shall perform the duties  
80 here required to be performed by the treasurer.

Sec. 73. 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; and  
6 said city may levy taxes, in addition to all other taxes, authorized  
7 by law, to pay such bonds and interest thereon; *provided*, that the  
8 total indebtedness of the city for all purposes shall not exceed  
9 five per centum of the total value of all taxable property therein.

10 It is expressly provided that no bonds shall be issued under  
11 the provisions of this act, unless and until the question of issuing  
12 said bonds shall have first been submitted to a vote of the people  
13 of said city and shall have received three-fifths of all votes cast

14 at said election for and against the same. The board of commis-  
15 sioners of said city may provide by ordinance for submitting to  
16 the people at any regular election, or special election called for  
17 that purpose, the question whether or not said city shall be  
18 authorized to issue bonds for the purpose specified in this act;  
19 but the ordinance relating to the issuance of said bonds, and the  
20 submission of the same to the vote of the people, need not specify  
21 in detail the location of the improvements contemplated to be  
22 paid for out of, and works to be constructed with, the proceeds  
23 of sale of said aggregate issue authorized thereby; and if at such  
24 election the people by their vote thereon shall authorize the issu-  
25 ance of said bonds, said board of commissioners may order the  
26 sale of same, as needed for said improvements and works, dealing  
27 with all the requirements set forth in this act; and notwithstand-  
28 ing the provisions of sections two, three and six of chapter forty-  
29 seven of the code, it shall be sufficient description of the purpose  
30 for which said election is held for the ordinance calling the same,  
31 or submitting said question to a vote at any general election, if  
32 it shall recite that it authorizes the board of commissioners to  
33 issue bonds for the purpose of grading, paving, curbing, sewer-  
34 ing, or otherwise permanently improving the streets, roads, and  
35 alleys of said city, or the leasing, purchasing, erecting, main-  
36 taining and operating the water works system authorized by this  
37 act, at such time as the board of commissioners shall deem fit  
38 or expedient.

39 The provisions of chapter forty-seven-a of the code, con-  
40 cerning bond election shall, so far as they are not in conflict with  
41 the provisions of this chapter, apply to the bond election and  
42 special election herein provided for.

Sec. 74. 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 in-  
4 habitants and industries of any territory adjacent to the territory  
5 of the city of Huntington which the board of commissioners may  
6 from time to time agree to supply from the city water works, as  
7 provided for in this or any other act of the legislature, said city  
8 of Huntington is hereby authorized to issue and sell its bonds,  
9 which shall bear interest not to exceed six per cent per annum,  
10 interest payable annually, by which to procure funds for such pur-  
11 pose; and for said purpose the city may issue and sell its bonds  
12 to an amount equal to two and one-half per centum on the tax-

13 able property therein in addition to the aggregate of its debts  
14 for all other purposes and of every kind whatsoever, and especially  
15 in addition to the bonds, and other debt provided for and re-  
16 ferred to in section seventy-nine of said chapter three of the acts  
17 of one thousand nine hundred and nine. *Provided*, that the  
18 total indebtedness of said city for all purposes shall not exceed  
19 five per centum of the total value of all taxable property 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 direct  
22 annual tax sufficient to pay annually the interest on such debt  
23 and the principal thereof within and not exceeding thirty years,  
24 and for the purpose of aiding in the payment of any bonds issued  
25 under the provisions of this act, to enable the city to lease, pur-  
26 chase, own, operate and maintain a water works and system, the  
27 commissioners of the city are hereby authorized to lay a levy of  
28 not exceeding ten cents on the one hundred dollars valuation on all  
29 taxable property in the city, which said levy may be in addition to  
30 the aggregate of all other levies, authorized by law; and any reve-  
31 nue derived from said water works over and above the expenses  
32 of operating and maintaining the same, shall be applied to the  
33 payment of the bonds issued therefor.

Sec. 75. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall only include the  
3 cost of printing and publishing all notices required to be pub-  
4 lished, and cost of construction.

Sec. 76. 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 in which said lots are situate; and this rule of description  
7 shall apply in all proceedings in which lots or lands are to be  
8 charged with special assessment.

Sec. 77. When work shall have been completed on any  
2 avenue, street, road or alley or part thereof, as provided in section  
3 sixty or section sixty-seven, or the construction of any sewer or  
4 other work shall have been completed on any avenue, street, road  
5 or alley, or part thereof, or elsewhere, as provided in section  
6 seventy-one, and said assessments there against shall have been cal-  
7 culated as provided in this act, the board of commissioners shall  
8 give notice, by publication at least once a week for two successive

9 weeks in two newspapers of opposite politics, published in said  
10 city, or in one newspaper if two such papers be not published in  
11 said city, that an assessment under this act is about to be made  
12 against the property so assessed and the owners thereof, mention-  
13 ing the kind of work and the location thereof; and the owners of  
14 said property shall have a right to appear before said board,  
15 either in person or by attorney or agent, at any regular or special  
16 meeting called for that purpose within two weeks of the first  
17 publication thereof, and move the board to correct any apportion-  
18 ment of the assessment excessive or improperly made; and the  
19 board shall have the power to make any such corrections before it  
20 enters the same, as corrected, upon the records. If the publica-  
21 tion in the newspapers aforesaid cannot be had at reasonable rates,  
22 the notice may be given in some other manner designated of record  
23 by the board. The fact that said assessments shall have been  
24 entered of record, as provided by this act, shall be prima facie  
25 proof that the notice mentioned herein was given as prescribed in  
26 this section.

Sec. 78. For the purpose of making examinations of per-  
2 sons for officers or positions in the police and fire departments  
3 (excluding the chiefs thereof) and prescribing rules for their  
4 conduct, seven members of the citizens board, appointed by the  
5 president thereof, one from each ward of the city, which shall be  
6 chosen from opposite political parties when possible, shall act  
7 and be known as the "Civil Service Board". The president of the  
8 citizens board shall be the presiding officer of said board, a major-  
9 ity of which shall constitute a quorum for business, but shall  
10 have no part in the deliberation of the said board, except in case  
11 of tie, and the city clerk shall be ex-officio clerk of the said  
12 board. The civil service board shall adopt rules for its own  
13 government, and cause the minutes of its meetings to be recorded  
14 in a book provided for that purpose, which shall be kept by the  
15 city clerk at his office, and open to public inspection. The civil  
16 service board shall meet at least once a year, and oftener if it  
17 deems it necessary, or if called by the presiding officer, after  
18 ten days notice to the public published in two daily newspapers  
19 of opposite politics giving the time and place of meetings, hold  
20 examinations for the purpose of determining the fitness and quali-  
21 fications of applicants for positions in the police department and  
22 the fire department, which examination shall fairly test the fit-  
23 ness of the persons examined to discharge the duties of the posi-

tion to which they seek appointment, and such examinations and declarations of the result thereof shall be made with the aim to secure and maintain an honest and efficient police force and fire department. Said board shall at once after each of such examinations place to record in the journal of the civil service board the result of such examination, giving the names of applicants and positions sought by them and their respective percentages based on one hundred. In making such examinations the size, health, physical appearance, habits and moral surroundings shall be taken into consideration and the result of such examination shall be by the board certified to the commissioners and the said commissioners in their appointments shall elect their appointees from the list so certified. Civil service examinations and appointments shall apply to all policemen and firemen, except the chiefs of each department.

Sec. 79. All appointive officers shall hold their positions at the pleasure of the board of commissioners, except those appointed under the civil service rules, and they may be removed for cause by the board of commissioners, and the members of the police and fire department under civil service rules shall take no part in elections except to vote, and any violation of this provision by members of either department shall be deemed misconduct and shall render such person or persons subject to dismissal by the board of commissioners after trial and conviction of such person or persons therefor, as heretofore provided for in this act.

Sec. 80. In making appointments to the police department and the fire department, whether original, or to fill vacancies therein from time to time, the board of commissioners or mayor shall elect from the applicants for said respective positions those 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 the board of commissioners may make said appointments from the list of persons who may apply therefor, disregarding, if they choose, those applicants who stood civil service examination and received thereon a grade below sixty.

Sec. 81. 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, 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. 82. 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.

#### *Serving Notice.*

Sec. 83. Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summons and subpoenas by the state officers, unless otherwise provided by this act.

Sec. 84. The mayor and members of the board of commissioners and members of the citizens board as now constituted, and all the officers of the city of Huntington, shall continue in their respective offices until their successors have been elected and qualified as provided in this act, and shall exercise their rights, powers and duties in the city of Huntington in the same manner

7 and to the same effect as if this act had not been passed, and shall  
8 continue in their said office and perform such duties as are re-  
9 quired of them under this charter until their successors have been  
10 elected and qualified, or appointed and qualified, under the pro-  
11 visions of this act, and all the ordinances, laws and resolutions  
12 now in force shall remain in force except such as are in conflict  
13 with this act.

14 That on or before the first day of August, one thousand nine  
15 hundred and nineteen, there shall be a re-organization of the police  
16 force of the city of Huntington as now constituted, and the power  
17 is hereby vested in the mayor and the board of commissioners of  
18 the said city of Huntington to consider the present appointment  
19 of the chief of police and any member of the said police force of  
20 said city at an end on or before the said date aforesaid, and their  
21 respective offices or positions vacant, and to be filled in accord-  
22 ance with the provisions of this act.

Sec. 85. The city clerk, except as may be otherwise pre-  
2 scribed by the board of commissioners, shall be the custodian of  
3 all the records and papers pertaining to the city of Huntington,  
4 and the citizens board, and said records and papers shall be kept  
5 by him at his office open to public inspection.

Sec. 86. Each political party shall at the general elections  
2 held under this charter elect a political committee consisting of  
3 one member from each ward; said committee shall elect a chair-  
4 man and secretary at large, and the chairman and secretary of  
5 said committee shall be members of the committee and entitled  
6 to vote, and shall continue in office until their successors are  
7 elected. The said committee shall perform all the duties re-  
8 quired by the provisions of this act and the general laws of the  
9 state of West Virginia relating to elections.

Sec. 87. 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.

[Sec. 88. This act shall be in effect from date of passage.]

### CHAPTER 3.

(House Bill No. 94—Mr. Blizzard.)

AN ACT to create the municipal corporation of the "City of Mont-  
gomery," in the county of Fayette, to grant a charter thereto,  
and to annul the charter of the "Town of Montgomery."

[Passed January 30, 1919. In effect from passage. Became a law without the Governor's approval.]

SEC.		SEC.	
1.	The city of Montgomery.	36.	Franchises, granting of, etc.
2.	Corporate limits described.	37.	Estimates of expenses and levy.
3.	Municipal authorities.	38.	
4.	Officers.	39.	City licenses.
5.	Corporate powers.	40.	
6.	Mayor and council.	41.	
7.	Powers of municipal authori-	42.	Method of collecting taxes.
8.	ties.	43.	
9.	Qualification of voters.	44.	Money; how appropriated.
10.	Elections, first and subsequent;	45.	
11.	how held; result declared.	46.	Sewage, paving, curbing.
12.	Election of officers.	47.	Construction of sewers; assessment for.
13.	Eligibility to office.	48.	Liens for street paving and sewage assessment.
14.	City councilmen and recorder.	49.	Improvement passing through public grounds; assessment of.
15.	Candidates for office must own property.	50.	City may borrow money; what for.
16.	Oath of mayor and other officers.	51.	Right to issue and sell bonds.
17.		52.	Buildings for city use.
18.		53.	Health provisions.
19.	Vacancies in office; how filled; removals.	54.	May regulate the sale of certain drugs.
20.		55.	Health commissioner; appointment of; duties and powers.
21.	Officers may perform other duties.	56.	Police department; appointment and confirmation of police officers; removals, discharges and suspensions.
22.	Journal of proceedings.	57.	Fire department.
23.	Meetings of council.	58.	Present officials to remain in power until successors have qualified.
24.	Quorum.	59.	Repealing acts and parts of acts in conflict.
25.	Salaries.		
26.	Appointive officers.		
27.	Mayor; his duties and powers.		
28.	Recorder; his duties.		
29.	Auditor; his duties.		
30.	Assessment and levy for annual taxes.		
31.	City attorney; his duties.		
32.	Police judge; his duties.		
33.			
34.	Ordinances and general provisions.		
35.			

*Be it enacted by the Legislature of West Virginia:*

## ARTICLE I.

### *The City of Montgomery.*

Section 1. That the inhabitants of so much of Fayette county as are within the boundaries prescribed by article two of this act, and their successors, shall constitute, be and remain a municipal corporation by the name of "the city of Montgomery."

## ARTICLE II.

### *Corporate Limits.*

Sec. 2. The corporate limits of the city of Montgomery shall be as follows: Beginning at a stake at low water mark of the Great Kanawha river at the mouth of Ellwood branch, and down said river north forty-five degrees fifteen minutes west two hundred and twenty-five feet; north fifty-seven degrees forty-five minutes west four hundred and fifty feet; north sixty-eight degrees five minutes west four hundred and fifteen feet; north sixty-eight



8 degrees thirty minutes west six hundred and fifty feet; north forty-  
9 six degrees fifteen minutes west one thousand and thirty-five feet;  
10 north fifty-one degrees west three hundred and eighty-seven feet;  
11 north eighty-three degrees thirty minutes west three hundred and  
12 eighty-five feet; south eighty-seven degrees thirty minutes west  
13 two hundred and forty-four feet; south seventy-nine degrees five  
14 minutes west two hundred and ninety-two feet; due west four  
15 hundred feet; south eight-three degrees west three hundred and  
16 sixty feet; south sixty-nine degrees thirty minutes west nine hun-  
17 dred feet to a stake, said stake south twenty-nine degrees west  
18 twenty-eight feet from a large sycamore, south five degrees forty-  
19 five minutes east one thousand four hundred and twenty-five feet  
20 to a stake; north eighty-eight degrees east three thousand one  
21 hundred and thirty-five feet, south sixty-one degrees fifteen min-  
22 utes east one thousand seven hundred and eighty feet; north forty-  
23 five degrees east five hundred and ninety-five feet to a stake at the  
24 edge of the Kanawha river and down same north twenty-five de-  
25 grees thirty minutes west four hundred and twenty-five feet to the  
26 beginning, containing one hundred and sixty-one acres.

### ARTICLE III.

#### *Municipal Authorities.*

Sec. 3. The municipal authorities of the city of Mont-  
2 gomery shall be the mayor, recorder and five councilmen, who shall  
3 constitute the council.

### ARTICLE IV.

#### *Officers.*

Sec. 4. In addition to the municipal authorities mentioned  
2 in article three of this act, the said city of Montgomery shall  
3 have a treasurer who may be sergeant, and auditor who may be  
4 recorder, chief of police, building inspector, who may be one of the  
5 council, a police judge, who shall be the mayor, and council may  
6 appoint a health commissioner, city attorney and such other officers  
7 and agents as the council may from time to time create or em-  
8 ploy.

### 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 Montgomery," and shall have perpetual succession and a common  
5 seal, and by the name may sue and be sued, plead and be im-  
6 pleaded, and may purchase and hold or sell real estate and per-  
7 sonal property necessary to enable them to discharge its corporate  
8 duties needful or convenient for the good order, government and  
9 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  
3 are hereby granted the power to have said city re-surveyed; to  
4 open, vacate, broaden, widen and repair streets and alleys, to curb  
5 and pave streets, sidewalks and gutters for public use, and to  
6 alter, improve, repair and light the same; to construct and main-  
7 tain public sewers and laterals, and shall in all cases have power  
8 to assess upon and collect from the property benefited thereby  
9 such part of the expense thereof as shall be fixed by ordinance,  
10 except as hereinafter provided; to have control of all streets and  
11 avenues, roads and alleys for public use in said city, and to have  
12 the same kept in good order, free from obstruction on or over  
13 them; to have the right to control all bridges within said city  
14 and traffic passing over them; to regulate and determine the  
15 width of streets, sidewalks, roads and alleys; to order and direct  
16 the curbing and paving of sidewalks and footways for public use in  
17 said city, to be done and kept in good order by the owners of  
18 adjacent property; to control the construction and repairing of all  
19 houses, bridges, culverts and sewers, and to prescribe and enforce  
20 all regulations affecting the erecting, repairing or removal of all  
21 buildings and structures, and to require permits to be obtained  
22 for such buildings, plans and specifications thereof to be first sub-  
23 mitted to the building inspector, and to prescribe and enforce  
24 regulations controlling the erection of such buildings, and to se-  
25 cure the safety and health of the public; to control the opening  
26 and construction of ditches, drains, sewers, cesspools and gutters,  
27 to deepen, widen and clear the same of stagnant water and filth,  
28 and to determine at whose expense the same shall be done; to  
29 build and maintain station houses, police stations and police courts,

30 and to regulate the management thereof; to purchase, lay off,  
31 appropriate and control public roads, square and parks, either  
32 within or without the city limits as hereinafter defined, and when  
33 the council determines that any real estate is necessary to be ac-  
34 quired by the said city for any such purpose, the power of eminent  
35 domain is hereby conferred upon said city, and it shall have the  
36 right to institute condemnation proceedings against the owner  
37 thereof in the same manner and to the same extent and under the  
38 same conditions as such power is conferred upon public service  
39 corporations by chapter forty-eight of the code of West Virginia of  
40 the edition of one thousand nine hundred and six; to provide, con-  
41 tract for and take care of all public buildings and structures being  
42 proper for the use of said city; to provide for and regulate the  
43 building of all houses or other structures, and to determine the dis-  
44 tance they shall be built from the street or alley; to cause the re-  
45 moval of unsafe walls or buildings; to compel owners of property  
46 to fence in or wall their property for the protection of the public  
47 safety; to prevent the injury and annoyance to the business of in-  
48 dividuals from anything dangerous, offensive or unwholesome; to  
49 abate or cause to be abated all nuisances; to regulate the keeping of  
50 gun powder and all other combustibles; to provide and maintain  
51 proper places for the burial of the dead; to regulate interment  
52 therein upon such terms and conditions as to price and otherwise  
53 as may be determined; to provide for shade and ornamental trees  
54 and the protection or removal of same; to provide for the draining  
55 of lots by proper drains and ditches; to make proper regulation  
56 regarding danger and damage from fire; to provide for the poor of  
57 the city; to organize and maintain fire companies and provide the  
58 necessary apparatus; to levy taxes on persons, property and li-  
59 censes; to provide revenue for the city and appropriate the same  
60 to its expenses; to provide for the valuation of property as often as  
61 it may be deemed proper and for the assessment of taxable persons  
62 and property; to adopt rules for the transaction of business and for  
63 the government and welfare of this corporate body; to promote the  
64 general welfare of the city and protect the person and property of  
65 citizens therein; to adopt rules for the transaction of business and  
66 for the government and regulation of its corporate body; to appoint  
67 such officers as they may deem proper and require and take from  
68 them bond with such security and in such penalty as may be de-  
69 determined, conditions for the faithful discharge of their duty; to

69-a regulate and provide for the weighing of produce and other ar-  
70 ticles sold in said city; to regulate the transportation thereof  
71 through the streets; to establish and regulate markets, to prescribe  
72 the time for holding the same and what shall be sold only in such  
73 market, and to acquire and hold property for market purposes if  
74 deemed proper; to regulate the placing of signs, bill boards, post-  
75 ers and advertising and other obstructions in, or over the streets,  
76 alleys and sidewalks of said city, to preserve and protect the peace,  
77 order and health of the city and its inhabitants; to appoint and fix  
78 places for holding city elections; to erect, own, lease, regulate,  
79 authorize or prohibit the erection of gas works, electric light works  
80 in or near the city, and to operate the same and sell the products  
81 thereof and do all things necessary and incidental to the conduct  
82 of such business; to provide for and preserve the purity of the  
83 water and health of the city; to prescribe and enforce ordinances  
84 for the purpose of protecting the health, decency, morality and  
85 order of the city and its inhabitants, and to punish violations of  
86 such ordinances, even if the offenses under and against such or-  
87 dinances shall also constitute offenses under the laws of the state  
88 of West Virginia or the common laws; to have and exercise all the  
89 rights, privileges and powers provided by chapter forty-seven of  
90 the code of West Virginia of the edition of one thousand nine hun-  
91 dred and six, and amendments thereof not inconsistent with this  
92 act, and shall retain, keep and succeed to all rights, privileges,  
93 property, interest, claims and demands heretofore acquired by,  
94 vested in or transferred to the city of Montgomery, or heretofore to  
95 the corporation of Montgomery.

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 authori-  
4 ties of said city shall have power in the manner heretofore pre-  
5 scribed to adopt and enforce all needful orders, by-laws and  
6 ordinances not contrary to the laws and constitution of this  
7 state, and to prescribe, impose and enforce reasonable fines and  
8 penalties, including imprisonment.

## ARTICLE VI.

### *Qualification of Voters.*

Sec. 9. Every person who may have resided within the terri-  
2 tory of said city for six months next preceding an election held  
3 therein, and who is a qualified voter under the laws and constitu-

4 tion of this state, and none others, shall be entitled to vote at  
5 any election held in said city. But no person shall be deemed a  
6 resident of said city by reason of being a student of any school  
7 or college therein for any temporary purpose.

## ARTICLE VII.

### *Elections.*

Sec. 10. The council shall by ordinance provide such regu-  
2 lations for the registration of votes as the state laws may require.

Sec. 11. The first election under this act shall be held on  
2 the first Thursday in January in the year one thousand nine hun-  
3 dred and twenty; and the second election on the first Thursday  
4 in January in the year one thousand nine hundred and twenty-two,  
5 and on the same day every two years thereafter. Such first elec-  
6 tion and all subsequent elections shall be held in such manner as  
7 is, or shall be prescribed by law for the holding of state elections  
8 and the council shall, for the first election held under this act,  
9 and at least ten days before said first election under this act,  
10 designate the voting places and the names of the commissioners,  
11 clerks and challengers to hold the said first election. Special  
12 elections for any purpose must be authorized by the council and  
13 called by the mayor. Notices of all special elections must be  
14 given by publication in at least one newspaper of general circula-  
15 tion published in the city of Montgomery, at least thirty days be-  
16 fore the date fixed for all such special elections, and by posting  
17 notices in such manner as the council may deem necessary. The  
18 council shall sit on the seventh day, Sundays excepted, after every  
19 election as a board of canvassers, each member of the council hav-  
20 ing one vote; and as such board of canvassers they shall canvass,  
21 ascertain, publish and declare the result of any election held; and  
22 the circuit court of Fayette county shall have power to control  
23 proceedings of said board of canvassers by mandamus and prohibi-  
24 tion. The said board shall keep in a separate book, marked for  
25 that purpose, a record of the proceedings, and shall take down and  
26 record any evidence, motion, or paper filed, or offered by any candi-  
27 date, which book and record shall be open to the public and shall  
28 be kept in the custody of the recorder.

## ARTICLE VIII.

*Election of Officers.*

Sec. 12. On the first Thursday in January, one thousand  
2 nine hundred and twenty, 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 February suc-  
5 ceeding in the year in which he is elected for a term of two years  
6 and until his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor  
2 except he be assessed with and own at least five hundred dollars  
3 worth of real or personal property, and is a citizen entitled to vote  
4 at 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 first Thursday in January, one thousand  
2 nine hundred and twenty there shall be elected by the qualified  
3 voters of the city five councilmen, to hold office from the first day  
4 of February, one thousand nine hundred and twenty until the  
5 first day of February, one thousand nine hundred and twenty-two,  
6 or until their successors are elected and qualified. Beginning with  
7 the first election held under this act, which shall be on the  
8 first Thursday in January, one thousand nine hundred and twenty  
9 and every two years thereafter there shall be elected a recorder by  
10 the qualified voters of the city, to hold office for the term of two  
11 years, and so on every two years thereafter. The officers of the  
12 city elected under the old charter and at the electeion held in the  
13 year one thousand nine hundred and nineteen shall hold over un-  
14 til their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of council-  
2 man or recorder except he be assessed with and own at least five  
3 hundred dollars worth of real or personal property, and be a citi-  
4 zen entitled to vote at the election at which he is elected.

## ARTICLE IX.

*Oath of Mayor and Other Officers.*

Sec. 16. The mayor, before taking his seat or performing any  
2 of the duties of said office, shall take and subscribe an oath or af-  
3 firmation that he possesses the qualifications prescribed by this

4 act to hold such office, and is not subject to any of the disqualifi-  
5 cations prescribed therein, and that he will support the constitu-  
6 tion of the United States and the constitution of this state, and  
7 honestly discharge the duties of his office to the best of his skill  
8 and judgment which oath shall be written out and signed and  
9 filed and preserved among the records and books of the city.

Sec. 17. The recorder, councilmen and all other officers  
2 elected or appointed under this act shall take and subscribe an  
3 oath or affirmation in the time, manner, form and effect, pre-  
4 scribed for the mayor.

#### ARTICLE X.

##### *Vacancies Occurring.*

Sec. 18. If the vacancy should occur in the office of mayor,  
2 the council shall, as soon as practicable, fill the vacancy by the  
3 appointment of some qualified person. If any vacancy occurs in  
4 any other office, whether elective or appointive, the council shall  
5 fill the same by the appointment of some qualified person subject  
6 to any regulations as required for the original appointment or  
7 election.

Sec. 19. All persons appointed to fill vacancies in the elective  
2 offices shall hold office until the next city election, and all vacan-  
3 cies in appointive offices shall be filled for the unexpired term.

Sec. 20. The council shall have and is hereby granted the  
2 power and authority to remove from office any officer, whether  
3 elective or appointive, for cause or upon written charges preferred  
4 by any responsible citizen to the council; but to remove from office  
5 under this provision, four-fifths of the members of the council  
6 must be present and four-fifths must concur in such removal, and  
7 the officer against whom the charges are preferred shall be served  
8 with a reasonable notice of the same, together with the time of  
9 hearing upon such charges, together with a copy of such charges,  
10 and shall have the right to be represented before the council in  
11 person and by attorney, and the right to require all witnesses to  
12 be sworn and testify under oath before the council and to have the  
13 testimony taken down.

#### ARTICLE XI.

##### *Officers May Perform Other Duties.*

Sec. 21. Any member of the council, the mayor, recorder,  
2 treasurer, or any other elective or appointive office shall, during

3 the time for which he was elected or appointed, be eligible for ap-  
4 pointment to any office under the city, provided, such employment  
5 is authorized by the council, by resolution for such appointment;  
6 but in no case shall the time of service be for a longer period than  
7 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 proceed-  
2 ings, which shall, at all times, be open to the inspection of the tax-  
3 payers of the city, and be a public record, and the ayes and noes of  
4 the members shall be taken on any question, at the request of any  
5 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  
2 Tuesday of each month of the year, and such special meetings as  
3 the business to be transacted may require, at such time, place or  
4 places in the city as the council shall, from time to time, ordain  
5 or appoint; and the council shall have the power by proper ordi-  
6 nance or resolution, entered of record, to vest in any officer of the  
7 city or any member or number of members of their body, author-  
8 ity to call such special meetings and in like manner to prescribe  
9 the mode in and by which said meetings shall be called. All ques-  
10 tions put, except as to such matters, as herein otherwise provided,  
11 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. A 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 un-  
5 der such penalties as either body may by rules provide.



## ARTICLE XV.

*Salaries.*

Sec. 25. The mayor, recorder, regular and other officers, employees and appointees, shall receive for their official services such salaries as the council shall, from time to time, by ordinance fix and establish; but the salaries of such officers shall not be increased or diminished during the term for which such officers were elected or appointed; *provided*, that the salaries of all officers elected or appointed for any term shall be fixed not later than thirty days preceding any election.

## ARTICLE XVI.

*Appointive Officers.*

Sec. 26. The council shall by a majority vote of its members 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 and shall preside at all meetings of the council and shall have a vote in case of tie; he shall have charge and control of the police except as herein otherwise provided; he shall see that the laws and ordinances of the city are enforced; that the peace and good order of the city are preserved and that persons and property therein are protected, and to this end he may cause the arrest and detention of riotous and disorderly persons, and shall perform such other duties and services as the council may ordain in addition to the duties prescribed in this act and not inconsistent herewith. The recorder, except as herein otherwise provided, shall perform the duties of the mayor whenever and so long as the mayor is from any cause not able to perform his official duties, and he shall, in the absence of the mayor, perform any and all the duties of the mayor except he shall not preside over the council. In the absence of the mayor at a meeting of the council, the council shall select one of its own members to preside over its meetings, who shall have a vote as a councilman. If the mayor and recorder are both absent from the city, or otherwise disabled from performing the duties of the mayor, the council may elect a mayor *pro tempore*. The mayor shall have the power at any time to appoint

22 special policemen, who shall be sworn in without confirmation of  
23 the council.

## ARTICLE XVIII.

### *Duties of the Recorder.*

Sec. 28. It shall be the duty of the recorder to keep a prop-  
2 erly indexed journal of the proceedings of the council and board  
3 of health, and have charge of and preserve the records of the city;  
4 he shall, whenever required by the mayor, attend the police court  
5 and attend to all the duties as clerk of the police court of the city.  
6 In the absence of the mayor or police judge, he shall exercise the  
7 functions of police judge; he shall perform all other duties requir-  
8 ed of him by order or by ordinance of the council; as recorder he  
9 shall receive compensation for his service to be fixed by the coun-  
10 cil, which shall not be increased or diminished during his term of  
11 office.

### *Duties of the Auditor.*

Sec. 29. The auditor shall be the city accountant and audit-  
2 ing officer of the city and it shall be his duty to see that the ac-  
3 counts of said city are kept in a detailed and systematic manner,  
4 under the proper classification so as to show the bonded and other  
5 indebtedness of said city, and the amounts and claims due the  
6 same, as well from taxes, levies and assessments as from other  
7 sources.

Sec. 30. In addition to the other duties of the auditor, it  
2 shall be his duty, on or before, the first day of August in each year  
3 to 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 Montgomery, 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 to  
10 extend said levy upon said real estate and personal property books  
11 for said city and to prepare proper tax tickets therefrom against  
12 all owners of real estate and personal property subject to tax-  
13 ation in said city. He shall turn the said tax bills over to the treas-  
14 urer or sergeant, who shall collect said taxes when due and pay-  
15 able, 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  
3 city 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 and  
5 proceedings instituted on behalf of said city and shall defend all  
6 suits and actions against said city, and when requested to do so in  
7 writing, shall give his written opinion to the mayor, council or any  
8 committee thereof upon such questions as may be referred to him  
9 affecting the city's interest; he shall perform such other duties  
10 as may be required. It shall be his duty to attend all sessions of  
11 the police court whenever requested by the mayor or police judge  
12 prosecute all trials therein and all appeals that are taken from such  
13 courts, and for his services shall receive such compensation as may  
14 be agreed on between him and the city council.

## ARTICLE XXI.

### *Duties of Police Judge.*

Sec. 32. The mayor or police judge shall be *ex-officio* a jus-  
2 tice and conservator of the peace within the city and he shall, with-  
3 in the same, have, possess and exercise all the powers and perform  
4 all 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 the  
6 corporate limits of the city. He shall have the same power to issue  
7 attachments in civil actions as a justice of his county has, though  
8 the cause of action arose out of the city limits, but in such case he  
9 shall have no power to try the same but must have such attachment  
10 returnable and heard before some justice of the county. Any war-  
11 rant or other process issued by him may be executed within the  
12 same territorial limits as that of a justice of the county. He shall  
13 have power to issue executions for all fines, costs and penalties im-  
14 posed by him, or he may require the immediate payment thereof,  
15 and in default of such payment he may commit the party in default  
16 to the jail of the city, until the fine, penalty or costs shall be paid,  
17 but the term of imprisonment in such cases shall not exceed sixty

18 days. But such mayor or police judge shall not receive any money  
19 belonging to the state, or any individual, unless he shall give bond  
20 and security as required of a justice of the peace under the laws  
21 of the state of West Virginia; and all provisions under the laws of  
22 the state of West Virginia relating to moneys received by justices  
23 shall apply as to like moneys received by the mayor or police judge.

## ARTICLE XXII.

### *Ordinance—General Provisions.*

Sec. 33. The style of ordinances of the city shall be "Be it  
2 enacted and ordained by the council of the city of Montgomery,"  
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  
2 no ordinance shall be so amended in its passage as to change the  
3 general purpose. No ordinance shall be considered for final  
4 passage at the meeting at which it is introduced unless the same  
5 shall have been reported on by a committee, but reference to a  
6 committee may be dispensed with by an affirmative vote of three-  
7 fifths of the council as elected. No ordinance shall contain more  
8 than one subject, which shall be clearly expressed in its title; nor  
9 shall any ordinance be passed by the council unless a majority of all  
10 the 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 coun-  
5 cil. The council shall provide a well-bound book, in which shall  
6 be copied all the ordinances in the order in which they are passed,  
7 which ordinances so copied shall be compared with the originals by  
8 the mayor and shall be signed by him when found correct. Such  
9 book shall be indexed so as to show in brief form the substance  
10 of the ordinances. All copies thereof certified as hereinafter pro-  
11 vided, shall be received by all the courts and justices in this state  
12 as evidence; but the council may adopt by ordinance, properly desig-  
13 ing and describing it, a code of laws and ordinances, which when  
14 adopted, shall be published in a newspaper of general circulation in  
15 said city, or posted, and printed in book form, or it may be adopted

16 as a whole after it is printed, and the said code shall be and become  
17 the laws and ordinances of the said city, and shall be received as  
18 such by all the courts in this state, and the printed volumes pub-  
19 lished under order of the council shall be so received as evidence of  
20 what is printed therein till errors or omissions be affirmatively  
21 shown therein.

### ARTICLE XXIII.

#### *Franchises.*

Sec. 36. All franchises granting the right of occupancy  
2 of any portion of the streets of the city for work of public utility  
3 and service shall be granted by the council, but no such fran-  
4 chise shall hereafter be granted except under the following re-  
5 strictions and 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 in-  
8 demnify the city against all damages caused by construction,  
9 maintenance or operation of such works. All reasonable addi-  
10 tional provisions and conditions may be made for the protection  
11 of the public, necessary damage or inconvenience by reason of  
12 the construction, maintenance or operation thereof.

13 No grant of a franchise for the extension of, or an addition  
14 to, any line of work or public service through, over or under any  
15 additional 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  
18 into effect and not limited as to time. Any franchise granted  
19 for an extension or addition thereto shall nevertheless be made,  
20 subject to the provisions hereof, including the time limit of not  
21 exceeding fifty years.

22 The council shall, in all franchises hereafter granted, em-  
23 body therein a plainly expressed condition, when the franchise  
24 is to be for work useful chiefly to the citizens of the city, that at  
25 the expiration of the franchise the grantee shall, if required by  
26 the council 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  
28 value, then its value shall be ascertained by an impartial arbi-  
29 tration, one arbitrator to be selected by the city, one by such  
30 owner of the plant, these two to select a third, and the decision  
31 of any two to be binding upon both parties.

## ARTICLE XXIV.

*Estimate of Expenses and Levy.*

Sec. 37. A finance committee shall be appointed from the 2 council members, by the mayor, and said finance committee shall, 3 on or before the first day of August in each year, prepare and 4 submit to the council an estimate of the amount of money neces- 5 sary and advisable to be expended by the city for the current year 6 next ensuing and to be provided for by the tax levy as herein pro- 7 vided for such current year, in which estimate the finance com- 8 mittee shall ascertain and present a detailed and itemized account 9 or estimate of the money necessary to pay interest on the bonded 10 indebtedness 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, 14 salaries, parks, real and personal property, contingent expenses 15 and other expenses, together with an itemized statement of the 16 estimated receipts, other than that to be derived from the annual 17 levy, and after receiving such estimates, and before making the 18 levy the council shall apportion the rate thereof, (including esti- 19 mated receipts for licenses and all other sources), among the sev- 20 eral funds to ascertain and provide for, which said apportionment 21 when adopted, shall be spread upon the records of the council.

22 Upon the estimate of such expense, the council shall there- 23 upon, by ordinance, lay a levy for the ensuing tax year of a sum not 24 to exceed sixty cents, exclusive of any levy or levies for 24-a bond purposes, 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 a capitation tax under the laws of the state of 29 West Virginia, and said council is authorized to levy to such max- 30 imum of sixty cent on each one hundred dollars of valuation, 31 notwithstanding any general laws now in force, or which may be 32 enacted, 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 at 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 tax for the  
10 use of said city upon any business, trade, occupation or profession  
11 for which the state now requires or hereafter may require a license,  
12 but the tax upon such city license shall in no case exceed the license  
13 tax imposed by the state upon such business, trade, occupation or  
14 profession. The municipal authorities may prescribe, impose and  
15 enforce reasonable fines and imprisonment, under the order of the  
16 police judge of said city, or the person lawfully exercising his  
17 function, upon any person carrying or attempting to carry on any  
18 business for which the said license is required, without first ob-  
19 taining a city license therefor, and paying the city license tax  
20 assessed thereon. All licenses provided for in this section shall  
21 be paid to the sergeant or treasurer. For the purposes of enforcing  
22 the provisions of this section the city shall have police jurisdiction  
23 for two miles beyond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make  
2 all regulations and pass all ordinances necessary and proper con-  
3 cerning the granting and revoking of all licenses. The city shall  
4 have the power to prohibit by ordinance and to punish persons  
5 abusing animals; to restrain and punish vagrants, mendicants,  
6 beggars, tramps, prostitutes and drunken and disorderly persons  
7 within the corporate limits; to provide for their arrest and manner  
8 of punishment; to prohibit and punish railroads bringing in paup-  
9 ers or persons or animals afflicted with dangerous diseases; to con-  
10 trol and suppress bawdy houses, houses of assignation and gamb-  
11 ling houses and to punish gaming; to prohibit slaughter houses with-  
12 in the prescribed limits and soap or glue factories of any kind;  
13 to restrain and prohibit the use of fire crackers, fireworks or other  
14 explosives, and all dangers or unseemly noises which tend to an-  
15 noy persons or frighten horses or other animals; to make regula-  
16 tions guarding against fire; to regulate the use of streets and al-  
17 leys for street cars, railroads, railroad engines, traction engines,  
18 automobiles, and cars of all sorts, and regulate the running and  
19 operation of the same within the city limits; to regulate and pre-  
20 vent injury, inconvenience or annoyance to the public; to prohibit  
21 cock fighting and dog and prize fighting; to regulate and con-  
22 trol the kind and manner of plumbing and electric wiring, etc.,

23 for the safety and health of the public, to regulate, restrain and  
24 prohibit all animals and fowls running at large; to establish and  
25 regulate markets; to regulate signs and billboards, posters and  
26 advertisements on or over streets; to regulate the sale and use of  
27 cocaine, morphine, opium and poisonous drugs; to provide for  
28-31 purity of water, milk, meat, etc., sold in the city limits;  
32 to provide for inspection of dairies, slaughter houses and other  
33 places of like nature; to protect places of divine worship; to have  
34 abated and removed all nuisances; to regulate the construction of  
35 all water closets, privies, cess pools, pens, sinks, yards, stables  
36 and other places where offensive substances may accumulate; to  
37 regulate and prescribe punishment for all violations against the  
38 public peace and welfare.

#### ARTICLE XXV.

##### *Taxes—How Collected.*

Sec. 40. The city taxes annually levied by said council shall  
2 be collected as follows: Immediately after the annual levy 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 treasu-  
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, and 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 or  
19 any part of the taxes as assessed. Immediately upon the payment  
20 of said taxes or any part thereof, the said amount shall be deposited  
21 by the sergeant or treasurer in one of the city depositories to the  
22 credit of the "City of Montgomery," and the sum so deposited shall  
23 be reported to the council at its first meeting after deposit is made.  
24 All taxes shall be due and payable within thirty days after the



25 expiration of the notice posted and published by the sergeant as  
26 hereinbefore set forth, and in case the same are not paid within  
27 said time, he may distrain and sell therefor, in like manner as the  
28 officer collecting the state taxes may distrain therefor, and he shall  
29 have in all other respects the same power to enforce the payment  
30 and collection thereof. On all tickets remaining uncollected in  
31 the hands of the sergeant fifty days after the date of the expira-  
32 tion of the notice posted and published by him, a penalty of five  
33 per cent. shall be added and collectable, together with six per  
34 cent. interest until paid.

35 The council may by ordinance allow a discount for prompt  
36 payment of taxes. The sergeant shall have the power to collect  
37 said taxes so placed in his hands together with the penalty and in-  
38 terest thereon, heretofore provided to be added thereto. The  
39 sergeant shall be charged with the gross amount of said tax tickets  
40 so delivered to him for collection, and no deductions therefrom  
41 shall be allowed unless on or before the first day of July of each  
42 year he makes out and returns to the council a delinquent list of  
43 taxes uncollected for year previous with his oath attached thereto,  
44 stating that such delinquent list is correct and just, that he has re-  
45 ceived no part of the taxes mentioned thereon and that he has used  
46 due 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 sixty cents  
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,  
2 or 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 possession  
6 they may be found, and the sergeant shall have the same power to  
7 collect said taxes or assessments from any persons owing debts to or  
8 having in his possession any estate belonging to a person assessed

9 with any tax or assessment of any kind, that the sheriff has to col-  
10 lect state taxes or enforce the collection thereof.

Sec. 42. There shall be a lien upon all real estate within  
2 said city for the city taxes assessed thereon including such pen-  
3 alties and interest added thereto for non-payment thereof as are  
4 prescribed 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  
6 record in Fayette county by appropriate suit; *provided*, such suit  
7 be entered within five years from the time said liens attached as  
8 herein provided, and such suit may either be by and in the name  
9 of the city of Montgomery as plaintiff, or said city may intervene  
10 by petition in any suit pending to sell or enforce liens against  
11 real estate which is subject to such liens for said taxes. The liens  
12 herein created shall have priority over all other liens except those  
13 for taxes due the state and county.

Sec. 43. Said liens for city taxes and attendant penalties,  
2 as well as for improvement assessments, may also be enforced  
3 by the certifying of the same to the clerk of the county court of  
4 Fayette county for certification to the state auditor, and the same  
5 may be certified down by the state auditor and sold for taxes,  
6 interest and penalties and commissions thereon, in the same man-  
7 ner, at the same time, and by the same officer as real estate sold  
8 for taxes, interest, damages, costs and commissions due the state  
9 thereon, which officer shall account therefor on settlement with  
10 the council and pay the same over to the treasurer.

## ARTICLE XXVI.

### *Money—How Appropriated.*

Sec. 44. No money shall be appropriated and no debts shall  
2 be contracted and no contracts authorized by the city, except by  
3 an ordinance passed by the council as specified herein, and no  
4 such ordinances shall be passed except where the funds to meet  
5 the same shall have first been provided by levy duly made in ac-  
6 cordance with this act and its provisions. No contract shall be  
7 entered into involving or anticipating further levies, unless all  
8 the questions connected with the same shall have been first sub-  
9 mitted to the people and shall have received three-fifths of all the  
10 votes cast at such election.

## ARTICLE XXVII.

*Sewers, Paving and Curbing.*

Sec. 45. The council shall have the power to establish the width of any sidewalk along any street, alley or public square or portion thereof, and any owner of ground fronting on such street, alley or public square shall, in such manner as the council shall reasonably prescribe, pave and curb the sidewalk adjacent to such property. In case of a failure or refusal of the owner to pave or curb the same, the council may cause the same to be properly curbed and paved by the city, and levy and collect from such owner the whole cost of such curbing and paving adjacent to such property, with a penalty of five per centum added thereto, together with six per centum interest until paid; and in like manner to require the owner of any property adjacent to any paved sidewalk heretofore or hereafter constructed, to keep the same in repair, and in default of doing so to cause the same to be repaired, and levy and collect the cost from said owner or owners with a penalty of five per centum added thereto together with six per centum interest per annum until paid. In all cases of such assessment, whether for the original or for the repairing of sidewalk, payment thereof, including penalties and interest, shall be made to the sergeant within sixty days after the completion of the work, who shall have the power to collect the same from the owner or owners of any such property by distress and sale, in the same manner in which taxes levied for the benefit of the city are authorized to be collected and, in addition, there shall be a lien upon such real estate, which lien shall be enforced by appropriate suit in any court of record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to cause any street or alley in said city, or portion thereof, to be paved in a permanent manner, it shall order the work done in the following manner and upon the following terms: the contract for such paving shall, after due advertising, in which the council shall reserve the right to reject any and all bids, be let, if let, to the lowest responsible bidder. The contractor shall look only to the city for the payment for the work and in no sense to the abutting land owner. The total cost of grading and paving any such street or alley (except when the streets are occupied by street car tracks, for the distance between the rails and for two additional feet outside 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 let  
26 to contract and the work done as hereinbefore provided, it shall be  
27 the duty of the city engineer to cause the several frontages abut-  
28 ting thereon to be measured, to calculate the assessment upon each  
29 and every land owner so abutting, and to certify the same to the  
30 council showing the proper amount to be determined as provided  
31 in the foregoing plan. It shall be the duty of the council to  
32 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 published in  
35 said city that an assessment, under this act, is about to be laid  
36 against abutting property for paving done on said streets or alleys,  
37 describing the location of such paving. Any owner or owners of  
38 abutting property shall have the right to appear before the said  
39 council within three weeks from the first publication thereof, and  
40 move such council to correct any apportionment or assessment im-  
41 properly made; which corrections the said council shall have the  
42 power to make. If found to be correct, or when rectified, the coun-  
43 cil shall cause the same to be entered, together with the descrip-  
44 tion as to the location, frontage, depth and ownership of the land,  
45 so far as the same may be ascertained, upon its records, and to  
46 enter in its record that such owners and lots be assessed  
47 and chargeable with the amount so ascertained to  
48 be borne by them respectively. When so approved, cer-  
49 tified and entered of record, the same shall be and con-  
50 stitute an assessment against said owners and lots for such  
51 respective amounts. It shall be the duty of the council to  
52 immediately certify such assessment to the sergeant for collection  
53 as hereinbefore provided. A copy of such order shall be certified

54 by order to the clerk of the county court of Fayette county, who  
55 shall be required to record and index the same in the proper deed  
56 book in the name of each person against whose property assess-  
57 ments appear therein. The amount so assessed against any land  
58 owner, as aforesaid, shall be paid in seven payments, as follows,  
59 that is to say: one-fourth of said amount shall be paid to the  
60 sergeant when said work is completed, certified and entered of  
61 record as aforesaid, and the other three-fourths shall be paid in  
62 equal semi-annual payments with six per cent interest thereon  
63 until paid, the first of which shall be due and payable six months  
64 from date first payment is due, and so on, every six months until  
65 the full amount of assessment, with penalties and interest is paid,  
66 the purpose being to require the payment regularly until the entire  
67 amount is paid. *Provided, however,* that the abutting land owner  
68 so liable for any costs of such paving shall have the right at any  
69 time after the same is certified as aforesaid to the sergeant for  
70 correction, to anticipate the payment of either installment. To  
71 each of said installments of assessments remaining unpaid in the  
72 sergeants hands at the time specified for such payment, a penalty  
73 of four per cent shall be added and the payment thereof enforced  
74 in all respects as hereinbefore provided for the collection of any  
75 other taxes due the city, and such shall be a lien upon the prop-  
76 erty liable therefor, the same as for other taxes, and the lien may  
77 be enforced in the same manner as provided for other taxes. The  
78 liens hereinbefore provided for shall have priority over all other  
79 liens except those due the state and county for taxes, and shall be  
80 on a parity with other taxes and assessments due the city. Upon  
81 the payment of any assessment to the sergeant he shall deliver  
82 to the party paying the same a release of the lien therefor, which  
83 may be recorded in the office of the clerk of the county court as  
84 other releases for liens. Should such assessment not be in the  
85 hands of the sergeant, if the same shall have been shown to the  
86 satisfaction of the council to have been paid in full to any officer  
87 entitled to receive the same as designated by it, the council may  
88 direct the sergeant to execute a release of such liens, which release  
89 may in like manner be recorded.

#### ARTICLE XXVIII.

##### *Sewers.*

Sec. 47. Whenever the council shall order the construction  
2 of any public sewer in said city the owners of the property abut-

3 ting upon any street, in which said sewer shall be constructed,  
4 shall be charged with and liable for sewerage assessments as fol-  
5 lows: when said sewer is completed the city engineer shall report  
6 to the council in writing the total cost of such sewerage, with a  
7 description of the lot and land, as to the location, frontage, depth  
8 and ownership, liable for such sewerage assessment, so far as the  
9 same may be ascertained, together with the amounts chargeable  
10 against each lot and owner, estimated on the basis of cost, frontage  
11 measures on said sewer being considered, and thereupon said  
12 council shall give notice by publication in a newspaper of general  
13 circulation, published in said city, as is required in the case of  
14 street paving assessment, and the same right shall exist as to the  
15 persons and property affected, and the same duty as to correction  
16 by the council as are prescribed with reference to paving, which  
17 report shall, in like manner, be examined by the council, and if  
18 found to be correct, or corrected as aforesaid, and such estimated  
19 assessments to be a fair and equitable apportionment of the costs  
20 of said sewer, it shall enter an order upon its records setting forth  
21 such location, depth, ownership, and said amount of said sewer  
22 assessment against each property respectively, calculated as afore-  
23 said, and the entry of such order shall constitute and be an assess-  
24 ment for such proportion and amount so fixed therein, against  
25 such respective owners and lots. If after such advertisement,  
26 notice and hearing said council shall find that such apportionment  
27 at such rate is unjust or inequitable, it shall ascertain, fix and  
28 assess the cost thereof among and upon the abutting owners  
29 respectively, fairly and equitably and in like manner assess and  
30 enter the amount so fixed, respectively, upon its records, and the  
31 council shall in either event thereupon certify the same to the  
32 sergeant for correction, and certify a copy of such order to the  
33 clerk of the county court of Fayette county, who shall record the  
34 same in the proper deed book, and index the same in the name of  
35 the owner of any such lot so charged with such assessment. Such  
36 assessment so made shall constitute and be a lien upon said lots  
37 respectively, which shall have priority over all other liens except  
38 those for taxes due the state and county, and shall be on a parity  
39 with other taxes and assessments due the city. Said amounts so  
40 assessed against said several land owners shall be paid by the  
41 parties liable therefor to the said sergeant at the time, in the man-  
42 ner and with the attendant penalties and interest, for failure to  
43 pay promptly at the time prescribed in all respects as hereinbe-

44 fore provided in the case of assessment for paving of streets and  
45 alleys in a permanent manner; and the parties liable therefor in  
46 the same manner and to the same extent shall have the right and  
47 be entitled to anticipate any or all such installments. The owner  
48 or owners of any lot abutting upon any street or alley in said city,  
49 on which a public sewer is or may hereafter be laid and con-  
50 structed upon which any business or residence building is or may  
51 hereafter be erected, not otherwise connected to the public sewer,  
52 may be required and compelled by council to connect any such  
53 property with such sewer. Notice to so connect may be given by  
54 the council to the owner, lessee or occupant of such property.  
55 Each day's failure to comply with such notice and to connect with  
56 such sewer by such owner or owners, after ten days have elapsed  
57 after such notice has been given, shall be a misdemeanor and a  
58 separate offense and new offense under this section, and each  
59 offense shall be punishable by a fine of not less than five nor more  
60 than twenty-five dollars. Jurisdiction to hear, try and determine  
61 and sentence for violation of this section is vested in the police  
62 court of said city. If said owner or owners fail to comply with  
63 the notice to make such sewer connection, then the council may by  
64 ordinance order the work to be done at the expense of the city and  
65 the costs thereof to be certified to the clerk of the county court,  
66 and the same shall constitute a lien upon said property, with the  
67 same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for  
2 street paving and sewerage assessments shall constitute liens upon  
3 real estate upon which they are assessed, as against creditors of  
4 the owners thereof or purchasers for value from, and without  
5 actual notice of such lien, only from and after the time that the  
6 statement thereof, certified as aforesaid shall be filed for record in  
7 the 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,  
8 association 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 Montgomery, by ordinance of the  
2 council, may borrow money in an amount equal to the amount  
3 of said liens herein acquired, for the purpose of paying any  
4 contract for paving or sewerage under this act, and may assign  
5 said liens as security for such loan or loans; but in no event shall  
6 the money so borrowed be expended for any other purpose than in  
7 the payment of the indebtedness owing by the city for such work;  
8 that is, liens for the street paving can only be used by the city in  
9 borrowing money to pay for street paving, and liens for sewerage  
10 can only be used by the city in borrowing money to pay for  
11 sewerage.

## ARTICLE XXIX.

### *Bonded Indebtedness.*

Sec. 51. The council of said city shall have the right to  
2 bond the said city for the purpose of paving the streets and alleys  
3 of said city and for constructing water works or repairing the  
4 same, and for constructing a sewerage system, or repairing the  
5 same, and for the purpose of providing hose and other appliances  
6 for extinguishing fires, and for any and all public improvements  
7 whenever the council thereof shall deem such improvement neces-  
8 sary, and to refund outstanding bonds at a lower rate of interest,  
9 and to issue new bonds for the purpose of increasing the length  
10 of time on any such indebtedness; but the aggregate indebtedness  
11 of said city shall for all purposes not exceed five per centum on  
12 the assessed valuation of the taxable property therein, based on  
13 the valuation of the last assessment next preceding the date of the  
14 incurring of such indebtedness; and the said council shall lay  
15 a levy sufficiently high on the taxable property of said city to  
16 provide a fund for the payment of the interest on and a sinking  
17 fund for the discharge of the principal of any and all indebtedness  
18 incurred in the manner aforesaid within the period of thirty-four  
19 years. Such bonds shall not be sold for less than par nor issued  
20 to refund outstanding bonds of said city except dollar for dollar.



21 A record of all the proceedings had hereunder shall be kept by the  
22 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 bequest for the same, in trust or otherwise.

### ARTICLE XXXI.

#### *Health.*

Sec. 53. The council shall have the authority to ordain and  
2 enforce such regulations within said city as shall be necessary 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 whereon 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  
10 prevent the keeping of any stale meats, fish, vegetables, or other  
11 matter, 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  
2 regulate 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  
5 provide that one or more convictions for violations of 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 February, one  
2 thousand nine hundred and twenty, and in said month of every  
3 year thereafter, appoint a suitable person, who shall be a prac-  
4 ticing physician, as health commissioner, whose term of office  
5 shall be for one year and until his successor is appointed and  
6 qualified. The members of the council, mayor and health com-

7 missioner shall comprise the board of health of said city. The  
8 board of health shall have the power to abate all nuisances within  
9 said city, and it shall do and perform all such other duties and  
10 exercise such other powers as may be required of or conferred  
11 upon them by legal ordinances of said city. The council of said  
12 city shall provide by ordinances the way and method of trying  
13 and abating such nuisances, and shall prescribe all penalties that  
14 may be proper and necessary for such purpose. The board of  
15 health shall have the power to summon witnesses, hear testimony  
16 and to do any and all other things necessary and proper in the  
17 performance of such duties under this act and under the general  
18 laws of the state, in such cases made and provided.

#### ARTICLE XXXII.

##### *Police Department.*

Sec. 56. The mayor shall nominate a chief of police and  
2 such number of policemen as may be authorized by ordinance,  
3 from time to time, said nominations to be subject to confirmation  
4 by the council. Council shall prescribe by ordinance such mental  
5 and physical examinations for applicants for appointment to the  
6 police 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 officer  
10 until he shall have been confirmed as such by the affirmative vote  
11 of a majority of all the members elected to the council, unless he  
12 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  
17 veto such suspension and may reinstate such policemen or confirm  
18 the 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 Montgomery 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 February,  
 4 one thousand nine hundred and twenty, 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 nineteen, and not consistent with this  
 9 act, shall be and remain in full force, unless and until repealed,  
 10 and the council now in office shall continue to exercise its powers  
 11 as 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 4.

(House Bill No. 172—Mr. Anderson.)

AN ACT to create and to incorporate the municipal corporation of the  
 city of Welch in the county of McDowell and state of West Vir-  
 ginia, and to grant a charter thereto, and defining the powers of  
 said city and the officers thereof and fixing the corporate limits  
 of said city.

[Passed February 21, 1919. In effect from passage. Became a law without the  
 Governor's approval.]

SEC.		SEC.	
1.	The city of Welch.	23.	Record books; by whom and how kept.
2.	Corporate limits described.	24.	Reading and correction of minutes.
3.	Boundaries of wards.	25.	In case of tie vote.
4.	Municipal authorities.	26.	Meetings of council.
5.	Corporate powers exercised by council.	27.	Payment of city funds.
6.	Appointive officers; term of office; salaries.	28.	Corporate powers of common council.
7.	Eligibility to elective office.	29.	Police docket.
8.		30.	Taxation.
9.		31.	
10.	When and how held; registration;	32.	
11.	ballot; tie vote; contested elec-	33.	Assessment and collection of taxes.
12.	tion; vacancies.	34.	
13.		35.	Licenses.
14.		36.	Condemnation proceedings.
15.	Appointive officers; duties; salary, etc.	37.	Bond issues.
16.	Official bonds.	38.	Indebtedness prohibited.
17.	Oath of office.	39.	Roads and street; construction; repair and maintenance of.
18.	Term of office.	40.	City ordinances.
19.	Vacancies; how filled.	41.	Streets and sidewalks; plan and resolution; notice and hearing; assessment; collateral bonds; method of improvement; rebates; gas and water lines; damages to
20.	Mayor; duties and privileges; salary; how paid.		
21.	Recorder; duties; salary.		
22.	Quorum; how constituted.		

<p>42. Improvements.</p> <p>43. Voting places in wards for municipal elections.</p> <p>44. City attorney; duties; salary.</p> <p>45. Bank to act as treasurer.</p> <p>46. Salaries of councilmen.</p> <p>47. Board of health; health commissioner.</p>	<p>48. Nuisances; abatement of; notices; etc.</p> <p>49. Sewerage requirement.</p> <p>50. Franchises; granting of; publication of notice of object; limited period; indemnification.</p> <p>51. Inconsistent acts or parts of acts repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

ARTICLE I.

*The City of Welch.*

Section 1. That the inhabitants of so much of the county of  
 2 McDowell, in the state of West Virginia, included in the boun-  
 3 daries described in section two of this act, be and they are hereby  
 4 created and are to remain and continue a municipal corporation  
 5 by the name of the city of Welch, by which name they shall have  
 6 perpetual succession and a common seal, and by which name they  
 7 may sue and be sued, plead and be impleaded, contract and be  
 8 contracted with, purchase and otherwise acquire and hold real  
 9 estate and personal property needed in the discharge of the func-  
 10 tions of government conferred by this charter.

ARTICLE II.

*Corporate Limits.*

Sec. 2. The corporate limits of the city of Welch shall be as  
 2 follows, that is to say: Beginning at a stake near the mouth of  
 3 Fish Trap branch of Elkhorn fork of Tug river; thence south  
 4 fifty degrees forty minutes west nine thousand six hundred and  
 5 twenty-seven feet crossing Elkhorn and Big branch of same to a  
 6 stake in the lower edge of the county road, about nine hundred  
 7 feet above the mouth of Little Indian creek and in a line of the  
 8 Adkin district; thence south thirty degrees north eight hundred  
 9 feet crossing Tug river to a stake on a spur; thence north fifty-  
 10 four degrees thirty minutes west two thousand four hundred and  
 11 fifty feet to a stake near Little Indian creek; thence north four  
 12 degrees thirty minutes east seven thousand nine hundred and  
 13 fifty feet to a stake in a line of the present corporation limits;  
 14 thence with same south seventy-seven degrees west eight hundred  
 15 feet to a poplar, spruce pine and double beech on the bank of  
 16 Cub branch; thence north sixty-four degrees thirty minutes west  
 17 six hundred feet to the top of a spur where a white oak is called  
 18 for; thence north twenty-two degrees east seven hundred feet  
 19 to a stake on the north bank of Tug river; thence north eighty-

20 four degrees east six hundred and fifty feet to a stake in a line  
21 of said corporate limits; thence leaving said line and running up  
22 a spur north twenty-eight degrees five minutes east four hundred  
23 feet; north seventy-three degrees six minutes east one hundred  
24 seventy-eight and six-tenths feet, north seventy-eight degrees east  
25 three hundred thirty-three and seven-tenth feet; north forty-seven  
26 degrees thirty minutes east ninety-two feet; north forty-nine de-  
27 grees east ninety-seven feet; north sixty-two degrees thirty minutes  
28 east four hundred and ninety-seven feet; north forty-six degrees  
29 east two hundred twenty-four and six-tenths feet; north thirty-  
30 seven degrees east ninety-six and six-tenths feet, north seventy-  
31 six east one hundred thirty-four and five-tenths feet, south eighty-  
32 eight degrees east one hundred and seventy-six feet, south thirty  
33 degrees east three hundred eighty-three and one-tenth feet; south  
34 fifty-seven degrees east eighty-one and two-tenths feet; north  
35 eighty-nine degrees east two hundred and sixty-three feet; north  
36 eighty-eight degrees thirty minutes east two hundred and ninety-  
37 eight feet to a stake on top of the ridge between Tug river and  
38 Browns creek; thence leaving the top of said spur and ridge, south  
39 seventy-four degrees thirteen minutes east two thousand five hun-  
40 dred thirty-three and six-tenths feet to a stake near the mouth of  
41 Graveyard hollow of Browns creek and about twenty feet north of  
42 the county road; thence south fifty-three degrees forty-three  
43 minutes east five thousand six hundred and forty-nine feet, cross-  
44 ing Browns creek and ridge between Browns creek and Elkhorn  
45 to the beginning, containing one thousand five hundred and ten  
46 acres.

#### ARTICLE III.

##### *Boundaries of Wards.*

Sec. 3. The said city of Welch shall be divided into three  
2 wards, which shall be bounded as follows:

##### *First Ward.*

3 All the following described boundary shall constitute the  
4 first ward of the said city, that is to say: Beginning at a point  
5 in the center of Tug river and in the corporate lines of said city  
6 just above the mouth of Little Indian creek; thence with the  
7 corporate lines of said city and in an easterly direction to a point  
8 in said corporate line and the center of Elkhorn creek where same  
9 crosses said line; thence down said Elkhorn creek to a junction

10 of the Tug river; thence up the center of Tug river to the point  
11 of beginning.

*Second Ward.*

12 All the following described boundary shall constitute the  
13 second ward of said city, that is to say: Beginning at a point in  
14 the center line of the main track of the Norfolk & Western rail-  
15 way at mile post three hundred and ninety-nine; thence westerly  
16 with said railway line to a point in the center of the Tug river  
17 where the said railway line crosses the same; thence down the  
18 center of said Tug river to the mouth of Browns creek; thence up  
19 the center line of the said Browns creek to a point where the same  
20 crosses the corporate line of the said city of Welch, thence in a  
21 southerly direction with the said corporate line to the center of  
22 Elkhorn creek at a point in the line of the first ward; thence down  
23 the center of said Elkhorn creek to a point opposite mile post  
24 three hundred and ninety-nine of the Norfolk & Western railway;  
25 thence in a straight line to the beginning.

*Third Ward.*

26 All the following described boundary shall constitute the  
27 third ward of the said city, that is to say: Beginning at a point  
28 in the center of Tug river in the corporate line of said city above  
29 the mouth of Little Indian creek, a corner of the line of first  
30 ward; thence in a northwesterly direction and with the corporate  
31 line of said city to a point where the same crosses the Browns  
32 creek, a corner in the lines of the second ward; thence down the  
33 center of Browns creek and up the Tug river with the lines of  
34 the second ward to the point in the center of the Norfolk &  
35 Western railway bridge and corner in the line of the said second  
36 ward; thence with the railway to mile post three hundred and  
37 ninety-nine; thence southwardly with a line of the second ward  
38 to the center of Elkhorn creek; thence down said Elkhorn creek  
39 and up the Tug river with the lines of the first ward to the be-  
40 ginning.

ARTICLE IV.

*Municipal Authorities.*

Sec. 4. The municipal authorities of the said city of Welch  
2 shall consist of a mayor, recorder and five councilmen, who shall

3 constitute the council of said city and shall be elected by the voters  
4 of said city as hereinafter prescribed. One councilman shall be  
5 elected by the voters of each of the respective wards, and two  
6 councilmen shall be elected by the voters at large.

Sec. 5. All the corporate powers and functions pertaining  
2 to said city shall be exercised by its council, or under its author-  
3 ity, in the corporate name of said city, unless otherwise provided  
4 by state law or municipal ordinance.

Sec. 6. The city council shall appoint a street commissioner,  
2 a health commissioner, city engineer, chief of police, and any ad-  
3 ditional police officers that they may deem necessary, city attorney,  
4 chief of fire department, building inspector, and all other officers  
5 whose offices may be established by ordinance of the city council  
6 or by this act, and such officers shall hold the respective offices to  
7 which they are appointed during the pleasure of the council and  
8 until their successors are appointed and qualified. The several  
9 offices, or any two or more may be held by the some person, *pro-*  
10 *vided*, a councilman the mayor and the recorder shall not be eli-  
11 gible to any of the appointive offices, and such officers shall re-  
12 ceive such compensation as the council may prescribe, by ordi-  
13 nance or order, unless said compensation be fixed by this act,  
14 and the same shall not be increased or diminished during the  
15 term for which the appointment was made.

Sec. 7. No person shall be eligible to the office of mayor,  
2 recorder or councilman, unless at the time of his election he is  
3 legally entitled to vote in the city election for member of the  
4 common council; and he was for the preceding year assessed with  
5 taxes upon real or personal property within the said city, of the  
6 assessed aggregate value of at least three hundred dollars, and  
7 shall actually have paid the taxes so assessed.

#### ARTICLE V.

##### *Elections.*

Sec. 8. On the first Tuesday in June, one thousand nine  
2 hundred and twenty, and every two years thereafter, on the first  
3 Tuesday in June, there shall be elected by the qualified voters of  
4 said city, a mayor, a recorder and two councilmen and by the  
5 qualified voters of each of the three wards one councilman. The  
6 term of office of said mayor, recorder and councilmen shall be  
7 for the period of two years, commencing on the first day of July,

8 next after their election, and until their successors shall be elected  
9 and qualified.

Sec. 9. Every male person residing in said city shall be  
2 entitled to vote for all officers elected under this act; but no  
3 person who is a minor, or of unsound mind, or a pauper, or who  
4 is under conviction of treason, or bribery in an election, or who  
5 has not been a resident of this state for one year and of said  
6 city for six months next preceding the election at which he de-  
7 sires to vote, shall be permitted to vote therein.

Sec. 10. All qualified voters within the city of Welch en-  
2 titled to vote in the municipal election held therein shall be  
3 registered in like manner as are the qualified voters in state and  
4 county elections, and the state laws of the state of West Vir-  
5 ginia in effect at the time of such registration shall in all things  
6 apply thereto; except the fee for such registration shall be five  
7 cents for each qualified voter so registered, and the powers con-  
8 ferred upon the county court by the laws in reference to the reg-  
9 istration of voters are hereby conferred upon the council of said  
10 city of Welch.

Sec. 11. In all elections by the people the mode of voting  
2 shall be by ballot, but the voters shall be left free to vote an open,  
3 sealed or secret ballot, as they may elect. The election in said  
4 city shall be held and conducted and the result thereof certified,  
5 returned and finally determined under the laws in force in this  
6 state relating to general elections, except that the persons con-  
7 ducting said elections shall, on the day after the election is held  
8 deliver the ballots, tally sheets and poll books to the recorder, and  
9 thereafter the council of said city shall meet within five days  
10 (Sundays excepted) after said election and canvass the returns  
11 of said election, and declare the result thereof, and in all re-  
12 spects comply with the requirements of the statute of the state  
13 relating to elections. The corporate authorities of said city shall  
14 perform all duties in relation to such elections required by gen-  
15 eral law of the county court and officers in effect on the day of  
16 said election and each succeeding election under this charter.  
17 And the provisions of the code in effect on the date of said elec-  
18 tion, concerning elections by the people, shall govern such elec-  
19 tions and be applicable thereto, and the penalties therein pre-  
20 scribed for offenses relating to elections shall be enforced against  
21 the offenders of such corporate elections; and the said act shall  
22 have the same force and effect as if it were specially applicable



23 in such corporate elections and was by this act re-enacted *in ex-*  
24 *tenso*; except as above modified as to the time in which the re-  
25 turns of the election and canvass thereto shall be made.

Sec. 12. Whenever two or more persons receive an equal  
2 number of votes for mayor, recorder or councilman, such tie shall  
3 be decided by the council in existence at the time the election  
4 is held; *provided*, that the council in office at the time of the  
5 institution of such contest proceeding shall hold over and re-  
6 main in office for the purpose of passing upon and deciding such  
7 contest, and for such purposes only; and nothing herein pro-  
8 vided shall be construed to interfere with the duties, power and  
9 authority of the new or incoming council.

Sec. 13. All contested elections shall be heard and determined  
2 by the council in existence at the time the election is held, and  
3 the contest shall be made and conducted in the manner as pro-  
4 vided for in contests for county and district officers, and the  
5 council by their proceedings in such cases shall, as nearly as  
6 practicable, conform with like proceedings of the county court in  
7 such cases.

Sec. 14. Whenever a vacancy from any cause shall occur in  
2 any office, the council shall by a majority vote of those present  
3 fill such vacancy; and, in case of a vacancy in the office of council-  
4 man or mayor, or recorder, the remaining members of the council  
5 shall fill said vacancy.

#### ARTICLE VI.

##### *Appointive Officers—Duties of Officers.*

Sec. 15. The council shall also have authority to provide by  
2 ordinance for the appointment of such other officers as shall be  
3 necessary and proper, to carry into full force and authority the  
4 power, capacity, jurisdiction and duties of said city, which are or  
5 shall be vested therein or in the council, or in the mayor, or any  
6 other officer or body of officers, thereof, and to grant to the offi-  
7 cers so appointed the power necessary or proper for the purpose  
8 above mentioned. The council, by ordinance, shall define the  
9 duties of all officers so appointed, and may provide them a reas-  
10 onable salary, which shall be payable out of the city treasury  
11 which salary shall not be increased or diminished during their  
12 term of office, and shall require and take from all of them whose

13 duty it shall be to receive its funds, assets or property, or have  
14 charge of the same, such bonds, obligations, or other writing as  
15 they shall deem necessary or proper to insure the faithful per-  
16 formance of their several duties. All officers elected may be re-  
17 moved by the council from office for intemperance, gross im-  
18 morality, gambling, malfeasance or misfeasance in office, or in-  
19 ability or neglect to perform the duties of their respective offices.  
20 Any appointed officer who holds his office at the pleasure of the  
21 council, may be removed from his office for cause, after due no-  
22 tice. The chief of police and any other police officer appointed  
23 by said council, shall have all power, rights and privileges within  
24 the corporate limits of said city in regard to the arrest of per-  
25 sons, the collections of claims and the execution and return of  
26 process that can be legally exercised by a constable of a district  
27 within this state; and may without having any warrant or other  
28 process therefor, arrest any person who commits any offense  
29 against the laws of this state or infraction of the ordinances of  
30 said city, in his presence. The chief of police shall be *ex officio*  
31 the keeper of the city jail, and have charge of the city prisoners  
32 confined therein, and may confine any person arrested by him in  
33 the city jail until such time as the charge against such person  
34 can be inquired into by the mayor. Any person confined by the  
35 mayor, for infraction of any of the ordinances of the city, may  
36 pay such fine to either the mayor, the recorder or the chief of  
37 police; and the said chief of police and his sureties shall be liable  
38 for all fines, penalties and forfeitures that a constable of a dis-  
39 trict is liable for in the same court that the said fine, penalties  
40 and forfeitures are now recovered against a district constable.  
41 The chief of police shall also be *ex officio* tax collector of the said  
42 city. For his services as chief of police and tax collector, the  
43 said chief of police shall receive such sum per month as the  
44 council may fix, payable out of the city treasury. The chief of  
45 police shall be appointed to his office by the council. It shall  
46 be his duty as tax collector to collect the city taxes, licenses,  
47 levies, assessments, and other such city claims as are placed in  
48 his hands for collection by the council, and he may distrain and  
49 sell therefor in like manner as a sheriff may distrain and sell for  
50 state taxes; and he shall, in all other respects, have the same  
51 powers, as a sheriff to enforce the payment and collection thereof.

## ARTICLE VII.

*Official Bonds.*

Sec. 16. All bonds, obligations or other writings taken in  
2 pursuance of any provision of this act or under the provisions of  
3 and order of said city, shall be made payable to "The City of  
4 Welch," and the obligors therein and their heirs, executors, ad-  
5 ministrators and assigns bound thereby shall be subject to the same  
6 proceedings on such bonds, obligations or writings for enforcing  
7 the conditions of the terms thereof, by motion or otherwise, be-  
8 fore any court of record or justice of the peace having jurisdic-  
9 tion thereof, held or acting in or for said McDowell county, or  
10 any district thereof or elsewhere, that the sheriff or collector of  
11 said county and his sureties are or shall be subject to on his bond  
12 taken for the enforcement of the duties in the payment of the  
13 county levy.

## ARTICLE VIII.

*Oath of Office.*

Sec. 17. The mayor, recorder and councilmen, and all other  
2 officers provided for in this act, shall each, before entering upon  
3 the duties of their offices, and within fifteen days after receiving  
4 their certificates of election or appointment, take the oath or  
5 affirmation prescribed by law for all officers in this state, and  
6 make oath or affirmation that they will truly, faithfully and im-  
7 partially to the best of their ability, discharge the duties of their  
8 respective offices so long as they continue therein. Said oath or  
9 affirmation may be taken before any person authorized to ad-  
10 minister oaths under the laws in force at the time the same is  
11 taken, or before the mayor or recorder of said city; but in any  
12 event a copy of said oath of said officer shall be filed with the  
13 recorder.

## ARTICLE IX.

*Term of Office.*

Sec. 18. The mayor, recorder and councilmen, shall enter  
2 upon the duties of their offices upon the first day of July next  
3 after their election and continue for the period of two years and  
4 all appointed officers shall enter upon the duties of their offices  
5 as soon as they have qualified; and all officers, both elected and  
6 appointed, shall remain in office until their successors are elected

7 or appointed and qualified, or until removed therefrom in the  
8 manner prescribed by law.

Sec. 19. If any person elected to any office shall not be  
2 eligible thereto under the provisions of this act, or shall fail to  
3 qualify as herein required, the council shall declare his said office  
4 vacant and proceed to fill the vacancy as required by this act.

#### ARTICLE X.

##### *The Mayor.*

Sec. 20. The mayor of the said city shall be chairman of  
2 its council, shall preside at the meeting of the council, and shall  
3 also be a conservator of the peace within the said city. He shall  
4 especially see that the orders, by-laws, ordinances, acts and reso-  
5 lutions of the council are faithfully executed. He shall be *ex*  
6 *officio* justice of the peace within the said city and shall, within  
7 the same, have, possess and exercise all the powers and perform  
8 all the duties vested by law in a justice of the peace, except he  
9 shall have no jurisdiction in civil causes of action arising out of  
10 the corporate limits of the city, unless the defendant resides or is  
11 found therein and process therein served upon him. He shall  
12 have the same power to issue attachments in civil suits as a jus-  
13 tice of the peace of his county has; but, in such case, he shall  
14 have no power to try the same, but such attachments shall be  
15 made returnable and heard before a justice of the peace of his  
16 county. Any warrant issued by him, or other process, may be  
17 executed at any place in said county. He shall have control of  
18 the police of said city and may appoint special police officers,  
19 whenever he may deem it necessary, and may suspend any police  
20 officer of the city until the next regular meeting of the council.  
21 And it shall be his duty especially to see that the peace and good  
22 order of the city are preserved, and that persons and property  
23 therein are protected, and to this end he may arrest or cause the  
24 arrest and detention of all violators of the laws of this state and  
25 ordinances of the city, before issuing his warrant therefor, if  
26 the offense is committed in his presence. He shall have power to  
27 issue his warrant for the arrest and apprehension of all persons  
28 violating the ordinances of the city, and shall have power to try  
29 the same and impose upon such violators of the ordinances of  
30 said city such fines and penalties as are prescribed by the ordin-  
31 ances thereof. He shall have the power to issue executions for all  
32 fines, penalties and costs imposed by him, or he may require the

33 immediate payment thereof, and in default of such payment, he  
34 may commit the party in default to the jail of said county, or  
35 other place of imprisonment used by such corporation, if there  
36 be one, until the fine or penalty and the costs be paid. And in  
37 all case where a person is sentenced to imprisonment or to the  
38 payment of a fine of ten dollars or more (and in no case shall a  
39 judgment for a fine be for less than ten dollars if the defendant,  
40 his agent or attorney object to a less fine being imposed) such  
41 person shall be allowed an appeal from such decision to the crim-  
42 inal court of the county of McDowell, upon the execution of an  
43 appeal bond with security deemed sufficient by said mayor to cover  
44 the fine and costs, and the cost in the criminal court in case said  
45 judgment be affirmed, with condition that the person proposing  
46 to appeal, shall make his personal appearance before the criminal  
47 court of McDowell county and will perform and satisfy any judg-  
48 ment which may be rendered against him by the criminal court  
49 on such appeal. If such appeal be taken, the warrant or arrest,  
50 if any, a transcript of the judgment, the appeal bond and other  
51 papers in the case shall be forthwith delivered by the said mayor  
52 to the clerk of said court, and the said court shall proceed to try  
53 the case as upon an indictment or presentment and render such  
54 judgment, including costs, as the law and evidence may require.  
55 The expense of maintaining any person committed to jail as  
56 hereinbefore set forth by the mayor, except it be to answer an  
57 indictment, shall be paid by the said city and taxed as costs  
58 against the defendant. He shall from time to time recommend  
59 to the council such measures as he may deem useful and need-  
60 ful for the welfare of the city. For his services as mayor, he  
61 shall receive the sum of one hundred and twenty dollars per year,  
62 to be paid out of the city treasury in monthly installments and  
63 such fees as may be collected in the trial of cases by him as such  
64 mayor and *ex officio* justice of the peace.

#### ARTICLE XI.

##### *The Recorder.*

Sec. 21. The recorder shall keep an accurate record of all  
2 the proceedings of the council, and shall have charge of and pre-  
3 serve the records of the city. In case of the absence of the mayor  
4 from the city, or his inability from any cause to act, or during  
5 any vacancy in the office of mayor, the recorder shall perform such  
6 duties of the mayor as pertain to the office of mayor, and to that

7 end, in addition to the other powers herein conferred upon him,  
8 the recorder is hereby vested with all the powers necessary for  
9 the performance of the duties of the mayor, while acting as such,  
10 including the authority of the mayor, pertaining to civil suits.  
11 The recorder shall be *ex officio* assessor of said city, and shall  
12 perform such duties as are imposed by law. He shall be  
13 paid a salary of four hundred and twenty dollars per year, pay-  
14 able in equal monthly installments, for his services as such re-  
15 corder and assessor, to be paid out of the city treasury.

#### ARTICLE XII.

##### *Quorum.*

Sec. 22. The presence of the mayor, or *ex officio* mayor and  
2 three members of said council shall be necessary to constitute a  
3 quorum for the transaction of business at all meetings of the  
4 council of said city.

#### ARTICLE XIII.

##### *Record Books.*

Sec. 23. The council shall cause to be kept by the recorder  
2 in a well bound book to be called the "minute book," an accurate  
3 record of all its proceedings, ordinances, acts, orders and reso-  
4 lutions, and in another to be called "ordinance book," accurate  
5 copies of all general ordinances adopted by the council; both of  
6 which shall be accurately indexed and open to the inspection of  
7 anyone required to pay taxes in the city, or who may be other-  
8 wise interested therein.

9 All oaths and bonds of officers in the city, and all papers of  
10 the council shall be endorsed, filed and securely kept by the re-  
11 corder. The bonds of officers shall be recorded in a well bound  
12 book to be called "record of bonds." The recorder shall perform  
13 such other duties as by ordinance of the council may be pre-  
14 scribed. The transcript of ordinances, acts, orders and resolu-  
15 tions certified by the recorder under the seal of the city shall be  
16 admissible in evidence in any court, or before any justice.

Sec. 24. At each meeting of the council the proceedings of  
2 the last meeting shall be read and corrected, if erroneous, and  
3 signed by the presiding officer for the time being. Upon the call  
4 of any member the ayes and noes on any question shall be taken

5 and recorded by the recorder in the "minute book." The call  
6 of the members for such vote shall be made alphabetically.

ARTICLE XIV.

*Tie Vote.*

Sec. 25. The mayor and recorder shall have votes as mem-  
2 bers of the council, and in case of a tie, the presiding officer for  
3 the time being shall have the casting vote, but in no case shall  
4 the presiding officer vote twice on the same proposition.

ARTICLE XV.

*Meetings of Council.*

Sec. 26. The regular meetings of the council shall be pub-  
2 licly held at such times and at such places in the city as they  
3 shall from time to time ordain and appoint; and it shall be law-  
4 ful for the council by ordinance to vest in any officer of the city,  
5 or in any member, or number of members, of its own body, the  
6 authority to call special meetings and prescribe the mode in which  
7 notice of such special meetings shall be given; if a majority  
8 of the members of the council do not attend any regular or  
9 special meeting, those in attendance shall have authority to com-  
10 pel the attendance of absent members under such reasonable pen-  
11 alties as they may think proper to impose by ordinance. All  
12 questions put to vote, except such matters as hereinafter provided  
13 for, shall be decided by a majority of the members present.

ARTICLE XVI.

*Payment of City Funds.*

Sec. 27. All moneys belonging to the city shall be paid over-  
2 to the city treasurer; and no money shall be paid out by him  
3 except as the same shall have been appropriated by the council,  
4 and upon an order signed by the mayor and recorder, and not  
5 otherwise, except at the expiration of his term of office upon the  
6 order of the council, signed by the mayor and recorder, he shall  
7 pay over to his successor all the money remaining in his hands.

ARTICLE XVII.

*Corporate Powers.*

Sec. 28. The common council of said city shall have, and is  
2 hereby granted, power to have said city surveyed; to lay out,

3 open, vacate, straighten, broaden, change grade of, grade, re-  
4 grade, curb, widen, narrow, repair, pave, and repave streets,  
5 alleys, roads, squares, steps, sidewalks, and gutters for public  
6 use, and to alter, improve, embellish, and ornament and light  
7 the same, and to construct and maintain public sewers and  
8 laterals, and shall in all cases have power and authority to assess  
9 upon, and collect from, the property benefited thereby such part  
10 of the expense thereof as shall be fixed by ordinance, except as  
11 hereinafter provided; to have control of all streets, avenues roads,  
12 alleys, and grounds for public use in said city, and to regulate  
13 the use thereof and driving thereon, and to have the same kept  
14 in good order and free from obstruction, pollution or litter on  
15 or over them; to have the right to control all bridges within said  
16 city and the traffic there-over; to change the name of any street,  
17 avenue, or road within said city, and regulate and cause the num-  
18 bering and renumbering of houses on any street, avenue, or road  
19 therein; to provide for and regulate the naming of streets, ave-  
20 nues, and public places; to regulate and determine the width of  
21 streets, sidewalks, roads, and alleys; to order and direct the  
22 curbing, recurbing, paving, repaving and repairing of side-  
23 walks and footways for public use in said city, to be done and  
24 kept clean and in good order by the owners of adjacent prop-  
25 erty; to prohibit and punish the abuse of animals; to restrain  
26 and punish vagrants, mendicants, beggars, tramps, prostitutes,  
27 drunken or disorderly persons within the city, and to provide  
28 for their arrest and manner of punishment; to prohibit by ordin-  
29 ance the bringing into the city any person or animal afflicted with  
30 contagious or infectious diseases and to punish any violater 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 houses of prostitution or ill-fame, houses of assignation, and  
34 gaming houses, or any part thereof, and to punish those engaged  
35 in gaming; to prohibit within said city, or within two miles there-  
36 of, slaughter houses, soap or glue factories, and houses and places  
37 of like kind, and any other thing or business dangerous, unwhole-  
38 some, unhealthy, offensive, indecent, or dangerous to life, health,  
39 peace or property; to provide for the entry into, and the examina-  
40 tion of, all dwellings, lots, yards, enclosures, buildings, and struc-  
41 tures, cars, vehicles of every description, and to ascertain their  
42 condition for health, cleanliness, or safety; to regulate the building  
43 and maintenance of party walls, partition fences or lines, fire walls,



44 fire places, boilers, smokestacks, and stove pipes; to provide for  
45 and regulate the safe construction, inspection, and repairs of all  
46 public and private buildings, bridges, basements, culverts, sewers,  
47 or other buildings or structures of any description; to take down  
48 and remove, or make safe and secure, any and all buildings,  
49 walls, structures or superstructures at the expense of the own-  
50 ers thereof, that are, or may become, dangerous, or to require  
51 the owners, or their agents, to take down and remove them, or  
52 put them in a safe condition, at their own expense; to regulate,  
53 restrain, or prohibit the erection of wooden or other buildings  
54 within the city; to regulate the height, construction, and in-  
55 spection of all new buildings hereafter erected, and the altera-  
56 tion and repair of any buildings already erected, or hereafter  
57 erected in said city, and to require permits to be obtained for  
58 such buildings and structures, and plans and specifications  
59 thereof to be first submitted to the building inspector; to regu-  
60 late the limit within which it shall be lawful to erect any steps,  
61 porticos, bay windows, bow windows, show windows, awnings,  
62 signs, columns, piers, or other projection or structural ornaments  
63 of any kind for the houses or buildings fronting on any street  
64 of said city; to establish fire limits and to provide the kind of  
65 buildings and structures that may be erected therein, and to  
66 enforce all needful rules and regulations to guard against fire  
67 and danger therefrom; to require, regulate, and control the  
68 construction of fire escapes, for any buildings or other structures  
69 in said city; to control the opening and construction of ditches,  
70 drains, sewers, cess-pools, and gutters, and to deepen, widen, and  
71 clear the same of stagnant water or filth, and to prevent obstruc-  
72 tion therein, and to fill, close or abolish the same, and to de-  
73 termine at whose expense the same shall be done; and to build  
74 and maintain fire station houses, crematories, jails, lock-ups, and  
75 other buildings, police stations and police courts, and to regu-  
76 late the management thereof; to acquire, establish, lay-off, ap-  
77 propriate, regulate, maintain, and control public grounds, squares  
78 and parks, hospitals, market houses, city buildings, libraries, and  
79 other educational or charitable institutions, either within or  
80 without the city limits; and when the council determines that  
81 any real estate in or out of the city is necessary to be acquired  
82 by said city for any such purpose, or for any public purpose, or  
83 is necessary in the exercise of its powers herein granted, the  
84 power of eminent domain is hereby conferred upon said city,

85 and it shall have the right to institute condemnation proceedings  
86 against the owner thereof in the same manner, to the same extent  
87 and upon the same conditions, as such power is conferred upon  
88 public corporations by chapter forty-two of the code of West  
89 Virginia, of the edition of one thousand nine hundred and six,  
90 and as now, or may be hereafter, amended; to purchase, sell,  
91 lease, or contract for, and take care of, all public buildings and  
92 structures and real estate deemed proper for the use of said city;  
93 and for the protection of the public, to cause the removal of un-  
94 safe walls, structures, or buildings, and the filling of excavations;  
95 to prevent injury or annoyance to the business of individuals  
96 from anything dangerous, offensive, or unwholesome; to abate,  
97 or cause to be abated, all nuisances, and to that end and there-  
98 about to summon witnesses to bear testimony; to regulate or  
99 prohibit the keeping of gunpowder and other combustible or  
100 dangerous articles; to regulate, restrain, or prohibit the use of  
101 firecrackers or other explosives or fireworks, and all noises or  
102 performances which may be dangerous or annoying to persons,  
103 or tend to frighten horses or other animals; to provide and main-  
104 tain proper places for the burial of the dead, in or out of the  
105 city, and to regulate interments therein upon such terms and  
106 conditions as to price and otherwise as may be determined; to  
107 provide for shade and ornamental trees, shrubbery, grass, flow-  
108 ers, and other ornamentation, and the protection of the same; to  
109 provide for the poor of the city, and to that end may contract  
110 with the proper authorities of McDowell county to keep and main-  
111 tain the poor, or any number thereof, upon terms to be agreed  
112 upon; *provided, however*, that the said city of Welch shall not  
113 keep or maintain the paupers of said city until such time as  
114 the county court of McDowell county shall relieve the said city of  
115 Welch from the payment of all taxes for the support of the  
116 paupers residing outside of the corporate limits of said city;  
117 to make suitable and proper regulations in regard to the use of  
118 the streets, public places, sidewalks, and alleys by street cars, foot  
119 passengers, animals, vehicles, motors, automobiles, traction en-  
120 gines, railroad engines and cars, and to regulate the running and  
121 operation of the same so as to prevent obstruction thereon, en-  
122 croachments thereto, or injury, inconvenience, or annoyance to  
123 the public; to prohibit prize fighting, cock and dog fighting; to  
124 license, tax, regulate, or prohibit theaters, moving pictures, cir-  
125 cuses, the exhibition of showmen, and shows of any kind, and

126 the exhibition of natural or artificial curiosities, caravans, menag-  
127 eries, and musical exhibitions and performances, and other things  
128 or business on which the state does, or may, exact a license tax;  
129 to organize and maintain paid fire companies and departments,  
130 and to provide necessary apparatus, engines and implements for  
131 the same, and to regulate all matters pertaining to the prevention  
132 and extinguishment of fires; and to make proper regulations for  
133 guarding against danger and damage from fires, water, or other  
134 element, to regulate and control the kind and manner of plumb-  
135 ing and electric wiring, airships, balloons, wireless stations, and  
136 other appliances, for the protection of the health and safety of  
137 said city; to levy taxes on persons, property, and licenses; to  
138 license and tax dogs and other animals, and regulate, restrain,  
139 and prohibit them, and all other animals and fowls running at  
140 large and as one means of prevention to provide for impounding  
142 thereof, and upon the failure of the owner to reclaim, to make  
141 or confining such fowls and animals at the expense of the owner  
143 sale thereof; to provide revenue for the city and appropriate the  
144 same to its expenses; to adopt rules for the transaction of business  
145 for its own regulation and government; to promote the general  
146 welfare of the city, and to protect the persons and property of  
147 citizens therein; to regulate and provide for the weighing of  
148 produce and other articles sold in said city, and to regulate the  
149 transportation thereof, and other things through the streets,  
150 alleys, and public places; to have the sole and exclusive right to  
151 grant, refuse, or revoke any and all licenses for the carrying on  
152 of any business within said city on which the state exacts, or  
153 may exact, a license tax; to establish and regulate markets and  
154 to prescribe the time for holding the same, and what shall be  
155 sold in such market, and to let stalls or apartments and regu-  
156 late the same, and to acquire and hold property for market pur-  
156 poses; to regulate the placing of signs, billboards, posters and  
158 advertisements in, or over the streets, alleys, sidewalks, and  
159 public grounds of said city; to preserve and protect the peace,  
160 order, and safety and health of the city and its inhabitants, in-  
161 cluding the right to regulate the sale and use of cocaine, mor-  
162 phine, opium, and poisonous or dangerous drugs, to prohibit the  
162-a carrying of concealed or dangerous weapons within the corpo-  
162-b rate limits of said city; to punish drunkenness; to prevent gam-  
162-c bling; to prohibit anything against good morals and common  
162-d decency, and to fix punishment therefor; to prevent the dese-

162-*e* cration of the Sabbath day; to prohibit profane swearing;  
162-*f* to prohibit the illegal sale of intoxicating drinks, mixtures or  
163 preparations; to appoint and to fix the places of holding city  
164 elections; to erect, own, lease, and authorize or prohibit the  
165 erection of gas works, electric light works, or water works,  
166 in or near the city, and to operate or to regulate the opera-  
167 tion of the same, and sell the products or services thereof, and  
168 to do any and all things necessary and incidental to the conduct  
169 of such business; to require any company or person furnishing  
169-*a* gas ,electricity or water to said city for use of the inhabitants  
169-*b* thereof, to put in standard meters for the measurement thereof,  
169-*a* gas, electricity or water to said city for use of the inhabitants  
169-*c* and may appoint an inspector of meters with power to remove  
169-*d* the same if not standard and in good working order; to pre-  
169-*e* used or intended to be used by the public or any individual;  
169-*f* and to require the extension of gas, electric and water lines  
169-*g* by such respective companies to any and all parts of the city  
169-*h* when the said council shall deem the same necessary;  
169-*i* to provide for the purity of water, milk, meats, and pro-  
170 visions offered for sale in said city, and to that end pro-  
171 vide for a system of inspecting the same and making and en-  
172 forcing rules for the regulation of their sale, and to prohibit  
173 the sale of any unwholesome or tainted milk, meats, fish, fruits,  
174 vegetables, or the sale of milk containing water or other things  
175 not constituting a part of pure milk; to provide for inspecting  
176 dairies and slaughter houses, whether in or outside of the city,  
177 where the milk and meat therefrom are offered for sale with  
178 said city, and to prohibit the sale of any article deemed unwhole-  
179 some, and to condemn the same or destroy or abate it as a nuis-  
180 ance; to provide for the regulation of public processions so as to  
181 prevent interference with public traffic, and to promote the good  
182 order of the city; to prescribe and enforce ordinances and rules  
183 for the purpose of protecting the health, property, lives, decency,  
184 morality, cleanliness, and good order of the city and its in-  
185 habitants, and to protect places of divine worship in and about  
186 the premises where held, and to punish violations of all ordi-  
187 nances even if the offenses under and against the same shall also  
188 constitute offense under the law of the state of West Virginia or  
189 the common law; to provide for the employment and safe keep-  
190 ing of persons who may be committed in default of the payment

191 of fines, penalties, or costs under this act, who are otherwise  
192 unable, or fail, to discharge the same, by putting them to work  
193 for the benefit of the city upon the streets or other places in or  
194 out of the city provided by said city, and to use such means to  
195 prevent their escape while at work as the council may deem ex-  
196 pedient; and the council may fix a reasonable rate per day as  
197 wages to be allowed such person until the fine and costs against  
198 him are thereby discharged; to compel the attendance at public  
199 meetings of the members of the council; to have and exercise such  
200 additional rights, privileges, and powers as are granted to mu-  
201 nicipalities by chapter forty-seven of the code of West Virginia,  
202 as amended. For all such purposes, except that of taxation, and  
203 for purposes otherwise limited by this act, the council shall have  
204 jurisdiction, when necessary, for one mile beyond the corporate  
205 limits of said city; to grant and regulate all franchises in,  
205-a upon, over and under the streets, alleys and public ways of  
205-b said city, under such restrictions as are contained herein or  
205-c shall be provided by ordinance, but no exclusive franchise  
205-d shall be granted by said council to any individual or corpora-  
205-e tion, nor shall any franchise be granted for a longer period  
205-f than fifty years; to regulate licenses and restrict the use of  
205-g motor-busses, automobiles, carriages, drays, and wagons, upon  
205-h the streets, alleys and public grounds of said city when same  
205-i are being used for hire and reward.

206 And the council shall have the right to establish, construct,  
207 and maintain public markets on the grounds which does, or shall,  
208 belong to said city, or which it shall acquire, by purchase, or  
209 otherwise, and to sell, lease, repair, alter, or remove any public  
210 markets, or buildings which have been, or shall be, so constructed,  
211 and to preserve and protect the peace and good order at the  
212 same, and regulate the manner in which they shall be used.

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 prescribed, to adopt  
217 and enforce all needful orders, rules, and ordinances not con-  
218 trary to the laws and constitution of this state; and to prescribe,  
219 impose, 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 products of such labor, and with the consent of the

223 county court of McDowell 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.

226       The council shall have authority to pass all ordinances not  
227 repugnant to the constitution and laws of the United States  
228 and of this state, which shall be necessary and proper to carry  
229 into full effect the power, authority, capacity and jurisdiction  
230 which is or shall be granted to or vested in the said city, or in  
231 the council or in any officer or body of officers of said city, and  
232 to enforce any and all of the ordinances by reasonable fines and  
233 penalties, and upon the failure to pay any fine or penalty im-  
234 posed, may compel the offender to labor without compensation  
235 at and upon any of the public works or improvements under-  
236 taken, or to be undertaken, by said city, or to labor at any work  
237 which the said council may lawfully employ labor upon, at such  
238 reasonable rates per diem as the council may fix, until any fine,  
239 or fines and costs upon any offender by said city have been fully  
240 paid and discharged after deducting reasonable charges of sup-  
241 port while in the custody of the officers of the city; *provided,*  
242 that upon the violation of any ordinance providing the same  
243 penalties inflicted by the state statutes for similar offenses,  
244 then upon conviction and imposition of penalty under such  
245 ordinance, no further prosecution shall be had in any of the  
246 courts of the state for the same offense. And in all cases where  
247 a fine is imposed for an amount exceeding ten dollars and costs,  
248 or a person be imprisoned, or be compelled to labor as afore-  
249 said for a greater term than ten days, an appeal may be taken  
250 from such decision upon the terms and conditions as appeals  
251 are taken from the judgment of a justice of this state. Such  
252 fines and penalties shall be imposed and recovered, and such  
253 imprisonment inflicted and enforced by and under the judg-  
254 ment of the mayor of said city; or in case of his absence or  
255 inability to act, then by any member of the council, to be ap-  
256 pointed by the council for that purpose; and for his services  
257 in trying cases, whether civil, criminal or infractions against  
258 ordinances, the mayor shall be entitled to charge and collect  
259 such fees as are paid to justices of the peace for similar services.  
260 And in all such cases the chief of police, or other officer per-  
261 forming the service shall be entitled to receive such fees as  
262 are paid to constables for similar services; *provided, further,*

263 that the fee for making any arrest shall be one dollar, whether  
264 such officer be the chief of police or other officer. In addition  
265 to the powers above enumerated, the said city council shall  
266 have power to build, construct, maintain and operate a sufficient  
267 sewerage system and water works, as may be necessary for the  
268 proper supply of water to the inhabitants of the said city, for  
269 both public and private use, and said city shall have the power  
270 to purchase or condemn any water works now in the said city  
271 or hereafter placed therein by any party other than said city,  
272 whenever the council of said city shall deem proper, and such  
273 order shall have been ratified by a vote of the qualified voters  
274 of said city, at an election called for that purpose, with due  
275 notice, and at least two-thirds of the votes cast at said election  
276 shall vote for the ratification of said council to purchase or  
277 condemn said water works; and the said city shall have the  
278 power to enlarge the said water works, if so purchased or con-  
279 demned, by putting additional reservoirs either within or out  
280 of said city; and the said city shall have the right, if its council  
281 shall deem proper, and the order of said council be ratified by  
282 a vote as aforesaid, to build, construct, maintain, and operate  
283 such water works in the said city as may be deemed proper  
284 without the purchase or acquisition of any water works then  
285 in said city and said city shall have the right to lay pipes and  
286 mains for the proper distribution of said water, either in or  
287 out of said city, as shall be necessary for the proper distribu-  
288 tion of same, and for that purpose may acquire by lease, pur-  
289 chase or condemnation all such lands as shall be necessary,  
290 either within or without the said city, or they may contract for  
291 such work to be done, in either event to supply an adequate  
292 supply of pure, healthful water for said city, and do all things  
293 necessary to supply of said city and the inhabitants thereof  
294 with water as aforesaid; and the said city may acquire by pur-  
295 chase or condemnation any electric light plant now in said  
296 city or hereafter placed therein by any party other than said  
297 city, and shall have the right to build, construct, maintain, and  
298 operate such plant for furnishing electricity for said city, and  
299 for the inhabitants thereof, but no electric light plant shall be  
300 purchased, condemned, or built or operated unless voted on by  
301 the qualified voters, of said city at an election called and held

302 as aforesaid, and the same be ratified by a two-thirds vote of  
303 all votes cast at said election.

ARTICLE XVIII.

*Police Docket.*

Sec. 29. A well bound book, indexed, to be denominated the  
2 "police 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 appearance,  
6 or non-appearance, the defense, the hearing the judgment, the  
7 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.

ARTICLE XIX.

*Taxation.*

Sec. 30. The council shall be governed in all respects in  
2 laying the annual levy or any additional or special levy by chapter  
3 nine of the acts of the extraordinary session of the legislature of  
4 West Virginia of one thousand nine hundred and eight and by  
5 chapter eighty-five of the acts of the session of the legislature of  
6 one thousand nine hundred and fifteen as the same is amendatory  
7 of certain sections of the said chapter nine of the said acts of  
8 one thousand nine hundred and eight, except that they may in-  
9 clude a poll tax of not exceeding one dollar each year upon each  
10 able bodied man therein, who is above the age of twenty-one years  
11 and not over fifty years of age, which poll tax shall be used ex-  
12 clusively for opening, improving and maintaining roads, streets and  
13 alleys of the city, and shall designate the same as the "street  
14 taxes;" and the said council may also impose such license tax  
15 upon dogs and other animals as they may deem proper, and collect  
16 the same from the owners of such animals, as other taxes are  
17 collected, and prescribe such rules, regulations and penalties  
18 governing the payment of such tax on animals as they may deem  
19 reasonable. And the general annual levy upon the taxable property  
20 within the corporate limits of said city shall not exceed the sum of  
21 thirty-five cents upon each one hundred dollars valuation. But in  
22 addition to said levies above mentioned, and in addition to any



23 levies provided by the general law, with which these are not  
24 meant to conflict, the council of said city, beginning with the  
25 year one thousand nine hundred and nineteen, are empowered to  
26 and shall lay a special annual levy not to exceed ten cents on each  
27 one hundred dollars valuation of the property in said city for  
28 the purpose of creating a sinking fund with which to pay off the  
29 principal of the present outstanding bonded indebtedness of said  
30 city when the same becomes due and for the purpose of paying  
31 annually, when due, the interest coupons of the said present out-  
32 standing bonded indebtedness of the said city, which said special  
33 levy shall be continued annually by the council for as many years  
34 as may be necessary to pay off said present outstanding bonded  
35 indebtedness and the interest coupons that may become due there-  
36 on, but no longer. Also, in addition to the above, the said council,  
37 beginning with the year one thousand nine hundred and nineteen,  
38 are empowered to and shall lay a special annual levy not to ex-  
39 ceed five cents on each one hundred dollars valuation of the  
40 property in the said city for the purpose of paying off any out-  
41 standing orders issued against the treasury of said city prior to  
42 July the first, one thousand nine hundred and eighteen, and for  
43 the purpose of paying off any debts contracted prior to said date  
44 or any judgment taken against the said city prior to said date.  
45 And both of the aforesaid special levies, when collected, shall be  
46 used for no other purposes than for the aforesaid purposes for  
47 which they shall be laid as aforesaid.

#### ARTICLE XX.

##### *Assessment and Collection of Taxes.*

Sec. 31. It shall be the duty of the assessor to make an assess-  
2 ment of the property within the city subject to taxation substan-  
3 tially in the manner and form in which assessments are made  
4 by the assessor of the county, and return the same to the council  
5 on or before the first day of June of each year, and for this pur-  
6 pose he shall have all the powers conferred by law upon county  
7 assessors. He shall list the number of dogs and other animals sub-  
8 ject to license tax in the city, and the names of the persons owning  
9 the same, which list shall be returned. In order to aid the asses-  
10 sor in ascertaining the property subject to taxation by said city,  
11 he shall have access to all books and public records of said Mc-  
12 Dowell county, without expense to him or said city, and he shall

13 have the same power and be subject to the same penalties in ascer-  
14 taining and assessing the property and subjects of taxation of said  
15 city as are granted and imposed on the county assessors throughout  
16 the state by general law; and the council shall have authority to  
17 prescribe by general ordinance, such other rules and regulations  
18 as may be necessary to enable and require such assessor to ascer-  
19 tain and properly assess all property liable to be taxed by said  
20 city, so that such assessment and taxation shall be uniform and  
21 equal, and the council may enforce such rules and regulations by  
22 reasonable fines to be imposed on any one failing to comply there-  
23 with. When he shall complete his assessment book he shall deliver  
24 the same when sworn to, to the city council.

Sec. 32. There shall be a lien on all real estate within the  
2 said city taxes assessed thereon, and for all fines and penalties as-  
3 sessed against or imposed upon the owners thereof, by the au-  
4 thorities of said city, including expenses for making, maintaining  
5 and repairing, paving and macadamizing sidewalks, drains, gut-  
6 ters and streets from the time the same are so assessed or imposed,  
7 which shall have priority over all the other liens except taxes due  
8 the United States and the lien for taxes due the state, county and  
9 district, and such lien may be enforced by the council in the man-  
10 ner provided by law for the enforcement of the lien for county  
11 taxes. And the laws of the state of West Virginia in relation to  
12 delinquent taxes, and the sale of property therefor, are hereby  
13-23 and in all respects adopted as to all proceedings in relation to  
24 taxes for city purposes delinquent in said city. And the powers and  
25 duties conferred by the laws of said state upon county courts and  
26 their clerks and sheriffs in regard to delinquent taxes and their  
27 collection, are hereby in all things conferred upon said city council,  
28 its recorder and other city officials whose duties are of a similar  
29 nature as those of said county officials, in so far as the same may  
30 be directly or by implication applicable in the collection of delin-  
31 quent taxes due said city.

Sec. 33. It shall be the duty of the city tax collector when  
2 the extended copies of the assessor's books are completed, to receive  
3 a copy thereof, receipting to the council for the same, and it shall  
4 be his duty to collect from the parties the entire amount of the  
5 taxes with which they are severally charged therein, and may pro-  
6 ceed to collect the same at any time after the first day of August,  
7 and may enforce the payment thereof by levy upon the personal

8 property, and sale thereof, of the person charged with taxes at  
9 any time after the first of October, next, after said taxes are as-  
10 sessed. He may also allow a discount of two and one-half per  
11 cent on all taxes paid on or before the thirtieth day of November.  
12 Said taxes shall be a lien upon the property upon which they are  
13 assessed, from and after the time the assessor's books are com-  
14 pleted, verified and returned to the city council, and he shall write  
15 the word "paid" opposite the name of each person who pays the  
16 taxes against him, and shall also give to the person paying such  
17 taxes a receipt therefor; *provided, however,* that said treasurer  
18 may distrain at any time for any taxes assessed against a person  
19 who is about to remove, or who has removed from said city, after  
20 such taxes are assessed, and the books returned as aforesaid. He  
21 shall also receive such other moneys of the city as he is authorized  
22 by this act to receive, and also all moneys ordered by the council  
23 to be paid to him, giving receipt therefor to the parties paying the  
24 same, and shall keep an accurate, itemized account of all money  
25 received by him. His books shall, at all times, be open for the  
26 inspection of the mayor, council, city recorder, and to any tax-  
27 payer of the city. He shall also make up monthly statements of  
28 the money received by him and the amount paid out by him and  
29 to whom, showing the amounts in his hands from all sources, and  
30 shall post the same in the mayor's office on the last day of each  
31 month. He shall pay out the money in his hands upon the order  
32 of the city council, upon orders signed by the mayor and the re-  
33 corder. He shall, on or before the expiration of the term of office  
34 of the mayor, and at such other times as the council may require,  
35 present to the council a full and complete statement of all the  
36 moneys with which he is chargeable, or that have been received  
37 by him and not previously accounted for, and shall at the same  
38 time, in like manner, furnish a complete statement, by separate  
39 items, of all disbursements made by him during such period, with  
40 his vouchers evidencing the same. He shall receive all taxes  
41 upon licenses and receipt to the party paying the same, by en-  
42 dorsement upon the permit granted by order of the council, or  
43 mayor as the case may be. He shall, upon the expiration of his  
44 term of office, turn over to the council all books and other prop-  
45 erty in his possession belonging to the city, except the money in  
46 his hands, which he shall turn over to his successor, upon the order  
47 of the council, as hereinbefore provided; and shall, before entering

48 upon the duties of his office, execute a bond with good security  
49 payable to said city in a penalty of not less than ten thousand  
50 dollars, conditioned that he will faithfully discharge the duties of  
51 his office and account for and pay over as required by law and  
52 the orders, ordinances, rules and regulations of the council of said  
53 city, all money which shall come into his hands, which bonds shall  
54 be subject to the approval of the council. He shall be chargeable  
55 with all the city taxes, levies and assessments and money of the  
56 city which shall come into his hands and shall account therefor.

Sec. 34. In addition to the other duties of the assessor it  
2 shall be his duty on or before the first day of August, in each year,  
3 to make a copy from the real and personal property books pre-  
4 pared by him, and to certify such under his hand as a true and  
5 correct copy thereof, and to deliver the same to the council, to  
6 assist said council in preparing the annual estimate of expenses  
7 to be certified as a basis for the annual levy. After such annual  
8 levy is made in each year, it shall be the duty of the assessor to  
9 extend said levy upon said real estate and personal property books  
10 for said city, but the tax collector shall prepare proper tax tickets  
11 therefrom against all owners of real estate and personal property  
12 subject to taxation in said city.

#### ARTICLE XXI.

##### *Licenses.*

Sec. 35. The council shall prescribe by ordinance the time  
2 and manner in which licenses of all kinds shall be applied for  
3 and granted, and shall require the payment of the tax thereon to  
4 the city recorder before the delivery thereof to the person applying  
5 therefor, which tax shall include the same fees for the issuing  
6 of such licenses as are charged for similar services by state and  
7 county officers, which fees shall be paid into the city treasury.  
8 The council may revoke any such license for a breach of any of  
9 the conditions, or for other good cause shown, but the person  
10 holding such license, must first have reasonable notice of the time  
11 and place of hearing and adjudicating the matter, as well as the  
12 cause alleged; and shall be entitled to be heard in person or by  
13 council, in opposition to such revocation. The term for which  
14 licenses provided for in this charter be granted shall be  
15 governed by the general law providing for state licenses.

Section 36. The council shall have the right to institute

2 and prosecute proceedings in the name of the city for condemna-  
3 tion of real estate for streets, alleys, roads, drains, sewers, market  
4 grounds, city prison, city hall, water works, electric light plant or  
5 other works, or purposes of public utility. Such proceedings  
6 shall conform to the provisions of chapter forty-two of the code  
7 of West Virginia, and the expenses thereof shall be borne by the  
8 city, except in cases where it is proper under said chapter to  
9 charge said expenses or any part thereof against the defendant.

#### ARTICLE XXII.

##### *Bond Issues.*

Sec. 37. The council of the said city shall have the right  
2 to bond the said city for the purpose of paving the said streets,  
3 or for other permanent improvements, or for the purpose of taking  
4 up, paying off or refunding any already outstanding city bonds  
5 or items of indebtedness, whenever the council thereof may deem  
6 the same necessary; but the aggregate indebtedness of the said  
7 city for all purposes shall never at any time exceed five *per centum*  
8 of the assessed valuation of the taxable property therein according  
9 to the last assessment next preceding said date. The said council  
10 shall provide a fund for the payment of the interest annually on  
11 the said indebtedness so created, and to pay the principal thereof  
12 within and not exceeding thirty-four years; *provided*, that no  
13 debt shall be contracted hereunder, unless all questions connected  
14 with the same be first submitted to a vote of the qualified voters  
15 of said city, and have received three-fifths of all the votes cast  
16 for and against the same.

#### ARTICLE XXIII.

##### *Indebtedness Prohibited.*

Sec. 38. The council of the said city shall not, at any time,  
2 or for any purpose, create any indebtedness against the said city  
3 except as provided in the next preceding section, exceeding the  
4 available assets of the said city for the current year; and if the  
5 said council shall create such indebtedness or issue orders on the  
6 city for an amount exceeding the amount of money collected for  
7 that year for said city from all sources, and the amount of money  
8 then in the treasury appropriated, the members of said council  
9 shall be severally and jointly liable for the payment of the excess

10 of such indebtedness or orders over the amount of money appli-  
11 cable thereto, and the same may be recovered in any court having  
12 jurisdiction thereof. Any councilman violating the provisions of  
13 this section shall be deemed guilty of malfeasance in office, and  
14 may be removed as such councilman in pursuance of section fifteen  
15 of this act. *Provided, however,* this shall not be applicable to  
16 such members who have voted against said excess; and, *provided,*  
17 *further,* that the vote of each member of council shall be recorded.

ARTICLE XXIV.

*Maintain Roads and Streets.*

Sec. 39. The said city shall construct, conduct and main-  
2 tain its own roads and streets, and by reason thereof shall not be  
3 required to pay any district or county road levies for the con-  
4 struction and maintenance of roads outside of the city limits.

ARTICLE XXV.

*Ordinances.*

Sec. 40. All ordinances, by-laws, resolutions and rules of the  
2 town of Welch in force on the day preceding the passage of this  
3 act, which are not inconsistent therewith, shall be and remain  
4 in full force over the whole boundary of said city of Welch, as  
5 established by this act, until the same are amended or repealed  
6 by the council of said city, and the officers elected on the first  
7 Thursday in January, one thousand nine hundred and nineteen,  
8 in the city of Welch, shall remain in office until their successors  
9 under this act are elected and qualified as hereinbefore provided;  
10 and after this act takes effect, shall have jurisdiction over all the  
11 territory embraced in the boundary specified in this act, and shall  
12 perform all the duties of such respective officers under this act;  
13 but nothing in this act shall be construed or held to, in any way,  
14 affect or impair any of the bonds, obligations or indebtedness of  
15 the city of Welch issued or contracted prior to the passage of  
16 this act; but, on the contrary, the said city of Welch shall be  
17 liable for all the bonds, obligations and indebtedness of the city  
18 of Welch as though the same had been created under this charter.

ARTICLE XXVI.

*Streets and Sidewalks.*

Sec. 41. The council shall have power, without petition of the  
2 owners of abutting property, to provide for the grading, con-

2-a struction, maintenance and repair of sidewalks, drains and  
3 gutters upon the streets of the city, and assess the expense of the  
4 construction, maintenance and repair of the same upon the prop-  
5 erty abutting thereon and the owners thereof, and collect the same  
6 in the same manner as other taxes and levies are collected, and  
7 shall have power, without the petition of the owners of abutting  
7-a property, to grade, macadamize and pave the streets of the said  
8 city, or any of them, and assess part of the expenses of grading,  
9 macadamizing and paving not to exceed one-third thereof upon the  
10 abutting property on each side thereof, and the owners thereof, and  
11 collect the same in the same manner as other taxes and levies are  
12 collected; and such assessments for sidewalks, drains, gutters, mac-  
13 adamizing and paving shall be a lien upon such abutting property,  
14 the same as other taxes and levies within said city upon the prop-  
15 erty therein. *Provided*, that nothing herein shall be construed  
16 to prevent the council from arranging for the construction of any  
17 such improvement, by agreement with the abutting property own-  
18 ers, if the council shall so desire and deem it advisable to do so.

Sec. 42. The city council shall have power, upon the  
2 petition in writing of the owners, of the greater amount of  
3 frontage of the lots abutting on any street or alley or between  
4 any two cross streets, or alleys, to provide for the construction  
5 reconstruction, repair and maintenance, of all local improvements  
6 including the grading, paving, sewerage and otherwise perma-  
7 nently improving of streets and alleys of the city, and to provide  
8 for the assessment of the cost thereof, including all incidental  
9 expenses and the cost of intersections of streets, with interest  
10 payable annually, against the abutting or other specially bene-  
11 fitted properties, according to their frontages, on each side of  
12 such streets or alleys, and against the owners thereof, upon the  
13 following conditions:

14 (a) *Plan and Resolution.* The city council, when deemed ex-  
15 pedient by it, shall cause plans, specifications, profiles and  
16 estimates of the proposed improvements by grading, paving,  
17 curbing, sewerage or otherwise locally improving any streets or  
18 alleys, to be made and filed in the office of the mayor, and shall  
19 by ordinance and resolution prescribe generally the location and  
20 character of the proposed improvement and refer to such plans,  
21 specifications, profiles and estimates.

22 (b) *Notice and hearing.* The city council shall then

23 cause notice thereof to be published once in some newspaper  
24 published in said city, fixing the date for a hearing thereon not  
25 less than one week after the adoption of such resolution. At  
26 the date stated in such resolution and notice, or at any ad-  
27 journed meeting, the city council shall hear objections to the  
28 proposed improvement and may correct, amend or modify such  
29 plans, specifications, profiles and estimates, not extending such  
30 improvement to any other street or part of street, and may pass  
31 or adopt a resolution or ordinance providing for such improve-  
32 ment, by direct employment of labor or by contract with the lowest  
33 responsible bidder, and for the assessment of the cost thereof  
34 against the abutting or specially benefitted properties on each  
35 side of such street or alley.

36 (c) *Assessment, docketing and payment.* The city council  
37 shall, by resolution or ordinance, levy the assessment of the ap-  
38 proved estimate of the cost of such improvement, including in-  
39 cidental expenses and intersections, upon the abutting or other  
40 specially benefitted properties and against the owners thereof, in  
41 proportion to the frontages of such properties, designating the  
42 same by numbers, names of owners or other convenient descrip-  
43 tion; and shall also assess against any street car or other railway  
44 company the cost of the improvement of the space between the  
45 rails of its track or tracks and two feet additional outside each  
46 rail (unless otherwise provided in the franchise therefor); which  
47 assessments shall be liens upon the respective properties and upon  
48 the tracks and franchises of such company for the distance of  
49 the improvement thereon, and said liens shall have priority over  
50 all other liens except taxes due the state. The said assessment  
51 shall be payable fifteen days after the levying thereof, unless the  
52 owners of such properties may elect to pay the same in ten annual  
53 installments as hereinafter provided; and, within thirty days  
54 after the levying thereof, the city recorder shall cause a memo-  
55 randum of all unpaid assessments to be made, showing the names  
56 of the owners of such properties, descriptions of the properties,  
57 and the amounts of the assessments, respectively, and shall file  
58 the same in the office of the clerk of the county court of Mc-  
59 Dowell county for record in the deed of trust books therein;  
60 such assessments, after said period of thirty days, and before re-  
61 cordation of such memorandum, shall not be liens as against pur-  
62 chasers of such property for value and without notice. Upon



63 payment thereof, releases shall be executed and recorded in the  
64 manner provided by law.

65 (d) *Collateral bonds.* The city council shall, at the option of the  
66 owners or owners of such properties, permit payment of one-tenth  
67 of the amount assessed against them, respectively, within said  
68 fifteen days, and issue and sell its notes or bonds, without vote of  
69 the electors of the city, in anticipation of the payment of such  
70 special assessments in annual installments as follows: One-tenth  
71 of such amount with interest on said one-tenth, at six *per cent*  
72 *per annum*, payable annually, in one year from the date of the  
73 levying of such assessment, and a like one-tenth, with interest as  
74 aforesaid, at the expiration of each succeeding year until the  
75 whole amount shall have been paid.

76 (e) *Method of improvement.* The city council shall, after  
77 levying and collecting assessments and issuing its notes and  
78 bonds as foresaid, proceed with such local improvements accord-  
79 ing to the said approved plans, specifications, profiles, and shall  
80 pay the cost thereof out of the special assessment fund accruing  
81 from such payment and the sale of its notes or bonds. *Provided,*  
82 that the assessment against any such street car or other railway  
83 company shall be deducted from the cost to be paid by the owners  
84 of the abutting lots.

85 (f) *Rebates or further assessments.* Upon the completion  
86 of any improvement, any excess above the actual cost of the im-  
87 provement shall be refunded to the owners of properties on the  
88 basis on which assessed, and in the event of a deficit in the  
89 assessment fund, the city council may by ordinance lay a sup-  
90 plementary assessment on the basis of the actual cost, which shall  
91 be made and collected as provided in the case of the original  
92 assessments for the improvement.

93 (g) *Gas and water lines.* The city council, before making  
94 any such local improvements, shall compel any person, firm or  
95 corporation having gas, water, telephone, street car or other public  
96 utility equipment on, in or under such street or alley under fran-  
97 chises therefor, to be moved, renewed, lowered or raised, and  
98 the gas or water lines or connections to be extended from the  
99 mains to the abutting properties, as directed, within ten days after  
100 notice so to do; and shall also cause the owners of properties  
101 abutting on said street or alley to install sewer connections at  
102 their expense, within ten days after notice so to do; and if the  
103 same be not done within said time, the work may be done by the

104 city, and the cost thereof, with a penalty of ten *per cent* of the  
105 cost, assessed against the owners of such franchises and against  
106 the said properties, respectively, for which such connections are  
107 made, which assessments shall be liens and may be collected as  
108 other taxes.

109 (h) *Damages to improvements.* Whenever any street or  
110 alley of the city, or any part thereof, shall have been graded,  
111 sewerred, or otherwise permanently improved by order of the city  
112 council, pursuant to the authority conferred on them by this sec-  
113 tion, by providing for an assessment of a part of the cost thereof,  
114 as provided by this section, against abutting property and the  
115 owners thereof, it shall not be within the power of the said city  
116 council to thus charge the said property of the owners thereof,  
117 with any part of the cost of regrading, re-paving, re-sewering or  
118 again permanently improving such street or alley until after  
119 fifteen years from the completion of such grading, paving, sewer-  
120 ing or otherwise permanently improving thereof. The city council  
121 shall, by ordinance provide for the protection, preservation and  
122 use of any such local improvements and shall prescribe fines and  
123 penalties for damages or injuries thereto, for which the person  
124 or company causing such injury shall be liable; and no owner or  
125 owners of abutting properties shall be compelled to pay subsequent  
126 special assessments for the reconstruction, repair and mainte-  
127 nance of any curb, pavement, sewer or other local improvement,  
128 so injured or damaged by any other person or corporation in  
129 violation of such ordinance.

130 (i) The city council shall have power to pass and adopt  
131 ordinances not inconsistent with the constitution and laws of this  
132 state, for the purpose of carrying out the provisions of this  
133 section.

Sec. 43. The council of the city of Welch shall provide places  
2 for voting in each ward in all municipal elections of the city, and  
3 appoint commissioners residing therein to hold and conduct the  
4 election hereinbefore provided to be held, and shall pass all proper  
5 ordinances to give this act full force and effect. *Provided*, that  
6 the council may consolidate the voting places of two or more wards,  
7 if in its opinion no inconvenience is placed upon the voters in  
8 the respective wards.

Sec. 44. The city attorney shall be the legal ad-  
2 viser of the city and all of its officers in all matters arising, and

3 in which legal proceedings may be taken; he shall prosecute all  
4 suits, actions and proceedings instituted on behalf of said city,  
5 and defend all suits and actions against said city, and when re-  
6 quested in writing shall give his written opinion to the mayor  
7 or council or any standing committee thereto upon such legal  
8 questions as may be referred to him affecting the city's interest;  
9 he shall perform such other duties as may be required. It shall  
10 be his duty to attend the sessions of the council when requested and  
11 prosecute all trials before said mayor and all appeals that are  
12 taken from such mayor to the criminal or circuit court, and for  
13 his services he shall receive such compensation as the council shall  
14 provide, and in addition thereto in all criminal prosecutions con-  
15 ducted by said city attorney, where there is a conviction of the  
16 defendant, there shall be taxed an attorney's fee in favor of said  
17 city attorney, not less than five nor more than ten dollars, which  
18 said fee shall be taxed as a part of the costs of the case.

Sec. 45. The council shall designate some bank in the city  
2 of Welch to act as treasurer, in which bank all moneys shall be  
3 deposited. If no bank in the said city of Welch is willing to act  
4 as such treasurer, then the council of the city of Welch shall ap-  
5 point a city treasurer, prescribe his duties and provide compensa-  
6 tion not to exceed the sum of three hundred dollars per year, pay-  
7 able in equal monthly installments.

Sec. 46. Each councilman of said city shall receive from  
2 the city to be paid out of the city treasury the sum of one hun-  
3 dred and sixty dollars a year, payable in monthly installments,  
4 and there shall be deducted from the salary of the mayor, recorder  
5 and councilman two dollars for each time either of said officers  
6 shall be absent from a regular meeting of said council, unless  
7 such absence be caused by sickness or absence from the city.

#### ARTICLE XXVII.

##### *Board of Health.*

Sec. 47. The council shall appoint a suitable person, who  
2 shall be a practicing physician, as health commissioner, whose  
3 term of office shall be one year and until his successor is appointed  
4 and qualified. The mayor, health commissioner and city attorney  
5 are hereby constituted and shall be a city board of health. The  
6 board of health shall do and perform all such duties and exercise  
7 such powers as may be required of or conferred upon it by legal

8 ordinances of said city. The board of health shall have the power  
9 to summon witnesses, hear testimony and to do any and all other  
10 things necessary and proper in the performance of its duties under  
11 this act and under the general laws of the state in such case made  
12 and provided.

ARTICLE XXVIII.

*Nuisances.*

Sec. 48. The council of said city shall have authority to  
2 abate and remove all nuisances in said city. It may compel the  
3 owners, agents, assignees, occupants, or tenants of any lot,  
4 premises, property, building, or structure upon, or in which any  
5 nuisance may be, to abate and remove the same by orders therefor,  
6 and by ordinance provide a penalty for the violation of such  
7 orders.

8 Said council may also by its own officers, appointees, and em-  
9 ployees abate and remove nuisances, including all obstructions on  
10 the streets and alleys of said city. It may by ordinance regulate  
11 the location, construction, repair, use, emptying, and cleaning of  
12 all water closets, privies, cess-pools, sinks, plumbing, drains, yards,  
13 lots, area ways, pens, stables, and other places where offensive, un-  
14 sightly, unwholesome, objectionable, or dangerous substances or  
15 liquids are, or may, accumulate, and provide suitable penalties for  
16 violations of such regulations, which may be enforced against the  
17 owner, agent, assignee, occupant, or tenant of any premises or  
18 structure where such violation may occur.

19 If the owner, agent, tenant, assignee, or occupant of any  
20 such premises, lot, property, building, or structure, as is men-  
21 tioned herein, shall fail or refuse to abate or remove any such  
22 nuisance as mentioned herein, or to comply with the provisions  
23 of any such ordinance and the regulations herein contained,  
24 the said council may have said nuisance abated or the provisions  
25 of said ordinance, or ordinances, carried out, after reasonable  
26 notice to said owner, occupant, tenant, agent or assignee, of its  
27 intention so to do, and collect the expenses thereof, with one  
28 per centum per month interest added from the date of said  
29 notice, from the said owner, occupant tenant, agent, or assignee,  
30 by distress or sale, in the same manner in which taxes levied  
31 upon real estate for the benefit of said city are herein author-  
32 ized to be collected, and the expense shall remain a lien upon

33 said lot, or part of lot, the same as taxes levied upon real estate  
34 in said city; which lien may be enforced by a suit in equity  
35 before any court having jurisdiction, as other liens against real  
36 estate are enforced. In case of nonresident owners of real estate,  
37 such notice may be served upon any tenant, occupant, assignee,  
38 or rental agent, or by publication thereof once a week for not  
39 less than two consecutive weeks in some newspaper of general  
40 circulation in said city.

41 And in all cases where any tenant, occupant, or agent is re-  
42 quired to abate and remove any nuisance under the provisions  
43 of this section, or comply with the provisions of any such ordi-  
44 nance as is mentioned herein, the expense thereof may be de-  
45 ducted out of the accruing, or accrued, rent of said property,  
46 or amount due said owner from said agent, and such tenant,  
47 occupant, or agent may recover the amount so paid from the  
48 owner, unless otherwise especially agreed upon.

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

Sec. 49. The council 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 extend any sewer or  
4 system of sewerage, which the said city may construct, own, or  
5 control, to connect with such sewer or system of sewerage, all  
6 privies, ponds, water closets, cess-pools, drains, or sinks located  
7 upon their respective properties or premises so that their con-  
8 tents may be made to empty into such sewer or system of sewer-  
9 age, and shall have the right to charge a reasonable amount for  
10 the right to connect to such sewer.

#### ARTICLE XXIX.

##### *Franchises.*

Sec. 50. Franchises shall be granted by the council, allowing  
2 to persons or corporations, for a limited time such occupancy of  
3 portions of the street as may be necessary for works of public

4 utility and service, such as steam railway tracks, street railway  
5 tracks, poles and trolley wires, telephone and telegraph poles and  
6 subways, electric light and other electric poles, wires and sub-  
7 ways, and gas and steam pipe lines, water, water lines and pipes.  
8 But no such franchise shall hereafter be granted except under  
9 the following restrictions:

10 (1) No ordinance, granting any franchise for the use of  
11 the streets, alleys or public grounds for the town for any of the  
12 purposes of public utility above named, or for any other pur-  
13 pose of like nature, shall be passed unless it shall have been first  
14 proposed in the council, and notice of the object, nature and ex-  
15 tent of the franchise shall have been published at least thirty days  
16 by the applicant, in some newspaper of general circulation in the  
17 city of Welch, before being acted upon, and shall have received  
18 a vote of the majority of the members of the council at a regular  
19 meeting after said publication. The votes thereon shall be taken  
20 by ayes and noes, and the same entered upon the journal.

21 (2) Every grant of any such franchise shall be for a  
22 limited period of time. If no limit be expressly provided in the  
23 grant, the franchise shall be valid for one year only. In no case  
24 shall the franchise extend for a period exceeding fifty years.

25 (3) No grant of any such franchise shall be made without,  
26 at the time of making it, providing that the grantee shall in-  
27 demnify the city against all damages caused by the construction  
28 of such work. All reasonable additional provisions and condi-  
29 tions may be made for the protection of the public from unneces-  
30 sary damage or inconvenience by reason of such works and the  
31 operation thereof.

32 (4) No grant of a franchise or the extension of, or an ad-  
33 dition to, any line of such work, over any additional street or  
34 territory of the city, shall be made for a period extending beyond  
35 the time limited for the expiration of the franchise of the prin-  
36 cipal work of which it is an extension; and if the franchise of  
37 the principal company or work is one which was granted before  
38 this act goes into effect, and is not limited as to time, the fran-  
39 chise granted for the extension or addition shall nevertheless be  
40 made subject to the conditions hereof, including a time limit of  
41 not exceeding fifty years. If a franchise be secured from the  
42 city by an individual or by an independent or new company, and  
43 the work constructed thereunder afterwards becomes a part of

44 it, or be operated as a part of a larger work of the same kind  
45 whose franchise was previously obtained and is limited to ex-  
46 pire earlier, such later franchise shall, by reason of such annexa-  
47 tion, merger, or single operation, expire simultaneously with such  
48 earlier franchise.

Sec. 51. All ordinances of the town of Welch, as they exist  
2 at the time of the passage of this act, which are inconsistent  
3 therewith, are hereby abrogated, and all acts and parts of acts  
4 inconsistent with any of the provisions of this act are hereby  
5 repealed.

## CHAPTER 5.

(House Bill No. 276--Mr. Bray.)

AN ACT creating the municipal corporation of the city of Ronce-  
verte, in the county of Greenbrier, amending and re-enacting the  
charter granted to said city of Ronceverte by act of the legis-  
lature of West Virginia, chapter nine of the acts of one thousand  
nine hundred and nine, passed on the twenty-fourth day of  
February, one thousand nine hundred and nine.

[Passed February 20, 1919. In effect ninety days from passage. Became a law  
without the Governor's approval.]

SEC.		SEC.	
1.	City of Ronceverte; corporate powers.	29.	Collection of taxes.
2.	Boundaries and jurisdiction.	30.	Accurate account of moneys received and disbursed.
3.	Control of streets and roadways.	31.	Clerk's bond, with sureties.
5.	Governing body.	32.	City solicitor; duties; compensation.
6.	Board of commissioners' powers.	33.	City treasurer; depositing and disbursing of moneys by.
7.	Eligibility to office.	34.	Other officials.
8.	Terms of office.	35.	City health board.
9.	Elections; method of holding;	36.	Lien for taxes.
10.	candidate; ballots; ascertaining	37.	Licenses.
11.	results; tie vote.	38.	Condemnation of real estate for public utility; street paving.
12.		39.	Ordinances, by-laws, etc.
13.	Duties and responsibilities of board of commissioners.	40.	Franchises.
14.	Meetings of the board; keeping of records.	41.	Sidewalks; construction of.
15.	Election of mayor.	42.	Street paving; assessment for.
16.	Majority constitutes quorum.	43.	Sewers; construction of; who to pay for.
17.	Compensation of appointive officials.	44.	Assessment and levy.
18.	Further duties of board of commissioners.	45.	Annual financial statement.
19.	Commissioners prohibited from voting; when.	46.	Bonds; additional levy.
20.	Commissioner cannot be surety on bond for benefit of city.	47.	Terms of office.
21.	Appointive positions; terms of office; renewals.	48.	Penalties.
22.	Duties of appointive officials; mayor, his duties and powers; salary.	49.	City manager; alternative.
23.	Process in proceedings to enforce ordinances.	50.	Present ordinances in effect until repealed.
24.	Execution for fines and costs.	51.	Present officers to continue in power until when.
25.	Jail to be used as lockup; jailor lockup keeper.	52.	Vested rights of the city unaffected by this act.
26.	Keeping of the docket.	53.	Invalid parts of this act not held to invalidate other sections or parts.
27.	Appeals to circuit court.	54.	Act in effect from passage.
28.	City clerk; his duties.	55.	Acts and parts of acts inconsistent herewith repealed.

*Be it enacted by the Legislature of West Virginia:*

*Corporate Powers.*

Section 1. That the inhabitants of that portion of Green-  
3 boundary described in section two of this act, now a municipal  
4 corporation existing and known as the city of Ronceverte, shall  
5 continue to be a body politic and corporate under the same name,  
6 and as such shall have perpetual succession; may use a corporate  
7 seal; may sue and be sued; plead and be impleaded; contract and  
8 be contracted with; acquire property for municipal purposes in  
9 fee simple or lesser interest or estate by purchase, gift, devise, ap-  
2 brier county, in the state of West Virginia, included within the  
10 appropriation, lease, or lease with the privilege to purchase; may  
11 sell, lease, hold, manage and control such property, and make any  
12 and all rules and regulations, by ordinance or resolution which  
13 may be required to carry out fully all provisions of any convey-  
14 ance, deed or will, in relation to any gift or bequest, or the pro-  
15 visions of any lease by which it may acquire property; may grant  
16 public franchises, to be exercised within the city; may acquire,  
17 own, construct, lease and operate light, heat and power plants and  
18 water works; may assess, levy and collect taxes for general and  
19 special purposes on all the subjects or objects within its boun-  
20 daries which the city may lawfully tax; may borrow money for  
21 permanent improvements and public works on the faith and credit  
22 of the city by the issue or sale of bonds or notes of the city, and  
23 in the issuance and sale of bonds or notes of the city the said  
24 city shall be governed by the restrictions and limitations of the  
25 constitution and laws of the state relating to the issuance and  
26 sale of bonds; may pave, repave, curb, recurb, grade, regrade,  
27 sewer, resewer, or otherwise permanently improve any street,  
28 alley, or roadway within the city limits and assess the cost thereof  
29 as hereinafter provided for; may appropriate the money of the  
30 city for all lawful purposes; may create, provide for, construct,  
31 regulate and maintain all things of the nature of public works  
32 and improvements; may direct the laying out of lots and the  
33 opening of streets and roadways; may define, prohibit, abate, sup-  
34 press and prevent all things detrimental to the health, morals,  
35 comfort, safety, convenience, welfare of the inhabitants of the  
36 city, and all nuisances and causes thereof; may regulate the con-  
37 struction, height, and materials used in all buildings and struc-  
38 tures of any kind and every kind, and the maintenance, occu-



39 pancy and use thereof; may regulate and control the use, for what-  
40 ever purposes, of the streets and other public places; may create,  
41 establish, organize and abolish offices not specifically provided  
42 for by this act, and fix the salaries and compensations of officers  
43 and employees when not fixed herein; may make and enforce  
44 local police, sanitary and other regulations, and prescribe, im-  
45 pose and enforce reasonable fines and penalties including impris-  
46 onment, and shall have the right to use the county jail of Green-  
47 brier county when necessary; and may pass such ordinances and  
48 resolutions as may be expedient or necessary for maintaining and  
49 promoting the peace, good government and welfare of the city,  
50 and for the performance of the functions thereof. The city of  
51 Ronceverte, as constituted by this act, shall retain, keep and suc-  
52 ceed to all rights, privileges, property, interest, claims and de-  
53 mands heretofore acquired by, vested in or transferred to the  
54 said city as heretofore constituted and shall have all powers that  
55 now are or hereafter may be granted to municipalities by the  
56 constitution or laws of West Virginia, or that are herein by im-  
57 plication conferred, or are necessary to or consistent with the  
58 purposes of this act; and all such powers, whether expressed or  
59 implied, shall be exercised and enforced in the manner pre-  
60 scribed by this act, or when not prescribed herein, in such manner  
61 as shall be provided by ordinances or resolutions of the govern-  
62 ing body herein provided for.

*Boundaries and Jurisdiction.*

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

3 Beginning at a poplar tree on the north bank of the Green-  
4 brier river, thence north forty-four degrees, fifty-seven minutes,  
5 west one thousand seven hundred forty-nine six tenths feet to a  
6 set stone near the top of the hill. Thence along side and near  
7 the top of said hill, west seven hundred seventy-five three tenths  
8 feet to a set stone, thence south sixty-three degrees, four minutes  
9 west, crossing top of a hill, at five hundred forty-seven feet, and  
10 center of L. & R. railroad track at one thousand two hundred  
11 twenty-four feet and in all two thousand six hundred forty-six  
12 feet to a set stone near stone culvert on the road from Lewisburg  
13 to Ronceverte, thence north eighty-three thirty-three one hun-  
14 dredths west one thousand one hundred forty-six eight tenths feet  
15 to a set stone near D. H. Foglesong's house; thence south sixty-

16 six degrees, forty-eight minutes west three thousand forty-seven  
17 four tenths feet to a set stone on top of a hill, thence south sixty-  
18 one degrees, fifty-six minutes west one thousand fifty-five six tenths  
19 feet to a set stone, in a hollow, thence south twenty-three de-  
20 grees, forty-seven minutes west one thousand two hundred sixty  
21 five tenths feet to a set stone, three feet from G. W. Perry's line,  
22 thence south forty-five degrees, thirteen minutes east two thou-  
23 sand one hundred seventy-nine two tenths feet to a hickory tree  
24 on the north bank of Greenbrier river, and thence upon the said  
25 river with the top of the north bank of the main stream thereof,  
26 and including the big islands, to the poplar tree, the point of  
27 beginning, in all ten thousand feet, more or less.

Sec. 3. The city of Ronceverte 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 for  
6 permanent road improvement within and without the city limits  
7 and have assumed their share of such obligations this act shall  
8 not exempt the taxable property of the city from the payment of  
9 any special taxes provided in said election for the liquidation of  
10 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 Greenbrier shall be chargeable with the con-  
14 struction and maintenance of all bridges within the city.

#### *Governing Body.*

Sec. 5. The municipal authorities of the city shall be three  
2 commissioners who shall constitute and be known as "The board  
3 of commissioners of the city of Ronceverte."

Sec. 6. All corporate powers of said city shall be vested in  
2 and be exercised by the board of commissioners or under its direc-  
3 tion as otherwise provided in this act.

Sec. 7. 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  
3 the city election and who was not for the preceding year assessed  
4 with taxes upon personal or real property, or both, within the  
5 city, of an assessed value of five hundred dollars, and did not  
6 actually pay the taxes so assessed.

Sec. 8. Commissioners shall be elected from the city at large

2 for a term of three years, except that at the first election the one  
3 ascertained to have been elected by the largest number of votes  
4 shall serve for three years, the one ascertained to have been elected  
5 by the next largest number of votes shall serve for two years,  
6 and the third one ascertained to have been elected by the next  
7 largest number of votes shall serve for one year. Thereafter one  
8 commissioner shall be elected each year for a term of three years.  
9 The commissioners shall each receive a salary of fifty dollars per  
10 annum.

#### *Elections.*

Sec. 9. The first election under this act shall be held on  
2 the first Tuesday in June, one thousand nine hundred and nine-  
3 teen, at the regular voting places within the city, under the super-  
4 vision of the council and officials of the city as at present con-  
5 stituted, and be conducted, certified, returned and finally de-  
6 termined, in accordance with the provisions of this act and the  
7 laws and ordinances, or such parts thereof, as are now in effect  
8 and not inconsistent with the provisions of this act.

Sec. 10. Municipal elections under this act shall be con-  
2 ducted as 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 elec-  
7 tion precinct in which he actually resides; but no person shall  
8 be deemed a *bona fide* resident who is residing within the city  
9 limits for any temporary purpose and expects to remove from  
10 the city after said purpose shall have been accomplished. The  
11 board of commissioners may by ordinance provide for the reg-  
12 istration of voters under the laws of the state of West Virginia.  
13 The board of commissioners shall, after the first election held  
14 hereunder, establish the boundaries of and designate and provide  
15 voting precincts within the city, which precinct boundaries and  
16 places of voting shall be, if practicable, in conformity within  
17 the city with those established for general election purposes by  
18 the county.

19 (b) Any person eligible to the office of commissioner may  
20 become a candidate and have his name placed upon the ballot,  
21 either upon his own motion or by others, by filing with the city  
22 clerk a declaration of his candidacy and a certificate of his

23 eligibility, within sixty days next preceding the day of the elec-  
 24 tion, signed by twenty-five qualified voters of the city. Said  
 25 declaration and certificate shall be accompanied by a fee of ten  
 26 dollars to be paid into the treasury of the city, and shall be  
 27 filed with the city clerk not less than fifteen days prior to the  
 28 day of election. The names of all candidates for the office of  
 29 commissioner shall appear on one ballot and said ballot shall  
 30 be without party emblem or designation. The whole number  
 31 of ballots to be printed for the election of commissioners shall  
 32 be divided by the number of candidates and the quotient so  
 33 obtained shall be the number of ballots in each series of ballots  
 34 to be printed.

35 (c) The names of the candidates shall be arranged in  
 36 alphabetical order and the first series of ballots printed. The first  
 37 name shall then be placed last and the next series printed, and  
 38 this process shall be repeated until each name shall have been  
 39 first. These ballots shall then be combined into tablets in the  
 40 order of the series with no two of the same series together.

41 (d) The ballots to be used for the election of commis-  
 42 sioners shall be in form as follows:

43 CANDIDATES FOR ELECTION TO THE OFFICE OF

44 COMMISSIONER.

45 CITY OF RONCEVERTE, W. VA.

46 Tuesday,.....19.....

47 DIRECTION TO VOTER: Put a figure one in the blank space  
 48 opposite the name of the candidate whom you most desire  
 49 elected. Then put a figure two in the space opposite the name  
 50 of the candidate who is your second choice. Then put a figure  
 51 three in the space opposite the name of the candidate who is  
 52 your third choice. Do not mark after more than three names.  
 53 If you spoil this ballot, tear it across once and hand it to the  
 54 election officer in charge and he will give you another.

55	NAME OF CANDIDATES.	CHOICE.
56	.....	.....
57	.....	.....
58	.....	.....
59	.....	.....
60	.....	.....

61 (e) A fac-simile as nearly as possible of the ballot to be  
62 used in all elections, bearing the names of all candidates in alpha-  
63 betical order, shall be published in the same manner as is pro-  
64 vided by law for the publication of ballots for general elections  
65 in West Virginia, together with the certificate of the city clerk  
66 that it contains the names of all candidates filing with him in  
67 the manner prescribed in this act, but that it does not show  
68 the order in which the names will appear on all ballots.

69 (f) A valid ballot cast in the elections for commissioners  
70 shall be one on which the voter has clearly expressed his choice  
71 of one or more candidates. If a voter express the same choice  
72 for more than one candidate, his vote shall be void as for that  
73 choice. If he express more than one choice for one candidate  
74 the highest properly expressed choice only shall be counted for  
75 said candidate.

76 (g) A vote equal to or greater than a majority of the total  
77 valid ballots cast within the city shall be necessary to an election.  
78 During the counting of the votes, all ballots or votes not counted  
79 shall be marked by the election commissioners of each precinct  
80 with the words "not counted" written upon the ballot or oppo-  
81 site the vote not counted, together with a statement of the rea-  
82 sons for not counting, and the total number of invalid ballots  
83 marked thus and not counted shall be ascertained by them at  
84 the conclusion of the counting and be shown upon the precinct  
85 return certificate and subtracted from the total number of bal-  
86 lots taken from the ballot box.

87 (h) In ascertaining the result of the election, the can-  
88 vassing board shall first count the first choice votes received by  
89 each candidate. If a candidate be found to have received a total  
90 of first choice votes equal to or greater than a majority of the  
91 total valid ballots cast, he shall be declared elected.

92 But if more than one commissioner is to be elected or no  
93 candidate shall have received the number of first choice votes  
94 necessary for an election, then the second choice votes received  
95 by each of the candidates who were not elected by the first choice  
96 votes shall be added to his first choice votes, and if one or more  
97 of said candidates shall be found to have received a total of first  
98 and second choice votes equal to or greater than a majority of  
99 the valid ballots cast, that candidate who shall have received the  
100 highest number of first and second choice votes shall be declared  
101 elected. But if the required number of commissioners shall not

102 be found to have been elected by first and second choice votes,  
103 then the third choice votes received by each of the candidates  
104 who were not elected by the first or first and second choice votes,  
105 shall be added to his first and second choice votes, and those  
106 candidates to the number of commissioners yet remaining to  
107 be elected, who shall be found to have received the highest vote,  
108 shall be declared elected in the order of the vote received, be-  
109 ginning with the highest; and if an election of one or more be  
110 prevented by a tie, then of those tied the one or ones who received  
111 the highest total of first and second choice votes shall be declared  
112 elected; and if there be yet a tie, then of those tied the one or  
113 ones who received the highest number of first choice votes shall  
114 be declared elected; and if there be yet a tie, then selection shall  
115 be made by lot by placing within a hat the names of those can-  
116 didates who are tied and drawing therefrom one name at a time  
117 to the number of commissioners yet to be elected. The candi-  
118 dates whose names are thus drawn shall be declared elected as  
119 drawn.

Sec. 11. Commissioners only shall be elected by popular  
2 vote. All other officials and employees shall be appointed by the  
3 commissioners in such manner as is provided by this act or as  
4 they may by ordinance properly prescribe, and shall hold office  
5 during the pleasure of the board of commissioners, subject to re-  
6 moval for cause. The annual election of commissioners shall be  
7 held on the first Tuesday in June. Each person elected or ap-  
8 pointed to an office in the city shall within thirty days after his  
9 election or appointment and before entering upon the duties of  
10 his office, take and subscribe the oath of office prescribed by law  
11 for county officers, which shall be done before a notary public,  
12 and the certificate of the officer administering the oath shall be  
13 filed with the city clerk.

14 The term of office of a commissioner elected and qualified  
15 shall begin with the first day of July next following the day of  
16 his election. A vacancy in the office of commissioner shall be  
17 filled by appointment by the remaining commissioners until the  
18 next municipal election, when said vacancy shall be filled by  
19 election for the part of the term then unexpired.

Sec. 12. At least four weeks before the day of an election  
2 the board of commissioners shall appoint from among the quali-  
3 fied voters for their respective voting precincts such election offi-  
4 cers as are provided for by the laws of the state for holding elec-

5 tions. The said officers of election shall be selected from the  
6 two political parties which at the last preceding state election  
7 cast the highest number of votes in the precinct in which they  
8 reside, and not more than two of said commissioners of election  
9 nor more than one clerk shall belong to the same political party.  
10 At least four weeks before the date of a municipal election the  
11 city clerk shall appoint one ballot commissioner from among the  
12 voters of the two aforesaid political parties, within the city, who  
13 with himself as chairman, shall constitute the board of ballot  
14 commissioners.

15 Elections under this act shall be conducted, returned and  
16 the results thereof ascertained and declared in the manner pre-  
17 scribed by the constitution and laws of the state in so far as said  
18 laws are not inconsistent with this act, and all penalties pre-  
19 scribed by said laws of the state in so far as consistent shall be  
20 applicable under this act.

21 The board of commissioners shall by ordinance provide such  
22 additional regulations in conformity with the provisions of this  
23 act as are necessary for the proper conduct of elections.

24 The duties required of the clerks of the circuit and county  
25 courts under the election laws of West Virginia, shall be per-  
26 formed by the city clerk of said city. The duties required of the  
27 commissioners of the county court under the provisions of said  
28 laws shall be performed by the board of commissioners of said  
29 city. The duties required of the sheriff under the provisions of  
30 said laws shall be performed by the chief of police of said city,  
31 except as specifically provided otherwise herein. And the duties  
32 required of any constable under the provisions of said laws shall  
33 be performed by any member of the police force of the said city.  
34 Wherever the word "county" appears in said laws, the same shall  
35 be taken to refer to the city of Ronceverte, and wherever the  
36 words "election precinct" or "precincts" appear in said laws they  
37 shall be taken to refer to the election precinct or precincts for the  
38 municipal election, and wherever the words "court house" shall  
39 appear in said laws as designating the place of meeting of the  
40 election officers and boards, the same shall be taken to refer to  
41 the municipal building.

42 If at any time a commissioner shall be a candidate for re-  
43 election to said office, the other commissioners shall appoint some  
44 person to act in his stead as a member of the canvassing board for

45 the purpose of canvassing the returns and ascertaining the result  
46 of the election at which he is a candidate.

*Duties and Responsibilities of Board of Commissioners.*

Sec. 13. The board of commissioners shall be vested with all  
2 legislative authority of the city and shall exercise the same by  
3 ordinance; other action by them may be by order upon motion.  
4 They shall, by ordinance, prescribe the manner in which the pow-  
5 ers conferred upon the city shall be exercised in conformity with  
6 the provisions of this act.

Sec. 14. They shall meet in the municipal building of the  
2 city and shall provide by ordinance for the manner and times of  
3 holding said meetings, at least one regular meeting being held  
4 each 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. 15. A meeting shall be held on the first Monday of  
2 July of each year for the purpose of electing one of their num-  
3 ber to the office of mayor. If they shall fail to agree upon a mayor  
4 within ten days, then the oldest commissioner in point of con-  
5 tinuous service shall act as mayor, *pro tempore* until a mayor  
6 may be elected.

Sec. 16. A majority of the commissioners shall constitute  
2 a quorum for the transaction of business, and no act shall be done  
3 unless a majority of the commissioners shall vote in favor thereof.

Sec. 17. They shall fix the compensation of all appointive  
2 officials and employees of the city.

Sec. 18. They shall grant franchises, levy and collect taxes  
2 and assessments, order payment of approved accounts, hear and  
3 determine charges against all officials of the city other than mem-  
4 bers of their own body, require that the laws and ordinances be  
5 obeyed and enforced, cause the affairs of the city to be efficiently  
6 and economically administered, and perform such other duties as  
7 properly devolve upon the chief executive body of the city.

Sec. 19. No commissioner or official of the city shall vote  
2 upon or in any way participate in the consideration of any proposi-  
3 tion in which he is, or may become interested, otherwise than as a  
4 resident of said city, nor shall he be financially interested, directly  
5 or indirectly, in any contract, sale or transaction, to which the  
6 city is a party, nor shall he vote on the same or participate in any



7 manner in said contract, sale or transaction, under penalty, upon  
8 conviction, of forfeiture of his office and a fine of not less than  
9 five nor more than five hundred dollars.

Sec. 20. No commissioner or official of the city shall be  
2 surety on any bond given to or for the benefit of the city.

Sec. 21. The board of commissioners shall elect or appoint  
2 the 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 treasurer.  
7 (e) A street commissioner.  
8 (f) A superintendent of water works and lights.  
9 (g) Such other employees as may be necessary and provided  
10 for by ordinance.

11 Each of said officers shall hold office for one year and be sub-  
12 ject to removal at any time for cause, by the appointing body.  
13 Their duties shall be prescribed by the board of commissioners,  
14 and as herein provided. One person may be elected or appointed  
15 to and discharge the duties of more than one of said offices.

*Duties of Appointive Officials.*

Sec. 22. The mayor shall preside at meetings of the board of  
2 commissioners; shall exercise such authority and perform such  
3 duties as are conferred upon him or imposed upon him by this act,  
4 the ordinances of the city and the laws and constitution of the  
5 state. He shall be the official head of the city for all ceremonial  
6 purposes and upon whom service may be had in civil process and  
7 by the governor for military purposes. He shall see that the orders,  
8 by-laws, ordinances and resolutions of the board of commissioners  
9 are faithfully executed; he shall be ex-officio a justice and con-  
10 servator of the peace within the city and shall within the same,  
11 have, possess and may exercise, all the powers and perform all the  
12 duties whether in civil or criminal proceedings, vested by law in a  
13 justice of the peace. Any summons, warrant or other process,  
14 issued by him may be executed at any place within the county; he  
15 shall have power during the recess of the regular meetings of the  
16 board of commissioners to appoint special police officers when he  
17 shall deem it necessary, and it shall be his duty to see that the  
18 peace and good order of the city are preserved, and that persons  
19 and property therein are protected; and to this end he may arrest  
20 and detain, or cause the arrest and detention of all riotous or dis-

21 orderly persons before taking other proceedings in the case; he  
22 shall from time to time recommend to the governing body such  
23 measures as he may deem needful for the welfare of the city; he  
24 shall not receive any money due or belonging to the state or cor-  
25 poration or to individuals, nor have the civil jurisdiction of a  
26 justice, unless and until he shall have given the bond required of  
27 a justice of the peace by the laws of West Virginia, and all the  
28 provisions of said laws relating to moneys received by justices  
29 shall apply to moneys received by him in like cases.

30 The mayor shall receive a salary of not less than one hundred  
31 nor more than three hundred dollars per annum, and shall not  
32 receive the salary of a commissioner in addition thereto; such  
33 salary shall be in lieu of the fees which would otherwise accrue to  
34 him in proceedings for the enforcement of ordinances, but all  
35 such fees shall be collected when practicable, and accounted for  
36 to the city, and he may tax such costs against any person or cor-  
37 poration found guilty of the violation of any ordinance of the  
38 city, as are provided to be taxed and recovered by justices of said  
39 county in criminal cases.

Sec. 23. The process in proceedings to enforce any ordinance  
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 Ronceverte as plaintiff directed to the chief of police, to  
5 one of the regular police officers of the city, or to any constable of  
6 any district within the said city, requiring him to summon the  
7 person accused of such violations and who shall thereafter be  
8 designated as defendant, to appear before the mayor at the time  
9 and place therein named, to make answer to such accusation and  
10 be dealt with according to law; such summons shall contain such  
11 a statement of the facts alleged as will inform such person of the  
12 general nature of the offense against the city with which he  
13 stands charged, and except in cases of arrest upon view, shall be  
14 issued only upon the complaint on oath, of some creditable person.  
15 But the mayor may for good cause appearing, by endorsement on  
16 the summons, order the person so accused to be forthwith appre-  
17 hended and brought before him for a hearing on the charge. The  
18 clerk of said city as well as the mayor, shall have authority to  
19 receive any complaint in writing of the violation of any ordinance,  
20 and to sign and issue the proper summons based upon such com-  
21 plaint. The mayor shall possess and may exercise the power and  
22 authority belonging to a justice under the laws of the state of

23 West Virginia in summoning and enforcing the attendance and  
24 examination of witnesses, in punishing for contempt, in granting  
25 continuances, and in securing and enforcing the further attend-  
26 ance of the accused with a view to a trial or hearing. If any  
27 recognizance be taken for such further attendance, and is for-  
28 feited, the mayor may record the default, and an action be main-  
29 tained in the name of the city, before the mayor, or any justice  
30 having jurisdiction, against the accused and his sureties, if any,  
31 to recover the penalty thereof.

Sec. 24. The mayor shall have power to issue an execution  
2 for any fine and costs assessed or imposed by him, for the violation  
3 of any ordinances, or he may at the time of rendering judgment  
4 therefor, or at any time thereafter and before satisfaction of such  
5 judgment, by his order in writing, require the immediate pay-  
6 ment thereof; and in default of any such payment he may cause  
7 the person so in default to be apprehended and brought before  
8 him, and commit him to the jail of Greenbrier county or in his  
9 discretion to the prison of said city, if one shall have been pro-  
10 vided, and require him to labor on the streets until the fine and  
11 costs are fully paid; but such imprisonment shall not exceed  
12 ninety days.

Sec. 25. The jail of Greenbrier county may be used as a  
2 lockup for said city. The jailor of said county shall take and  
3 receive into his custody any person authorized to be confined  
4 therein by the ordinance of said city, or sentenced to imprisonment  
5 therein, or committed thereto, for nonpayment of a fine or costs  
6 or for failure to enter into a recognizance by the judgment or  
7 order of the mayor, in proceedings for the violation of an ordi-  
8 nance; and the expense of maintaining such persons while so in  
9 confinement shall, if such person be found guilty of such viola-  
10 tion, be charged to such person as part of the costs, but whether  
11 collected from such person or not, such expense shall be paid to  
12 said jailor by the city.

Sec. 26. A book well bound and indexed, to be denominated  
2 the "docket" shall be kept in the office of the mayor, in which  
3 shall be noted each case brought or tried by him together with  
4 the proceedings therein, including a statement of complaint, the  
5 summons, the return, the fact of appearance, the defense, the  
6 hearing, the judgment, the costs, and in case the judgment be  
7 one of conviction, the action taken to enforce the same; the  
8 record of such case shall be signed by the mayor or other person

9 acting in his stead; and the original papers thereof, if no appeal  
10 be taken, shall be kept together and preserved in his office.

*Appeal.*

Sec. 27. Appeals shall lie from the judgment of the mayor  
2 or municipal court to the circuit court of Greenbrier county, in  
3 accordance with law.

*City Clerk.*

Sec. 28. In addition to such duties as the board of com-  
2 missioners may prescribe, it shall be the duty of the city clerk  
3 to keep the journal of the proceedings of the board of commis-  
4 sioners, and have charge of and preserve the records, papers,  
5 contracts and other documents belonging to the city; it shall be  
6 his duty to attend the sessions of the municipal court and keep  
7 an accurate record of its proceedings, and all judgments shall be  
8 entered by him within twenty-four hours after the same are  
9 rendered; he shall, in cases of sickness or disability of the mayor  
10 to act, or in case of his temporary absence, perform the duties  
11 of mayor, and shall be vested with all the powers necessary for  
12 the performance of such duties; he shall also perform such other  
13 duties pertaining to the fiscal affairs of the city, or otherwise, as  
14 may be required of him by this act or by the board of commis-  
15 sioners.

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

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

9 receipt shall be returned to the council and entered upon its  
10 record and the clerk shall be charged therewith.

11 The clerk shall give notice that said tax tickets are in his  
12 hands for collection, stating the penalty for non-payment thereof,  
13 and the time and place where the same may be paid, which  
14 notice shall be published for two weeks in one or more news-  
15 papers published in the city.

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

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

Sec. 30. The said clerk shall receive all taxes, assessments,  
2 fines and costs, water rents, and other money due the city  
3 authorized by this act, or by any ordinance of the said city, to be  
4 paid to the city, and shall receipt for the same; he shall keep  
5 an accurate account of all money paid to him for the use of said  
6 city, showing under separate accounts the amounts received for  
7 account of taxes, sewer purposes, street improvements or pave-  
8 ments, licenses, water rents and other bills due the city, fines and  
9 costs and of other matters pertaining to his office, which books  
10 shall be at all times open to the inspection of the commissioners  
11 or to any committee appointed by the board of commissioners  
12 for such purposes; he shall pay over promptly all money which  
13 he may receive, within five days after the receipt thereof, into  
14 the hands of the treasurer of the said city, showing an itemized  
15 statement of the several funds included in said payment, taking  
16 the treasurer's receipt therefor; he shall keep his office at the  
17 office of the mayor, unless otherwise ordered by the board of  
18 commissioners, and shall maintain office hours or be at his office  
19 for the transaction of business at such times as the board of  
20 commissioners may prescribe; he shall on or before the first  
21 day of January and July of each year, and oftener if directed  
22 by the board of commissioners, present to the said board a full,  
23 complete and detailed statement of all money with which he is  
24 chargeable, or that has been received by him from all sources  
25 up to that time, together with a statement of all money paid

26 to the treasurer and proper receipts therefor, and he shall at  
27 such times return a list of all taxes, levies, assessments and other  
28 claims in his hands for collection which he shall not have been  
29 able to collect by reason of insolvency, removal, or other cause,  
30 to which list he shall append an affidavit that he has used due  
31 diligence to collect the several items therein mentioned, but has  
32 been unable to do so, and if the board of commissioners should  
33 be satisfied as to the correctness of said list, then may allow him  
34 credit for said claims, but thereafter may direct the said city  
35 clerk or someone else or may themselves take such lawful meas-  
36 ures to collect the same as shall be by the board of commissioners  
37 prescribed. The said clerk shall receive all taxes on licenses,  
38 and receipt to the party paying the same by endorsement upon  
39 the permit granted by order of the board of commissioners and  
40 shall charge himself with the amount received from the same,  
41 and report to the board of commissioners at the next regular  
42 meeting thereafter, the amount so received, and pay the same  
43 over to the treasurer taking his receipt for the same; he shall  
44 upon the expiration of his term of office or upon the order of  
45 the board of commissioners, turn over to his successor all money,  
46 books of account and other property of said city in his possession,  
47 and he and his bondsmen shall not be released until such full  
48 and complete transfer to his successor has been made; he shall  
49 receive such salary as may be fixed by the board of commis-  
50 sioners.

51 The city clerk shall collect the capitation tax for the city  
52 in the same manner and at the same time that the county asses-  
53 sor collects the capitation tax for the county, and in respect to  
54 this duty shall perform the duties required of the county assessor.

Sec. 31. The clerk of said city, before entering upon the  
2 discharge of his duties, shall execute a bond conditioned for the  
3 faithful performance of the duties of his office, and for the ac-  
4 counting for and paying over, as required by law and by this  
5 act, all money which may come into his hands by virtue of his  
6 office, with sureties satisfactory to the board of commissioners,  
7 payable to the city of Ronceverte, in a penalty of not less than  
8 two thousand nor more than ten thousand dollars, as the board  
9 of commissioners may prescribe; he shall be the custodian of all  
10 bonds, notes, certificates and other evidences of indebtedness to  
11 the city, together with all valuable papers which may be placed

12 in his possession by the board of commissioners, except that the  
13 bond of the clerk shall be deposited with the mayor; he shall be  
14 chargeable with, and it shall be his duty to collect the city taxes,  
15 levies and assessments under such regulations as may be pre-  
16 scribed by law and the ordinances of the city, and in case of non-  
17 payment as defined by the laws of West Virginia, shall distrain  
18 and sell therefor in like manner and have the same power and  
19 authority possessed by the officer charged with the collection of  
20 state and county taxes. At the time and in the same manner  
21 provided by the laws of West Virginia for the return and pub-  
22 lication of delinquent tax lists he shall make up a list of taxpay-  
23 ers who are delinquent for the non-payment of tax on personal  
24 property and cause the same to be published in accordance with  
25 the laws of West Virginia for the publication of taxpayers de-  
26 linquent for the non-payment of state and county taxes on per-  
27 sonal property; and at the time and in the manner prescribed  
28 by the laws of West Virginia the said city clerk shall return  
29 to the auditor of West Virginia a list of the real estate in said  
30 city delinquent for the non-payment of taxes and the same shall  
31 be sold in the manner prescribed by law for such sales.  
32 If the clerk shall fail to collect, account for and pay over to the  
33 treasurer of said city any or all of the money with which he  
34 may be chargeable, belonging to the said city, according to the  
35 conditions of his bond and orders of the board of commissioners,  
36 it shall be lawful for the board of commissioners to recover the  
37 same by action or by motion, upon ten days' notice in the cor-  
38 porate name of the city, in the circuit court of Greenbrier  
39 county, against him and his sureties, or any or either of them,  
40 or his or their executors or administrators.

*City Solicitor.*

Sec. 32. 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  
6 board of commissioners, all ordinances for said city, to repre-  
7 sent the said city in all matters and proceedings in any court in  
8 which the said city is interested, and counsel the said board of  
9 commissioners when requested; he shall receive a compensation  
10 for his services to be fixed by the board of commissioners.

*City Treasurer.*

Sec. 33. The treasurer may be a citizen, a bank or trust  
2 company of said city, and shall be appointed by the board of  
3 commissioners and hold office during the pleasure of the board  
4 of commissioners. All money due the city shall be paid to the  
5 clerk, and be by the clerk deposited with the treasurer. The  
6 money deposited with the treasurer shall be disbursed only upon  
7 orders drawn against the same, signed by the mayor and coun-  
8 tersigned by the clerk. The treasurer shall receipt to the clerk  
9 for all money paid by him, and shall keep the regular books of  
10 accounts, showing the amount of the several funds paid or de-  
11 posited with the treasurer by said clerk, and shall make report  
12 to the board of commissioners once a month or at such other  
13 times as the board of commissioners may direct, showing the  
14 receipts and disbursements of the funds of the city, and the  
15 treasurer shall produce his books and accounts to the board of  
16 commissioners or any committee of the same for inspection,  
17 upon the order of the board of commissioners.

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

*Other Officers.*

Sec. 34. The chief of police, city commissioner, and other of-  
2 ficials 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 city,  
7 and the board of commissioners may direct the dismissal of any  
8 employee for cause.



*City Health Board.*

Sec. 35. The board of commissioners shall, at their first 2 meeting after election, and thereafter at the first meeting in July 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 5 physician 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 such 8 chief health officer for said compensation, then the board of com- 9 missioners may appoint any reputable citizen as such chief health 10 officer, who, with the city solicitor and two other citizens of good 11 repute and interested in the welfare of the city, shall constitute 12 the city board of health to exercise all powers conferred upon 13 county health officers and boards by the laws of the state of West 14 Virginia, and the said city board of health shall be independent of 15 the county board of health, but shall bear the same relation to the 16 state health department as county boards of health; the city health 17 board shall protect the health of the city and take such measures 18 as may be advisable to prevent the spread of contagious diseases; 19 establish and maintain quarantines when necessary and required by 20 state laws; may establish rules of sanitation and enforce the same.

21 When the city health board shall have been established and 22 each year thereafter, the county court of Greenbrier county shall 23 estimate and ascertain the whole amount of public funds of the 24 county which has been used, paid out or appropriated in the in- 25 terest of the public health of the county, and shall refund to the 26 city of Ronceverte the proportion of such amount which was borne 27 by the taxable property of the city of Ronceverte to the taxable 28 property of the entire county, and the county of Greenbrier shall 29 be exempt from the maintenance of the public health of the city.

*Lien for Taxes.*

Sec. 36. 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 author- 4 ities of said city, from the time the same are so assessed or imposed, 5 which shall have priority over all other liens, except the lien for 6 taxes due the state, county and district; and which may be en- 7 forced by the board of commissioners or proper officer of the city 8 in the same manner provided by law for the enforcement of the 9 lien for county taxes.

*License.*

Sec. 37. The board of commissioners shall have authority to  
2 require a city license for anything done, carried on or exhibited  
3 within the city, for which a state license is now or may hereafter  
4 be required; for the keeping of hacks, carriages, carts, wagons and  
5 other vehicles for hire within the city, and for the keeping of  
6 dogs within the city; and the board of commissioners may provide  
7 for the killing of all dogs, the keeping of which is not so licensed.  
8 And upon all such licenses the city may impose a reasonable tax  
9 for the use of the city. The board of commissioners shall prescribe  
10 by ordinance the manner in which licenses of all kinds shall be  
11 applied for and granted, and shall require the payment of the  
12 tax thereon to be made to the properly designated official of the  
13 city before delivery to the person applying therefor, and the pro-  
14 visions of section thirty-nine, forty and forty-one of chapter  
15 thirty-six of the acts of one thousand nine hundred and five,  
16 relating to licenses shall govern the city in the granting of licenses  
17 similar in character to those therein mentioned, except where  
18 otherwise herein provided. Licenses for keeping dogs shall expire  
19 on the thirtieth day of June next after they are granted, and all  
20 other licenses may be for such times as the board of commissioners  
21 may determine.

Sec. 38. The board of commissioners shall have the right  
2 to institute proceedings in the name of the city for the condem-  
3 nation of real estate for streets, alleys, sewers, drains, market  
4 grounds, city prison, or other work or purposes of public utility.  
5 Such proceedings shall conform to the provisions of chapter  
6 forty-two of the code of West Virginia and amendments thereto,  
7 and the costs thereof shall be borne by the city, except that in  
8 contests involving a hearing in the circuit court, costs shall be  
9 recovered by the prevailing party.

*Ordinances.*

Sec. 39. No ordinance or by-law, and no resolution or  
2 measure for the expenditure of money other than to defray the  
3 current expenses and incidental expenses of the city, shall be  
4 deemed adopted or passed unless it shall have been fully read  
5 at two consecutive meetings of the board of commissioners, and  
6 shall have received a majority of the votes of all members of  
7 the board of commissioners, when it shall stand and be declared

8 adopted, and not otherwise, except an ordinance for the im-  
9 mediate preservation of the public peace, health or safety, which  
10 shall contain a statement of its urgency.

#### *Franchises.*

Sec. 40. Franchises may be granted by the board of com-  
2 missioners to persons or corporations allowing such occupancy  
3 of portions of the streets and alleys as may be necessary for  
4 works of public utility and service, but no such franchise shall  
5 be passed granting any franchise for the use of any of the streets  
6 or alleys of the city for any of the purposes above named, except  
7 under the 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  
12 and when the same shall be considered by the board of commis-  
13 sioners, shall have been given for four successive weeks in some  
14 newspaper of general circulation published in the city; nor shall  
15 any franchise be granted within thirty days after the application  
16 has been filed, nor until an opportunity has been given any citi-  
17 zen or corporation interested in the granting or refusing of said  
18 franchise to be heard; nor shall any franchise be granted for a  
19 longer period than fifty years. No franchise shall be granted  
20 without provision that the grantee, its successors or assigns, shall  
21 indemnify the city against all damages caused by the construc-  
22 tion of such works.

23 If any corporation or person to whom a franchise has  
24 been granted heretofore, or may hereafter be granted, or their  
25 successors or assigns, shall fail to comply with the conditions  
26 of the ordinance granting such franchise within one year from  
27 the time said conditions are directed to be performed, said fran-  
28 chise shall be and the same become null and void.

#### *Sidewalks.*

Sec. 41. The board of commissioners shall have power to  
2 determine the material to be used in building all sidewalks, and  
3 shall determine where such sidewalks shall be constructed, and  
4 the width and grade thereof, and shall fix upon the material  
5 with which the same shall be built, and may make an order re-

6 quiring the owners of the lots, or parts of lots, facing or abutting  
7 on such sidewalk or footway, to pave the same with such material  
8 and on such grade and of such width, as may have been deter-  
9 mined, at the expense of such owner, and under the supervision  
10 of the official of the city so designated by the board of commis-  
11 sioners, and if such owner of such abutting lot or lots, fail or  
12 refuse to pave the same in the manner or within the time re-  
13 quired by the board of commissioners, the said board of commis-  
14 sioners may cause the same to be done, at the expense of the  
15 city, and to assess the amount of such expense upon such owner,  
16 and the clerk shall notify the owner of said lot the amount of  
17 such assessment and if the said assessment be not paid within  
18 thirty days from the date of said notice he shall cause a memor-  
19 andum showing the name of the owner of said lot, a description  
20 of the lot, and the amount of such assessment, to be filed in the  
21 office of the clerk of the county court of Greenbrier county,  
22 which shall be entered of record in the judgment lien docket in  
23 his office, and the same shall constitute a lien on such property,  
24 which may be enforced by a suit in equity in the name of the  
25 city, in the circuit court of Greenbrier county as other liens  
26 against real estate are enforced, and upon the payment of such  
27 assessment the clerk shall issue to the person entitled thereto a  
28 release of said lien; *provided, however,* that reasonable notice  
29 shall first be given to said owners that they are required to con-  
30 struct such sidewalks or footways, and in case the owner is a  
31 non-resident of the state, the notice aforesaid may be given by  
32 publication for four successive weeks in a newspaper published  
33 in the city. The provisions of this section shall also be appli-  
34 cable to needed repairs to any of the pavements of the city, and  
35 to the substitution of new pavements for any which may have  
36 been heretofore or which may be hereafter laid and completed,  
37 and which may be deemed insufficient.

*Street Paving.*

Sec. 42. The board of commissioners shall have authority  
2 to provide that any street or alley or portion thereof, between  
3 the curbstones, shall be macadamized, or paved with bricks, cob-  
4 blestones, or other suitable material, upon the lowest and best  
5 terms obtainable, and the whole cost of such macadamizing or  
6 paving, from curb to curb of such street or alley, shall be as-

7 sessed to the owners of the land or lots or fractional parts of  
8 lots, fronting or abutting on such street or alley, that is to say,  
- 9 the property owners on each side of said street or alley to be  
10 assessed one-third each and the city one-third of the costs of  
11 said improvements, to each property owner a sum proportionate  
12 to the distance, or extent in feet by him owned, and one-third  
13 of the sum so assessed shall be paid to the city by each property  
14 owner within thirty days after the completion of the work and  
15 the remainder in two equal installments of six and twelve months  
16 thereafter with interest thereon, or at such other times as the  
17 board of commissioners may prescribe. The expense of macadam-  
18 izing or paving at the intersections of streets and alleys shall be  
19 defrayed 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 property  
23 and the number of feet fronting on said improvements, as well  
24 as the time and the place when and where the said board of com-  
25 missioners will proceed to fix said assessment as above provided,  
26 and giving notice to any person having any interest in said prop-  
27 erty to appear and show cause, if any they can, why such assess-  
28 ment should not be made; and the board of commissioners may in  
29 making said assessments, consider the petition of any person or cor-  
30 poration relative to the inequality of said assessment, and may  
31 equalize and adjust the same. A copy of the list of such assess-  
32 ments showing name of owner, number of lot, or parcel of land,  
33 amount of assessment, attested by the mayor and clerk, shall be  
34 filed in the office of the clerk of the county court of Greenbrier  
35 county, and recorded in the judgment lien docket in said office  
36 within thirty days after the assessments are approved by the said  
37 board of commissioners, otherwise the lien of said assesment shall  
38 be void as to any purchaser of said real estate, for value and with-  
39 out notice, who shall have purchased such real estate, and the  
40 clerk shall execute and deliver on behalf of said city a release  
41 of such lien, upon the payment in full of said assessment. The  
42 assessment so made to any owner of real estate shall constitute  
43 a lien on such estate; and like proceedings may be had and taken  
44 to enforce such lien, or to recover from such owner the amount of  
45 such assessment, or of any installment thereof, as those provided

46 for in the preceding section providing for the laying of pave-  
47 ments.

*Sewers.*

Sec. 43. The board of commissioners of said city of Ron-  
2 ceverte shall have the authority under the provisions of ordi-  
3 nances adopted by the said board of commissioners of said city  
4 to cause all necessary sewers to be constructed in any or all of  
5 the streets, alleys and public grounds of said city upon the lowest  
6 and best terms to be obtained, and shall fix a uniform assess-  
7 ment against the owners of the real estate, lots or parcels of  
8 ground within the said city, abutting or abounding on the streets,  
9 alleys or public grounds, in which sewers are so constructed,  
10 which assessment shall not exceed seventy-five cents for each  
11 front foot of land, lot or parcel of ground, fronting or abutting  
12 on the street, alley or public ground in which such sewer is con-  
13 structed. The cost of constructing such sewers in the intersec-  
14 tions of such streets or alleys is to be paid by the city. The one-  
15 half of said assessment shall be paid within thirty days after  
16 said sewer is completed and ready for use, and the remaining  
17 one-half shall be paid within six months thereafter, with interest  
18 at the rate of six *per centum per annum* on the deferred amount.

19 The board of commissioners may by ordinance compel the  
20 owners of lots or parcels of ground, fronting or abutting on any  
21 street or alley in which such sewer is constructed, under the  
22 supervision of such officer as the board of commissioners may  
23 designate, to connect any residence, store, or warehouse, factory  
24 or other building occupied by persons as a place of residence or  
25 for labor, with such sewer within thirty days after its comple-  
26 tion, and may inflict fines and penalties for any violation of such  
27 ordinance.

28 The intersections of all streets and alleys shall be provided  
29 with sewers at the expense of the city, but all connections to  
30 sewers in street or alley to be made by property owner abutting  
31 on said street wherein sewer is constructed. The sums of money  
32 thus assessed for sewer connection shall be a lien on the lots,  
33 tracts or parcels of land upon which they are assessed, which  
34 lien may be enforced by a suit in equity in the circuit court of  
35 Greenbrier county to subject the said real estate to the payment  
36 of the sum so assessed against it as herein provided, in the same  
37 manner that judgment liens are enforced.

38 The board of commissioners shall cause a notice to be pub-  
39 lished for one week in some newspaper published in the city,  
40 showing the owners of the real estate and number of feet owned  
41 by each, fronting on said improvement, as well as the time and  
42 place when and where the said board of commissioners will pro-  
43 ceed to fix said assessments as herein provided, and giving notice  
44 to any person having an interest in the property so assessed to  
45 appear and show cause, if any he can, why such assessment  
46 should not be made; and the board of commissioners may, in  
47 making or reviewing said assessment consider the petition of  
48 any person, or corporation, affected thereby, relative to the ine-  
49 quality of said assessment and may equalize and adjust the same.

50 A copy of the list of such assessments, showing the name  
51 of owner, number of lot, or parcel of land, and amount of assess-  
52 ment, attested by the mayor and clerk, shall be filed in the office  
53 of the clerk of the county court of Greenbrier county and re-  
54 corded in the judgment lien docket in said office within thirty  
55 days after the said assessments are approved by the board of  
56 commissioners, otherwise the lien of said assessment shall be  
57 void as to any purchaser of said real estate, for value and with-  
58 out notice, who shall have purchased such real estate, and the  
59 clerk shall execute and deliver on behalf of said city a release of  
60 such lien, upon the payment in full of said assessment.

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

#### *Assessment and Levy.*

Sec. 44. All assessments of property for purposes of taxation,  
2 the preparation for and levy of all taxes and levies, general or  
3 special, shall be ascertained, advertised within the said city, and  
4 levied, and in all respects conform to the provisions of chapter

5 nine of the acts of one thousand nine hundred and eight, and any  
6 amendments which may be made thereto; any provision, section  
7 or clause in this act to the contrary notwithstanding.

8 An annual capitation tax of one dollar may be levied upon  
9 each male inhabitant of said city who has attained the age of  
10 twenty-one years, and the said capitation tax may be collected at  
11 the same time that the assessment is made.

#### *Financial Statement.*

Sec. 45. In the month of August in each year the board of  
2 commissioners shall cause to be published in two newspapers of  
3 opposite politics, if such there be, published within the city, and  
4 if there be only one newspaper published within the city, then in  
5 that newspaper, a sworn statement of the financial condition of  
6 said municipal corporation; said statement shall contain an  
7 itemized account of the receipts and expenditures of the city  
8 showing the source from which all the money was derived, and  
9 the name of a person to whom an order was issued, together with  
10 the amount of each order, and why such order was issued, ar-  
11 ranging the same under distinct heads, and also a specific list of  
12 the debts of the city, showing the purpose for which any debt was  
13 contracted, the time it became due, the rate of interest up to what  
14 time the interest thereon has been paid, the amount of money in  
15 the treasury at the end of the preceding year and debts contracted  
16 during the preceding year. Such statement shall be prepared by  
17 the city every twelve months for the year ending June thirtieth,  
18 and shall then be published according to the provisions of this  
19 section. The said statement shall be sworn to by the clerk, by the  
20 mayor and members of the finance committee of the board of  
21 commissioners.

#### *Bonds—Additional Levy.*

Sec. 46. The municipal authorities of said city of Ronceverte  
2 shall have power and authority to issue and make sale of the bonds  
3 of said city as provided by law and apply the proceeds thereof to  
4 the payment for any general improvement therein or to any debt  
5 or obligation of the said city, as provided by law.

#### *Terms of Officers.*

Sec. 47. The terms of all officers of the said city, except the  
2 members of the board of commissioners, 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.  
7 Terms of office shall begin on the first day of July of each year  
8 and end on the thirtieth day of June, and until their successors  
9 are elected and qualified.

*Penalties.*

Sec. 48. If the board of commissioners fail or refuse to  
2 perform 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 misdemeanor,  
5 and upon conviction thereof, shall be fined not less than ten  
6 dollars nor more than one hundred dollars for each offense.

*City Manager—Alternative.*

Sec. 49. If, at the end of any 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,  
4 employ, or elect a city manager, at a compensation to be fixed  
5 by said board of commissioners, and such city manager shall be  
6 the 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 by  
13 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  
18 may discontinue the office of city clerk, and redistribute the duties  
19 hereunder conferred upon the city clerk and other officials, and  
20 provide such assistance to the city manager as may by the board  
21 of commissioners be deemed necessary.

22 This section shall be without force and effect, until such  
23 time as the board of commissioners, as provided herein, shall  
24 declare by ordinance and proclamation that it shall go into effect.

Sec. 50. 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. 51. Persons holding office under the municipal govern-  
2 ment of the city of Ronceverte as at present constituted, shall  
3 continue in office and in the performance of their respective duties  
4 until the day on which this act shall become effective, and there-  
5 after so long as their services shall be required, pending a re-  
6 organization of the said municipal government to conform to the  
7 requirements of this act.

Sec. 52. 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 by  
6 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. 53. 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 for  
5 its operation upon the section or part so held invalid.

Sec. 54. This act shall for the purpose of nominating and  
2 electing officers and for all purposes connected therewith take  
3 effect from the time of passage, and for all other purposes shall  
4 take effect on the first day of the following July, one thousand  
5 nine hundred and nineteen.

Sec. 55. Chapter nine of the acts of the legislature of one  
2 thousand nine hundred and nine entitled "An act to create the  
3 municipal corporation of the city of Ronceverte," and all other  
4 acts and parts of acts coming within the purview of this act and  
5 inconsistent herewith, are hereby repealed.

## CHAPTER 6.

(House Bill No. 137—Mr. Byrnes.)

AN ACT to amend and re-enact chapter two of the acts of the year one thousand nine hundred and five, and chapter one of the acts of the year one thousand nine hundred and seven, of the legislature of West Virginia, amending the charter of "the city of Benwood," in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof.

[Passed February 5, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

## SEC.

1. The city of Benwood.
2. Boundaries described.
3. City wards.
4. City officers.
5. Municipal authorities.
6. Elections.
7. Terms of officers.
8. Compensation.
9. Oath of office.
10. Present officers continue in power until successors are elected; vacancies in office; how filled.
11. Relation of council to appointive officers.
12. Bonds and all obligations payable to "The city of Benwood."
13. Authority of council to remove from office officials guilty of misconduct or neglect of duty.
14. Place and time of holding meetings.
15. Keeping of records and minutes.
16. Reading and correcting minutes of previous meetings.
17. Adoption of ordinances, by-laws, etc.
18. Ordinances and general provisions for the government of the city.
19. Furnishlug of water for city, domestic, fire and other purposes.
20. Franchises; granting of; restrictions and conditions.
21. Power to prescribe penalties for violation of ordinances.
22. Mayor; his duties and powers; salary; process in proceedings to enforce ordinances.
23. Execution for fines and costs assessed.
24. Jail of Marshall county to be used as city lock-up.
25. Mayor's docket.
26. Right of appeal from mayor's judgment.
27. Transcript of record.
28. Including costs in appeal.
29. Appeal in costs other than for violation of ordinances.
30. } City clerk; his duties; keeping of records; assessment and collection of taxes; discount allowed; license taxes; salary.
31. }
32. }

## SEC.

33. Bond of city clerk; further duties of clerk.
34. City solicitor; duties; compensation.
35. Chief of police; policemen; bonds with sureties; salary.
36. Arrests for violations of ordinances; trials.
37. Health officer; duties; compensation.
38. Treasurer; how selected; deposit and disbursement of moneys; statement to council; treasurer's bond; compensation.
39. Street commissioner; duties; compensation.
40. City engineer; duties; compensation.
41. Fiscal year, begins and ends.
42. Property subject to taxation.
43. Estimate of expenses; levy.
44. Lien for taxes.
45. Distress for taxes; remedies.
46. Other remedies.
47. } Licenses; what for; how applied
48. } and granted.
49. Power to condemn.
50. Sidewalks; method of providing.
51. Street paving; providing for; assessment to pay for.
52. Sewers; may be constructed; procedure.
53. Adoption of chapter eight, acts of nineteen hundred and eight, relative to paving and sewerage, by vote of council.
54. Issuance of bonds; when permitted; additional levy.
55. Publication of notices in newspapers.
56. Present officers to continue in power until successors qualify; ordinances in effect until amended, repealed or superseded.
57. Repealing acts and parts of acts inconsistent.

*Be it enacted by the Legislature of West Virginia:*

That chapter two of the acts of the year one thousand nine hundred and five, and chapter one of the acts of the year one thousand nine

hundred and seven, of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Section 1. The inhabitants of Marshall county in this state, 2 now and hereafter residing within the boundaries prescribed in 3 the next section hereof, shall be, and they are hereby constituted 4 a body politic and corporate, by and under the name of "the city 5 of Benwood;" and as such, and by and in that name, shall have 6 perpetual succession, and a common seal, and may sue and be 7 sued, contract and be contracted with, purchase, lease, hold, and 8 use, real and personal property necessary for corporate purposes, 9 and shall have all the rights, powers and privileges, belonging 10 or appertaining to municipal corporations in this state.

*Boundaries.*

Sec. 2. The boundaries of said city shall be as follows: Be- 2 ginning at a point on the west side of the Ohio river in the state 3 line, where the line between Ohio and Marshall counties inter- 4 sects the same; thence with the Ohio and Marshall county lines 5 crossing the river; south eighty-five degrees east to a stake on 6 the hill side; thence south twenty-four degrees twenty-five min- 7 utes west one hundred and forty-two and five tenth poles to a 8 point in the middle of Bogg's run located south forty-seven de- 9 grees forty-five minutes east nine and one-tenth poles from a 10 notch cut in the face and top of the east wing of the abutment of 11 the turnpike bridge over said run; thence following a line which 12 passes through the center of the top (at its north end) of the 13 river hill south of the run, south twelve degrees forty-five min- 14 utes west fifty-three fifteen hundredths poles to a point north of 15 and near the top of the said hill; thence south thirty-seven de- 16 grees west thirty-three twenty-two hundredths poles to a stake; 17 thence south twenty-seven degrees thirty minutes west forty- 18 three poles to a stake; thence south fourteen degrees west sev- 19 enteen poles to a stake; thence south ten degrees east thirty-four 20 five tenths poles to a white oak; thence south three degrees thirty 21 minutes west thirty-five poles to a stake; thence south eight de- 22 grees east twelve poles to a stake; thence south three degrees west 23 fifty-five five tenth poles to a stake; thence south two degrees east 24 seventy-three poles to a red oak; thence south eleven degrees 25 thirty minutes east twenty-four poles to a stake; thence south 26 two degrees thirty minutes west twenty-five five tenths poles;

27 thence south twenty-four degrees east thirty-four twenty-five hun-  
28 dredth poles to a stake; thence south eleven degrees east thirty-  
29 eight poles to a stake; thence south thirty degrees thirty minutes  
30 east fifty-one five tenths poles to the south east corner of the  
31 original corporation on top of the river hill; thence with the top  
32 of the ridge of the said hill, south one degree west nine hundred  
33 thirty feet to a stake; thence south thirty-seven degrees forty-five  
34 minutes west five hundred sixty feet to a double honey locust tree  
35 on the south point of the hill; thence south twenty-three degrees  
36 thirty minutes west three hundred ninety-eight feet to a honey  
37 locust on the point of the hill above the hill road; thence leaving  
38 the ridge south twenty-one degrees fifteen minutes east three hun-  
39 dred eighty-four feet to a stake on the north side of McMechen's  
40 run located south twenty-one degrees fifteen minutes east seven  
41 five tenth feet from a large sycamore standing on the said bank;  
42 thence down the run south seventy-one degrees fifteen minutes  
43 west one hundred thirty-two feet; south seventy degrees fifteen  
44 minutes west ninety-two feet; south sixty-eight degrees forty-five  
45 minutes west two hundred nine five tenths feet; north eighty-five  
46 degrees forty-five minutes west one hundred sixteen feet; south  
47 seventy-four degrees forty-five minutes west four hundred feet;  
48 south fifty-two degrees west one hundred eight feet; south eighty-  
49 six degrees west one hundred eighty-five feet; south eighty-eight  
50 degrees thirty minutes west two hundred forty-seven feet; north  
51 sixty-four degrees thirty minutes west one hundred seven feet;  
52 north seventy-eight degrees west two hundred twelve feet; south  
53 eighty-nine degrees fifteen minutes west one hundred seventy-nine  
54 five tenths feet; north eighty-four degrees fifteen minutes west  
55 one hundred forty feet; south eighty-six degrees fifteen minutes  
56 west one hundred forty-eight five tenths feet; west ninety-one feet  
57 south sixty-nine degrees thirty minutes west one hundred seventy-  
58 eight feet to the mouth of said McMechen's run; thence crossing  
59 the Ohio river south eighty-one degrees fifteen minutes west to a  
60 point in the mouth of Pinch run, at its intersection with the state  
61 line; thence up the river with the said state line, to the place of  
62 beginning.

#### *Wards.*

Sec. 3. The said city shall be divided into not less than 2 five, nor more than seven wards, but until the first election after

3 this act goes into effect, it shall remain divided into five wards  
4 as at present. A change in the wards may be made by the council  
5 by ordinance, but in making any such change regard must be had  
6 to the compactness of the territory of every ward, to an equalizing  
7 of the number of inhabitants of the several wards, and no ordi-  
8 nance shall be passed changing the ward which effects a gerry-  
9 mander of territory, or which does not more nearly equalize the  
10 number of inhabitants in the several wards. But a change in  
11 the number of councilmen or in the representation from any  
12 ward, shall only be made so as to affect the council to be elected  
13 to succeed the council making such change. Until otherwise pro-  
14 vided by ordinance, the number of councilmen shall remain as  
15 at present.

#### *Officers.*

Sec. 4. The officers of said city shall be a mayor, chief of  
2 police, who shall be *ex-officio* sanitary officer and member of the  
3 city board of health, clerk, who shall be *ex-officio* collector, street  
4 commissioner, treasurer, health officer, city solicitor, city engineer,  
5 and two councilmen from each ward. The mayor and chief of  
6 police shall be elected by the qualified voters of said city. The  
7 councilmen shall be elected by the qualified voters of their re-  
8 spective wards. The other officers named shall be appointed by  
9 the council of said city. No person shall be eligible for any office  
10 in said city, unless he is a qualified voter thereof, nor unless he  
11 has resided therein for at least one year before his election; and  
12 in the case of a councilman, he shall be a *bona fide* resident of  
13 the ward from which he is elected, and the removal of a council-  
14 man from the ward in which he is elected, shall vacate his office.  
15 All officers of said city, except city solicitor, city engineer, and  
16 treasurer, must be residents therein and be entitled to vote.

#### *Municipal Authorities.*

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 by this act.

#### *Elections.*

Sec. 6. The first election hereunder shall be held on the first  
2 Tuesday in April, one thousand nine hundred and twenty, and

3 biennially thereafter. Every person who has been a *bona fide*  
4 resident of the said city for one year next preceding any election,  
5 and otherwise a qualified voter, under the constitution and laws  
6 of the state, shall be entitled to vote at such election, in the ward  
7 in which he resides. The elections shall be held, conducted, re-  
8 turned, and the results ascertained, certified and determined, under  
9 such rules and regulations as may be prescribed by the council,  
10 which shall not be inconsistent with the general laws of the state  
11 governing municipal elections, and shall conform as nearly as  
12 practicable to such laws. Contested elections shall be heard and  
13 determined by the common council, and the proceedings therein  
14 shall conform as nearly as may be to similar proceedings in the  
15 case of county and district officers. The council shall be the judge  
16 of the election, returns and qualifications of its members. In  
17 case two or more persons receive an equal number of votes for  
18 the same office, the common council shall decide by vote, which  
19 of them shall be returned elected, and shall make their return  
20 accordingly.

#### *Terms of Officers.*

Sec. 7. The term of office of the mayor and chief of police  
2 shall begin on the first day of May next succeeding their election  
3 and shall be for the term of two years, and until their successors  
4 shall have been elected and qualified. The clerk, treasurer, solici-  
5 tor, health officer, street commissioner and city engineer, shall  
6 be appointed by the council and shall hold their office during the  
7 pleasure of the council. Any former incumbent shall be ineligible  
8 for a second appointment unless he shall have fully settled up the  
9 business of his former term or terms. At the first election pro-  
10 vided for in section six of this act there shall be elected a mayor  
11 and chief of police, whose term of office shall begin on the first  
12 day of May next succeeding their election and shall be for the  
13 term of two years, and until their successors are elected and quali-  
14 fied, and two councilmen from each ward, whose term of office  
15 shall begin on the first day of May next succeeding their election,  
16 the one thereof receiving the highest number of votes shall hold  
17 his office for the term of four years, and the one receiving the  
18 next highest number of votes shall hold his office for the term of  
19 two years, and until their successors are elected and qualified.  
20 On the same day in each succeeding two years, one councilman

21 from each ward shall be elected and shall hold office for four  
22 years from the first day of May next succeeding their election  
23 and until their successors are elected and qualified.

Sec. 8. The council of said city shall have the right to fix  
2 the compensation for the members thereof, which compensation,  
3 however, shall not exceed sixty dollars per year to each member.

Sec. 9. 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 officers  
5 generally, which may be done before the mayor or clerk of said  
6 city, or before any person authorized by law to administer oaths;  
7 and the same, together with the certificate of the officer adminis-  
8 tering the oath, shall be filed with the clerk of said city.

Sec. 10. All officers in office when this act takes effect shall  
2 hold their respective offices during their present term and until  
3 their successors are elected and qualified, unless the office be  
4 abolished or be vacated by death, resignation, removal, or other-  
5 wise, but their duties shall be as provided in this act.

6 Council shall have the power to fill all vacancies in office,  
7 whether such vacancies occur by death, resignation, removal, or  
8 otherwise, and to fill any new offices created by this act, until the  
9 next general election, hereunder.

#### *Council.*

Sec. 11. The council shall prescribe the powers and define  
2 the duties of all officers by it appointed, except so far as the  
3 same are by this act defined; shall fix their compensation, and may  
4 require and take from them respectively, bonds payable to the city  
5 in its corporate name with such sureties and in such penalties as  
6 may be deemed proper, conditioned for the faithful performance  
7 of their duties.

Sec. 12. 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  
5 deemed necessary and proper to secure the faithful performance of  
6 their several duties. All bonds, obligations or other writings taken  
7 in pursuance of any of the provisions of this act shall be made  
8 payable to "The City of Benwood," with such sureties and in



9 such penalties as may be deemed proper, conditioned for the faith-  
10 ful performance of their duties and for the accounting for and  
11 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. 13. 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 the  
4 council, but only after reasonable notice to such officer, and a  
5 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. 14. 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 with, 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 clerk, or in the absence  
8 of both the mayor and clerk, then by one of the councilmen select-  
9 ed by a majority of the council present, who may vote on any  
10 question as member of the council. The mayor shall have a vote  
11 only in case of a tie and in no case shall the presiding officer have  
12 more than one vote. A majority of the council shall be necessary  
13 to constitute a quorum for the transaction of business. No mem-  
14 ber of the council shall vote upon or take part in the consideration  
15 of any proposition in which he is or may be interested otherwise  
16 than a resident or taxpayer.

Sec. 15. The council shall cause to be kept by the clerk in a  
2 well bound book to be called the "minute book" an accurate record  
3 of all its proceedings, ordinances, acts, orders and resolutions, and  
4 in another to be called the "ordinance book" accurate copies of all  
5 the ordinances adopted by the council, both of which shall be  
6 fully indexed and open to the inspection of any one required to

7 pay taxes to the city, or who may be otherwise interested. All  
8 oaths and bonds of officers of the city and all papers of the council  
9 shall be endorsed, filed and securely kept by the clerk, except the  
10 bond of the clerk, which shall be filed with the mayor. All printed  
11 copies of such ordinances purporting to be published under au-  
12 thority of the council and transcripts of such ordinances, acts,  
13 orders and resolutions, certified by the clerk under the seal of  
14 the city, shall be deemed *prima facie* correct, when sought to be  
15 used as evidence in any court or before any justice.

Sec. 16. 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 taken  
5 and recorded in the minute book.

Sec. 17. No ordinance or by-law, and no resolution or  
2 measure for the expenditure of money other than to defray the  
3 current and incidental expenses of the city, shall be deemed passed  
4 or adopted unless it shall have been fully read at two consecutive  
5 meetings of the council, and shall have received a majority of  
6 the votes of the members present, when it shall stand and be  
7 declared adopted and not otherwise.

Sec. 18. The council of said city shall have power to lay off,  
2 vacate, close, open, alter, grade and keep in good repair the  
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains  
4 and gutters therein for the use of the citizens or of the public,  
5 and to improve and light the same, and to keep the same free  
6 from obstructions of every kind; to regulate the width of pave-  
7 ments and sidewalks on the streets and alleys, and to order the  
8 pavements, sidewalks, footways, drains and gutters to be kept  
9 in good order, free and clean, by the owners or occupants of the  
10 real property next adjacent thereto; to establish and regulate  
11 markets, prescribe the times of holding the same, provide suit-  
12 able and convenient buildings therefor, and prevent the fore-  
13 stalling or regrating of such markets; to prevent injury or an-  
14 noyance to the public or to individuals from anything dangerous,  
15 offensive or unwholesome; to prohibit or regulate slaughter-  
16 houses and soap factories within the city limits; or the exercise  
17 of any unhealthy or offensive business, trade or employment;  
18 to abate all nuisances within the city limits, or to require and  
19 compel the abatement or removal thereof, by or at the expense

20 of the person causing the same, or at the expense of the owner  
21 or occupant of the ground on which they are placed or found;  
22 to cause to be filled up, raised or drained by or at the expense  
23 of the owner, any city lot or tract of land covered or subjected  
24 to be covered by stagnant water; to prevent horses, hogs, dogs,  
25 cattle, sheep, or other animals and fowls of all kinds from going  
26 or being at large in such city, and as one means of prevention,  
27 to provide for impounding and confining such animals and fowls,  
28 and upon failure to reclaim, for the sale thereof; to protect  
29 places of divine worship and to preserve order in and about the  
30 premises where and when such worship is held; to regulate the  
31 keeping of gunpowder and other inflammable or dangerous sub-  
32 stances; to provide and regulate the building of houses or other  
33 structures, and for the making and maintaining of division  
34 fences by the owners of adjoining premises, and for the proper  
35 drainage of city lots or other parcels of land, by or at the expense  
36 of the owner or occupant thereof; to provide against damage or  
37 danger by fire; to punish for assaults and batteries; to arrest,  
38 convict and punish any person for gambling or keeping gaming  
39 tables, commonly called A, B, C, or E, O, table or faro bank or  
40 keno table, or table of like kind, under any denomination,  
41 whether the game or table be played with cards, dice or other-  
42 wise, or shall be a partner, or concerned in interest, in the keep-  
43 ing or exhibiting such table or bank, or keeping or maintaining  
44 any gaming house or place, or betting or gambling for money  
45 or anything of value; to suppress houses of ill-fame and to  
46 arrest and punish persons loitering in, or visiting them, or loiter-  
47 ing at public places or upon the streets; to prevent lewd and  
48 lascivious conduct; the sale or exhibition of indecent pictures  
49 or other representations; the desecration of the Sabbath day;  
50 profane swearing; to protect the persons of those residing or  
51 being within said city; to appoint when necessary or advisable  
52 a police force, permanent or temporary, to assist the chief of  
53 police in the discharge of his duties; to build or purchase, or  
54 lease and to use, a suitable place within or near said city for  
55 the safe keeping or punishment of persons charged with or con-  
56 victed of the violation of ordinances; to provide for the employ-  
57 ment of persons convicted of the violation of ordinances or who  
58 may be committed in default of the payment of fines, penalties  
59 or costs, and who are otherwise unable to discharge the same,

60 by putting them to work for the benefit of the city, and to use  
61 such means to prevent their escape while at work, as they may  
62 deem expedient; to erect, or authorize or prohibit the erection  
63 of gas works, electric light works or water works within the  
64 city limits; to prevent injury to such works, or the pollution of  
65 any gas or water used or intended to be used by the public or by  
66 individuals, and to do all things necessary to adequately supply  
67 said city and the inhabitants thereof with pure, healthful and  
68 wholesome water; to use, generate, distribute, sell and control  
69 electricity and gas for heat, light and power and to furnish lights  
70 for the streets, houses, buildings, stores, and other places  
71 in and about said city; to provide a sewerage system  
72 for said city; to provide for and regulate the weighing and  
73 measuring of hay, coal, lumber and other articles sold or kept  
74 or offered for sale, within said city; to establish and construct  
75 wharves and docks, and to repair, alter or remove any landing,  
76 wharf, or dock which has been or shall be so constructed and  
77 collect rates and charges for the use thereof; to regulate the  
78 running and speed of engines and cars and all kinds of vehicles  
79 within the said city; to organize one or more fire companies and  
80 provide necessary apparatus, tools, implements, engines or any  
81 of them for their use, and in their discretion to organize a paid  
82 fire department; to make regulations with respect to the erec-  
83 tion and location of all pipes, conduits, telephone, telegraph, and  
84 electric light or other poles within said city, and the extension  
85 of any wires, lines and poles by any individuals or corporation;  
86 to create by ordinances such committees or boards, and delegate  
87 such authority thereto as may be deemed necessary or advisable;  
88 to provide for the annual assessment of the taxable property  
89 therein, including dogs kept in said city, and to provide a reve-  
90 nue for the city for municipal purposes, and to appropriate such  
91 revenue to its expense, and generally to take such measures as  
92 may be deemed necessary or advisable to protect the property,  
93 public and private, within the city; to preserve and promote the  
94 health, safety, comfort and well being of the inhabitants thereof.  
95       The council of said city shall have power and authority to  
96 control and regulate the construction and repairs of all houses  
97 and other buildings within the said city; to provide for the grant-  
98 ing of building permits; to cause the removal of unsafe walls  
99 or buildings; and may prohibit the erection on any such street,

100 or in any such square, of any building, or of any addition to  
101 any building unless the outer walls thereof be made of brick  
102 and mortar or other fire-proof material; and to provide for the  
103 removal of any building or addition which shall have been erect-  
104 ed contrary to such prohibition, at the expense of the owner or  
105 owners thereof.

106 The said council of said city shall have any and all additional  
107 power and authority granted to cities, towns and villages by  
108 chapter forty-seven of the code, or any additional powers here-  
109 after granted to municipal corporations by the legislature of  
110 this state.

Sec. 19. The council of said city shall have the power to  
2 contract with persons, private or municipal corporations, for  
3 furnishing to said city, through and over the streets, alleys and  
4 public grounds of said city, water for domestic, fire and other  
5 purposes, for use by the inhabitants of said city and persons and  
6 corporations in the vicinity thereof, and said city by its council  
7 may provide for the sale of said water to the consumer thereof  
8 upon such terms and conditions as it may deem proper, *provided*,  
9 *however*, that no contract for such water shall be made by the  
10 city for a longer period than ten years.

#### *Franchises.*

Sec. 20. 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 grant-  
5 ed except under the following restrictions and conditions: No  
6 ordinance shall be passed granting any franchise for the use of  
7 any of the streets or alleys of said 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 the  
12 council, shall have been given thirty days' notice in some news-  
13 paper of general circulation published in said 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 re-  
17 fusing of said franchise to be heard.

18 Nor shall any franchise be hereafter granted by council for  
19 a 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 here-  
22 after granted for a longer term than fifty years shall be of any  
23 force 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 damages  
26 caused by the construction and maintenance of such works.

27 Any person or corporation to whom a franchise has been or  
28 may hereafter be granted by said city, who shall fail or refuse  
29 to comply with the conditions of the ordinance granting the same  
30 within thirty days after receiving notice of such failure, shall  
31 forfeit all rights and privileges conferred by said franchise un-  
32 less said failure be waived by resolution of the council of said city.

Sec. 21. 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 the  
7 United States or of this state; and to enforce any or all of such  
8 ordinances, by-laws, orders or resolutions by prescribing for a  
9 violation thereof, fines and penalties and imprisonment in either  
10 the county jail of Marshall county, or the city prison if there be  
11 one; but no fine shall exceed one hundred dollars, and no term of  
12 imprisonment shall exceed ninety days. Such fines and penalties  
13 shall be imposed and recovered, and such imprisonment inflicted  
14 and enforced, by and under the judgment of the mayor of said  
15 city, or in case of absence or inability to act, of the clerk of said  
16 city, or in case of absence or inability to act of both of said officers,  
17 of one of the councilmen, appointed for that purpose by the  
18 council.

19 Said city is hereby authorized to work its prisoners on the  
20 public streets and other improvements of said city or to hire  
21 its prisoners to the county court of Marshall county to work on  
22 the public roads, and other improvements of said county on such  
23 terms and conditions as may be agreed upon; without making  
24 such work a part of the judgment against such prisoners, but  
25 credit shall be allowed any prisoner for the value of such work

26 as fixed by council, and when the fine and costs are fully paid by  
27 work, the prisoner shall be discharged from custody.

*Mayor.*

Sec. 22. 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 within the same have, possess and may exercise, all the  
6 powers and perform all the duties whether in civil or criminal  
7 proceedings, vested by law in a justice of the peace. Any sum-  
8 mons, warrant or other process, issued by him, may be executed  
9 at any place within the county; he shall have power during the  
10 recess of the regular meetings of council to appoint special po-  
11 lice officers when he shall deem it necessary, and it shall be his  
12 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  
15 detention, of all riotous and disorderly persons before taking  
16 other proceedings in the case; he shall from time to time recom-  
17 mend to the council such measures as he may deem needful for the  
18 welfare of the city; he shall not receive any money due or be-  
19 longing to the state or corporation or to individuals, unless and  
20 until he shall have given the bond and security required of a  
21 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  
24 like cases.

25 The mayor shall receive a salary of not less than five hun-  
26 dred nor more than eight hundred dollars per annum; such  
27 salary shall be in lieu of the fees which would otherwise accrue  
28 to 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 cor-  
31 poration found guilty of the violation of any ordinance of the  
32 city, as are provided to be taxed and recovered by justices of said  
33 county in criminal cases.

34 The process in proceedings to enforce any ordinances pre-  
35 scribing a fine or imprisonment, or a fine and imprisonment, for  
36 the violation thereof, shall be a summons in the name of the city  
37 of Benwood as plaintiff directed to the chief of police, to one of

38 the regular police officers of the city, or to any constable of any  
39 district within the said city, requiring him to summon the person  
40 accused of such violation, and who shall thereafter be designated  
41 as defendant, to appear before the mayor at the time and place  
42 therein named to make answer to such accusation and be dealt  
43 with according to law; such summons shall contain such state-  
44 ment of the facts alleged as will inform such person of the gen-  
45 eral nature of the offense against the city of which he stands  
46 charged, and except in case or arrest upon view, shall be issued  
47 only upon the complaint, on oath, of some credible person. But  
48 the mayor for good cause appearing, by endorsement on the  
49 summons, may order the person so accused to be forthwith appre-  
50 hended and brought before him for a hearing of the charge.  
51 The clerk of said city, as well as the mayor, shall have authority  
52 to receive any complaint in writing of the violation of any ordi-  
53 nance, and to sign and issue the proper summons based upon  
54 such complaint. The mayor shall have, possess and may exer-  
55 cise the power and authority belonging to a justice under sec-  
56 tion two hundred and twenty-four and two hundred and twenty-  
57 five of chapter fifty of the code of West Virginia, in summoning  
58 and enforcing the attendance and examination of witnesses, in  
59 punishing for contempt, in granting continuances, and in se-  
60 curing and enforcing the further attendance of the accused with  
61 a view to a trial or hearing. If any recognizance be taken for  
62 such further attendance, and is forfeited, the mayor may record  
63 the default, and an action be maintained in the name of the city,  
64 before the mayor, or any justice having jurisdiction, against the  
65 accused and his sureties, if any, to recover the penalty thereof.

Sec. 23. The mayor shall have the power to issue an exe-  
2 cution 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 satis-  
5 faction of such judgment, by his order in writing, require the  
6 immediate payment thereof; and in default of such payment he  
7 may cause the person so in default to be apprehended and brought  
8 before 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  
11 imprisonment shall not exceed ninety days.

Sec. 24. The jail of Marshall county may be used as a lock-  
2 up for said city. The jailor of said county shall take and re-



3 ceive into his custody any person authorized to be confined there-  
4 in by any ordinance of the city, or sentenced to imprisonment  
5 therein, or committed thereto, for non-payment of a fine or costs,  
6 or failure to enter into a recognizance by the judgment or order  
7 of the mayor, in proceedings for the violation of an ordinance;  
8 and the expense of maintaining such persons while so in confine-  
9 ment shall, if such person be found guilty of such violation, be  
10 charged to such person as part of the costs, but whether collected  
11 from such person or not, such expense shall be paid to said jailor  
12 by the city.

#### *Mayor's Docket.*

Sec. 25. 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  
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  
9 other person acting in his stead; and the original papers thereof,  
10 if no appeal be taken, shall be kept together and preserved in  
11 his office.

#### *Appeal.*

Sec. 26. 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 fine of more than ten dollars, an appeal  
4 shall lie at the instance of the person against whom such judgment  
5 is rendered to the circuit court of Marshall county. Such appeal  
6 shall not be granted by the mayor unless, within ten days from  
7 the date of the judgment, such person shall enter into a recog-  
8 nizance, with security deemed sufficient, in a penalty double the  
9 amount of fine and costs, with condition that the person appeal-  
10 ing will appear before the said court on the first day of the next  
11 term thereof, to answer for the offense against the city with which  
12 he stands charged, and not thence depart without leave of said  
13 court, and will perform and satisfy any judgment which may be  
14 rendered against him by the circuit court on appeal. The pro-  
15 visions of chapter one hundred and sixty-two of the code of West  
16 Virginia, relating to recognizance in criminal cases, shall be ap-

17 plicable to the recognizance contemplated by this section, ex-  
18 cept where herein otherwise provided; but any money recovered  
19 thereon or by virtue thereof shall inure to the said city.

Sec. 27. If such appeal be taken the mayor shall forth-  
2 with deliver to the clerk of said court the complaint in writing,  
3 if any, the summons, a transcript of the record including the  
4 judgment, the recognizance, and any other papers belonging to  
5 the case; and such clerk shall receive and file the same, and  
6 place the case upon the trial docket of the next succeeding term  
7 of said court, and said court shall proceed to try the same in  
8 its order.

Sec. 28. If the appellant be found guilty of a violation of  
2 the ordinance in question, whether upon the verdict of a jury  
3 or otherwise, the court shall ascertain by its judgment the fine  
4 or imprisonment or the fine and imprisonment to be paid or  
5 suffered by such defendant, having regard to the punishment pre-  
6 scribed by such ordinance, and shall include in any such judg-  
7 ment the costs incurred by said city, as well in the proceedings  
8 before the mayor as those in court, including a fee to the attorney  
9 for the city of ten dollars, and the fees, if any, of the jailor  
10 or the keeper of the city prison; and the proceedings to enforce  
11 the collection of any such fine and costs, may be as provided  
12 in section ten, eleven and twelve of chapter thirty-six of the  
13 code of West Virginia, except that the writ mentioned in the  
14 tenth section may be issued by the clerk upon the order of the  
15 mayor of the city, and the notice contemplated by the eleventh  
16 section shall be given to such officer.

Sec. 29. From all judgments by the mayor in cases other  
2 than for violations of ordinances, appeals shall be allowed as in  
3 similar cases before justices.

*Clerk.*

Sec. 30. It shall be the duty of the city clerk to keep a  
2 journal of the proceedings of the council and have charge of and  
3 preserve the records, papers, contracts and other documents belong-  
4 ing to the city; it shall be his duty to attend the sessions of the  
5 police court and keep an accurate record of its proceedings, and  
6 all judgments shall be entered by him within twenty-four hours  
7 after the same are rendered; he shall, in case of sickness or dis-  
8 ability of the the mayor to act, or in case of his absence from

9 the city, or during any vacancy in the office of the mayor, perform  
10 the duties of mayor, and shall be vested with all the powers nec-  
11 essary for the performance of such duties; he shall also perform  
12 such other duties pertaining to the fiscal affairs of the city, or  
13 otherwise, as may be required of him by this act or by the  
14 council.

15 The officer whose duty it is to make out the land books for  
16 Marshall county or such other person as the council may ap-  
17 point shall, annually, at such compensation as agreed upon with  
18 council, not later than the fifth day of August, furnish to the  
19 clerk, showing in separate amounts, the aggregate value of all the  
20 personal property and the aggregate value of all the real estate  
21 in the city, as ascertained from the land and personal property  
22 books of said county for the current year; upon receiving said  
23 statement the clerk shall present the same to council at a meeting  
24 to be held not later than the second Tuesday in August, for  
25 the purpose of determining the rate of levy in said city for the  
26 current year; as soon as the rate of levy shall have been fixed  
27 by council, the clerk shall furnish the officer whose duty it is  
28 to make out the land and personal property books, a certified copy  
29 of the order of the council, fixing the rate of tax, and such  
30 officer shall thereupon extend the tax against the property situated  
31 in the city in the land and personal property books in separate  
32 columns in said books.

Sec. 31. The clerk shall, when the extended copies of the  
2 assessor's books are completed and returned to the clerk of the  
3 county court, have access to the same for the purpose of making  
4 out the tax tickets of the taxes therein extended, and it shall be  
5 the duty of the clerk to make out all tax tickets, and when the  
6 same have been examined, compared and approved by the financial  
7 committee of the council and found to be correct, they shall be  
8 turned over to the clerk not later than the tenth day of September  
9 following the levy, whose receipt shall be returned to the council  
10 and entered upon its records, and the clerk shall be charged there-  
11 with.

12 The clerk shall give notice that said tax tickets are in his  
13 hands for collection, stating the penalty for non-payment thereof,  
14 and the time and place where the same may be paid, which notice  
15 shall be published for fifteen days in one or more newspapers  
16 published in said city.

17 To all persons who shall pay their taxes in full before the

18 first day of December next succeeding said levy there shall be  
19 allowed a discount of two and one-half per centum on the whole  
20 amount of the taxes so paid, and not otherwise.

21 The clerk shall immediately proceed to collect from the  
22 persons by distraint or otherwise the entire amount of the taxes  
23 with which they are severally charged therein, and remaining un-  
24 paid on the first day of January next succeeding said levy, with  
25 interest at the rate of one per centum per month from said  
26 first day of January until they are fully paid.

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

Sec. 32. The said clerk shall receive all taxes, assessments,  
2 fines and costs and other money due the city authorized by this act  
3 or by any ordinance of the said city, to be paid to the city, and  
4 shall receipt for same; he shall keep an accurate account of all  
5 money paid to him for the use of said city, showing under sepa-  
6 rate accounts the amount received for account of taxes, sewer  
7 purposes, street pavement, licenses, fines and costs and of other  
8 matters pertaining to his office, which books shall at all times be  
9 open to the inspection of the council or to any committee ap-  
10 pointed by it for such purposes; 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 of-  
15 fice at the office of the mayor, unless otherwise ordered by the coun-  
16 cil, and shall keep his office open for the transaction of business  
17 during usual business hours, and as may be directed by council; he  
18 shall on or before the last day of March and September of each  
19 year and oftener if directed by council, present to the council a  
20 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 the 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 hand for collection which he shall not have  
26 been able to collect by reason of insolvency, removal, or other  
27 cause, to which list he shall append an affidavit that he has  
28 used due diligence to collect the several items therein mentioned,  
29 but has been unable to do so, and if the council should be satis-  
30 fied as to the correctness of said list, it shall allow him a credit

31 for said claim, but may thereafter take such lawful measures to  
32 collect the same as shall be by it prescribed. The said clerk  
33 shall receive all taxes on licenses, and receipt to the party pay-  
34 ing the same by endorsement upon the permit granted by order  
35 of the council and shall charge himself with the amount received  
36 from the same, and report to the council at the next regular meet-  
37 ing thereafter, the amount so received, and pay the same over  
38 to the treasurer, taking his receipt for the same; he shall, upon  
39 the expiration of his term of office, or upon the order of council,  
40 turn over to his successor all money, books of account and other  
41 property of said city in his possession; he shall receive such sal-  
42 ary as may be fixed by the council, which shall not be less than at  
43 the rate of eight hundred dollars, nor more than fifteen hun-  
44 dred dollars per annum.

Sec. 33. The clerk of said city, before entering upon the  
2 discharge of his duties, shall execute a bond conditioned for the  
3 faithful performance of the duties of his office, and for the ac-  
4 counting for and paying over, as required by law, all money which  
5 may come into his hands by virtue of his office, with sureties satis-  
6 factory to the council, payable to "The City of Benwood", in a pen-  
7 alty of not less than five thousand nor more than ten thousand dol-  
8 lars, as the council may prescribe; he shall be custodian of all  
9 bonds, notes, certificates and other evidence of indebtedness to  
10 the city, together with all valuable papers which may be placed  
11 in his possession by the council, except that the bond of the clerk  
12 shall be deposited with the mayor; he shall be chargeable with,  
13 and it shall be his duty to collect, the city taxes, levies and as-  
14 sessments under such regulations as may be prescribed by law  
15 and the ordinances of the city, and in case the same are not  
16 paid within one month after they are placed in his hands for  
17 collection, he may distrain and sell therefor in like manner and  
18 have the same power and authority possessed by the officer with  
19 the collection of state taxes.

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

*Solicitor.*

2           Sec. 34. The city solicitor shall prosecute and defend all  
3 suits for or against the city and when requested so to do, shall  
4 give his opinion in writing to the mayor, the council, or any  
5 standing committees of council, upon such legal questions as may  
6 be referred to him, affecting the city's interest. For his services  
7 he shall receive such compensation as the council may allow.

*Chief of Police.*

8           Sec. 35. It shall be the duty of the chief of police to pre-  
9 serve order and quiet in said city, and to see that all subordinate  
10 police officers faithfully perform their official duties, and he may  
11 for good cause appearing to him, with the consent of the police  
12 committee, for neglect of duty or insubordination, suspend any  
13 such officer from duty, and report his action and his reason there-  
14 for to the next regular meeting of council for action thereon;  
15 he shall make a list of all dogs within said city liable to tax, col-  
16 lect the licenses tax thereon and pay the same to the clerk, as  
17 may be provided by ordinance of said city; he shall be present in  
18 the police court whenever the same shall be in session, and see that  
19 all its orders and requirements are properly executed; he shall  
20 with the consent of the council entered of record, but not other-  
21 wise, appointed one or more policemen, as the council may deter-  
22 mine; he shall, before entering upon the discharge of his duties,  
23 execute a bond conditioned for the faithful performance by him  
24 of the duties of his office, and for the accounting for and pay-  
25 ing over, as required by law, all money which may come into his  
26 hands by virtue of his office, with sureties satisfactory to the  
27 council, in a penalty of not less than one thousand dollars nor  
28 more than five thousand dollars, as the council may prescribe; he  
29 shall receive such salary as may be fixed by council, which shall  
30 not be less than nine hundred dollars nor more than fifteen hun-  
31 dred dollars per annum.

32           Each policeman appointed as prescribed by this section shall,  
33 before entering upon the discharge of his duties, execute a bond  
34 conditioned for the faithful performance by him of the duties  
35 of his office and as is required by law, and for the accounting for  
36 and paying over, as is required by law, all money which may  
37 come into his hands by virtue of his office, with sureties satis-  
38 factory to the council, in a penalty of not less than one hundred

32 dollars nor more than five thousand dollars, as the council may  
33 prescribe.

Sec. 36. In case 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 and filed; and thereupon such offender  
6 may be tried and dealt with according to law, without summons.  
7 The chief of police 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 and costs imposed in such proceedings. He shall also have all  
12 the rights and powers, within said city, in regard to the arrest  
13 of persons, the collection of claims, and the execution and re-  
14 turns of process, that are or may be lawfully exercised by a  
15 constable of a district within the same, and shall be entitled to  
16 the 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.

#### *Health Officer.*

Sec. 37. 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 compen-  
5 sation from said city, other than the salary herein provided.

#### *Treasurer.*

Sec. 38. The treasurer may be any citizen of said city, or  
2 bank or trust company of Marshall county, and shall be selected  
3 by council and may hold office during the pleasure of the council.  
4 All money due the city shall be paid to the clerk, and be by the  
5 clerk deposited with the treasurer. The money deposited with the  
6 treasurer shall be disbursed only upon orders drawn against the  
7 same, signed by the mayor and countersigned by the clerk. The  
8 treasurer shall receipt to the clerk for all money paid by him,  
9 and shall keep regular books of account, showing the amount  
10 of the several funds paid or deposited with the treasurer by said

11 clerk, and shall make report to the council once a month or at  
12 such other times as the council may direct, showing the re-  
13 ceipts and disbursements of the funds of the city, and the treas-  
14 urer shall produce his books of account to the council or any  
15 committee of the same for inspection, upon the order of the  
16 council.

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

*Street Commissioner.*

Sec. 39. The street commissioner shall perform such duties  
2 as are now, or which may hereafter be imposed upon him by any  
3 ordinance of said city, and shall receive such compensation as  
4 may be fixed by council.

*City Engineer.*

Sec. 40. 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 therefor  
5 shall be fixed by the council.

*Fiscal Year.*

Sec. 41. The fiscal year of said city shall begin on the  
2 first of May and end on the thirtieth day of April of each year.

*Property Subject to Taxation.*

Sec. 42. All property real and personal within said city  
2 which is subject to taxation under the constitution and laws of  
3 the state of West Virginia, shall be assessed for and subject to  
4 taxation for the benefit of said city.

*Levy.*

Sec. 43. 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 become lawfully chargeable against the  
4 city, and which ought to be paid within one year, and it shall order  
5 at a meeting to be held by it in the month of August of each year,  
6 as provided by law, a levy of so much as will, in its judgment,  
7 be necessary to pay the same; such levy shall be upon all the real  
8 estate and personal property otherwise subject to state and county  
9 taxes, and an annual capitation tax of one dollar upon each male  
10 inhabitant of said city who has attained the age of twenty-one  
11 years; *provided*, that such levy shall not exceed the sum of fifty  
12 cents upon each hundred dollars of the ascertained value of the  
13 real and personal property.

*Lien for Taxes.*

Sec. 44. 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 authorities  
4 of such city, from the time the same are so assessed or imposed,  
5 which shall have the priority over all other liens, except the lien  
6 for taxes due the state, county and district; and which may be en-  
7 forced by the council in the same manner provided by law for the  
8 enforcement of the lien for county taxes. If any real estate within  
9 said city be returned delinquent for the non-payment of the de-  
10 linquent taxes thereon, a copy of such delinquent list may be  
11 certified by the council to the auditor, and the same may be sold  
12 for the city taxes, interest and commission thereon, in the same  
13 manner, at the same time and by the same officer as real estate  
14 is sold for the non-payment of state taxes.

*Distress for Taxes.*

Sec. 45. If any person against whom, or upon whose prop-  
2 erty any taxes shall be lawfully assessed for the benefit of said city  
3 shall not wholly pay such tax on or before the first day of January  
4 after the same shall have become due, it shall be lawful for the  
5 officer authorized to collect such tax to take reasonable distress  
6 of any personal property in said city, belonging to said delinquent,  
7 in which he or she shall have any right or interest, and sell such  
8 property, right, or interest at public auction in said city, having  
9 given ten days' notice of the time and place of sale, by adver-  
10 tisement posted in some public place in said city, and published  
11 or posted in such other manner as may be prescribed by ordi-

12 nance of said city, if council shall by ordinance require any other or  
13 more ample advertisement, and out of the proceeds of such sale  
14 after defraying all expenses, to pay said city the said tax, or as  
15 much thereof as shall be delinquent, and return the remainder, if  
16 any, to the owner of the property so levied and sold.

*Other Remedies.*

Sec. 46. In addition to all other means for the collection  
2 thereof, all taxes, as well as all other demands due to the said  
3 city, may be recovered by any appropriate suit or proceeding in  
4 the name of the city before any justice of Marshall county, if the  
5 amount be within his jurisdiction, or in the circuit court of said  
6 county if the amount be within the jurisdiction of said court,  
7 and any judgment so obtained may be enforced as other judgment  
8 liens are enforced.

*Licenses Generally.*

Sec. 47. The council shall have the authority to require a  
2 city license as follows: For anything to be done, carried on or  
3 exhibited within the city, for which a state license is now or may  
4 hereafter be required, for the keeping of hacks, carriages, carts,  
5 wagons, and other vehicles for hire within the city, and for keep-  
6 ing of dogs within the city, and the council may provide for the  
7 killing of all dogs, the keeping of which is not so licensed. And  
8 upon all such licenses the council may impose a reasonable tax  
9 for the use of the city.

Sec. 48. The council shall prescribe by ordinance the man-  
2 ner in which licenses of all kinds shall be applied for and granted,  
3 and shall require the payment of the tax thereon to be made to  
4 the clerk of said city before delivery to the person applying there-  
5 for, and the provisions of sections thirty-nine, forty and forty-one  
6 of chapter thirty-two of the code of West Virginia, one thousand  
7 nine hundred and thirteen, relating to licenses, shall govern the  
8 city in the granting of licenses similar in character to those there-  
9 in mentioned, except where otherwise herein provided. Licenses  
10 for keeping dogs shall also expire on the thirtieth day of June  
11 next after they are granted, and all other licenses may be for such  
12 times as the council may determine.

*Power to Condemn.*

Sec. 49. 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 purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and 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.

*Sidewalks.*

Sec. 50. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks, footways, or sidewalk and gutter combined, on the streets, avenues or alleys of the said city to be paved with concrete, brick, stone or other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in 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 clerk shall notify the owner of said lot the amount of such assessment, giving said owner notice of the time the council will hear and determine any objection which may be made to such assessment, and the council shall proceed to hear such objections, if any, and if in the opinion of the council such assessment should be made, such fact, with the amount of the same shall be recorded in the "minute book" of the council, and if the said assessment be not paid within thirty days from the date of such hearing the clerk shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall 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 Marshall county, as other liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien, *provided, however,* that reason-

31 able notice shall first be given to said owners that they are required  
32 to construct such sidewalks or footways, and in case the owner is  
33 a non-resident of the state, the notice aforesaid may be given by  
34 publication for four successive weeks in a newspaper published in  
35 said city. The provisions of this section shall also be applicable  
36 to needed repairs to any of the pavements of the city, and to the  
37 substitution of new pavements for any which may have been here-  
38 tofore, or which may be hereafter laid and completed, and which  
39 may be deemed insufficient.

### *Street Paving.*

Sec. 51. The council shall have the authority to provide  
2 that any street, avenue or alley or any portion thereof, between the  
3 curbstones, shall be macadamized, or paved with bricks, cobble-  
4 stones, or other suitable material, upon the lowest and best terms  
5 obtainable, after advertisement for four weeks in one or more news-  
6 papers in the city, for bids and proposals for the work; and two-  
7 thirds of the cost of such macadamizing or paving, from curb to  
8 curb of such street, avenue, or alley, shall be assessed to the owners  
9 of lots, or fractional parts of lots, fronting or abutting on such  
10 street, avenue or alley, that is to say: The property owners on  
11 each side of said street, avenue, or alley to be assessed one-third of  
12 the cost of said improvement, to each property owner a sum pro-  
13 portionate to the distance, or extent in feet by him owned, and one  
14 third of the sum so assessed shall be paid by each property owner to  
15 the city within thirty days after the completion of the work, and  
16 the remainder in two equal installments in six and twelve months  
17 thereafter, with interest thereon at the rate of six per centum per  
18 annum, or at such other times as the council may prescribe. The  
19 remaining one-third of such expense, as well as the expense of mac-  
20 adamizing or paving at the intersection of streets, avenues and al-  
21 leys, shall be defrayed by the city. The council shall cause a no-  
22 tice to be published for one week in a newspaper of said city, show-  
23 ing the owners of the property and the number of feet fronting on  
24 said improvements, as well as the time and the place where the said  
25 council will proceed to fix said assessments as above provided, and  
26 giving notice to any person having an interest in said property to  
27 appear and show cause, if any they can, why such assessment  
28 should not be made; and the council may, in making said assess-  
29 ments, consider the petition of any person or corporation relative  
30 to the inequality of said assessment, and may equalize and adjust

31 the same. The assessment to be made to any owner of real estate  
32 shall constitute a lien on such estate; and like proceedings may be  
33 had and taken to enforce such lien, or to recover from such owner  
34 the amount of such assessment, or any installment thereof, as  
35 those provided for in the preceding section providing for the lay-  
36 ing of sidewalks. The council of said city may cause an addition-  
37 al annual levy of fifteen cents on the hundred dollars of the ascer-  
38 tained value of all the real and personal property within said city,  
39 or subject to taxation, for the purpose only of defraying the ex-  
40 penses of paving the streets, avenues and alleys of said city as here-  
41 in provided; such levy shall be made at the time the general levy  
42 laid, and shall be collected in like manner, but a separate account  
43 shall be kept of the receipts and expenditures of such fund.

### *Sewers.*

Sec. 52. The council of said city shall have the authority  
2 under the provision of ordinances adopted by the council of said  
3 city to cause all necessary sewers to be constructed in any or all of  
4 the streets, alleys and public grounds of said city upon the lowest  
5 and best terms to be obtained by advertisements for bids or pro-  
6 posals therefor by the clerk of the said city by the direction of said  
7 council, and shall fix a uniform assessment against the owners of  
8 the real estate, lots or parcels of ground within said city, abutting  
9 or abounding on the streets, alleys or public grounds, in which sew-  
10 ers are so constructed, which assessment shall not exceed one dollar  
11 for each front foot of land, lot or parcel of ground, fronting or  
12 abutting on the street, alley or public ground in which said sewer is  
13 constructed. The one-half of said assessment shall be paid within  
14 thirty days after said sewer is completed and ready for use, and  
15 the remaining two-thirds of said assessment shall be paid in two  
16 equal installments, on or before six months and twelve months re-  
17 spectively, from the time said sewer is completed and ready for  
18 use, said deferred payments to bear interest at the rate of six per  
19 centum per annum, and said council may by ordinance compel the  
20 owners of lots or parcels of ground, fronting or abutting on any  
21 street or alley in which such sewer is constructed, under the super-  
22 vision of such officer as council may designate, to connect any  
23 residence, store, warehouse, factory or other building occupied or  
24 used by persons, with such sewer within thirty days after its com-  
25 pletion, and may impose and inflict fines and penalties for any vio-  
26 lation of such ordinance.

27 The intersections of all streets and alleys and avenues shall be  
28 provided with sewers at the expense of the city, but all connections  
29 in street, avenue or alley shall be made by the property owner abut-  
30 ting on such street, avenue or alley wherein such sewer is construct-  
31 ed in the manner prescribed by said council by ordinance.

32 The sums of money thus assessed for sewer construction shall  
33 be a lien on the lots, tracts or parcels of land upon which they are  
34 assessed, which lien may be enforced by a suit in equity in the  
35 circuit court of Marshall county to subject the said real estate  
36 to the payment of the sum so assessed against it as herein provided,  
37 in the manner that judgment liens are enforced. The council  
38 shall cause a notice to be published for one week in some newspa-  
39 per published in said city showing the owners of the real estate  
40 and the number of feet of such real estate, owned by each fronting  
41 or abutting on such improvement, as well as the time and place  
42 where the said council will proceed to fix and make said assessments  
43 as herein provided, and giving notice to any person having an in-  
44 terest in the property so assessed, by such publication, to appear  
45 and show cause, if any he can, why such assessment should not be  
46 made; and the council may in making or reviewing such assess-  
47 ment consider the petition of any person, or corporation affected  
48 thereby, relative to the inequality of said assessment, and the said  
49 council may equalize and adjust the same. A copy of the list of such  
50 assessments, showing the name of owner, number of lot of land, and  
51 amount of assessment, attested by the mayor and clerk, shall be  
52 filed in the office of the clerk of the county court of Marshall  
53 county and recorded in the judgment lien docket in said office  
54 within thirty days after said assessments are made and approved by  
55 the said council, otherwise the lien of said assessment shall be void  
56 as to any purchaser of said real estate, for value and without notice,  
57 who shall have purchased such real estate, and the clerk of said  
58 city shall execute and deliver on behalf of said city a release of such  
59 lien, upon the payment in full of said assessment.

60 The funds derived by the said city from assessments for con-  
61 struction of sewers, as herein provided, shall be used by said city  
62 for sewer construction only, and the clerk and treasurer shall keep  
63 separate accounts of receipts and disbursements of said fund and  
64 shall make separate reports with respect to said fund from time to  
65 time, as the council may direct, and the said clerk and treasurer  
66 shall be liable to said city on their official bonds for the payment of  
67 all money which may come into their hands, respectively, by vir-

68 tue hereof, and shall pay over the same upon the proper order of the  
69 council.

Sec. 53. In addition to all other methods provided in this  
2 act for grading, paving, sewerage and otherwise improving the  
3 avenues, streets and alleys of said city, its said council may by  
4 resolution passed by vote of three-fifths of all members there-  
5 of, adopt the provisions of chapter eight of the acts of the year one  
6 thousand nine hundred and eight of the extra session of the legis-  
7 lature of West Virginia without submitting the adoption of said  
8 chapter eight to a vote of the qualified voters of said city as pro-  
9 vided in section seventeen of said chapter eight, and upon the  
10 passage of said resolution by said council, said council may pro-  
11 ceed with the improvement specified in said resolution according  
12 to the provisions of said chapter eight applicable to such im-  
13 provement the same as though the provisions of said chapter  
14 eight relating thereto were incorporated in this act.

*Bonds—Additional Levy.*

Sec. 54. The municipal authorities of said city shall have  
2 the power and authority to issue and make sale of the bonds  
3 of said city and to apply the proceeds thereof to the payment for  
4 any general improvement therein, or to any debt or obligation of  
5 the said city as provided in chapter forty-seven of the code of  
6 West Virginia or any amendment thereof, or may submit to the  
7 voters of said city the question of making an additional levy for  
8 any improvement in said city, and if three-fifths of the votes cast  
9 at such election on such question be in favor of such additional  
10 levy the said council may levy the same. Said municipal authori-  
11 ties also shall have the power and authority to issue and make  
12 sale of the bonds of said city and to apply the proceeds thereof  
13 to the purchase or erection of a gas works, electric light and power  
14 plant, or water works, or all of such works and plants, for the  
15 use of said city, or to any other improvement for the use of  
16 said city, as provided in chapter forty-seven-a of the code of West  
17 Virginia.

Sec. 55. Wherever in this act, any notice is required to be  
2 published, or any publication required to be made in any news-  
3 paper published in said city, if at such time such notice is re-  
4 quired to be published, or such publication made, there be no news-  
5 paper published in said city, then such notice may be published

6 or such publication made in any newspaper of general circulation  
7 in said city.

Sec. 56. All officers of said city elected to office and act-  
2 ing as such at the time this act takes effect shall continue in office  
3 until the first day of May in the year one thousand nine hundred  
4 and twenty and until their successors in office are elected and  
5 qualified under the provisions of this act, and receive the com-  
6 pensation heretofore conferred, prescribed and allowed by former  
7 charter, by general law or by the ordinances of said city. All  
8 ordinances of said city in force at the time this act takes effect  
9 shall continue in force and to have full operation and effect under  
10 the provisions of this act until amended, repealed or superseded  
11 by the council of said city. And wherever in said ordinances the  
12 word "recorder" shall occur, under this act, such word "recorder"  
13 shall be read "clerk" and construed to mean the clerk of said  
14 city.

Sec. 57. All acts and parts of acts, whether special or gen-  
2 eral, coming within the purview of this act, and inconsistent here-  
3 with, are hereby repealed.

## CHAPTER 7.

(House Bill No. 136—Mr. Moore.)

AN ACT amending and re-enacting chapter twelve of the acts of one  
thousand nine hundred and five, entitled "An act incorporating  
the city of McMechen, in the county of Marshall, fixing its cor-  
porate limits and prescribing and defining the powers and duties  
thereof, and chapter three of the acts of one thousand nine hun-  
dred and fifteen, regular session, municipal charters, amending  
and re-enacting sections two, four, five, eleven, thirteen, sixteen,  
twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-  
one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-  
two of chapter twelve of the acts of one thousand nine hundred  
and five, entitled 'An act incorporating the city of McMechen,  
in the county of Marshall, fixing its corporate limits, and pre-  
scribing and defining the powers and duties thereof.'"



[Passed February 5, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.	SEC.
1. The city of McMechen.	31. Mayor's docket.
2. Boundaries described.	32. }
3. City wards.	33. }
4. Officers.	34. } Appeal from mayor's decision.
5. Term of officers.	35. }
7. Oath of office.	36. City collector; duties; compensation.
8. Elections.	37. Marshal; duties; bond; salary; policemen and their duties; bonds.
9. Council.	38. Arrests; trials; collection of fines.
10. Council guardian of property belonging to city.	39. City clerk; his duties; bond.
11. Authority to remove from office.	40. Duties of clerk toward marshal in collection of taxes.
12. Council meetings; time and place.	41. } Marshal's duty in collection of
13. Keeping of records.	42. } taxes, etc.
14. Reading and correction of minutes.	43. City health officer; duties.
15. Reading of ordinances and resolutions before adoption.	44. City treasurer; disposition of funds; disbursements.
16. Powers and duties of the council.	45. Street commissioner; duties; compensation.
17. Water; furnishing of.	46. City engineer; duties; compensation.
18. Grading of streets, roadways and alleys.	47. Fiscal year.
19. Powers of council by adoption of ordinances.	48. Property subject to taxation.
20. Franchises; granting of; restrictions.	49. Sidewalks; construction; repair and maintenance of.
21. Condemnation of real estate.	50. Street paving; regulations for.
22. Estimate of expenses; laying the levy.	51. Application of chapter eight, acts nineteen hundred and eight, in respect to paving and sewage.
23. Lieu for taxes.	52. Authority to issue bonds for additional levy.
24. Distress for taxes.	53. Officers and ordinances at present in power and effect to continue, until when.
25. Other remedies.	54. Repealing acts and parts of acts inconsistent.
26. Licenses generally.	
27. Payment of taxes on licenses.	
28. Mayor; his duties; salary.	
29. Execution for fines and costs.	
30. Jail of Marshall county lock-up for city.	

*Be it enacted by the Legislature of West Virginia:*

That chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof, and chapter three of the acts of one thousand nine hundred and fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof.

Section 1. The inhabitants of Marshall county, in this state, 2 and now and hereafter residing within the boundaries prescribed 3 in the next section hereof, shall be and they are hereby constituted 4 a body politic and corporate, by and under the name of "the city 5 of McMechen," and as such and by and in the name shall have 6 perpetual succession and a common seal, and may sue and be sued,

7 contract and be contracted with, purchase, lease, hold and use real  
8 and personal property necessary for corporate purposes, and grant,  
9 sell, convey, transfer, let and assign the same; and generally shall  
10 have all the rights, powers and franchises belonging or appertaining  
11 to municipal corporations in this state; and shall have and succeed  
12 to all the powers, franchises, rights, privileges, and immunities,  
13 and be subject to all responsibilities, which were conferred upon,  
14 or belonging or appertaining to the city of McMechen, by virtue  
15 of chapter twelve of the acts of the legislature of this state, passed  
16 February twentyfourth, one thousand nine hundred and five.

*Boundaries.*

Sec. 2. The boundaries of said city shall be as follows:  
2 Commencing at the southwest corner of the corporation of the city  
3 of Benwood, the same being on the west edge of the Ohio river, in  
4 the Ohio state line, where it crosses the mouth of Pinch run, thence  
5 with the south corporation lines of the city of Benwood, north  
6 eighty-one degrees fifteen minutes east, crossing the river at a  
7 point in mouth of McMechen's run; thence up the same with its  
8 meanders, north sixty-nine and one-half degrees, east one hundred  
9 and seventy-eight feet; south eighty-one degrees east ninety-one  
10 feet; north eighty-six and one-fourth degrees east one hundred and  
11 forty-eight and five-tenths feet; south eighty-four and one-fourth  
12 degrees east one hundred and forty feet; north eighty-eight and  
13 one-fourth degrees east one hundred and seventy-nine and five-  
14 tenths feet; south seventy-eight degrees east two hundred and  
15 twelve feet; south sixty-four and one-half degrees east one hun-  
16 dred and seventy feet; north eighty-eight and one-half degrees  
17 east two hundred and forty-seven feet; north eighty-six degrees  
18 east one hundred and eighty-five feet; north fifty-two degrees east  
19 one hundred and eight feet; north seventy-four and three-fourths  
20 degrees east four hundred feet; south eighty-five and three-fourths  
21 degrees east one hundred and sixteen feet; north sixty-eight and  
22 three-fourths degrees east two hundred and nine and five-tenths  
23 feet; north seventy and one-fourth degrees east ninety-two feet;  
24 north seventy-one and one-fourth degrees east one hundred and  
25 thirty-two feet to a point on the north side of the run. located south  
26 twenty-one and one-fourth degrees east seven and one-half feet  
27 from a large sycamore witness, standing on the north bank of the  
28 run; thence, leaving the corporation line of the city of Benwood,  
29 north seventy and one-half degrees east two hundred and eighty-

30 five feet to a point at the forks of the run; thence up the south fork  
31 south seventy-seven and three-fourths degrees east two hundred  
32 and twenty feet; north twenty-seven and one-half degrees east six-  
33 ty-nine feet; south seventy-nine and one-half degrees east eighty-  
34 five feet to a point in the run, located north fourteen and one-half  
35 degrees east thirty-eight feet from the northwest corner of a small  
36 frame house standing between the run and the McMechen cemetery  
37 fence; thence up the run south sixty-six degrees east one hundred  
38 and fifty-nine feet to a point in the original easterly corporation  
39 line of McMechen; thence with said line, leaving the run, south  
40 sixteen degrees east two hundred and fifty-one and ninety-five one-  
41 hundredths feet to a stake in a field located north seventy-three and  
42 one-half degrees east one hundred and three and twelve one-hun-  
43 dredths feet from a gum tree stump, south of the cemetery fence,  
44 the said stake being also located south five and one-half degrees  
45 west eighty feet from the extreme easterly corner of the McMechen  
46 cemetery fence; then from said stake with the original easterly cor-  
47 poration line of McMechen, south thirteen degrees west six thou-  
48 sand one hundred and seventy-one feet to a point in the old bed of  
49 Jim's run, south of the present bed, and located south seventy-five  
50 degrees east seven hundred and ninety-two feet from the center of  
51 the Baltimore & Ohio railroad stone bridge; thence leaving the  
52 original corporation line of McMechen, south eleven degrees east  
53 one hundred and forty-six and six-tenths feet to a point in the east  
54 line of the "First addition to Riverview;" thence with said east line  
55 south twenty-three degrees forty minutes west four hundred and  
56 eighty-five feet to the north side of Twenty-third street; thence,  
57 following said north side of Twenty-third street, north sixty-six  
58 degrees twenty minutes west three hundred feet to the south west  
59 corner of lot No. 264; north seventy-seven degrees five minutes  
60 west fifty and eight-tenths feet to the south-west corner of lot No.  
61 262; north eighty-three degrees fifty minutes west; three hundred  
62 fifty feet more or less with the north line of twenty-third street,  
63 and that line extended across Marshall street to the east property  
64 line of the Baltimore & Ohio railroad company's right of way,  
65 thence with said east line, in a south-westerly direction, eleven  
66 hundred feet more or less to the point of intersection of the said  
67 right of way line with the eastward extension of the north line of  
68 Twenty-seventh street, which street lies on the north side of an ad-  
69 dition called "Riverview addition," situated between the right of  
70 way of the Baltimore & Ohio railroad company's main line, and

71 the right of way of the said Baltimore & Ohio railroad company's  
72 Ohio river division, thence with the north line of Twenty-seventh  
73 street, and its extension north seventy-five degrees thirty minutes  
74 west to, and across, the Ohio river, to the Ohio state line, thence  
75 up the river along the waters edge, following the said state line to  
76 the beginning.

#### *Wards.*

Section 3. The territory of said city is hereby divided into  
2 four wards as follows:

3 All that part of said city lying north of Sixth street, and the  
4 line of Sixth street extended to corporate lines, shall constitute the  
5 first ward of said city; that part lying between said Sixth and  
6 Tenth streets and lines of said streets extended to corporate limits,  
7 shall constitute the second ward, and all that part of said city lying  
8 between Tenth and Thirteenth streets and lines of said streets ex-  
9 tended to corporate limits, shall constitute the third ward, and all  
10 that part of said city south of Thirteenth street and the line of  
11 Thirteenth street extended to corporate limits, shall constitute the  
12 fourth ward of said city. The council of said city may change the  
13 boundaries of the different wards, but regard shall be had to equal-  
14 ity of population of the several wards.

#### *Officers.*

Sec. 4. The officers of said city shall be a mayor, clerk, mar-  
2 shal, treasurer, solicitor, health officer, street commissioner, city  
3 engineer, and two councilmen from each ward. The mayor shall  
4 be elected by the qualified voters of said city. The clerk, marshal,  
5 health officer, street commissioner, treasurer, solicitor and city  
6 engineer shall be appointed by the council, and the councilmen,  
7 shall be elected by the qualified voters of their respective wards.  
8 No person shall be eligible to any elective office unless he is a  
9 qualified voter thereof, nor unless he has resided therein for at  
10 least six months before his election; and in case of a councilman,  
11 unless he is a *bona fide* resident of the ward from which he is elect-  
12 ed, and a freeholder of said city; and the removal of a councilman  
13 from the ward in which he was elected, or his ceasing to be a free-  
14 holder in said city, shall vacate his office.

15 The council may by ordinance or resolution appoint one person  
16 to perform the duties herein provided to be performed by one or  
17 more of the above named officers, define the duties to be performed  
18 by such officers, and fix the compensation therefor.

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

*Term of Officers.*

Sec. 6. The term of office of the mayor shall begin on the  
2 first Monday in April next succeeding his election and shall be for  
3 the term of two years, and until his successor shall have been  
4 elected and qualified. The clerk, marshal, treasurer, health officer,  
5 street commissioner, solicitor, and city engineer, shall be ap-  
6 pointed by the council and shall hold their office during the pleas-  
7 ure of the council. The same person shall not be appointed for  
8 two consecutive terms unless he shall have fully settled up the  
9 business of his former term or terms. At the first election provided  
10 in section eight of this act there shall be elected a mayor, whose  
11 term of office shall begin on the first Monday in April next succeed-  
12 ing his election and shall be for the term of two years, and until  
13 his successor is elected and qualified, and two councilmen from  
14 each ward whose term of office shall begin on the first Monday in  
15 April next succeeding their election, the one thereof receiving the  
16 highest number of votes shall hold his office for the term of four  
17 years, and the one receiving the next highest number of votes shall  
18 hold his office for the term of two years, and until their successors  
19 are elected and qualified. On the same day each succeeding two  
20 years one councilman from each ward shall be elected and shall hold  
21 office for four years from the first Monday in April next succeeding  
22 their election and until their successors are elected and qualified.

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

*Elections.*

Sec. 8. The first election hereunder shall be held on the first  
2 Tuesday in March, one thousand nine hundred and twenty, and bi-

3 annually thereafter. Every person who has been a *bona fide* resi-  
4 dent of the city for three months next preceding any election, and  
5 has paid all municipal taxes levied and assessed against him for the  
6 preceding tax year, and otherwise a qualified voter under the consti-  
7 tution and laws of the state, shall be entitled to vote at such elec-  
8 tion in the ward in which he resides. The election shall be held,  
9 conducted and the results thereof be ascertained, returned and de-  
10 termined under such rules and regulations as may be prescribed by  
11 the council, which shall not be inconsistent with the general laws of  
12 the state governing municipal elections, and shall conform as nearly  
13 as practicable to such laws. Contested elections shall be heard and  
14 decided by council, and the proceedings therein shall conform as  
15 nearly as may be to similar proceedings in the case of contested  
16 elections of county and district officers. The council shall be the  
17 judge of the election, return and qualification of its own members.  
18 In case two or more persons receive an equal number of votes for  
19 the same office, if such number be the highest cast for such office,  
20 the city council shall decide by vote which of them shall be returned  
21 elected, and shall make their return accordingly.

#### *Council.*

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

Sec. 10. The council shall require and take from all officers  
2 elected or appointed as aforesaid, whose duty it shall be to re-  
3 ceive funds, assets or property belonging to the city, or have charge  
4 of the same, such bonds, obligations or other writings as may be  
5 deemed necessary and proper to secure the faithful performance of  
6 their several duties. All bonds, obligations or other writings taken  
7 in pursuance of any of the provisions of this act shall be made pay-  
8 able to "The City of McMechen," with such sureties and in such  
9 penalties as may be deemed proper, conditioned for the faithful  
10 performance of their duties and for the accounting for and paying  
11 over, as required by law, all moneys coming into their hands by vir-  
12 tue of their offices, and the respective persons and their heirs, exec-  
13 utors and assigns bound thereby, shall be subject to the same pro-

14 ceedings on said bonds, obligations and other writings, for enforce-  
15 ing the conditions of the terms thereof, by motion or otherwise, be-  
16 fore any court of competent jurisdiction held in and for the county  
17 of Marshall, that collectors of county levies and other sureties are  
18 or shall be subject to on their bonds for enforcing the payment of  
19 the county levies.

Sec. 11. 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 the  
4 council, but only after reasonable notice to such officer, and a  
5 hearing of the charges preferred; and any vacancy in office, however  
6 occasioned, may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times 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 herewith,  
5 for the transaction of business and for its own guidance and gov-  
6 ernment. The council shall be presided over at its meetings by the  
7 mayor, or in his absence by the clerk, or in the absence of both the  
8 mayor and clerk, then by one of the councilmen selected by a ma-  
9 jority of the council present, who may vote on any question as  
10 member of the council. The mayor shall have a vote only in case  
11 of a tie and in no case shall the presiding officer have more than  
12 one vote. A majority of the council shall be necessary to consti-  
13 tute a quorum for the transaction of business. No member of the  
14 council shall vote upon or take part in the consideration of any  
15 proposition in which he is or may be interested otherwise than a  
16 resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a  
2 well bound book to be called the "minute book" an accurate record  
3 of all its proceedings, ordinances, acts, orders and resolutions, and  
4 in another to be called the "ordinance book" accurate copies of all  
5 the ordinances adopted by the council, both of which shall be fully  
6 indexed and open to the inspection of any one required to pay taxes  
7 to the city, or who may be otherwise interested. All oaths and  
8 bonds of officers of the city and all papers of the council shall be  
9 endorsed, filed and securely kept by the clerk, except the bond of the  
10 clerk, which shall be filed with the mayor. All printed copies of  
11 such ordinances purporting to be published under authority of the  
12 council and transcripts of such ordinances, acts, orders and resolu-  
13 tions, certified by the clerk under the seal of the city, shall be deem-

14 ed *prima facie* correct, when sought to be used as evidence in any  
15 court or before any justice.

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

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

Sec. 16. The council of said city shall have power to lay off,  
2 vacate, close, open, alter, grade and keep in good repair the roads,  
3 streets, alleys, pavements, sidewalks, cross-walks, drains and gut-  
4 ters therein for the use of the citizens or of the public, and to im-  
5 prove and light the same, and to keep the same free from obstruc-  
6 tions of every kind; to regulate the width of pavements and side-  
7 walks on the streets and alleys, and to order the pavements, side-  
8 walks, 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 times of holding the same, provide suitable and con-  
12 venient buildings therefor, and prevent the forestalling or regu-  
13 lating of such markets; to prevent injury or annoyance to the  
14 public or to individuals from anything dangerous, offensive or  
15 unwholesome; to prohibit or regulate slaughter-houses and soap  
16 factories within the city limits; or the exercise of any un-  
17 healthy or offensive business, trade or employment; to abate all  
18 nuisances within the city limits, or to require and compel the  
19 abatement of removal thereof, by or at the expense of the per-  
20 son causing the same, or at the expense of the owner or occupant  
21 of the ground on which they are placed or found; to cause to be  
22 filled up, raised or drained by or at the expense of the owner,  
23 any city lot or tract of land covered or subject to be covered by  
24 stagnant water; to prevent horses, hogs, dogs, cattle, sheep, or  
25 other animals, and fowls of all kinds from going or being at  
26 large in such city, and as one means of prevention, to provide for  
27 impounding and confining such animals and fowls and upon



28 failure to reclaim, for the sale thereof; to protect places of  
29 divine worship and to preserve order in and about the premises  
30 where and when such worship is held; to regulate the keeping  
31 of gunpowder and other inflammable or dangerous substances;  
32 to provide and regulate the building of houses or other struc-  
33 tures, and for the making and maintaining of division fences by  
34 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 table,  
40 or table of like kind, under any denomination, whether the game  
41 or table be played with cards, dice or otherwise, or shall be a  
42 partner, or concerned in interest, in the keeping or exhibiting  
43 such table or bank, or keeping or maintaining any gaming house  
44 or place, or betting or gambling for money or anything of value;  
45 to suppress houses of ill-fame and to arrest and punish persons  
46 loitering in, or visiting them, or loitering at wharves or upon the  
47 streets; to prevent lewd and lascivious conduct; the sale or  
48 exhibition of indecent pictures or other representations; the  
49 desecration of the Sabbath day; profane swearing; to protect the  
50 persons of those residing or being within said city; to appoint  
51 when necessary or advisable a police force, permanent or tem-  
52 porary, to assist the chief of police in the discharge of his  
53 duties; to build or purchase, or lease and to use, a suitable place  
54 within or near said city for the safe keeping or punishment of  
55 persons charged with or convicted of the violation of ordinances;  
56 to provide for the employment of persons convicted of the viola-  
57 tion of ordinances or who may be committed in default of the  
58 payment of fines, penalties or costs, and who are otherwise  
59 unable to discharge the same, by putting them to work for the  
60 benefit of the city, and to use such means to prevent their escape  
61 while at work, as they may deem expedient; to erect, or authorize  
62 or prohibit the erection of gas works, electric light works or water  
63 works within the city limits; to prevent injury to such works, or  
64 the pollution of any gas or water used or intended to be used by  
65 the public or by individuals, and to do all things necessary to  
66 adequately supply said city and the inhabitants thereof with  
67 pure, healthful and wholesome water; to use, generate, distribute,  
68 sell and control electricity and gas for heat, light and power and

69 to furnish lights for the streets, houses, buildings, stores, and  
70 other places in and about said city; to provide a sewerage sys-  
71 tem for said city; to provide for and regulate the weighing and  
72 measuring of hay, coal, lumber and other articles sold or kept or  
73 offered for sale, within said city; to establish and construct  
74 wharves and docks, and to repair, alter or remove any landing,  
75 wharf, or dock which has been or shall be so constructed and to  
76 establish and collect rates and charges for the use thereof; to  
77 regulate the running and speed of automobiles, motorcycles,  
78 vehicles, engines and cars within the said city; to organize one  
79 or more fire companies and provide necessary apparatus, tools,  
80 implements, engines or any of them for their use, and in their  
81 discretion to organize a paid fire department; to make regula-  
82 tions with respect to the erection and location of all pipes, con-  
83 duits, and telephone, telegraph, electric light or other poles with-  
84 in said city, and the extension of any wires, lines and poles by any  
85 individuals or corporation; to create by ordinances such com-  
86 mittees on boards, and delegate such authority thereto as may be  
87 deemed necessary or advisable; to provide for the annual assess-  
88 ment of the taxable property therein, including dogs kept in said  
89 city, and to provide a revenue for the city for municipal purposes,  
90 and to appropriate such revenue to its expense, and generally to  
91 take such measures as may be deemed necessary or advisable to  
92 protect the property, public and private, within the city; to pre-  
93 serve and promote the health, safety, comfort and well being of  
94 the inhabitants thereof.

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

105 The said council of said city shall have any and all addi-  
106 tional power and authority granted to cities, towns and villages  
107 by chapter forty-seven of the code, or any additional powers here-  
108 after granted to municipal corporations by the legislature of this  
109 state.

Sec. 17. The council of said city shall have the power to  
2 contract with persons, private or municipal corporations, for fur-  
3 nishing to said city, through and over the streets, alleys and  
4 public grounds of said city, water for domestic, fire and other  
5 purposes, for use by the inhabitants of said city and persons and  
6 corporations in the vicinity thereof, and said city by its council  
7 may provide for the sale of said water to the consumer thereof  
8 upon such terms and conditions as it may deem proper, *provided*,  
9 *however*, that no contract for such water shall be made by the city  
10 for a longer period than ten years.

Sec. 18. Before the council of said city shall accept the  
2 dedication to public uses, any highway, avenue, streets or alleys  
3 within said city, the highways, avenues, streets and alleys so  
4 dedicated for highway purposes shall be constructed to a proper  
5 grade to be approved by council, and the dedication of such streets,  
6 highways, avenues and alleys shall be for usual highway pur-  
7 poses and without reservation or restriction.

Sec. 19. 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 author-  
5 ity 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 or all of such  
8 ordinances, by-laws, orders or resolutions by prescribing for a  
9 violation thereof, fines and penalties and imprisonment in either  
10 the county jail of Marshall county, or the city prison if there be  
11 one; but no fines shall exceed one hundred dollars, and no term of  
12 imprisonment shall exceed ninety days. Such fines and penalties  
13 shall be imposed and recovered, and such imprisonment inflicted  
14 and enforced, by and under the judgment of the mayor of said city,  
15 or in case of absence or inability to act, by the clerk of said city,  
16 or in case of absence or inability to act of both of said officers, by  
17 one of the councilmen, appointed for that purpose by the council.  
18 Said city is hereby authorized to work its prisoners on the  
19 public streets and other improvements of said city or to hire its  
20 prisoners to the county court of Marshall county to work on the  
21 public roads, and other improvements of said county, on such terms  
22 and conditions as may be agreed upon; without making such work a  
23 part of the judgment against such prisoners; but credit shall be  
24 allowed any prisoner for the value of such work as fixed by council,

25 and when the fine and costs are fully paid by work, the prisoner  
26 shall be discharged from custody.

*Franchises.*

Sec. 20. Franchises may be granted by the city council to  
2 persons or corporations allowing such occupancy of portions of the  
3 streets and alleys as may be necessary for works of public utility  
4 and service, but no such franchise shall hereafter be granted ex-  
5 cept under the following restrictions and conditions: No ordinance  
6 shall be passed granting any franchise for the use of any of the  
7 streets or alleys of the city for any of the purposes above named,  
8 until the same shall have been filed with the clerk at least thirty  
9 days prior to the time when it is to be acted upon by the council,  
10 and notice of such application, stating the object of such franchise,  
11 and when the same will be considered by the council, shall have been  
12 given thirty days' notice in some newspaper of general circulation  
13 published in Marshall county.

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

18 Nor shall any franchise be hereafter granted by council for a  
19 longer period than twenty-five years, *provided*, that the council  
20 shall have the power to renew any such franchise for the term of  
21 ten years, when the same shall have expired. No franchise hereafter  
22 granted for a longer term than twenty-five years shall be of any  
23 force 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 damages  
26 caused by the construction and maintenance of such works.

27 Any person or corporation to whom a franchise has been or  
28 may hereafter be granted by said city, who shall fail or refuse to  
29 comply with the conditions of the ordinance granting the same  
30 within thirty days after receiving notice of such failure, shall for-  
31 feit all rights and privileges conferred by said franchise unless said  
32 failure be waived by resolution of the council of said city.

*Power to Condemn.*

Sec. 21. The council shall have the right to institute pro-  
2 ceedings, in the name of the city, for the condemnation of real es-  
3 tate for streets, alleys, avenues, sewers, drains, market grounds,

4 landings, wharves, city prison, or other work or purposes of public  
5 utility; such proceedings shall conform to the provisions of chapter  
6 forty-two of the code of West Virginia, and costs thereof shall be  
7 borne by the city, except that in contests involving a hearing in  
8 the circuit court, costs shall be recovered by the prevailing party.

#### *Levy.*

Sec. 22. 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 to  
5 be held by it in the month of August of each year, as provided by  
6 law, a levy of so much as will, in its judgment, be necessary to pay  
7 the same; such levy shall be upon all the real estate and personal  
8 property otherwise subject to state and county taxes, and an annual  
9 capitation tax of one dollar upon each male inhabitant of said city  
10 who has attained the age of twenty-one years; *provided*, that such  
11 levy shall not exceed the sum of forty cents upon each hundred  
12 dollars of the ascertained value of the real and personal property;  
13 and, *provided further*, that an additional special levy of ten cents  
14 upon each one hundred dollars of such valuation may be levied for  
15 the purpose only of paying the principal and interest of the bonds  
16 of said city now outstanding.

#### *Lien for Taxes.*

Sec. 23. 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 authorities  
4 of such city, from the time the same are so assessed or imposed,  
5 which shall have the priority over all other liens, except the lien  
6 for taxes due the state, county and district; and which may be en-  
7 forced by the council in the same manner provided by law for the  
8 enforcement of the lien for county taxes. If any real estate within  
9 said city be returned delinquent for the non-payment of the delin-  
10 quent taxes thereon, a copy of such delinquent list may be certified  
11 by the council to the auditor, and the same may be sold for the  
12 city taxes, interest and commission thereon, in the same manner, at  
13 the same time and by the same officer as real estate is sold for the  
14 non-payment of state taxes.

*Distress for Taxes.*

Sec. 24. If any person against whom, or upon whose property  
2 any taxes shall be lawfully assessed for the benefit of said city  
3 shall not wholly pay such tax on or before the first day of January  
4 after the same shall have become due, it shall be lawful for the  
5 officer authorized to collect such tax to take reasonable distress  
6 of any personal property in said city, belonging to said delinquent,  
7 in which he or she shall have the right or interest, and sell such  
8 property, right, or interest at public auction in said city, having  
9 given ten days' notice of the time and place of sale, by advertise-  
10 ment posted in some public place in said city, and published or  
11 posted in such other manner as may be prescribed by ordinance of  
12 said city, if council shall by ordinance require any other or more  
13 ample advertisement, and out of the proceeds of such sale after de-  
14 fraying all expenses, to pay said city the said tax, or as much there-  
15 of as shall be delinquent, and return the remainder, if any, to the  
16 owner of the property so levied and sold.

*Other Remedies.*

Sec. 25. In addition to all other means for the collection  
2 thereof, all taxes, as well as all other demands due to the said  
3 city, may be recovered by any appropriate suit or proceeding in the  
4 name of the city before any justice of Marshall county, if the  
5 amount be within his jurisdiction, or in the circuit court of said  
6 county if the amount be within the jurisdiction of said court, and  
7 any judgment so obtained may be enforced as other judgment liens  
8 are enforced.

*Licenses Generally.*

Sec. 26. The council shall have the authority to require a  
2 city license as follows: For anything to be done, carried on or  
3 exhibited within the city, for which a state license is now or may  
4 hereafter be required, for the keeping of hacks, carriages, carts,  
5 wagons, and other vehicles for hire within the city, and for keeping  
6 of 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 all  
8 such licenses the council may impose a reasonable tax for the use of  
9 the city.

Sec. 27. 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 marshal of said city before delivery to the person applying therefor  
5 and the provisions of sections thirty-nine, forty and forty-one of  
6 chapter thirty-two of the code of West Virginia, one thousand nine  
7 hundred and thirteen, relating to licenses, shall govern the city in  
8 the granting of licenses similar in character to those therein men-  
9 tioned, except where otherwise herein provided. Licenses for  
10 keeping dogs shall also expire on the thirtieth day of June next  
11 after they are granted, and all other licenses may be for such times  
12 as the council may determine.

*Mayor.*

Sec. 28. 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 *ex-*  
4 *officio* a justice and conservator of the peace within the city and  
5 shall within the same have, possess and may exercise, all the powers  
6 and perform all the duties whether in civil or criminal proceedings,  
7 vested by law in a justice of the peace. Any summons, warrant or  
8 other process, issued by him, may be executed at any place within  
9 the county; he shall have power during the recess of the regular  
10 meetings of council to appoint special police officers when he shall  
11 deem it necessary, and it shall be his duty to see that the peace and  
12 good order of the city are preserved, and that persons and property  
13 therein are protected; and to this end he may arrest and detain, or  
14 cause the arrest and detention, of all riotous and disorderly per-  
15 sons before taking other proceedings in the case; he shall from time  
16 to time recommend to the council such measures as he may deem  
17 needful for the welfare of the city; he shall not receive any money  
18 due or belonging to the state or corporation or to individuals, unless  
19 and until he shall have given the bond and security required of a  
20 justice of the peace by chapter fifty of the code of West Virginia;  
21 and all the provisions of said chapter relating to moneys received  
22 by justices shall apply to moneys received by him in like cases.

23 The mayor shall receive a salary of not less than two hundred  
24 nor more than three hundred dollars per annum; such salary shall  
25 be in lieu of the fees which would otherwise accrue to him in pro-  
26 ceedings for the enforcement of ordinances, but all such fees shall  
27 be collected when practicable, and accounted for to the city, and he  
28 may tax such costs against any person or corporation found guilty  
29 of the violation of any ordinance of the city, as are provided to be

30 taxed and recovered by justices of said county in criminal cases.

31 The process in proceedings to enforce any ordinances prescrib-  
32 ing a fine or imprisonment, or a fine and imprisonment, for the vi-  
33 olation thereof, shall be a summons in the name of the city of Mc-  
34 Mechen as plaintiff, directed to the marshal, or to one of the regular  
35 police officers of the city, or to any constable of any district with-  
36 in the said city, requiring him to summon the person accused of  
37 such violation, and who shall thereafter be designated as defendant,  
38 to appear before the mayor at the time and place therein named to  
39 make answer to such accusation and be dealt with according to law;  
40 such summons shall contain such statement of the facts alleged as  
41 will inform such person of the general nature of the offense against  
42 the city of which he stands charged, and except in cases of arrest  
43 upon view, shall be issued only upon the complaint, on oath, of  
44 some credible person. But the mayor for good cause appearing, by  
45 endorsement on the summons, may order the person so accused to  
46 be forthwith apprehended and brought before him for a hearing of  
47 the charge. The clerk of said city, as well as the mayor, shall have  
48 authority to receive any complaint in writing of the violation of  
49 any ordinance, and to sign and issue the proper summons based  
50 upon such complaint. The mayor shall have, possess and may ex-  
51 ercise the power and authority belonging to a justice under section  
52 two hundred and twenty-four and two hundred and twenty-five of  
53 chapter fifty of the code of West Virginia, in summoning and en-  
54 forcing the attendance and examination of witnesses, in punishing  
55 for contempt, in granting continuances, and in securing and en-  
56 forcing the further attendance of the accused with a view to a trial  
57 or hearing. If any recognizance be taken for such further attend-  
58 ance, and is forfeited, the mayor may record the default, and an ac-  
59 tion be maintained in the name of the city, before the mayor, or  
60 any justice having jurisdiction, against the accused and his sure-  
61 ties, if any, to recover the penalty thereof.

Sec. 29. The mayor shall have the power to issue an exexcution for any fine and cost assessed or imposed by him, for the violation of any ordinance, or he may at the time of rendering judgment therefor, or at any time thereafter and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and in default of such payment he may cause the person so in default to be apprehended and brought before him, and commit him to the jail of Marshall county or in his discretion to the prison of said city, if one shall have been provided, until the



10 fine and costs are fully paid; but such imprisonment shall not ex-  
11 ceed ninety days.

Sec. 30. The jail of Marshall county may be used as a lockup  
2 for said city. The jailor of said county shall take and receive into  
3 his custody any person authorized to be confined therein by any or-  
4 dinance of the city, or sentenced to imprisonment therein, or com-  
5 mitted thereto, for non-payment of a fine or costs, or for failure to  
6 enter into a recognizance by the judgment or order of the mayor,  
7 in proceedings for the violation of an ordinance; and the expense of  
8 maintaining such persons while so in confinement shall, if such per-  
9 son be found guilty of such violation, be charged to such person as  
10 part of the costs, but whether collected from such person or not,  
11 such expense shall be paid to said jailor by the city.

#### *Mayor's Docket.*

Sec. 31. 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 summons,  
5 the return, the fact of appearance or non-appearance, the defense,  
6 the hearing, the judgment, the costs, and in case the judgment be  
7 one of conviction, the action taken to enforce the same; the record  
8 of such case shall be signed by the mayor or other person acting in  
9 his stead; and the original papers thereof, if no appeal be taken,  
10 shall be kept together and preserved in his office.

#### *Appeal.*

Sec. 32. 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 more than ten dollars, an appeal shall lie at  
4 the instance of the person against whom such judgment is rendered  
5 to the circuit court of Marshall county. Such appeal shall not be  
6 granted by the mayor unless within ten days from the date of the  
7 judgment, such person shall enter into a recognizance, with security  
8 deemed sufficient, in a penalty double the amount of fine and costs,  
9 with condition that the person appealing will appear before the said  
10 court on the first day of the next term thereof, to answer for the  
11 offense against the city with which he stands charged, and not  
12 thence depart without leave of said court, and will perform and  
13 satisfy any judgment which may be rendered against him by the

14 circuit court on appeal. The provisions of chapter one hundred  
15 and sixtytwo of the code of West Virginia, relating to recognizance  
16 in criminal cases, shall be applicable to the recognizance contem-  
17 plated by this section, except where herein otherwise provided; but  
18 any money recovered thereon or by virtue thereof shall inure to the  
19 said city.

Sec. 33. If such appeal be taken the mayor shall forthwith  
2 deliver to the clerk of said court the complaint in writing, if any,  
3 the summons, a transcript of the record including the judgment,  
4 the recognizance, and any other papers belonging to the case; and  
5 such clerk shall receive and file the same, and place the case upon  
6 the trial docket of the next succeeding term of said court, and said  
7 court shall proceed to try the same in its order.

Sec. 34. If the appellant be found guilty of a 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 impris-  
4 onment or the fine and imprisonment to be paid or suffered by  
5 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 mayor  
8 as those in court, including a fee to the attorney for the city of ten  
9 dollars, and the fees, if any, of the jailor or the keeper of the city  
10 prison; and the proceedings to enforce the collection of any such  
11 fine and costs, may be as provided in section ten, eleven and twelve  
12 of chapter thirty-six of the code of West Virginia, except that the  
13 writ mentioned in the tenth section may be issued by the clerk upon  
14 the order of the mayor of the city, and the notice contemplated by  
15 the eleventh section shall be given to such officer.

Sec. 35. From all judgments by the mayor in cases other  
2 than for violation of ordinances, appeals shall be allowed as in sim-  
3 ilar cases before justices.

#### *Solicitor.*

Sec. 36. The city solicitor shall prosecute and defend all  
2 suits for or against the city, and when requested so to do, shall give  
3 his opinion in writing to the mayor, the council, or any standing  
4 committee of council, upon such legal question as may be referred  
5 to him, affecting the city's interest. For his services he shall  
6 receive such compensation as the council may allow.

*Marshal.*

Sec. 37. It shall be the duty of the marshal 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 insubordination,  
5 suspend any such officer from duty, and report his action and his  
6 reason therefor to the next regular meeting of council for action  
7 thereon; he shall make a list of all dogs within said city liable to  
8 tax, collect the license tax thereon and pay the same to the treasur-  
9 er, as may be provided by ordinance of said city; he shall collect the  
10 taxes, assessments, licenses, and fees which may become due the  
11 city, and pay the same to the treasurer as herein provided; he shall  
12 be present in the police court whenever the same shall be in session,  
13 and see that all its orders and requirements are properly executed;  
14 he shall with the consent of the council entered of record, but not  
15 otherwise, appoint one or more policemen, as the council may deter-  
16 mine; he shall before entering upon the discharge of his duties, ex-  
17 ecute a bond conditioned for the faithful performance by him of the  
18 duties of his office, and for the accounting for any paying over, as  
19 required by law, all money which may come into his hands by virtue  
20 of his office, with sureties satisfactory to the council, in a penalty  
21 of not less than five thousand dollars nor more than fifteen thou-  
22 sand dollars, as the council may prescribe; he shall receive such sal-  
23 ary as may be fixed by council, which shall be at the rate of not less  
24 than six hundred dollars nor more than one thousand dollars per  
25 annum, and two per centum on all taxes, fines, assessments and pro-  
26 ceeds of licenses, collected by him and paid to the treasurer of said  
27 city as herein provided.

28 Each policeman appointed as prescribed by this section shall,  
29 before entering upon the discharge of his duties, execute a bond  
30 conditioned for the faithful performance by him of the duties of  
31 his office and as is required by law, and for the accounting for and  
32 paying over, as is required by law, all money which may come into  
33 his hands by virtue of his office, with sureties satisfactory to the  
34 council, in a penalty of not less than one hundred dollars nor more  
35 than five thousand dollars, as the council may prescribe.

Sec. 38. In case a violation of any ordinance of said city  
2 is committed in the presence, or within view of the marshal or other  
3 police officer, the offender may be forthwith apprehended and taken  
4 before 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. The  
7 marshal shall execute, within the county of Marshall, when directed  
8 to him, any proper process issued by the mayor in proceedings for  
9 the enforcement of ordinances; and shall collect by levy of execu-  
10 tion, or otherwise, and duly account for, all fines assessed and costs  
11 imposed in such proceedings. He shall also have all the rights and  
12 powers within said city, in regard to the arrest of persons, the col-  
13 lection of claims, and the execution and return of process, that are  
14 or may be lawfully exercised by a constable of a district within the  
15 same, and shall be entitled to the same compensation therefor; and  
16 he and his sureties shall be liable to all the fines, penalties and for-  
17 feitures that a constable is liable, for any dereliction of duty in of-  
18 fice, to be recovered in the same manner, and in the same courts,  
19 that such fines, penalties and forfeitures are recovered against con-  
20 stables.

*Clerk.*

Sec. 39. It shall be the duty of the city clerk to keep a  
2 journal of the proceedings of the city council and have charge of and  
3 preserve the records, papers, contracts and other documents belong-  
4 ing to the city; he shall keep regular books of account of the finan-  
28 the second Tuesday in August, for the purpose of determining the  
5 cial transaction of the city; he shall enter all judgments rendered  
6 by the mayor within a reasonable time after the same are rendered;  
7 he shall, in case of sickness or disability of the mayor to act, or in  
8 case of his absence from the city, or during any vacancy in the office  
9 of the mayor, perform the duties of mayor, and shall be vested with  
10 all the powers necessary for the performance of such duties; he  
11 shall also perform such other duties pertaining to the fiscal affairs  
12 of the city, or otherwise, as may be required of him by this act or  
13 by the council. He shall be paid such compensation as may be  
14 provided by council, which shall be at the rate of not less than two  
15 hundred dollars nor more than three hundred dollars per year.  
16 Such clerk shall give bond with security to be approved by the  
17 council in a penalty of not less than five hundred dollars, payable  
18 to said city, conditioned for the faithful performance of his duties  
19 as such clerk.

19a The officer whose duty is to make out the land books for Mar-  
20 shall county, or such other person as the council may appoint, shall,  
21 annually, at such compensation as agreed upon with council, not  
22 later than the fifth day of August, furnish to the clerk, showing in

23 separate amounts, the aggregate value of all the personal property  
24 and the aggregate value of all the real estate in the city, as ascer-  
25 tained from the land and personal property books of said county  
26 for the current year; upon receiving said statement the clerk shall  
27 present the same to council at a meeting to be held not later than  
29 rate of levy in said city for the current year; as soon as the rate of  
30 levy shall have been fixed by council, the clerk shall furnish the offi-  
31 cer whose duty it is to make out the land and personal property  
32 books, a certified copy of the order of the council, fixing the rate of  
33 tax, and such officer shall thereupon extend the tax against the  
34 property situated in the city in the land and personal property  
35 books in separate columns in said books.

Sec. 40. The clerk shall, when the extended copies of the  
2 assessor's books are completed and returned to the clerk of the  
3 county court, have access to the same for the purpose of making out  
4 the tax tickets of the taxes therein extended, and it shall be the  
5 duty of the clerk to make out all tax tickets, and when the same  
6 have been examined, compared and approved by the financial com-  
7 mittee of the council and found to be correct, they shall be turned  
8 over to the marshal not later than the tenth day of September fol-  
9 lowing the levy, whose receipt shall be returned to the council and  
10 entered upon its records, and the marshal shall be charged there-  
11 with.

12 The marshal shall give notice that said tax tickets are in  
13 his hands for collection, stating the penalty for nonpayment there-  
14 of, and the time and place where the same may be paid, which no-  
15 tice shall be posted for fifteen days in a public place in each ward  
16 of said city.

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

21 The marshal shall immediately proceed to collect from the  
22 persons by district or otherwise the entire amount of the taxes with  
23 which they are severally charged therein, and remaining unpaid on  
24 the first day of January next succeeding said levy, with interest at  
25 the rate of one per centum per month from said first day of Janu-  
26 ary until they are fully paid.

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

Sec. 41. The said marshal shall receive all taxes, assess-

2 ments, fines and costs and other money due the city authorized by  
3 this 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 all  
5 money paid to him for the use of said city, showing under separate  
6 accounts the amount received for account of taxes, sewer purposes,  
7 street pavement, licenses, fines and costs and of other matters per-  
8 taining to his office, which books shall at all times be open to the  
9 inspection of the council or any committee appointed by it for  
10 such purposes; he shall pay over promptly all money which he may  
11 receive, within five days after the receipt thereof, into the hands  
12 of the treasurer of the said city, showing an itemized statement of  
13 the several funds included in said payment, taking the treasurer's  
14 receipt therefor; he shall keep his office at the office of the mayor,  
15 unless otherwise ordered by the council; he shall on or before the  
16 last day of March and September of each year, and oftener if di-  
17 rected by council, present to the council a full, complete and detail-  
18 ed statement of all money with which he is chargeable, or that has  
19 been received by him from all sources up to the time, together with  
20 a statement of all money paid to the treasurer, and proper receipts  
21 therefor, and he shall at such times return a list of all taxes, lev-  
22 ies, assessments and other claims in his hands for collection which  
23 he shall not have been able to collect by reason of insolvency, re-  
24 moval, or other cause, to which list he shall append an affidavit that  
25 he has used due diligence to collect the several items therein men-  
26 tioned, but has been unable to do so, and if the council should be  
27 satisfied as to the correctness of said list, it shall allow him a credit  
28 for said claim, but may thereafter take such lawful measures to  
29 collect the same as shall be by it prescribed. The said marshal  
30 shall receive all taxes on licenses, and receipt to the party paying  
31 the same by endorsement upon the permit granted by order of the  
32 council and shall charge himself with the amount received from the  
33 same, and report to the council at the next regular meeting there-  
34 after, the amount so received, and pay the same over to the treas-  
35 urer, taking his receipt for the same; he shall, upon the expiration  
36 of his term of office or upon the order of council, turn over to his  
37 successor all money, books of account and other property of said  
38 city in his possession.

Sec. 42. The marshal of said city shall be chargeable with,  
2 and it shall be his duty to collect, the city taxes, levies and assess-  
3 ments under such regulations as may be prescribed by law and the  
4 ordinances of the city, and in case the same are not paid within

5 one month after they are placed in his hands for collection, he may  
6 distrain and sell therefor in like manner and have the same power  
7 and authority possessed by the officer with the collection of state  
8 taxes.

9 If the marshal shall fail to collect, account for and pay over  
10 to the treasurer of said city any or all the money with which he  
11 may be chargeable, belonging to the said city, according to the con-  
12 ditions of his bond and orders of council, it shall be lawful for  
13 the council to recover the same by action or by motion, upon ten  
14 days' notice, in the corporate name of the city, in the circuit court  
15 of Marshall county, against him and his sureties, or any or either  
16 of them, or his or their executors or administrators.

#### *Health Officer.*

Sec. 43. 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 fixed by council.

#### *Treasurer.*

Sec. 44. The treasurer may be any citizen, a bank or trust  
2 company of said city, and shall be selected by council and may hold  
3 office during the pleasure of the council. All money due the city  
4 shall be paid to the marshal and be by the marshal 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 marshal for all money paid by him, and shall keep regular  
9 books or account, showing the amount of the several funds paid or  
10 deposited with the treasurer by said marshal, and shall make  
11 report to the council once a month or at such other times as the  
12 council may direct, showing the receipts and disbursements of the  
13 funds of the city, and the treasurer shall produce his books of  
14 account to the council or any committee of the same for inspection,  
15 upon the order of the council.

16 The treasurer shall give bond, with security to be approved  
17 by 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 by

20 the council. The said treasurer shall receive such compensation as  
21 the council may fix, which shall not be more than at the rate of  
22 two hundred dollars per annum. Any bank or trust company of  
23 said city is hereby authorized to act as treasurer of said city, and  
24 the same shall be liable for all money deposited therein.

*Street Commissioner.*

Sec. 45. The street commissioner shall perform such duties  
2 in regard to construction and repair of streets and alleys, and re-  
3 moval of garbage as are now, or which may hereafter be imposed  
4 upon him by any ordinance of said city, and shall perform such  
5 other duties as may be required by council. He shall receive such  
6 compensation as may be fixed by council, which shall be at the rate  
7 of not less than five hundred dollars nor more than one thousand  
8 one hundred dollars per annum.

*City Engineer.*

Sec. 46. 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 therefor  
5 shall be fixed by the council.

*Fiscal Year.*

Sec. 47. The fiscal year of said city shall begin on the first  
2 day of April and end on the thirty-first day of March of each  
3 year.

*Property Subject to Taxation.*

Sec. 48. All property real and personal within said city  
2 which is subject to taxation under the constitution and laws of  
3 the state of West Virginia, shall be assessed for and subject to  
4 taxation for the benefit of said city.

*Sidewalks.*

Sec. 49. After having caused a proper grade to be established  
2 at the expense of said city, the council may require sidewalks, foot-  
3 ways or sidewalks and gutter combined, on the streets, avenues or  
4 alleys of the said city to be paved with concrete, brick, stone or



5 other suitable material as the council may determine, under the  
6 direction of the street commissioner, by the owners respectively of  
7 the lots, or the fractional parts of lots, facing or abutting on such  
8 sidewalk or footway, and if the owner of any such sidewalk or  
9 footway, or of the real property next adjacent thereto, shall fail or  
10 refuse to pave the same in manner or within the time required by  
11 the council, it shall be the duty of the council to cause the same to  
12 be done at the expense of the city, and to assess the amount of such  
13 expense upon such owner, and the clerk shall notify the owner of  
14 said lot the amount of such assessment, giving said owner notice  
15 of the time the council will hear and determine any objection  
16 which may be made to such assessment, and the council shall pro-  
17 ceed to hear such objections, if any, and if in the opinion of the  
18 council such assessment should be made, such fact, with the amount  
18-a of the same shall be recorded in the "minute book" of the council,  
19 and if the said assessment be not paid within thirty days from the  
20 date of such hearing the clerk shall cause a memorandum showing  
21 the name of the owner of said lot, a description of the lot, and the  
22 amount of such assessment, to be filed in the office of the clerk of  
23 the county court of Marshall county, which shall be entered of  
24 record in the judgment lien docket in his office, and the same shall  
25 constitute a line on such property, which may be enforced by a  
26 suit in equity in the name of the city, in the circuit court of  
27 Marshall county, as other liens against real estate are enforced,  
28 and upon the payment of said assessment the clerk shall issue  
29 to the person entitled thereto a release of said lien, provided, how-  
30 ever, that reasonable notice shall first be given to said owners  
31 that they are required to construct such sidewalks or footways, and  
32 in case the owner is a non-resident of the state, the notice aforesaid  
33 may be given by publication for four successive weeks in a news-  
34 paper published in Marshall county, West Virginia. The pro-  
35 visions of this section shall also be applicable to needed repairs to  
36 any of the pavements of the city, and to the substitution of new  
37 pavements for any which may have been heretofore, or which may  
38 be hereafter laid and completed, and which may be deemed in-  
39 sufficient.

#### *Street Paving.*

Sec. 50. The council shall have the authority to provide that  
2 any street, avenue or alley or any portion thereof, between the  
3 curbstones or gutters, shall be macadamized, or paved with bricks,

4 cobblestones, or other suitable material, upon the lowest and best  
5 terms obtainable, after advertisement for four weeks in one or more  
6 newspapers published in Marshall county, West Virginia, for bids  
7 and proposals for the work; and two-thirds of the cost of such mac-  
8 adamizing or paving, between the curbs or gutters of such street,  
9 avenue, or alley, shall be assessed to the owners of lots, or fractional  
10 part of lots, fronting or abutting on such street, avenue or alley,  
11 that is to say, the property owners on each side of said street, avenue  
12 or alley to be assessed one-third of the cost of said improvement,  
13 to each property owner a sum proportionate to the distance, or ex-  
14 tent in feet by him owned, and one-third of the sum so assessed  
15 shall be paid by each property owner of the city within thirty days  
16 after the completion of the work, and the remainder in two equal  
17 installments 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 of  
20 of such expense, as well as the expense of macadamizing or paving  
21 at the intersection of streets, avenues and alleys, shall be defrayed  
22 by the city. The council shall cause a notice to be published for  
23 one week in a newspaper published in Marshall county, West Vir-  
24 ginia, showing owners of the property and the number of feet  
25 fronting on said improvements, as well as the time and the  
26 place where the said council will proceed to fix said assessments as  
27 above provided, and giving notice to any persons having an inter-  
28 est in said property to appear and show cause, if any they can, why  
29 such assessment should not be made; and the council may, in mak-  
30 ing said assessments, consider the petition of any person or corpo-  
31 ration relative to the inequality of said assessment, and may equal-  
32 ize and adjust the same. The assessment to be made to any owner  
33 of 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 install-  
36 ment thereof, as those provided for in the preceding section provid-  
37 ing for the laying of pavements. The council of said city may  
38 cause an additional annual levy of fifteen cents on the hundred dol-  
39 lars of the ascertained value of all the real and personal property  
40 within said city, or subject to taxation, for the purpose only of de-  
41 fraying the expense of paving the streets, avenues, alleys, wharves  
42 and public grounds of said city as herein provided; such levy shall  
43 be made at the time the general levy is laid, and shall be collected

44 in like manner, but a separate account shall be kept of the receipts  
45 and expenditures of such fund.

Sec. 51. In addition to the method provided in the next preceding section for improving the streets, avenues, alleys, wharves and public grounds of said city, the council may by resolution passed by a vote of three-fifths of all the members thereof, provide that certain streets, avenues, alleys, wharves and public grounds of said city shall be paved, or otherwise improved, or that sewers shall be constructed in certain streets, avenues, alleys wharves and public grounds of said city, under the provisions of chapter eight of the acts of the legislature of this state for the year one thousand nine hundred and eight, extra session, without submitting the adoption of said chapter to a vote of the qualified voters of said city as provided in section seventeen of said chapter, and upon the passage of said resolution the provisions of said chapter eight shall be adopted for the purposes contained in said resolution, and the council may proceed with the improvement according to the provisions of said chapter the same as though the provisions thereof were incorporated in this act.

*Bonds Additional levy.*

Sec. 52. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of the said city and to apply the proceeds thereof to the payment for any general improvement therein, or to any debt or obligation of the said city as provided in chapter forty-seven of the code of West Virginia, nineteen hundred and thirteen, or may submit to the voters of said city the question of making an additional levy, and if three-fifths of the votes cast therein be in favor of such increase levy the council may levy the same.

Sec. 53. The city of McMechen shall succeed to all the rights, powers and liabilities, and be vested with the title to all property of the city of McMechen as heretofore existing, and all officers of said city of McMechen acting as such at the time this enactment takes effect shall continue to exercise the powers, perform the duties, and receive the compensation heretofore granted, prescribed and allowed by former charter, by general law or by ordinances of said city, until the first Monday in April, one thousand nine hundred and twenty, or until their successors, the officers herein mentioned, are elected or appointed and qualify, and all ordinances in force at the time this act becomes operative shall

12 continue to have full force and effect until amended, repealed or  
13 superseded by the council of said city.

Sec. 54. All acts and parts of acts coming within the pur-  
2 view of this act, and inconsistent herewith, are hereby repealed.

## CHAPTER 8.

(House Bill No. 11—Mr. Hamilton.)

AN ACT to amend, revise and consolidate into one act, the act of the legislature of West Virginia, passed February sixteenth, one thousand nine hundred and one, entitled, "An act to amend and re-enact and to reduce into one act the several acts incorporating the town of Mannington, in the county of Marion, defining the powers thereof and describing the limits of said town, and incorporating the city of Mannington, in said county," and all subsequent acts of the legislature of said state, including the acts passed February seventeenth, one thousand nine hundred and five; February twentieth, one thousand nine hundred and fifteen, and February nineteenth, one thousand nine hundred and seventeen, which form a part of the charter of the city of Mannington.

[Passed February 6, 1919. In effect from passage. Became a law without the Governor's approval.]

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| <p><b>Sec.</b><br/>1. City of Mannington.<br/>2. Corporate limits and boundaries.<br/>3. City wards.<br/>4. Municipal authorities.<br/>5. Corporate powers.<br/>6. Qualifications for office.<br/>7. Department of city government.<br/>8. Election of mayor, chief of police and three auditors; term of office.<br/>9. Election of members of council; term of office.<br/>10. Qualification of voters.<br/>11. Method of election.<br/>12. Deciding tie vote.<br/>13. Contested elections.<br/>14. Vacancies; how filled.<br/>15. Appointive offices; powers of council by ordinance.<br/>16. Bonds and other obligations payable to the city.<br/>17. Oath of office; bonds.<br/>18. Date of entering upon duties of office.<br/>19. Vacancy through ineligibility; how filled.<br/>20. Mayor; duties and powers.<br/>21. Clerk; his duties.<br/>22. Quorum.</p> | <p><b>Sec.</b><br/>23. Keeping of records.<br/>24. Reading and correction of minutes of previous meetings.<br/>25. Mayor shall vote only in case of a tie.<br/>26. Meetings of council; authority to call.<br/>27. Moneys belonging to the city; disposition of.<br/>28. City hall; engine house; public libraries; reading rooms, etc.<br/>29. Marion county jail for use of city.<br/>30. City cemetery.<br/>31. Paving upon petition of property owners.<br/>32. Real estate returned delinquent.<br/>33. Powers of council generally.<br/>34. Authority to pass ordinances; what for; right to contract for water supply; authority to construct sewage.<br/>35. Licenses generally.<br/>36. Mayor's docket.<br/>37. Estimates of expenses; laying of levy.<br/>38. Assessment of property subject to taxes; dogs; return of assessment.</p> |
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<p><b>Sec.</b> 39. Collection of taxes by chief of police; duties relative thereto.</p> <p>40. Manner by which license may be applied for and granted.</p> <p>41. Application of section thirty-nine, chapter thirty-two, Barnes' code, for one thousand nine hundred and eighteen, relating to state license.</p> <p>42. Right of condemnation of real estate for public utility.</p> <p>43. Repealing acts or parts of acts inconsistent.</p>	<p><b>Sec.</b> 44. Duties of council in being at time this act becomes effective.</p> <p>45. Ordinances to remain in effect until amended, superseded or repealed.</p> <p>46. Present officers to remain in power until successors qualify.</p> <p>47. Act effective when adopted by qualified voters; special election provided for.</p> <p>48. In event of failure of act to take effect.</p> <p>49. If act is adopted and fails to take effect.</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 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.

Sec. 2. The corporate limits of said city 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 said 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 east six hundred and thirty and five-tenths feet to a stake in the northern side of said turnpike; thence south sixteen degrees twenty-five minutes east three hundred and three feet to a stake in the northern side of said turnpike; thence leaving said turnpike south seventy-three degrees fifty-two minutes east seven hundred and fifty-seven feet to a stake in the field; thence south eighty-nine degrees forty-four minutes east two hundred and eighty-nine feet to a stone, corner to Mary Hamilton and lands formerly owned by John Blackshere heirs and now owned by the Sycamore Land company; thence north seventy-nine degrees thirty-six minutes east eight hundred and eighty-six feet to a stake, which bears south sixty-five degrees west ninety-five feet from oil well number twelve on the original J. W. Phillips tract; thence south fourteen degrees fourteen minutes east one thousand

25 five hundred and fifty-five feet to a stake twenty feet to the left  
26 of well number three on said J. W. Phillips tract; thence north  
27 seventy-six degrees fifty-four minutes east eight hundred and  
28 eighty-five feet to a stake, three feet from the northwest corner  
29 of the concrete bridge over Flaggy Meadow run; thence south  
30 eighty-six degrees thirty-four minutes east five hundred and  
31 eighteen feet to a stake in a Homewood street, the southeast cor-  
32 ner of lot number two, block No. N, twenty-eight feet to the  
33 left at right angles; thence north sixty-one degrees, fifty-six  
34 minutes east four hundred and thirty-five feet to a stake eight  
35 feet to the right of the southeast corner of lot number thirty-nine,  
36 block M; thence crossing Buffalo creek and the Baltimore and  
37 Ohio railroad, north forty-two degrees fifty-two minutes east  
38 five hundred and seventy feet to a stake at the southern edge of  
39 the pike; thence north forty degrees fifty-seven minutes west  
40-41 four hundred and twenty-six feet to a stake at the southern edge  
41-a of the pike; thence north twenty-five degrees six minutes west  
41-b of the pike; thence north twenty-five degrees six minutes west  
41-c three hundred and fifty-four feet to a stake at the southern edge of  
41-d the pike thence north twenty-one degrees fifty-eight minutes  
42 west six hundred and eighty-nine feet to a stake at the southern  
43 edge of the pike; thence north forty degrees nine minutes west  
44 two hundred and sixty-nine feet to a stake at the south side of  
45 the pike; thence north thirty-three degrees fifty-four minutes  
46 west three hundred feet to a stake at the south side of the pike;  
47 thence north forty-six degrees thirty-four minutes west one hun-  
48 dred and ninety-one feet to a stake at the south side of the pike;  
49 thence north seventy-one degrees forty-nine minutes west one  
50 hundred and fifty-seven and five-tenths feet to a stake at the  
51 south side of the pike; thence south eighty-seven degrees twenty-  
52 one minutes west one hundred and fifty-four and five-tenths feet  
53 to a stake at the south side of the pike near a culvert; thence  
54 north one degree twenty-four minutes west four hundred and  
55 eighty feet to a walnut; thence north thirty-seven degrees west  
56 seven hundred and fifty-five feet to a hickory, corner to Rymer  
57 heirs thence north fifty-six degrees west one thousand four hun-  
57-a dred and thirty-one feet to a stake, corner to Rymer heirs and  
57-b M. F. Hamilton; thence north thirty-three degrees twen-  
58 ty minutes west one thousand eight hundred and twenty  
59 feet to a stake; thence north eight degrees forty-five minutes west

60 six hundred and sixty feet to a stake; thence north fifteen de-  
61 grees fifteen minutes east eight hundred and fourteen feet to a  
62 stake; thence north thirty-five degrees five minutes west one  
63 thousand six hundred and ten feet to a white oak on a bluff;  
64 thence north eighty-three degrees thirty minutes west three hun-  
65 dred and sixty-five feet to a point on the curb at the southwest  
66 corner of the Baltimore and Ohio railroad, crossing the county  
67 road; thence crossing Pyles Fork creek twice, south forty-nine  
68 degrees thirty minutes west five hundred and seventy feet to a  
69 point on the northeast corner of the head wall of a culvert on the  
70 east side of the county road; thence south forty-two degrees fif-  
70-a teen minutes east three hundred and seventy-three feet to the  
70-b northeast corner of the head wall of a culvert on the east  
70-c side of the county road; thence south four degrees west one  
71 thousand three hundred and sixty-one feet to a stake; thence  
72 south seventeen degrees west one thousand and seventy-two feet  
73 to a point on the root of a white oak tree, corner of Koen and  
74 Beaty, from which the corner of Koen heirs, Sallie Beaty and  
75 Snodgrass, formerly Geo. Furbee estate, bears north thirty-three  
76 degrees thirty minutes west two hundred and twenty-five feet;  
77 thence north eighty-two degrees west seven hundred and sixty feet  
78 to a gum in Koen heirs field; thence south fifty-four degrees  
79 twenty minutes west one thousand nine hundred feet to the north-  
80 east corner of the Grand View plan of lots; thence south eighty-  
81 six degrees thirty minutes west eight hundred and twenty-five feet  
82 to a stake; thence south two degrees west one thousand one hun-  
83 dred and fifty-five feet to a stake, which line runs in part with the  
84 east side of Linden avenue; thence south fifty-seven degrees fifteen  
85 minutes east one thousand five hundred and eighty-eight feet to a  
86 stake near Buffalo creek; thence crossing said creek, south seventy-  
87 one degrees fifteen minutes east five hundred and thirty feet to a  
88 sarvis in Koen's field; thence north seventy-four degrees east one  
89 thousand six hundred and ten feet to a stake in the north side of  
90 the Mannington and Clarksburg turnpike, the place of beginning.

Sec. 3. The territory of said city shall be divided into five

2 wards described as follows:

3 First ward—All that portion of said city lying east of Pyles  
4 Fork creek and Buffalo creek to that point on Buffalo creek  
5 where the line of Fairview street extended in a southwestern di-  
6 rection strikes Buffalo creek, and with this line and Fairview

7 street and its extension in a northeasterly direction to the out-  
8 side boundary of said city.

9 Second ward—All that portion of said city lying west of  
10 Pyles Fork creek and north of Buffalo creek.

11 Third ward—All that portion of said city lying south of  
12 Buffalo creek and west of a point in the Mannington and Clarks-  
13 burg turnpike where the line of Thomas Smith heirs and E. F.  
14 Phillips heirs cross said pike, and with said line extended to  
15 Buffalo creek.

16 Fourth ward—All that portion of said city lying north of  
17 Buffalo creek and east of Fairview street and its line extended  
18 southwest to Buffalo creek and northeast to the city limits.

19 Fifth ward—All that portion of said city limits lying east  
20 of the point in the Mannington and Clarksburg turnpike where  
21 the line of Thomas Smith heirs and E. F. Phillips heirs strikes  
22 said pike, and with its line extended to Buffalo creek and south  
23 of Buffalo creek.

Sec. 4. The municipal authorities of said city shall consist  
2 of a mayor and ten councilmen, who together shall form a com-  
3 mon council, and who shall receive such compensation as the  
4 council shall from time to time determine, and which shall not  
5 be increased or diminished during their term of office.

Sec. 5. All the corporate powers of said corporation shall  
2 be exercised by said council or under their authority, except when  
3 otherwise provided.

Sec. 6. The mayor and councilmen at the time of their  
2 election shall be free holders in said city, and shall be entitled to  
3 vote for the members of the common council of said city as resi-  
4 dents and legal voters therein.

Sec. 7. There shall be a chief of police, who shall be *ex-*  
2 *officio* collector, a city attorney, street commissioner, superin-  
3 tendent of water works, city physician, assessor, three auditors,  
4 city surveyor and clerk, who at the time of their election or ap-  
5 pointment shall be entitled to vote for the members of its common  
6 council. The city attorney, city physician and city surveyor  
7 shall be appointed by the common council, to hold their respective  
8 offices for the term of one year from the first day in April, or  
9 until their successors shall have been appointed and qualified.

Sec. 8. On the second Monday in March, one thousand nine  
2 hundred and nineteen, and on said day of every succeeding year,



3 there shall be elected by the qualified voters of said city a mayor,  
4 chief of police, who shall be *ex-officio* collector, and three audi-  
5 tors, who shall hold their respective offices for one year and until  
6 their successors shall be elected and qualified.

Sec. 9. On the same day two members of the council shall  
2 be elected in each ward in said city who shall reside in the ward  
3 for which they are elected, and the candidate receiving the high-  
4 est number of votes shall be elected for two years, from the first  
5 day in April, succeeding his election, and the candidate receiving  
6 the next highest number of votes shall be elected for one year  
7 from the first day in April succeeding his election. And on the  
8 same day of each succeeding year one member of the council  
9 shall be elected in each ward in the said city whose term of office  
10 shall be for two years from the first day of April succeeding his  
11 election, and until his successor shall be elected and qualified.  
12 Each ward shall constitute an election precinct, and the council  
13 shall establish a voting place in each, and the election of council-  
14 men shall be by wards. No voter shall be entitled to vote at any  
15 city election except in the ward in which he resides, and if any  
16 voter shall vote for any person for councilman who is not a  
17 resident of the ward in which he is voted for, such vote or votes  
18 shall not be counted for such person or persons.

Sec. 10. Every male person residing in said city shall be  
2 entitled to vote for all officers elected under this act, but no per-  
3 son who is a minor or of unsound mind, or a pauper, or who is  
4 under a conviction of treason, felony or bribery in an election,  
5 or who has not been a resident of this state for one year, and of  
6 the city of Mannington for sixty days, and is a *bona fide* resident  
7 of the ward in which he offers to vote, and each voter shall be  
8 entitled to vote for only two auditors.

Sec. 11. In all the elections by the people the mode of voting  
2 shall be by ballot; but the voter shall be left free to vote by open,  
3 sealed or secret ballot, as he may elect. The election in said city  
4 shall be held and conducted and the result thereof certified, re-  
5 turned and finally determined under the laws in force in this  
6 state, relating to general elections, on the date of the passage of  
7 this act. The corporate authorities of said city shall perform the  
8 duties in relation to such election required by general law of  
9 county courts and officers on the date of the passage of this act,  
10 and the provisions of chapter three, of the code of West Virginia,  
11 and any amendments to said chapter, in effect on the date of the

12 passage of this act concerning elections by the people, shall gov-  
13 ern such election and be applicable thereto, and the penalties  
14 therein prescribed for offenders relating to elections shall be en-  
15 forced against the offenders at such corporate elections, and said  
16 act and its amendments shall have the same force and effect as if  
17 it were specially applicable to such corporate elections.

Sec. 12. Whenever two or more persons shall receive an  
2 equal number of votes for councilmen or other city officers, such  
3 tie shall be decided by the council in being.

Sec. 13. All contested elections shall be heard and decided  
2 by the common council for the time being; and the contest shall  
3 be made and conducted in the same manner as provided for in  
4 contests for county and district officers; and the common coun-  
5 cil shall conduct their proceedings in such cases as nearly as  
6 practicable in conformity with the proceedings of the county  
7 court in such cases.

Sec. 14. Whenever a vacancy shall occur from any cause in  
2 the office of mayor, councilmen, chief of police and *ex-officio* col-  
3 lector, street commissioner, superintendent of water works or city  
4 assessor, the council for the time being shall, by a vote of the  
5 majority of those present, fill the vacancy until the next election,  
6 at which time a successor to fill the unexpired term of such office  
7 shall be elected by the people, or be appointed by the council.

Sec. 15. The street commissioner, superintendent of water  
2 works, city attorney, city physician, city surveyor, city assessor,  
3 and clerk shall be appointed by the council. The council shall also  
4 have authority to provide by ordinance for the appointment of such  
5 officers as shall be necessary and proper to carry into full force any  
6 authority, power, capacity or jurisdiction which is or shall be vested  
7 in the said city, or in the council, or in the mayor, or any other of-  
8 ficer or body of officers thereof; and to grant to the officers so ap-  
9 pointed the power necessary or proper for the purpose above men-  
10 tioned. The council shall, by ordinance, define the duties of all  
11 officers so appointed or elected as aforesaid, and allow them reason-  
12 able compensation, which shall be by monthly or annual salaries,  
13 and not otherwise; and which compensation shall not be increased  
14 or diminished during their term of office and shall require and take  
15 from all of such officers, whether elected or appointed, whose duty  
16 it shall be to receive its funds, assets or property, or have charge of  
17 the same, such bonds, obligations or other writings as they shall  
18 deem necessary or proper to insure the faithful performance of their

19 several duties. All officers so appointed or elected may be removed  
20 from office for malfeasance, non-feasance, or misfeasance, by the  
21 council; and, unless their term of office be otherwise fixed by ordi-  
22 nance, they shall be considered as holding their respective offices at  
23 the pleasure of the council. The chief of police shall have all pow-  
24 ers, rights and privileges, within the corporate limits of said city,  
25 in regard to the arrest of persons, the collections of claims, the exe-  
26 cution and return of processes that can be legally exercised by a  
27 constable of a district within the same, and he and his sureties shall  
28 be liable to all fines, penalties and forfeitures that a constable of a  
29 district is legally liable to for any failure or dereliction in his said  
30 office, to be recovered in the same manner and in the same courts  
31 that the said fines, penalties and forfeitures are now recov-  
32 ered against such district constable. It shall be the duty of the  
33 chief of police, as *ex-officio* collector, to collect city taxes, licenses,  
34 levies, assessments, water rents and deposits, and such other city  
35 claims as are placed in his hands for collection by the council, and  
36 may distrain and sell for city taxes; and he shall have, in all other  
37 respects, the same power as a sheriff to enforce the payment and col-  
38 lection thereof. All officers appointed by the council must be resi-  
39 dents of the city and qualified voters at the time of their appoint-  
40 ment.

Sec. 16. All bonds, obligations and other writings, taken in  
2 pursuance of any provision of this act, shall be made payable to  
3 "The City of Mannington," and the respective persons, and their  
4 heirs, executors, administrators and assigns bound thereby, shall be  
5 subject to the same proceedings on the said bond, obligation or  
6 other writings, for enforcing the conditions of the terms thereof,  
7 by motion or otherwise, before any court of record held in and for  
8 the county of Marion that collectors of county levies, and other  
9 sureties are, or shall be subject to on their bonds for enforcing the  
10 payment of the county levies.

Sec. 17. The mayor and council and all other officers pro-  
2 vided for in this act shall each, before entering upon the duties of  
3 their office and within one week from date of their election or ap-  
4 pointment, give the bond required from any officer by section fif-  
5 teen of this act and take the oath prescribed by law for all officers  
6 of this state, and make oath or affirmation that they will truly,  
7 faithfully and impartially, to the best of their ability, discharge the  
8 duties of their respective offices so long as they continue therein.  
9 Said oath or affirmation may be taken before any person author-

10 ized to administer oaths under the laws now in force, or before the  
11 mayor or clerk of said city.

Sec. 18. The mayor and all other officers provided for in this  
2 act shall enter upon the duties of their offices upon the first day of  
3 April each year, or as soon as they are qualified, and shall continue  
4 therein until their successors are elected or appointed and quali-  
5 fied.

Sec. 19. If any person elected to the office of mayor, council-  
2 man, chief of police and *ex-officio* collector, or auditor shall not be  
3 eligible to such office under the provisions of this act, or shall fail  
4 to qualify as herein required, the council for the time being shall  
5 declare his said office vacant and shall proceed to fill the vacancy  
6 as required by this act; and the council shall have authority to re-  
7 move any of its members for cause; *provided* nine-tenths of all the  
8 members of which the council shall consist concur in such removal;  
9 but the cause of such removal shall be specified and recorded in  
10 the minutes.

Sec. 20. The mayor shall be the chief executive officer and  
2 treasurer of the city and shall take care that the orders, by-laws,  
3 ordinances, acts and resolutions of the council thereof are faith-  
4 fully executed. He shall be *ex officio* a justice and conservator of  
5 the peace within the city, and shall within the same have, possess and  
6 exercise all the powers and perform all the duties vested by law in  
7 a justice of the peace, except that he shall have no jurisdiction in  
8 civil cases or causes of action arising out of the corporate limits of  
9 the city. He shall have the same power to issue attachments in  
10 civil suits as a justice of his county has though the cause of action  
11 arose out of his city. But in such cases he shall have no power to  
12 try the same, but said attachment shall be returnable to and be  
13 heard before some justice of his county.

14 Any warrant or other process issued by him may be executed  
15 at any place in the county; he shall have control of the police of the  
16 city and may suspend any policeman for cause, and he may appoint  
17 special police officers whenever he deems it necessary; and it shall  
18 be his duty especially to see that the peace and good order of the  
19 city are preserved, and that persons and property therein are pro-  
20 tected, 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 all  
23 fines; penalties and costs imposed by him, or he may require the im-  
24 mediate payment thereof, and in default of such payment he may

25 commit 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 not exceed thirty 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 intermediate or cir-  
34 cuit court of Marion county, upon the execution of an appeal bond  
35 with 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 re-  
45 quire. The mayor shall, from time to time, recommend to the  
46 council such measures as he may deem needful for the welfare  
47 of the city. The expense of maintaining any person committed  
48 to the jail of the county by him, except it be to answer an indict-  
49 ment or be under the provisions of sections two hundred twenty-  
50 seven and two hundred twenty-eight of chapter fifty, of the  
51 amended code of this state, shall be paid by the city. But the may-  
52 or shall not receive any money belonging to the state or individ-  
53 uals, unless he shall give the bond and security required of a jus-  
54 tice of the peace by chapter fifty of the said code, and all the pro-  
55 visions of said chapter relating to money received by justices shall  
56 apply as to like moneys received by the mayor.

Sec. 21. The clerk shall keep the journal of the proceedings  
2 of the council and have charge of and preserve the records, papers,  
3 contracts and other documents belonging to the city; shall attend  
4 all sessions of the police court and keep an accurate record of its  
5 proceedings, and all judgments shall be entered by him within twen-  
6 ty-four hours after the same are rendered. He shall also perform  
7 such other duties pertaining to the fiscal affairs of the city, or  
8 otherwise, as may be required of him by this act, or by council.

Sec. 22. The presence of a majority of the council shall be

2 necessary to make a quorum for the transaction of business. And  
3 in the absence from the city, or in the case of sickness or inability  
4 of the mayor, or during any vacancy in the office of mayor, some  
5 member of council appointed so to do, annually, by said council at  
6 its first regular or called meeting, shall perform the duties of mayor  
7 which pertain to him as the chief executive of said city, and be  
8 vested with all the power necessary for the performance of such  
9 duties.

Sec. 23. The council shall cause to be kept by the clerk 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 "ordinance book", accurate copies of all  
5 general ordinances adopted by the council, both of which shall be  
6 fully indexed and open to the inspection of any one required to pay  
7 taxes to the city, or who may be otherwise interested. All oaths  
8 and bonds of officers in the city, and all papers of the council, shall  
9 be endorsed, filed and securely kept by the clerk. The bond of of-  
10 ficers shall be recorded in a well-bound book to be called the "rec-  
11 ord of bonds." The clerk shall perform all such other duties as  
12 may by ordinance of the council be prescribed. All printed copies  
13 of such ordinances purporting to be published under authority of  
14 the council, and transcripts of such ordinances, acts, orders and  
15 resolutions, certified by the clerk under the seal of the city, shall  
16 be deemed *prima facie* correct, when sought to be used in any court  
17 or before any justice.

Sec. 24. At each meeting of the council the minutes of the  
2 last meeting shall be read and corrected, if erroneous, and signed  
3 by the presiding officer for the time being. Upon the call of any  
4 member the ayes and noes on any question shall be taken and rec-  
5 orded in the journal or minutes, and the roll shall be called alpha-  
6 betically.

Sec. 25. The mayor shall have a vote only in case of a tie.

Sec. 26. The meeting of the council shall be held at such  
2 places and at such times as they shall from time to time ordain  
3 and appoint, but it shall be lawful for the council, by ordinance, to  
4 vest in any officer of said city, or in any member or number of  
5 members of their own body, the authority to call special meetings;  
6 and it shall, by ordinance, prescribe the mode in which notice of  
7 such meetings shall be given, and no business shall be transacted  
8 unless a majority of all the members of which it then consists shall  
9 be present, except that a less number may compel the attendance of

10 absent members under such reasonable penalties as they may think  
11 proper to impose, and all questions put, except in such matters as  
12 are hereinafter provided for, shall be decided by a majority of the  
13 members present.

Sec. 27. All moneys belonging to the city shall be paid over  
2 to the mayor, and no money shall be paid out by him except as the  
3 same shall have been appropriated by the council and upon an or-  
4 der signed by the mayor and clerk, and not otherwise.

Sec. 28. The council shall have authority to erect a city hall,  
2 engine-house or houses, and to regulate the same; to establish and  
3 maintain free public libraries and reading rooms, to purchase  
4 books, papers and manuscripts therefor, and to receive donations  
5 and bequests of money and property for the same, in trust or other-  
6 wise, and to designate such agents or trustees to manage the same  
7 in such manner as it shall, by ordinance, prescribe; and to erect  
8 a work-house, jail, house of refuge, hospital or infirmary, and other  
9 buildings necessary for said city; and the use and occupation of said  
10 buildings shall be prescribed by ordinance.

Sec. 29. 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 un-  
5 der the charge and custody of the sheriff of said county, who shall  
6 receive, keep and discharge the same in such manner as shall be pre-  
7 scribed by the ordinances of said city, or otherwise according to  
8 law.

Sec. 30. The council shall have and hereby is given authority  
2 to acquire by purchase, or otherwise, any and all real estate within  
3 said city, or adjacent thereto, not to exceed twenty acres, necessary  
4 for cemetery purposes; to maintain and keep the same in good con-  
5 dition and repair, and to provide, by taxation or otherwise, suffi-  
6 cient funds necessary to maintain and keep the same in good condi-  
7 tion and repair; to regulate the burial of the dead within said city,  
8 and to preserve the peace within all the cemeteries acquired by it,  
9 whether situated within or without the corporate limits of said city,  
10 and all other cemeteries within said city; and in general to have  
11 such care and control over said cemeteries as will promote the pub-  
12 lic good.

Sec. 31. Upon the petition, in writing, of the persons owning  
2 the greater amount of frontage of the lots abutting on any street  
3 or alley, between any two cross streets, or between a cross street and

4 alley, the council of said city, by a lawful majority thereof, may  
5 order such part of any street or alley to be paved between the side-  
6 walks with cobblestone, brick, Belgian blocks, asphaltum or other  
7 suitable material, from one of such cross streets or alleys to the  
8 other, under such regulations as may be fixed by ordinance duly  
9 passed by council; two-thirds of the cost of such paving shall be as-  
10 sessed to the owners of the lots or fractional parts of lots abutting  
11 on that part of the street or alley so paved, in proportion to the dis-  
12 tance such lot or part of a lot abuts on such street or alley, and the  
13 remaining one-third of the cost of such paving shall be paid by the  
14 city. In making such assessments the basis shall be the cost of  
15 paving that part of the street or alley on which the property lies,  
16 included between the adjoining cross streets or alleys; and the  
17 amounts assessed against the owners of each lot or fractional part of  
18 a lot shall be in the proportion which the frontage of such lot or  
19 part of a lot bears to the whole cost of paving said street or alley  
20 between said cross streets or alleys as aforesaid.

21       There shall be a lien on all real estate within such city for the  
22 city taxes assessed thereon, from the day fixed by law for the com-  
23 mencement of the assessment of such taxes each year, and the inter-  
24 est upon such taxes at the rate of ten per centum per annum, from  
25 the first day of January next after such assessment until payment,  
26 which may be enforced by the council in the same manner now pro-  
27 vided by law for the enforcement of the lien for state or county  
28 taxes, or in such other manner as the council may by ordinance pre-  
29 scribe. There shall also be a lien on all real estate within such  
30 city for other assessments, fines and penalties assessed or imposed,  
31 which shall have priority over all other liens except the liens for  
32 taxes, and may be enforced by the council by suit in equity in the  
33 corporate name of the city in the same manner now prescribed by  
34 law for the enforcement of the lien for state or county taxes, or in  
35 such other manner as the council may by ordinance prescribe.

Sec. 32. If any real estate within said city be returned de-  
2 linquent for the nonpayment of the taxes thereon, a copy of such  
3 delinquent list may be certified by the council to the auditor and  
4 the same may be sold for the taxes, interest and commissions thereon,  
5 in the same manner, at the same time and by the same officer, as  
6 real estate is sold for the nonpayment of state taxes.

Sec. 33. The council of said city shall have the power within  
2 said city to lay off, vacate, open, close, alter, widen, extend, curb,  
3 grade, pave and keep in good repair the roads, streets, alleys, side-



4 walks, crosswalks, drains and gutters therein, for the public use,  
5 and to improve and light the same, and have them kept free from  
6 obstruction on or over them; to regulate and determine the width  
7 of all pavements, sidewalks, streets and public alleys, and to order  
8 sidewalks, footways, and gutters to be curbed and paved and kept  
9 in good order, free and clean by the owners or occupants thereof,  
10 or the real property next adjacent thereto; *provided, however,*  
11 that nothing in this act shall be construed as to require the city  
12 of Mannington to build or keep in repair any bridge or bridges  
13 within said corporation owned by the county, and the officers of  
14 the said city, in preservation of law and order, shall have jurisdic-  
15 tion over said bridge or bridges within said corporation; to estab-  
16 lish and regulate markets, prescribe the time of holding the same,  
17 and what articles only shall be sold in said market, and prevent  
18 the forestalling of such markets; to prevent injury or annoyances  
19 to the public or to individuals from anything dangerous, offensive  
20 or unwholesome; to prohibit or regulate slaughter houses, tan  
21 houses and soap factories within the city limits; or the exercise  
22 of any unhealthful or offensive business, trade or employment;  
23 to abate all nuisances within the city limits; or to require and  
24 compel the abatement or removal thereof at the expense of the  
25 owner or occupant of the grounds on which they are placed or  
26 found; to cause to be filled up or raised or drained by or at the  
27 expense of the owner, any city lot or tract of land covered or  
28 subject to be covered by stagnant water; to prevent horses, hogs,  
29 cattle, sheep and other animals and fowls, of all kinds, from going  
30 or being at large in said city; and as one means of prevention, to  
31 provide for impounding and confining such animals and fowls,  
32 and upon failing to reclaim, for the sale thereof; to protect places  
33 of Divine worship, and preserve order in and about the premises  
34 where and when such worship is held; to prohibit any theatrical  
35 or any performance, show or exhibition which the council may  
36 deem injurious to the morals and good order of the city; to regu-  
37 late the keeping of gunpowder, nitroglycerine and other inflam-  
38 mable or dangerous substances, and prohibit the storing or keep-  
39 ing of the same in large or unsafe quantities within said city; to  
40 provide and regulate the building of houses and other structures,  
41 and determine the distance that they shall be from any street or  
42 alley, and the material of which they shall be composed; to cause  
43 the removal of unsafe walls or buildings; to provide for the mak-  
44 ing and maintaining of all division fences by the owners of ad-  
45 jacent premises, and the drainage of lots or other parcels of land

46 by proper drains and ditches by or at the expense of the owner  
47 or occupant thereof; to make regulations with respect to erecting  
48 and locating of all telephone, telegraph, electric light or other  
49 poles within said city, and the extension of any wires, lines and  
50 poles by any individual or corporation; to make regulations for  
51 guarding against danger or damage from fire; to organize one or  
52 more fire companies and provide necessary apparatus, tools, imple-  
53 ments, engines, or any of them for their use, and, in their dis-  
54 cretion, to organize and maintain a paid fire department, and to  
55 prescribe rules and regulations for the government of said fire  
56 department; to protect the persons and property of those being  
57 or residing within the city; to preserve peace and good order in  
58 said city; and for this purpose to appoint the necessary police  
59 force, temporary or permanent, to assist the chief of police in the  
60 discharge of his duties, and to prescribe rules and regulations for  
61 the government of the police department of the said city; to  
62 preserve the health of the inhabitants of said city, and for this  
63 purpose may establish a board of health, and prescribe rules and  
64 regulations for the government of said board, and to prevent the  
65 spread of contagious diseases and sickness in said city; and to  
66 this end said council may enact, prescribe and enforce strict rules  
67 of isolation and quarantine of all persons afflicted with con-  
67-a tagious or infectious diseases, as well as such persons as may be  
67-b suspected of being afflicted with such diseases, and to erect and  
68 maintain necessary building or buildings for the safe  
69 keeping and custody of such persons suffering from con-  
70 tagious diseases; to authorize and prohibit the erection of gas  
71 works or electric light works or water works in or near said city;  
72 to prevent injury of such work, or the pollution of any gas or  
73 water used or intended to be used by the public, or any individual;  
74 to provide for and regulate the weighing or measuring of hay,  
75 coal, lumber and other articles sold or kept or offered for sale  
76 within said city, and to establish rates and charges for said weigh-  
77 ing or measuring; to regulate the transportation thereof through  
78 the streets of said city; to regulate the running or speed of engines  
79 and cars within the city, and may prevent unnecessary using or  
80 blowing of any whistles on said engines or cars; to prevent  
81 the firing of guns, crackers, or any combination of gunpowder  
82 or other combustibles or dangerous materials, and the throwing  
83 of fire balls within said city; to prevent the riding or driving of  
84 horses and animals, automobiles and bicycles at an improper or

85 dangerous rate of speed within the city limits; to prevent or  
86 suppress gaming and gambling, in any form, or the operation  
87 of gaming and gambling devices, within said city limits; to  
87-a prevent or suppress vagrancy, burglary and theft; to  
88 punish for assaults and batteries; to prohibit the keeping of, or  
89 loitering, or visiting houses of illfame, or loitering in saloons or  
90 on the streets or highways; to prevent lewd or lascivious conduct  
91 and the making, sale of or exhibition of indecent pictures or  
92 other representations; to suppress or prevent the desecration of  
93 the Sabbath day; profane swearing and obscene language; to  
94 prohibit the exhibition of moving pictures of all kinds on the Sab-  
95 bath day, whether an admission fee is charged therefor or not; to  
96 prohibit the illegal sale of all intoxicating liquors, mixtures, and  
97 preparations, beer, ale, wine or drinks of like nature; to suppress  
98 or prevent the carrying of any dangerous or deadly weapons within  
99 said city; to create by ordinances such committees and boards  
100 and delegate such authority thereto as may be deemed necessary  
101 or advisable; to provide for the annual assessments of taxable  
102 persons or property in their city, including dogs kept in said city,  
103 and regulate their running at large; and to provide revenues for  
104 the city for municipal purposes, and to appropriate such revenues  
105 to its expenses; to take, acquire and hold, by condemnation, or  
106 purchase or donation, any and all real estate necessary for public  
107 purposes within said city, or adjacent thereto; *provided*, that said  
108 city shall at no time hold more than fifty acres without the  
109 corporate limits of said city, nor more than ten acres within the  
110 limits of said city; nor shall said city authorities have the right  
111 to acquire by purchase, condemnation or gifts, any land more  
112 than three miles distant from the corporate limits of said  
113 city; the common council shall have power and authority to sell  
114 and convey any of the property of the said city, either real, per-  
115 sonal or mixed, for a proper consideration, except that no part of  
116 the water works plant or system owned by said city shall be sold  
117 and conveyed until the question of such sale and conveyance shall  
118 have first been submitted to the qualified voters of said city, at a  
119 special or general city election held at the usual voting places of  
120 said city for that purpose, and shall have been approved by at  
121 least three-fifths of the legal voters of said city, cast for and  
122 against the same, at the said election, notice of which said election  
123 shall be published in at least one newspaper of general cir-  
124 culation in the said city for two weeks consecutively, and said

125 election shall be held within ten days after the expiration of the  
126 publication of said notice aforesaid; and, in such election, the  
127 conduct and returns thereof shall be as provided by law for all  
128 other elections held within said city for officers and other pur-  
129 poses; said council shall have the power to adopt rules for the  
130 transaction of business and for the government and regulation of  
131 its own body; to construct and maintain public sewers and  
132 laterals and may, in its discretion, assess upon and collect from  
133 the property benefited thereby such part of the expenses thereof as  
134 shall be deemed equitable and just by the said council; to regulate  
135 and control all conveyances for public use and hire in said city;  
136 to control the construction and repairs of all houses, bridges,  
137 culverts and sewers, the opening and construction of ditches,  
138 drains, sewers and gutters, to widen and deepen and clean the same  
139 of stagnant water and filth, and to determine at whose expense  
140 the same shall be done; to provide for shade trees, and the proper  
141 protection of the same; to define the powers, prescribe the duties  
142 and fix the term of service and compensation of all officers ap-  
143 pointed by said council; to require and take from them bonds,  
144 with such sureties and in such penalties as the council may deter-  
145 mine for the true and faithful discharge of their duties, and re-  
146 move them at their pleasure (all bonds taken by the council shall  
147 be made payable to the city by its corporate name); to grant and  
148 regulate all franchises in, upon, over and under the streets, alleys  
149 and public ways of said city, under such restrictions as shall be  
150 provided for by ordinance; but no exclusive franchise shall be  
151 granted by said council to any individual or corporation; and  
152 generally to take such measures as may be deemed necessary or  
153 advisable to protect the property, public and private, within the  
154 city; to prescribe and maintain peace, quiet and good order  
155 therein, and to preserve and promote the health, safety, comfort  
156 and well being of the inhabitants thereof; and for all of which  
157 purposes, except that of taxation, the council shall have jurisdic-  
158 tion for one mile beyond the corporate limits of said city.

Sec. 34. The council shall have authority to pass all ordi-  
2 nances (not repugnant to the constitution and laws of the United  
3 States and of this state) which shall be necessary or proper to  
4 carry into full effect and power any authority, capacity and juris-  
5 diction which is or shall be granted or vested in the said city, or in  
6 the council, or in any officer or body of officers of said city, and to  
7 enforce any or all ordinances by reasonable fines and penalties,

8 and by imprisoning the offender or offenders, and upon failure to  
9 pay any fine or penalty imposed by compelling them to labor with-  
10 out compensation on any of the public works or improvements  
11 undertaken, or to be undertaken, by said city, or to labor at any  
12 work which the city may lawfully employ labor upon, at such rate  
13 per diem as the council may fix, but not at a less rate than is fixed  
14 by said city council for like labor from other employees of said  
15 city, until any fine or fines imposed upon any such offender or  
16 offenders by said city shall have been fully paid and discharged,  
17 after deducting charges of support while in the custody of the  
18 officers of said city; and all ordinances relating to licenses, and the  
19 keeping of, or dwelling or loitering in houses of ill fame, and such  
20 police regulations as may be ordained of said city, and the right  
21 and power to enforce the same shall extend one mile in the state of  
22 West Virginia beyond the corporate limits of the said city; *pro-*  
23 *vided, however,* that no fine shall be imposed exceeding two hun-  
24 dred dollars, and that no person shall be imprisoned or compelled  
25 to labor, as aforesaid, for more than sixty days for any one offense.  
26 In all cases where a fine is imposed for an amount exceeding ten  
27 dollars, or a person be imprisoned or compelled to labor as afore-  
28 said for a term greater than ten days, an appeal may be taken from  
29 any such decision, upon the same terms and conditions that appeals  
30 are taken from the judgment of a justice of this state. Such fines  
31 and penalties shall be imposed and recovered, and such imprison-  
32 ments inflicted and enforced by and under the judgment of the  
33 mayor of the city, or in case of his absence or inability to act, by  
34 a member of the council, appointed by the council for that purpose,  
35 and as required by section twenty-two of this act.

36 In addition to the powers above enumerated, the said city  
37 council shall have power to provide, contract for and construct an  
38 adequate sewerage system for said city; and have power to improve,  
38-a amplify and expand the water works of, and to contract for an  
38-b adequate supply of pure, healthful water for said city, and do all  
39 things necessary to adequately supply said city with pure, whole-  
40 some water; and there is hereby granted to said city the right and  
41 privilege, under the direction and supervision of its council, to  
42 furnish water to consumers residing in territory contiguous to **but**  
43 outside of the corporate limits of said city, and within one mile  
44 thereof; *provided,* any water so furnished is furnished upon the  
45 same terms and conditions that it is furnished to consumers within  
46 said city, and through mains and lines connected to the **mains and**

47 lines within said city; and the same rights, privileges and powers  
48 are hereby granted to said city to collect water rents and deposits  
49 for all water so furnished to consumers residing without said city  
50 as it now has to collect water rents and deposits within its cor-  
51 porate limits.

Sec. 35. That said city council shall have and is hereby  
2 granted, exclusive control of all licenses required by law, and all  
3 such other licenses it may see fit to impose and require within the  
4 corporate limits of said city, not contrary to the constitution of  
5 the state of West Virginia. And in case of any such license  
6 granted by said city council, it shall not be necessary for the per-  
7 son or persons, or corporation, holding the same to apply for,  
8 obtain or hold any state license or other additional license from  
9 the county court of Marion county, West Virginia, for the carry-  
11 ing on or conducting the business so licensed by said city council.  
12 But the person, persons or corporations so licensed by said city  
13 council shall not be exempt from paying the usual state license  
14 required by law. When any such license as hereinbefore men-  
15 tioned is granted by said city council, said council may impose a  
16 tax thereon for the use of the city in conformity with the re-  
17 quirements of the state law. The said city council shall, upon  
18 granting any such license required by law, within ten days there-  
19 after, furnish to the clerk of the county court, the prosecuting  
20 attorney, and the assessor of Marion county, duly certified copies,  
21 under the corporate seal of the said city, of the order granting  
22 every such license, whereupon such assessor shall cause the sheriff  
23 of Marion county to collect the state tax thereon, in the same  
24 manner as if said license was granted by the county court of  
25 Marion county, West Virginia.

26 The council shall have, and is hereby granted authority to  
27 license and tax owners of horses, hacks, carts, wagons, drays,  
28 automobiles, bicycles, motorcycles and every description of  
29 wheeled vehicles kept within the said city, and to subject the same  
30 to such regulations as the interest, convenience and public safety  
31 of the inhabitants of said city may require; to require a city  
32 license for the selling and handling of soft drinks of all kinds,  
33 and to impose a tax thereon for the use of the city, but the grant-  
34 ing or refusing such soft-drink license shall be discretionary with  
35 the council; to license and tax owners and keepers of dogs within  
36 the city, and to provide for the killing of dogs, the keeping of

37 which is not so licensed; to license and tax hawkers, peddlers,  
38 book-agents and canvassers of all kinds within said city, and  
39 persons who temporarily station themselves upon a street to sell  
40 or exhibit articles; and to require a city license for persons con-  
41 ducting and carrying on any business or vocation for which the  
42 state may now or hereafter require a license.

Sec. 36. 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, and  
7 in case the judgment be one of conviction, the action taken to en-  
8 force the same. The record of each case shall be signed by the  
9 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 successor the docket and all books pertaining  
12 to his office.

Sec. 37. The council shall cause to be made up annually  
2 and 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 a  
5 levy of so much as will in its judgment be necessary to pay the  
6 same. Such levy shall be upon all tithables and upon all real and  
7 personal property therein subject to state and county taxes, in-  
8 cluding a poll tax of not more than one dollar upon each male  
9 resident of said corporation over twenty-one years of age; *pro-*  
10 *vided*, that such levy shall not exceed one dollar on each tithable  
11 and one dollar on every one hundred dollars of the ascertained  
12 value of such property. At least once in each year the council  
13 shall cause to be made up and be published in one or more news-  
14 papers of the city a statement of the revenue received from the  
15 different sources, and of the expenditures upon the different ac-  
16 counts for the preceding year or portion of year, as the case may  
17 be.

Sec. 38. It shall be the duty of the assessor to make an  
2 assessment 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 council  
5 on or before the first day of June of each year, and for this pur-

6 pose he shall have all the powers conferred by law on county  
7 assessors. He shall list the number of dogs in the city, and the  
8 names of persons owning the same, which list shall be returned to  
9 the council (see chapter forty-seven, section forty-one, code of  
10 West Virginia). In order to aid the said council in ascertaining  
11 the property and tithables subject to taxation by said city, the  
12 assessor of said city shall have access to all books and public  
13 records of Marion county, without expense to said city, or as-  
14 sessor, and he also shall have the same power and be subject to  
15 the same penalties in ascertaining and assessing the property  
16 and subjects of taxation in said city as are granted and imposed  
17 upon the county assessors throughout the state by general law,  
18 and the council shall also have authority to prescribe by ordi-  
19 nance such other rules and regulations as may be necessary to  
20 enable and require such assessor to ascertain and properly assess  
21 all property and tithables liable to be taxed by said city, so that  
22 such assessment and taxation shall be uniform, and to enforce  
23 such ordinance by reasonable fines and penalties. And the said  
24 city assessor, in making his valuation for assessments, shall make  
25 the same valuation for both real and personal property as the  
26 assessor for said county, for the same assessment year, assessed  
27 said property.

28 The council upon the return of the assessor shall cause the  
29 assessor's books to be correctly copied by the clerk into two well-  
30 bound books to be provided for the purpose and the taxes ex-  
31 tended in each book, one of which shall be delivered to the city  
32 collector, taking his receipt therefor, as well as for the taxes  
33 therein contained.

Sec. 39. It shall be the duty of the chief of police and *ex-*  
2 *officio* collector when the extended copies are completed, to re-  
3 ceive one copy thereof, receipting to the council for the same,  
4 and for the taxes therein extended; and it shall be his duty to  
5 collect from the parties the entire amount of the taxes with  
6 which they are therein severally charged, from and after the  
7 first day of September of each year, until the last day of De-  
8 cember of each year; and he shall, in said book, write the word  
9 "paid" opposite the name of the person so paying, and shall also  
10 receipt to such taxpayer for the tax so paid. He shall also receive  
11-12 such other moneys of the city as he is authorized by this act.  
13 giving receipts therefor to the parties paying, and shall keep an.



14 accurate account of the same; and his books shall at all times be  
15 open for inspection to any taxpayer of the city; and he shall  
16 produce said books to said council for inspection at any meeting  
17 thereof upon order of the council. He shall pay out the moneys  
18 in his hands upon the orders of the council signed by the mayor.

19 He shall on or before the tenth day of January of each year  
20 present to the council a full, complete and detailed statement of  
21 all moneys with which he is chargeable, or that have been re-  
22 ceived by him up to the first day of January of that year, and  
23 shall at the same time, in like manner, furnish a statement of all  
24 disbursements made by him during such previous year, with  
25 vouchers evidencing the same. He shall, upon the order of the  
26 council at any time, submit a statement of the amount with which  
27 he is chargeable, and his collections and disbursements. He shall  
28 receive all taxes upon licenses, and receipt to the party paying  
29 the same, by the indorsement upon the permit granted by order  
30 of the council, which permit shall be furnished him by the clerk.  
31 and charge himself with the amount so received, and report to  
32 the council at its next regular meeting thereafter the amount so  
33 received by him.

34 He shall, upon the expiration of his term of office, turn over  
35 to the council all moneys, books and other property in his posses-  
36 sion belonging to said city; and shall, before entering upon the  
37 duties of his office, execute a bond with good security payable to  
38 the city of Mannington, in the penalty of not less than ten  
39 thousand dollars, conditioned for the faithful performance of the  
40 duties of his office, and for the accounting for and paying as re-  
41 quired by law all money which may come into his hands by virtue  
42 of his office. He shall be chargeable with all city taxes, levies  
43 and assessments and money of the city that may come into his  
44 hands, and shall account therefor.

45 The said chief of police and *ex-officio* collector shall receive  
46 for his services as chief of police and *ex-officio* collector such  
47 salary as may be fixed by council from term to term; but said  
48 salary shall for all said services in no event exceed the sum of  
49 one hundred dollars per month.

Sec. 40. The council shall prescribe by ordinance the man-  
2 ner in which licenses of all kinds shall be applied for and granted,  
3 and it shall require the payment of the tax thereon before de-  
4 livery to the person applying therefor.

Sec. 41. The provisions of the thirty-ninth section of chapter thirty-two of Barnes' code of West Virginia for one thousand nine hundred and eighteen, relating to state licenses, shall be deemed applicable to licenses of a similar character to those there- in mentioned, when granted by or under authority of the council of said city, and all other licenses may be for such time as the council may determine.

Sec. 42. The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate for streets, alleys, drains, market grounds, city prison and other work or purpose of public utility. Such proceedings shall, as nearly as practicable, conform to the provisions of chapter forty-two of the code of West Virginia, and the expenses thereof shall be borne by the city.

Sec. 43. All acts or parts of acts inconsistent with this act are hereby repealed; but this act shall not be construed to repeal, change or modify any previous act not inconsistent with this act authorizing the city of Mannington to contract debts, or to borrow money, or to take away any of the powers conferred upon said city of Mannington, or upon the mayor or council, or any of the officers, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

Sec. 44. The council in being at the time this act shall take effect, shall appoint and provide places for voting in the several wards in said city, as herein prescribed, for the election herein provided for to be held in said city and appoint the election officers thereof; and shall pass all proper ordinances and orders to give this act full force and effect.

Sec. 45. The ordinances in force in the city of Mannington at the time this act takes effect, so far as they are not inconsistent with this act, shall continue in force as the ordinances of the city of Mannington as constituted by this act until amended, repealed or superseded by the council of said city.

Sec. 46. The said city shall succeed to all the rights, powers and responsibilities it has under its present charter, and all officers of said city acting as such at the time this act takes effect shall continue until the first day of April, one thousand nine hundred and nineteen (and until their successors, the officers herein mentioned, are elected, appointed and qualified), to exercise the powers, perform the duties and receive the compensation

8 heretofore conferred, prescribed and allowed by former charter,  
9 by general law, or by the ordinances of said city.

Sec. 47. 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-  
3 tion two hereof, at a special election called for that purpose and  
4 shall have been adopted by a majority of the votes cast at said  
5 election; at which election all persons living within said territory,  
6 but outside of the city of Mannington as it was constituted im-  
7 mediately prior to the passage of this act, shall be entitled to vote  
8 as if they lived within the said city as it was constituted immediate-  
9 ly prior to the passage of this act. Said special election shall be  
10 held as soon as possible after notice of the same has been published  
11 at least twice in some daily newspaper published in the city of  
12 Mannington, to be designated by the common council of the city  
13 of Mannington, the last publication of said notice to be made not  
14 less than ten days immediately preceding the date of the said  
15 election. Said notice shall also give notice to the provisions of  
16 sections two and three of this act by publishing the same in full as  
17 part of said election notice, together with a statement to the  
18 effect that a certified copy of the whole act as passed is on file and  
19 may be inspected by all voters living within the affected territory  
20 at the office of the mayor of the city of Mannington; and it shall  
21 be the duty of the common council of the city of Mannington to  
22 secure one or more certified copies of the act and keep, or cause  
23 the same to be kept, in the said mayor's office for the inspection  
24 of the said voters, from the date of the first publication of the said  
25 notice until the said election shall have been held. Said special  
26 election shall be arranged for, held, and conducted, and the result  
27 thereof ascertained, certified and published in the usual and regular  
28 manner of arranging for, holding and conducting municipal elec-  
29 tions in the city of Mannington and ascertaining, certifying and  
30 publishing the results thereof and the authority of the officials of  
31 the city of Mannington to arrange for, hold and conduct a munic-  
32 ipal election therein, and to ascertain, certify and publish the  
33 results thereof, is hereby extended to cover all the territory em-  
34 braced in section two hereof, for all purposes of the special election  
35 hereby provided for. At said special election any person entitled  
36 to vote thereat who lives outside of the city of Mannington, as it  
37 was constituted immediately prior to the passage of this act, shall

38 vote at his usual voting place in said city, if he has been accustom-  
 39 ed to vote at some voting precinct therein at any general election;  
 40 but if not accustomed to vote at some voting precinct he shall vote  
 41 at that regular voting precinct in the said city which is nearest  
 42 his place of residence.

43 If this act shall be adopted at said special election it shall go  
 44 into effect the day following its adoption at said election.

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

47 CITY OF MANNINGTON.

48 *Charter Election.*

49 Indicate how you desire to vote by a cross in the square.

50 [ ] "For adoption of new charter."

51 [ ] "Against adoption of new charter."

52 *Provided, however,* that if this act shall fail of adoption at  
 53 said election, the same may be voted upon at a subsequent election,  
 54 called by the common council of said city, to be held and conducted  
 55 in the manner above set forth, and after notice as above set forth;  
 56 but no such subsequent election shall be held until a period of six  
 57 months shall have elapsed after any former election held for that  
 58 purpose; and

59 *Provided, further,* that if the common council of said city  
 60 shall fail or refuse to call a subsequent election for that purpose,  
 61 then, upon petition signed by the qualified voters of said city, equal  
 62 in number to at least thirty per centum of the entire vote cast for  
 63 the candidate for mayor who received the highest number of votes  
 64 at the last preceding municipal election, said common council  
 65 shall, by a proper order, call a special election for that purpose.  
 66 And if this act shall fail of adoption at the first special election  
 67 held for that purpose as herein provided, then it shall take effect  
 68 from the day immediately following its adoption at such subse-  
 69 quent election.

Sec. 48. 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 nine-  
 5 teen, or any subsequent general election, then the mayor and  
 6 council 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 per-  
12 sons holding office under the next preceding election, shall vacate  
13 such office immediately, and other officers shall hold office at the  
14 pleasure of the common council notwithstanding they were elected  
15 and appointed under existing law for specified terms.

Sec. 49. If this act be adopted and for any reason fails to  
2 take effect on or before April first, one thousand nine hundred and  
3 nineteen, or on the first day of April of any subsequent year, it  
4 shall be the duty of the assessor in office at the time this act takes  
5 effect, or his successor, to make an assessment as provided in this  
6 act of all the property within the city limits as herein constituted.  
7 And if this act fails to take effect on or before April first, one  
8 thousand nine hundred and nineteen, or on the first day of April of  
9 any subsequent year, the council in making its levy, as in this act  
10 provided, for the year one thousand nine hundred and nineteen, or  
11 any subsequent year thereafter, upon all tithables and upon all  
12 real estate and personal property, subject to state and county taxes,  
13 within the city limits as in this act constituted, shall reduce its  
14 levy upon all tithables and 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 corpo-  
17 rate limits of said city under existing law, in the proportion that  
18 the time of said assessment year elapsed before this act takes effect  
19 bears to the whole assessment year.

## CHAPTER 9.

(House Bill No. 177—Mr. McClintic.)

AN ACT to amend and re-enact sections three, four, five, nine, ten,  
eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one,  
seventy-five, eighty-eight and ninety-three of chapter one of the  
acts of the legislature of one thousand nine hundred and fifteen  
and bound in a volume of municipal charters of such acts and  
known as the "Charter of the City of Charleston," and to add  
sections ninety-four, ninety-five, ninety-six, ninety-seven and  
ninety-eight, ninety-nine, one hundred, one hundred and one and  
one hundred and two, all relating to and becoming a part of the  
charter of the city of Charleston.

[Passed February 14, 1919. In effect from passage. Became a law without the Governor's approval.]

Sec.		Sec.	
3.	Boundaries of wards, city of Charleston; voting precincts.		works, plants and other public utilities; provision for building a city jail and comfort stations.
4.	Municipal authorities.	88.	Relating to street paving.
5.	City manager and other officers.	93.	Additional authority for securing the laying of sidewalks; method.
9.	Registration of voters.	93-a.	Transcript of real and personal property to be furnished by county assessor; fee.
10.	Nomination of candidates.	94.	Process for offenses committed.
11.	Commissioners of election.	95.	Ordinances; when effective; exception made.
13.	City council.	96.	Health commissioner; qualification; duties.
14.	Eligibility to office of councilman; number to be elected.	97.	Police matron; appointment of; salary.
15.	Mayor; presiding officer; clerk of council; selection of president <i>pro tempore</i> .	98.	Codifying and indexing of city ordinances.
35.	Officials to be elected at nineteen nineteen election; terms of office; mayor's salary; appointments by the mayor; duties of the mayor; city solicitor; duties; salary.	99.	Cemetery; right of condemnation; burial of bodies of deceased persons.
36.	Salary of city manager; his duties.	100.	Building inspector; duties; salary.
51.	Levy and collection of taxes, licenses, etc.	101.	Power to buy, sell or exchange real estate for street or other public purposes.
75.	Authority to issue bonds to refund bonded indebtedness; requirements relative thereto; bonds may be issued for erection of city buildings; buying or building bridges, water		

*Be it Enacted by the Legislature of West Virginia:*

That sections three, four, five, nine, ten, eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one, seventy-five, eighty-eight and ninety-three of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, known as the "Charter of the City of Charleston" be amended and re-enacted, and sections ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, and one hundred and two be added thereto, so as to read as follows:

*Boundaries of Wards.*

- Section 3. The said city shall be divided into fifteen (15) wards, the boundaries of which shall be as follows:
- 3 *First Ward:* The first ward shall include the following territory; beginning at low water mark on the Kanawha river at the end of Florida street; thence with Florida street to Charleston street, and in a continuous straight line to the corporation line on the north; thence with the corporation line to Patric street, and with Patric street to the Kanawha river, and with the Kanawha river to the end of Florida street, the place of beginning.
- 10 *Second Ward:* The second ward shall include the following territory; beginning at the low water mark at the end of Florida street; thence with the Kanawha river to the end of Park avenue extended; thence with Park avenue to the corporation line; thence

14 with the corporation line to the northeastern corner of the first  
15 ward; thence with the eastern line of ward one in a straight  
16 line with Florida street; to the low water mark in Kanawha  
17 river to place of beginning.

18-19 *Third Ward:* The third ward shall include the following ter-  
20 ritory: beginning at the low water mark in the Kanawha river at  
21 the end of Park avenue extended; thence with the Kanawha river  
22 to Delaware avenue; thence with Delaware avenue to the Kanawha  
23 & Michigan railway; thence with the Kanawha & Michigan rail-  
24 way to Charleston street; thence with Charleston street to Carr  
25 street; thence with Carr street to the corporation lines on the  
26 north; thence with the corporation lines to the northeastern cor-  
27 ner of ward two; thence following the eastern line of ward  
28 two to low water mark in Kanawha river, the place of beginning.

29 *Fourth Ward:* The fourth ward shall include the follow-  
30 ing territory: Beginning at the low water mark in Kanawha  
31 river at the end of Delaware avenue; thence with Kanawha river  
32 to the mouth of Elk river, and up Elk river to Lovell street bridge  
33 and Charleston street; thence with Charleston street to Penn-  
34 sylvania avenue; thence with Pennsylvania avenue to Roane  
35 street; thence with Roane street to Delaware avenue; thence with  
36 Delaware avenue to the low water mark in Kanawha river, to  
37 place of beginning.

38 *Fifth Ward:* The fifth ward shall include the following  
39 territory: Beginning at the low water mark in Elk river at  
40 Lovell street bridge; thence with Elk river to the Kanawha &  
41 Michigan railway; thence with the Kanawha & Michigan railway  
42 to Pine street; thence with Pine street to the corporation line on  
43 the north; thence with the corporation line to the head of Carr  
44 street; thence with Carr street to Charleston street; thence with  
45 Charleston street to the Kanawha & Michigan railway; thence  
46 with the Kanawha & Michigan railway to Delaware avenue;  
47 thence with Delaware avenue to Roane street; thence with Roane  
48 street to Pennsylvania avenue; thence with Pennsylvania avenue  
49 to Charleston street; thence with Charleston street to low water  
50 mark in Elk river, the place of beginning.

51 *Sixth Ward:* The sixth ward shall include the following  
52 territory: Beginning at the low water mark in Elk river at the  
53 Kanawha & Michigan bridge; thence with the Elk river to Gill  
54 hollow; thence following the corporation lines to the northeastern  
55 corner of ward five; thence with Pine street to the Kanawha

56 & Michigan railway; thence with the Kanawha & Michigan rail-  
57 way to the low water mark in Elk river at the Kanawha & Michi-  
58 gan railway bridge, the place of beginning.

59       *Seventh Ward:* The seventh ward shall include the follow-  
60 ing territory: Beginning at the low water mark in Elk river at  
61 Lovell street bridge; thence with Lovell street to Truslow street;  
62 thence with Truslow street to Margaret street; thence with Mar-  
63 garet street to Donnally street; and the intersection of Young  
64 street; thence with Young street in a continuous straight line to  
65 the corporation limits on the north; thence with the corporation  
66 line to Elk river; thence with Elk river to the low water mark at  
67 Lovell street bridge, the place of beginning.

68       *Eighth Ward:* The eighth ward shall include the following  
69 territory: Beginning at the intersection of Lovell and Truslow  
70 streets; thence with Truslow street to State street; thence with  
71 State street to Capitol street; thence with Capitol street to Smith  
72 street, and continuing in a straight line to the corporation line  
73 on the north; thence with the corporation line to the northeastern  
74 corner of ward seven; thence in a straight line with Young  
75 street to Donnally street; at its intersection with Margaret street;  
76 thence with Margaret street to Truslow street; thence with Trus-  
77 low street to Lovell street, the place of beginning.

78       *Ninth Ward:* The ninth ward shall include the following  
79 territory: Beginning at the low water mark in Elk river and  
80 Lovell street bridge; thence with Elk river to the Kanawha river;  
81 thence with Kanawha river to the low water mark at the end of  
82 Capitol street; thence with Capitol street to State street; thence  
83 with State street to Truslow street; thence with Truslow street to  
84 Lovell street; thence with Lovell street to the low water mark in  
85 Elk river, at Lovell street bridge, the place of beginning.

86       *Tenth Ward:* The tenth ward shall include the following  
87 territory: Beginning at the low water mark in Kanawha river  
88 at the end of Capitol street; thence with Kanawha river to the  
89 low water mark at the end of Ruffner avenue; thence with Ruff-  
90 ner avenue to its intersection with Lee street; thence with Lee  
91 street to its intersection with Capitol street; thence with Capitol  
92 street to the low water mark in Kanawha river, the place of be-  
93 ginning.

94       *Eleventh Ward:* The eleventh ward shall include the fol-  
95 lowing territory: Beginning at the intersection of Lee street  
96 and Capitol street; thence with Capitol street to its intersection



97 with Smith and Dryden streets, and in a continuous straight line  
98 in the corporate limits on the north; thence with the corporation  
99 limits in an easterly direction, to a point reached by a straight  
100 line running with Brooks street; thence in a straight line running  
101 to and with Brooks street to the intersection of Brooks and Lee  
102 streets; thence with Lee street to Capitol street, the place of be-  
103 ginning.

104 *Twelfth Ward:* The twelfth ward shall include the fol-  
105 lowing territory: Beginning at the intersection of Lee and  
106 Brooks streets; thence with Lee street to Beauregard street;  
107 thence with Beauregard street, and in a straight line to the cor-  
108 poration limits to the north; thence with the corporation limits to  
109 the northeastern corner of ward eleven; thence with the eastern  
110 line of ward eleven, in a straight line, and with Brooks street, to  
111 the intersection of Lee and Brooks street, the place of beginning.

112 *Thirteenth Ward:* The thirteenth ward shall include the  
113 following territory: Beginning at the intersection of Beaufre-  
114 gard and Lee streets; thence with Lee street to Elizabeth street;  
115 thence with Elizabeth street to Piedmont road; and in a continu-  
116 ous straight line to the corporation limits on the north; thence  
117 with the corporation line to the northeastern corner of ward  
118 twelve; thence in a straight line to and running with Beauregard  
119 street, to the intersection of Lee and Beauregard streets, the place  
120 of beginning.

121 *Fourteenth Ward:* The fourteenth ward shall include the  
122 following territory: Beginning at the intersection of Ruffner  
123 avenue and Lee street; thence with Ruffner avenue to low water  
124 mark in Kanawha river, at the end of Ruffner avenue; thence  
125 with Kanawha river to the corporation line on the east at Wilson  
126 hollow; thence with Wilson hollow to the corporation line on the  
127 north; thence with the northern corporation line to the north-  
128 eastern corner of ward thirteen; thence in a straight line to and  
129 running with Elizabeth street, to Lee street; thence with Lee  
130 street to Ruffner avenue, the place of beginning.

131 *Fifteenth Ward:* The fifteenth ward shall include all of  
132 the territory in the limits of the city south of said low water mark  
133 on the north side of Kanawha river.

#### 134 *Voting Precincts.*

135 The said city shall be divided into twenty-nine (29) voting  
136 precincts, the boundaries of which shall be as follows:

- 137       *Precinct No. 1.* Precinct one shall include all the territory  
138 in ward one lying north of the Kanawha and Michigan railway.
- 139       *Precinct No. 2.* Precinct two shall include all the territory  
140 in ward one lying south of the Kanawha and Michigan Railway.
- 141       *Precinct No. 3.* Precinct three shall include all the territory  
142 in ward two lying north of the Kanawha and Michigan Railway.
- 143       *Precinct No. 4.* Precinct four shall include all the territory  
144 in ward two lying south of the Kanawha and Michigan Railway.
- 145       *Precinct No. 5.* Precinct five shall include all the territory  
146 in ward three lying north of Virginia street.
- 147       *Precinct No. 6.* Precinct six shall include all the territory  
148 in ward three lying south of Virginia street.
- 149       *Precinct No. 7.* Precinct seven shall include all the terri-  
150 tory in ward four lying north of Randolph street.
- 151       *Precinct No. 8.* Precinct eight shall include all the terri-  
152 tory in ward four lying south of Randolph street.
- 153       *Precinct No. 9.* Precinct nine shall include all the territory  
154 in ward five lying south of Birch street and Kanawha and Michi-  
155 gan railway.
- 156       *Precinct No. 10.* Precinct ten shall include all the territory  
157 in ward five lying north of Birch street and Kanawha and Michi-  
158 gan railway.
- 159       *Precinct No. 11.* Precinct eleven shall include all the terri-  
160 tory in ward six lying east of Magazine branch.
- 161       *Precinct No. 12.* Precinct twelve shall include all the terri-  
162 tory in ward six east of Magazine branch.
- 163       *Precinct No. 13.* Precinct thirteen shall include all the ter-  
164 ritory in ward seven south of North Rand street.
- 165       *Precinct No. 14.* Precinct fourteen shall include all the ter-  
166 ritory in ward seven lying north of North Rand street.
- 167       *Precinct No. 15.* Precinct fifteen shall include all the terri-  
168 tory in ward eight lying south of North Rand street.
- 169       *Precinct No. 16.* Precinct sixteen shall include all the terri-  
170 tory in ward eight lying north of North Rand street.
- 171       *Precinct No. 17.* Precinct seventeen shall include all the ter-  
172 ritory in ward nine lying west of Truslow street.
- 173       *Precinct No. 18.* Precinct eighteen shall include all the  
174 territory in ward nine lying east of Truslow street.
- 175       *Precinct No. 19.* Precinct nineteen shall include all the ter-  
176 ritory in ten lying west of Brooks street.

177        *Precinct No. 20.* Precinct twenty shall include all the terri-  
178 tory in ward ten lying east of Brooks street.

179        *Precinct No. 21.* Precinct twenty one shall include all the  
180 territory in ward eleven lying west of Broad street.

181        *Precinct No. 22.* Precinct twenty-two shall include all the  
182 territory in ward eleven lying east of Broad street.

183        *Precinct No. 23.* Precinct twenty-three shall include all the  
184 territory in ward twelve lying west of Morris street.

185        *Precinct No. 24.* Precinct twenty-four shall include all the  
186 territory in ward twelve lying east of Morris street.

187        *Precinct No. 25.* Precinct twenty-five shall include all the  
188 territory in ward thirteen lying west of Thompson street and a  
189 continuous straight line to corporate line on north.

190        *Precinct No. 26.* Precinct twenty-six shall include all the  
191 territory in ward thirteen lying east of Thompson street and a  
192 continuous straight line from the end thereof to the corporate  
193 line on the north.

194        *Precinct No. 27.* Precinct twenty-seven shall include all the  
195 territory in ward fourteen lying west of Kentucky street.

196        *Precinct No. 28.* Precinct twenty-eight shall include all the  
197 territory in ward fourteen lying east of Kentucky street.

198        *Precinct No. 29.* Precinct twenty-nine shall include all the  
199 territory in ward fifteen.

200        The council shall by resolution entered of record fix the vot-  
201 ing places in each of said election precincts.

Sec. 4. The municipal authorities of the city of Charles-  
2 ton shall consist of a mayor, city treasurer, police judge and twen-  
3 ty councilmen, who shall be elected by the qualified voters of such  
4 city, and such officers shall, for the assessment year preceding their  
5 respective elections as hereinafter provided, have been assessed  
6 with and paid taxes in the city of Charleston upon a valuation of  
7 at least one hundred dollars worth of real estate or personal pro-  
8 perty therein, and any person elected to any one of such offices  
9 who has not been assessed with and paid taxes on such amount of  
10 property shall not qualify or enter upon the performance of the  
11 duties thereof, but such office shall thereby become vacant and  
12 shall be filled by a qualified person as provided herein for other  
13 vacancies.

Sec. 5. In addition to the municipal authorities mentioned  
2 in section four of this act, the city shall have a manager, city  
3 clerk, city auditor, collector, chief of police, city solicitor,

4 chief of fire department, engineer, health commissioner,  
5 building inspector, lockup keeper, humane officer or officers, and  
6 such number of policemen as council by ordinance may direct.  
7 All the officers named in this and the preceding sections shall be  
8 paid proper salaries which shall be fixed by the council, except as  
9 herein otherwise provided, and such salaries shall be within the  
10 limits provided for by this act.

Sec. 9. For the election to be held hereunder on the third  
2 Monday in April, one thousand nine hundred and nineteen, there  
3 shall be made a registration of all the voters in all the election  
4 precincts in said city as fixed by this act. The city council shall  
5 hold a regular or special session on the first Monday in March,  
6 next, before said election and shall appoint for each voting pre-  
7 cinct as fixed by this act two competent persons as registrars, one  
8 each from the two political parties which at the last preceding  
9 election cast the highest number of votes in the city of Charleston,  
10 but the executive committee of such political parties may present  
11 to the council a writing signed by the chairman of the committee  
12 of each party requesting the appointment of a qualified voter of  
13 his political party as registrar with his city address for each pre-  
14 cinct in the city and the council shall appoint the person in such  
15 writing as such registrar. No person shall be eligible to appoint-  
16 ment as registrar, or in any way act as such, who has been con-  
17 victed of a felony, or who holds any elective or appointive office or  
18 is an employee under the laws of the state of West Virginia or of  
19 the United States or who is not a qualified voter in the precinct for  
20 which he is appointed, or who can not read and write the English  
21 language. If such registrar shall fail or refuse to serve, the va-  
22 cancy shall be filled either by the city council, or the mayor of the  
23 city in vacation, in the manner hereinbefore provided for the ap-  
24 pointment of registrars, and the city clerk shall notify all such  
25 persons of their appointment as registrars. Said registrars shall  
26 before entering upon the discharge of their duties take an oath  
27 to support the constitution of the United States, the constitution  
28 of West Virginia, and to perform the duties of their office to the  
29 best of their ability and that they are legal members of the party  
30 for which they are, respectively, appointed. The said oath shall  
31 be filed in the office of the city clerk.

32 The city clerk shall cause to be prepared suitable books  
33 and blanks for the registration of the voters and such books shall  
34 be so arranged as required by law for the registration of voters

35 for general elections held in the state of West Virginia and all  
36 the provisions, duties and obligations of chapter-----  
37 of the acts of the special session of the legislature held in the  
38 month of November, one thousand nine hundred and sixteen, shall  
39 apply to the registration of voters hereunder, except as herein  
40 otherwise set out, and the city council shall perform the duties  
41 required in said chapter of the county court, and the city clerk  
42 shall perform the duties required of the county clerk.

43 The said registrars shall meet on the Thursday following the  
44 first Monday in March, one thousand nine hundred and nineteen,  
45 and proceed to register the names of all qualified voters in their  
46 respective precincts in the manner required by said chapter----  
47 of the acts of said special session.

48 Said registrars shall complete said registration on or before  
49 the fourth Monday in March, one thousand nine hundred and  
50 nineteen, and, for the purpose of amending, correcting and com-  
51 pleting said registration, shall sit together at some convenient  
52 place within the voting precinct for two days, commencing the  
53 first Monday in April, one thousand nine hundred and nineteen,  
54 from nine o'clock A. M. to one o'clock P. M. and from two o'clock  
55 P. M. to nine o'clock P. M., and shall give notice of the time and  
56 place of their sitting for such registration and correction by post-  
57 ing written or printed notices of the time and place of such sitting  
58 for five days prior thereto at not less than three of the most con-  
59 spicuous places in said voting precinct, one of which shall be at  
60 the place of voting in said precinct. At the time of said sitting  
61 the books of registration shall be open for public inspection, and  
62 the said registrars, in the manner hereinbefore provided shall reg-  
63 ister all qualified voters who have not theretofore been so register-  
64 ed by them and complete and finish their registration of the vot-  
65 ers within their said precinct and make out two alphabetical lists  
66 of the registered voters within said precinct entitled to vote at the  
67 ensuing election as registered by them and shall sign and return  
68 the same to the city clerk on or before the second Monday in April,  
69 one thousand nine hundred and nineteen. The registration books  
70 shall be sent to the polling place along with the ballots, and no  
71 person who is not duly registered thereon shall be allowed to vote  
72 at said election.

73 The commissioners of election shall return said books to the  
74 city clerk with the poll books, and the same shall be carefully pre-  
75 served by the city clerk in his office.

76 If the county court of Kanawha county shall adopt the lines  
77 of the precincts as in this act set out as voting places for state and  
78 county officers before another city election is held, then the regis-  
79 tration of voters made under the general law concerning registra-  
80 tion of voters shall be the registration of voters for all city gen-  
81 eral elections, with such additions as herein provided for, and it  
82 shall not be necessary to have a special registration of voters for  
83 any special election, but the preceding registration of voters for  
84 the regular municipal election, with such additions herein provid-  
85 ed for, shall be the proper registration for such special election.  
86 The voting precincts in the several wards for all city elections  
87 shall be the same as to boundaries as those fixed by the county  
88 court for all state and county elections so long as they are con-  
89 fined to the boundaries of the wards as they now are. The coun-  
90 cil shall elect two persons, one being a member of each of the two  
91 leading political parties in said city, having all the qualifications  
92 of commissioners of election under chapter three of the code of  
93 West Virginia, as city registrars. They shall take the same oath  
94 as other officers of the city take and shall be paid such compensa-  
95 tion as the council may fix by ordinance, and their term of office  
96 shall be a period of two years. They shall sit in the office of the  
97 city clerk on five separate days, being the last four Saturdays and  
98 the last Monday preceding any regular or special election of said  
99 city for the purpose of registering voters who shall not have been  
100 already registered in the various precincts, and for issuing trans-  
101 fers to any voter who has moved from one precinct to another, and  
102 for striking off the name of any voter from the registration books  
103 when it shall be shown by the affidavits of two persons that he is  
104 no longer a voter in said city, and they shall strike off from such  
105 registration books the names of any person known by or proved to  
106 them to be dead. It shall be the duty of the city clerk to make  
107 or have made copies of the registration books on file in the office  
108 of the clerk of the county court of Kanawha county at least sixty  
109 days before any regular city election, and such copies, with such  
110 additions and changes as may be made by the city registrars, shall  
111 be used for all special elections that may be held between said reg-  
112 ular elections as well as the regular elections. Notice of the time  
113 and place of sittings of said city registrars shall be given by the  
114 publication thereof by the city clerk in two newspapers of oppos-  
115 ite politics printed and circulated in said city, once a week for six  
116 successive weeks before any election, if there is a sufficient space

117 of time for such purpose, and, if not, then for such time as there  
118 may be before such election.

119 Before the registrars shall register the name of any person  
120 as a qualified voter they must be satisfied of his qualifications and  
121 shall have the right and power to require of such persons all the  
122 things that may be required of him by the registrars under the  
123 state law, and such registrars shall, as to the qualifications of per-  
124 sons to vote, be governed by the state laws on such subject in ex-  
125 istence at the time of such registration.

126 The county clerk of Kanawha county shall carefully preserve  
127 in his office the registration books of each general election for all  
128 the precincts of the city of Charleston and shall permit copies to  
129 be made of such registration books by any proper officer of the  
130 city of Charleston.

Sec. 10. Candidates to be voted for at any municipal elec-  
2 tion may be nominated by convention, or primary election,  
3 as may be decided by the executive committees of any of the  
4 parties recognized by law in said city, and candidates may be nom-  
5 inated by petition in the manner provided by chapter three of the  
6 code of West Virginia. Each of the political parties having the  
7 right to make a nomination under the election laws of West Vir-  
8 ginia shall give notice of the manner of such nomination by pub-  
9 lication thereof in some daily newspaper printed in the city of  
10 Charleston for ten days prior to the date of such convention or  
11 primary election.

Sec. 11. On the first Monday in April, one thousand nine  
2 hundred and nineteen, and on the second Monday preceding any  
3 city election held under the provisions of this act, the city council  
4 shall appoint two commissioners of election, one from each of the  
5 two political parties which did at the state and county election  
6 held in said city on the fifth day of November, one thousand nine  
7 hundred and eighteen, cast the highest number of votes, and if at  
8 any time during the said session of the city council the city exe-  
9 cutive committee of either political party from which said com-  
10 missioners of election are to be selected or appointed shall present  
11 to said council a writing signed by them, or by the chairman of  
12 said committee in their behalf, requesting the appointment of a  
13 qualified voter of their political party with his city address and  
14 who is otherwise qualified to act as such commissioner of election  
15 under chapter three of the code of West Virginia, it shall be the  
16 duty of such council to appoint the person named in such writing

17 as such commissioner. The county court of Kanawha county  
18 shall hold a regular or special session at the court house of said  
19 county on the first Monday in April, one thousand nine hundred  
20 and nineteen, and shall appoint one qualified voter as commis-  
21 sioner of election for each precinct in said city, and all city elec-  
22 tions shall in all other respects be held in the way and manner  
23 prescribed in said chapter three of the code of West Virginia, ex-  
24 cept that no double election boards shall be appointed for any city  
25 election. If the county court of Kanawha county shall at any  
26 time arrange the voting precincts in the city of Charleston for  
27 state and county elections according to the lines of the city wards  
28 hereinbefore provided, then at all subsequent city elections such  
29 precincts with the same boundaries and same voting places as  
30 provided for such state and county elections shall be the precincts  
31 for all city elections.

Sec. 13. The city of Charleston shall have a council, which  
2 shall be known and styled as the "Council of the City of Charles-  
3 ton" and shall be composed of twenty members, one from each of  
4 the fifteen wards of the city, and five councilmen to be voted for  
5 by all the voters of said city, all of whom shall be nominated, voted  
6 for and elected in the manner herein provided.

Sec. 14. Only citizens entitled to vote and residents and  
2 voters of their respective wards and having the property qualifica-  
3 tions hereinbefore provided shall be eligible to be elected to the  
4 office of councilmen from their respective wards and at large, and  
5 each councilman so elected from a ward shall continue to be a  
6 resident of the ward from which he is elected during his entire  
7 term of office.

8 At the election to be held on the third Monday in April, one  
9 thousand nine hundred and nineteen, there shall be elected one  
10 member of the council from each ward and five members of the  
11 council from the city at large. If any person elected to council  
12 fails to qualify within twenty days after he is declared elected,  
13 or resign as a member of the council, or cease to be a resident of  
14 the ward from which he is elected, then his office shall thereby be  
15 vacated and the council shall fill such vacancy by the election of  
16 some qualified person for such unexpired term. No person shall  
17 be declared elected by the council unless he receives the votes of at  
18 least eleven members thereof, and the minutes of such meeting  
19 shall show that fact.

Sec. 15. The mayor shall be the presiding officer of the coun-



2 cil and be a member thereof, with the right to vote on all questions  
3 the same as any other member of said council, and the city clerk  
4 shall be *ex-officio* clerk of the council, and also perform the duties  
5 of clerk of the police court, and the mayor and city clerk shall  
6 each perform such other duties as the council may require of them.  
7 The 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 the mayor and president *pro tempore* at  
11 any meeting of the council, some member of the council shall be  
12 elected to preside over such meeting.

Sec. 35. There shall be a mayor, twenty members of coun-  
2 cil, a police judge and treasurer elected on the third Monday in  
3 April, one thousand nine hundred and nineteen, for the term of  
4 four years, and their successors shall be elected every four years  
5 thereafter, and their terms of office shall begin on the first Mon-  
6 day of May after their election. The mayor's salary shall be not  
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 and  
18 consent of the council, and the mayor shall, at the first meeting of  
19 the council on or after the first day of May, one thousand nine  
20 hundred and nineteen, send to the council the nomination of some  
21 fit and proper person for the office of manager, and the council  
22 shall, either at a regular or special meeting called for that purpose  
23 in the said month of May, pass upon such nomination and either  
24 confirm or reject the same, and if such nomination is rejected,  
25 then the mayor shall submit to the council a further nomination  
26 of some other person or persons until the nomination is confirmed  
27 by council, for said office as manager, but it shall be the duty of  
28 the council to pass upon all nominations without any unreason-  
29 able delay, and in any event within two weeks after the submis-  
30 sion of the same, and the failure of members of the council to

31 pass thereon within such time shall be cause for the removal from  
32 office of such members of the council.

33 The council shall appoint a city clerk. The manager shall  
34 appoint or employ such persons as the ordinances of the city may  
35 require or the council may authorize by proper resolution. All  
36 such officers shall be appointed for the term of four years and un-  
37 til their successors are appointed and qualified, unless they are  
38 removed in the way and manner in this act provided.

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

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

44 The duties of the city solicitor shall be to attend the sessions  
45 of council, and to prosecute all suits in behalf of the city and de-  
46 fend all suits against the city, to advise the council and all of the  
47 departments of the city and in general to look after the interests of  
48 the city when it shall need legal services, for which he shall re-  
49 ceive a salary of twenty-five hundred dollars per annum. All  
50 fees of every kind collected by any officer or employee, including  
51 the police judge when acting as a justice shall be paid to the city  
52 treasurer.

Sec. 36. The manager shall be appointed in the way and  
2 manner hereinbefore provided and shall receive such salary as  
3 council may by ordinance prescribe, provided such amount shall  
4 not be less than three thousand nor more than five thousand dol-  
5 lars per annum, and he shall have the right to employ one clerk  
6 at such salary as council may fix, and such other help as he may  
7 require and as council may from time to time allow.

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

Sec. 51. The council shall have authority to levy and col-  
2 lect 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 kept within said city, and

5 to impose a tax upon all other subjects of taxation under the sev-  
6 eral laws of the state, which shall be uniform with respect to per-  
7 sons and property within the jurisdiction of said city, and shall  
8 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  
12 fifty cents upon each hundred dollars of the assessed valuation of  
13 the property of the municipality; and, *provided further*, that the  
14 council shall in making such levy, be subject to all the provis-  
15 ions of chapter nine of the acts of the legislature of one thousand  
16 nine hundred and eight and any and all amendments thereto, ex-  
17 cept as herein provided. There shall be a tax of two dollars an-  
18 nually assessed on each and every male inhabitant of said city  
19 over the age of twenty-one years who is subject to a capitation  
20 tax under the laws of the state of West Virginia. The same shall  
21 be set out and included in the personal property book against every  
22 such inhabitant, and shall be collected under the authority of the  
23 city at the time of collecting other levies and taxes.

Sec. 75. The council may refund the lawful bonded indebt-  
2 edness 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 nor exchanged for the evidence  
8 of said indebtedness of said city for less than par, and  
9 there shall be provided a sinking fund that will discharge  
10 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 pro-  
13 ceedings hereunder; *provided*, that nothing herein contained shall  
14 be construed to authorize an increase of the bonded indebtedness  
15 of said city beyond the amount authorized by law. Notwith-  
16 standing the limitations of this and other laws of the state of  
17 West Virginia relating to the issue of bonds and other indebted-  
18 ness, the city of Charleston is hereby authorized upon the affirm-  
19 ative vote of three-fifths of all the votes cast at an election held  
20 for said purpose to issue and sell bonds for the purpose of provid-  
21 ing the necessary funds for purchasing the ground and erect-  
22 ing a new city building and jail, or a separate jail, a new central  
23 fire station or fire stations, buying or building bridges, water-

24 works, plants and other public utilities, and a city market or  
25 either or any of them.

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

Sec. 88. In addition to the method provided for paving  
2 streets, by section sixty-one of the charter of the city of Charles-  
3 ton, the council may order any block, street, avenue or alley to  
4 be paved or otherwise permanently improved, and the council  
5 may order the mayor and city clerk to issue to the contractor do-  
6 ing the paving, or other permanent improvement, a certificate for

7 each installment of the amount of the assessment to be paid by  
8 the owner of any lot or fractional part thereof fronting on such  
9 street, avenue or alley, and the amount specified in said assess-  
10 ment certificate shall be a lien as aforesaid in the hands of the  
11 holder thereof upon the lot or part of a lot fronting on such street,  
12 avenue or alley and such certificate shall draw interest from the  
13 date of said assessment and the payment may be enforced in the  
14 name of the holder of said such certificate by proper suit in equity  
15 in any court having proper jurisdiction to enforce such lien, and  
16 the council shall fix the amount of such assessment, advertise for  
17 bids, and do all other things in connection therewith as is pro-  
18 vided for paving or permanently improving any street or alley or  
19 any portion thereof in section sixty-one, and such certificates  
20 shall be issued in the same number of installments and payable  
21 at the same time as other paving or permanent improvements are  
22 provided to be paid for and shall be a lien in the hands of the  
23 holder thereof upon the particular lot against which they are  
24 assessed in the same way and manner that assessments are liens  
25 under section sixty-one of said charter.

26 Such certificates as may be issued pursuant to the foregoing  
27 section shall contain a provision to the effect that in the event of  
28 default in the payment of any one of said certificates, when due,  
29 and said default shall continue for a period of sixty (60) days,  
30 then all unpaid certificates shall become due and payable and the  
31 holder of said certificates may proceed to collect all of such  
32 unpaid certificates in the manner hereinbefore provided.

33 *Provided*, that no street, avenue or alley shall be paved or  
34 otherwise permanently improved pursuant to this section except  
35 and unless two-thirds of all the members elected to council shall  
36 concur therein.

Sec. 93. In addition to the method of securing the laying  
2 of sidewalks set out in section forty-nine of this chapter, the  
3 council of said city may cause any sidewalk to be constructed,  
4 laid, relaid, or otherwise permanently improved in the city of  
5 Charleston in the following manner and upon the following  
6 terms: Notice shall first be given the abutting property owners  
7 by publication in two newspapers of opposite politics by giving  
8 location, estimated frontage and depth, but no error in said pub-  
9 lication shall in any way affect the validity of the certificates here-  
10 inafter provided for, or any of them. The contract for same  
11 shall, after due advertisement in which council shall reserve the

12 right to reject any and all bids, be let to the lowest responsible  
13 bidder and upon completion and acceptance of the work, council  
14 shall order the mayor and city clerk to issue to the contractor  
15 doing the work a certificate for the amount of the assessment to be  
16 paid by the owner of any lot or fractional part thereof fronting  
17 on such sidewalk, and the amount specified in said assessment  
18 certificate shall be a lien in the hands of the holder thereof upon  
19 the lot or part of a lot fronting on such sidewalk and such cer-  
20 tificate shall draw interest from the date of said assessment, and  
21 the payment may be enforced in the name of the holder of such  
22 certificate by a proper suit in equity in any court having proper  
23 jurisdiction to enforce such liens, and council shall fix the  
24 amount of such assessments, and do all things in connection  
25 therewith necessary to make them valid and do all other things  
26 in connection therewith as is provided for paving or improving  
27 streets and alleys and such certificates shall be issued one for each  
28 abutting lot or portion thereof payable six months from the date  
29 of the completion and acceptance of the work and shall be a lien  
30 in the hands of the holder thereof upon the particular lot against  
31 which they are assessed in the same way and manner that assess-  
32 ments for street paving are liens under the other provisions of  
33 the aforesaid act creating and amending the charter of the city  
34 of Charleston; *provided, however*, that council shall not order  
35 any but concrete sidewalks; and *provided further*, that council  
36 shall not advertise for bids for any one letting of less than five  
37 thousand square feet; and *further provided*, that council shall not  
38 receive any bids or let any sidewalk contract between the first  
39 day of October and the first day of March of any years. Nothing  
40 in this section shall be so construed as to prevent any abutting lot  
41 owner from having his own sidewalk put in if done before the  
42 advertising hereinbefore mentioned and provided same is done  
43 according to the lines, grades and specifications of the city en-  
44 gineer, for which no charge shall be made. The total cost of  
45 constructing, laying, relaying, or otherwise permanently improv-  
46 ing any sidewalk or walks shall be borne by the owners of the  
47 land abutting upon said sidewalk or sidewalks according to the  
48 following plan, that is to say, payment is to be made according  
49 to the proportion of square feet in front of any lot or portion  
50 thereof bears to the whole letting. The contract for sidewalks  
51 referred to in this section does not necessarily have to be one con-  
52 tinuous sidewalk but the five thousand square feet required for a

53 letting as aforesaid may be made up of or composed of any  
54 number of sidewalks in any parts of the city.

Sec. 93-a. The county assessor shall furnish transcript of  
2 real and personal property on or about the tenth day of September  
3 of each year and his fee for same shall be not less than four  
4 hundred nor more than seven hundred dollars for such work.

Sec. 94. The police judge, mayor and city clerk shall each  
2 have authority to issue process for all offenses committed within  
3 the police jurisdiction of the city of Charleston for all violations  
4 of any city ordinances. Any vacancy in the office of police judge  
5 shall be filled by appointment by the mayor until the next elec-  
6 tion.

Sec. 95. No ordinance passed by the city council shall take  
2 effect until five days after its final passage and one publication  
3 of the caption or title thereof only shall be made during said  
4 five days in some daily newspaper printed and circulated in  
5 said city, except an ordinance necessary for the immediate pre-  
6 servation of the public health or public safety. Such caption or  
7 title shall distinctly state the full purport of the ordinance so  
8 passed and printed.

Sec. 96. The health commissioner shall be a physician of  
2 good standing in his profession and shall devote his time to  
3 city work alone. It shall be his duty to administer to all charity  
4 cases that he may, in his discretion, deem deserving. He shall,  
5 in conjunction with the city manager, have charge of the gen-  
6 eral health and sanitation of the city and it shall be his duty to  
7 carefully investigate all complaints and make a careful detailed  
8 report of all his official acts as health commissioner to the city  
9 manager and council at least once every month. He shall be  
10 appointed in the way and manner provided in the charter of the  
11 city of Charleston and shall receive such salary as council may by  
12 ordinance prescribe. Nothing herein, however, shall be construed  
13 as in any way affecting the police officers of the city relative to  
14 their powers and duties in regard to city sanitation contained  
15 and set forth elsewhere in said charter.

Sec. 97. It shall be the duty of the mayor to appoint a repu-  
2 table woman who shall be known as police matron, and such po-  
3 lice matron shall have all the qualifications and be subject to all  
4 the provisions of chapter eighteen of the acts of the legislaturæ  
5 of one thousand nine hundred and eleven. The council of the  
6 city of Charleston shall provide a reasonable salary not to ex-

7 ceed twelve hundred dollars therefor and do all of the things  
8 required by the council under the provisions of said chapter  
9 eighteen of the acts of the legislature of one thousand nine hun-  
10 dred and eleven and any amendments thereto.

Sec. 98. The city council shall cause any contract for the  
2 codifying and indexing of all the ordinances of the city to be  
3 fully completed, and such ordinances shall include all in force  
4 and effect up to the last day possible. Before such work is ac-  
5 cepted by the council, it shall be completed in every respect and  
6 the council shall then cause it to be properly printed and securely  
7 bound in a permanent book. The council may by ordinance  
8 adopt the code to be prepared as a whole and when said ordi-  
9 nance adopting said code shall have been passed by the council, the  
10 said code shall be and become the law and ordinances of said  
11 city up to such time according to the tenor and effect thereof,  
12 and when printed in a book, the same shall be received as evi-  
13 dence as the ordinances of said city, unless errors or omissions  
14 be affirmatively shown therein, and no other publication thereof  
15 shall be made or required under the charter, and the council  
16 shall cause all the ordinances of said city, either by printing a  
17 supplement thereof, to be brought up to date within a reasonable  
18 time after the printing of such ordinances, and in any event such  
19 supplement shall be printed, or, if necessary, a new copy of the  
20 ordinances shall be printed within every four years, and the  
21 council shall cause a sufficient number of said books of the or-  
22 dinances to be printed and to sell such number thereof as it may  
23 do so at such price as may be reasonable, and the number of  
24 books printed shall be fixed by the council.

Sec. 99. It shall be the duty of the city of Charleston to  
2 provide suitable and proper places for the burial of the dead,  
3 which places may be in or out of the corporate limits of the said  
4 city. The city shall cause such places to be laid off into cemetery  
5 lots in a reasonable and proper way and shall sell said lots for a  
6 reasonable price, but it may take into consideration the location  
7 of each of such lots in fixing the prices thereof. The city council  
8 shall have all the powers and rights of condemnation of any real  
9 estate that it may wish for such purpose in the manner provided  
10 by law, and it may require by means of condemnation any real  
11 estate which has already been laid out as a cemetery by any  
12 person, association or corporation.

13 No burials of the bodies of deceased persons shall hereafter



14 be permitted within the incorporated limits of the city of Charles-  
15 ton or within the space of one mile of such incorporated limits  
16 without the permission of said city shall be first had and ob-  
17 tained, and the city of Charleston, through its proper authorities,  
18 shall have power to pass all proper ordinances providing suitable  
19 penalties to carry out the powers here given said city.

20 No moneys received from the sale of lots in any cemetery so  
21 owned, or hereafter owned, by said city shall be used for any  
22 other purpose than the proper care and preparation of the ground,  
23 upkeep and expenses of said cemetery, the roads and ways to and  
24 through the same and for the purchase of additional property  
25 for cemetery purposes. *Provided, however,* that nothing herein  
26 contained shall in anywise effect any person, firm or corporation  
27 now lawfully engaged in the sale of cemetery lots, unless such  
28 property be acquired by the city through purchase or con-  
29 demnation.

Sec. 100. The building inspector shall be a competent  
2 person for the duties of his office and shall devote all his time  
3 to city work. He shall not be engaged or interested in the build-  
4 ing business in any way or manner. The council shall by ordi-  
5 nance fix a proper salary for him. He shall see that the ordi-  
6 nances of the city and laws of the state concerning buildings are  
7 enforced and perform such other duties as the manager or council  
8 may direct.

Sec. 101. The council shall have power to buy, sell or ex-  
2 change any real estate found necessary or convenient, in the  
3 opening, construction, straightening, widening, or otherwise alter-  
4 ing of any street, alley or public way within the city, and by  
5 resolution and proper deed to convey to any person, firm or  
6 corporation any land used, or heretofore or hereafter used, for  
7 street or other public purpose, when in the judgment of the  
8 council such land shall no longer be needed for such public use.

## CHAPTER 10.

(House Bill No. 121—Mr. Brand.)

AN ACT to amend and re-enact sections one, ten, twenty-six, forty-  
seven, fifty-one, fifty-two and sixty-one of chapter one hun-  
dred and thirteen of the acts of one thousand nine hundred  
and seventeen, creating the city of Morgantown.

[Passed February 6, 1919. In effect from passage. Became a law without the Governor's approval.]

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| <p>SEC.<br/>1. The city of Morgantown; corporate powers.<br/>10. First election under this act.<br/>26. Judicial power of city vested in a municipal court; jurisdiction of offenses specified; municipal judge; duties and powers; appeals from judgment of such court; judges' compensation.<br/>47. Filing of budget with city clerk; levy on real estate and personal property for taxes to meet budget.<br/>51. Construction of curb, sidewalk or gutter.</p> | <p>SEC.<br/>52. Power, without petition of owners, to provide for construction of local improvements; plan and resolution; notice and hearing; assessment, docketing and payment, collateral bonds; method of improvement; rebates or further assessments; gas and water lines; damages to improvements.<br/>61. Ratification of voters to render act effective; election for such purpose; ballot to be used; provision for subsequent election in event of failure.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That sections one, ten, twenty-six, forty-seven, fifty-one, fifty-two and sixty-one, of chapter one hundred and thirteen of the acts of one thousand nine hundred and seventeen, entitled an act creating the city of Morgantown, in the county of Monongalia, be amended and re-enacted so as to read as follows:

*Corporate Powers.*

Section 1. That the inhabitants of that portion of Monongalia county, in the state of West Virginia, included within the boundaries described in section two of this act, now a municipality, 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 lesser interest or estate by purchase, gift, devise, apportionment, 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 of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may grant public franchises to be exercised within the city; may acquire, construct, own, lease and operate light, heat, power, water, garbage and sewage disposal plants and regulate all other public utilities; may assess, levy, and collect taxes for general and special purposes on all the

22 subjects or objects within its boundaries which the city may  
23 lawfully tax; may borrow money for refunding bonded and  
24 current indebtedness or for permanent improvements and pub-  
25 lic works, on the faith and credit of the city by the issue and  
26 sale of bonds or notes of the city, and in the issuance and sale  
27 of said bonds the said city shall be governed by the restrictions  
28 and limitations of the constitution and laws of the state relat-  
29 ing to the issuance and sale of bonds, so far as said state laws are  
30 not in conflict with the provisions of this act; may perma-  
31 nently improve, repair and reconstruct any street, alley or road-  
32 way within the city limits and assess the cost thereof, as here-  
33 inafter provided, against the owners of the abutting or bene-  
34 fited properties in accordance with an ordinance that shall per-  
35 mit the payment of said assessments in cash or in annual install-  
36 ments, and may in anticipation of the levying of said assess-  
37 ments, issue and sell its bonds, as hereinafter provided; may  
37-a appropriate the money of the city for all lawful purposes; may  
38 create, provide for, construct, regulate and maintain all things  
39 of the nature of public works and improvements; may direct  
40 the laying out of lots and the opening of streets and roadways;  
41 may license and regulate persons, corporations and associations  
42 engaged in any business, occupation, profession or trade; may  
43 define, prohibit, abate, suppress and prevent all things detri-  
44 mental to the health, morals, comfort, safety, convenience and  
45 welfare of the inhabitants of the city, and all nuisances and  
46 causes thereof; may limit the height and regulate the con-  
47 struction and materials used in all buildings and structures of  
48 every kind, and the maintenance, occupancy and use thereof;  
49 may regulate and control the use, for whatever purpose, of the  
50 streets and other public places; may create, establish, organize  
51 and abolish offices not specifically provided for by this act, and  
52 fix the salaries and compensations of officers and employees when  
53 not fixed herein; may make and enforce local police, sanitary and  
54 other regulations, and prescribe, impose and enforce reasona-  
55 ble fines and penalties, including imprisonment, and with the  
56 consent of the county court of Monongalia county, shall have  
57 the right to use the jail of said county when necessary; and may  
58 pass such ordinances and resolutions as may be expedient or  
59 necessary for maintaining and promoting the peace, good gov-  
60 ernment and welfare of the city, and for the performance of  
61 the functions thereof. The city of Morgantown, as constituted by

62 this act, shall retain, keep and succeed to all rights, privileges,  
63 property, interest claims and demands heretofore acquired by,  
64 vested in or transferred to the said city as heretofore consti-  
65 tuted and shall have all powers that now are or hereafter may  
66 be granted to municipalities by the constitution or laws of West  
67 Virginia, or that are herein by implication conferred, or are  
68 necessary to or consistent with the purposes of this act; and all  
69 such powers, whether expressed or implied, shall be exercised  
70 and enforced in the manner prescribed by this act, or when not  
71 prescribed herein, in such manner as shall be provided by ordi-  
72 nances or resolutions of the governing body herein provided for.

Sec. 10. The first election under this act shall be held on  
2 the fourth Tuesday of April, one thousand nine hundred and  
3 nineteen, or at such time as may be fixed by the common coun-  
4 cil of the city, not less than thirty nor more than ninety days  
5 after the adoption of this act as provided in section sixty-one  
6 hereof, at the regular voting places within the city, under the su-  
7 pervision of the council and officials of the city as at present con-  
7-a stituted, and be conducted, certified, returned and finally de-  
8 termined, in accordance with the provisions of this act and the  
9 laws and ordinances, or such parts thereof, as are now in effect  
10 and not inconsistent with the provisions of this act.

Sec. 26. The judicial power of the city shall be vested in  
2 a municipal court, which shall have the same jurisdiction, in  
3 cases arising within the city, as is vested in justices of the peace  
4 by the laws of this state, and as is vested in municipal courts  
5 by chapter one hundred and fourteen-a of the code of this state,  
6 and which shall have exclusive jurisdiction of the following  
7 offenses committed within the city (except when prosecuted by in-  
8 dictment or information):

9 1. All criminal proceedings for the violation of any city  
10 ordinance.

11 2. All actions for the collection of licenses, assessments or  
12 taxes imposed under this act or any ordinance of the city.

13 3. Petit larceny.

14 4. Assault and battery.

15 5. Breaches of the peace, rioting, committing willful in-  
16 jury to property, and all misdemeanors punishable by fine or im-  
17 prisonment in the county jail, or both; proceedings respecting  
18 vagrants, lewd or disorderly persons; and of all offenses not  
19 properly falling under the jurisdiction of other courts.

20 6. All cases for desertion or non-support and of dependent,  
21 neglected or delinquent children, where the parties or any of  
22 them reside or the cases arise within the city, subject to appeal  
23 to the circuit court of Monongalia county as provided in chapters  
24 fifty-one and sixty-three of the acts of the legislature of one  
25 thousand nine hundred and seventeen.

26 The municipal court shall be presided over by a municipi-  
27 pal judge, who shall be a citizen of the city of Morgantown.  
28 Until a municipal judge shall have been appointed, the mayor  
29 shall act in that capacity. The municipal judge shall within  
30 the city have, possess and exercise all the powers and perform  
31 all the duties vested by law in a justice of the peace, except that  
32 he shall have no jurisdiction in civil cases or causes of action  
33 arising outside of the corporate limits of the city. He  
34 shall have the same power to issue attachments in civil suits as a  
35 justice of the county has, though the cause of action arose out-  
36 side of the city, but if the cause of action arose outside of the  
37 city, said attachment shall be returnable to and be heard before  
38 some justice of the county. Any warrant or other process is-  
39 sued by him may be executed at any place in the county. He  
40 shall have the power to issue executions for all fines, penalties  
41 and costs imposed by him, or he may require the immediate pay-  
42 ment thereof, and in default of such payment he may commit the  
43 party in default to the jail of the county or municipality until  
44 the fine or penalty and costs shall be paid, but the term of im-  
45 prisonment in such cases shall not exceed thirty days. The ex-  
46 pense of maintaining any person committed to the county jail by  
47 him, shall be borne by the city, except it be to answer an in-  
48 dictment or be under the provisions of section two hundred and  
49 twenty-seven and two hundred and twenty-eight of chapter fifty  
50 of the code of this state.

51 He shall not receive any money belonging to the state or  
52 individuals unless he give such bond and security as is re-  
53 quired of a justice of the peace, and all provisions of the said  
54 chapter fifty of the said code relating to moneys received by  
55 justices shall apply in like manner to the municipal judge.

56 He shall have authority to sentence an offender to labor,  
57 upon the streets or at other public work of the city, for a pe-  
58 riod not exceeding thirty days, and the compensation for said  
59 labor shall be paid to said offender's dependents, if any, in con-

60 formity with such regulations as the board of commissioners  
61 may by ordinance provide.

62 Appeals shall lie from the judgment of the municipal court  
63 to the circuit court of Monongalia county, in accordance with  
64 law.

65 The municipal judge may, in lieu of a salary fixed by ordi-  
66 nance, receive as compensation, such fees as are provided by law  
67 for justices of the peace, but the city shall assume no liability  
68 for the collection of said fees.

69 Sec. 47. Upon receipt of said budget the board of com-  
70 missioners shall cause a copy of same to be placed on file in the  
71 office of the city clerk for public inspection and shall give pub-  
72 lic notice of a meeting to be held not less than ten days there-  
73 after, at which meeting objections to the budget may be stated.  
74 The board of commissioners shall then make such changes in  
75 the said budget as they may deem advisable, but shall not in-  
76 crease the amount thereof, and shall order a levy of so much on  
77 the real estate and personal property in the city as in their opin-  
78 ion shall be necessary to pay the same; *provided*, that such an-  
79 nual budget shall be made and such levy laid in the manner  
80 prescribed by general law of this state relating thereto; and pro-  
81 vided that the levy for general purposes shall not exceed fifty  
82 cents on each one hundred dollars of the valuation of the taxa-  
83 ble property in the city for the year in which said levy is  
84 laid, unless a higher rate shall be hereafter authorized by gen-  
85 eral law of the state; and, *provided, further*, that they may, for  
86 the purpose of paying the present current indebtedness of the  
87 city, lay an additional special levy not to exceed ten cents on each  
88 one hundred dollars of such valuation, but the same shall not be  
89 continued after the taxes accruing from such special levy are suf-  
90 ficient to pay the present current indebtedness of the city.

91 Property shall be valued for the purpose of taxation in the  
92 manner required by the laws of the state. The capitation tax  
93 imposed under Sec. 49 hereof shall be collected by the assessor  
94 and his assistants at the time of the collection of other capita-  
95 tion taxes as required by section fifty-three of chapter twenty-  
96 nine of the code of this state, for which the assessor shall be  
97 allowed a compensation of five per cent. upon settlement for all  
98 capitation taxes with which he is charged in the city.

Sec. 51. The board of commissioners may order the owner  
2 of any real property abutting on any street, roadway or alley

3 to grade the sidewalk adjacent to such property and to con-  
4 struct or cause to be constructed a curb, sidewalk or gutter along  
5 said property in accordance with such regulations as they may  
6 by ordinance provide, and upon failure of said owner so to do,  
7 the board of commissioners may cause the same to be done and  
8 shall assess the cost thereof, with interest, upon the said property  
9 and against the owner thereof.

Sec. 52. The board of commissioners shall have power, with-  
2 out petition of the owners, to provide for the construction, re-  
3 construction, repair and maintenance, of all local improvements  
4 including the grading, paving, sewerage and otherwise perma-  
5 nently improving of streets and alleys of the city, and to provide  
6 for the assessment of one-third of the cost thereof, including all  
7 incidental expenses and the cost of intersections of streets, with  
8 interest payable annually, against the abutting or other specially  
9 benefited properties, according to their frontages, on each side of  
10 such streets or alleys, and against the owners thereof, upon the  
11 following conditions:

12 (a) *Plan and resolution.* The board of commissioners,  
13 when deemed expedient by it, shall cause plans, specifications,  
14 profiles and estimates of the proposed improvements by grading,  
15 paving, curbing, sewerage or otherwise locally improving any  
16 streets or alleys, to be made and filed in the city clerk's office,  
17 and shall by ordinance and resolution prescribe generally the lo-  
18 cation and character of the proposed improvement and refer to  
19 such plans, specifications, profiles and estimates.

20 (b) *Notice and hearing.* The board of commissioners  
21 shall then cause notice thereof to be published once in two  
22 newspapers published in said city, fixing the date for a hearing  
23 thereon not less than one week after the adoption of such reso-  
24 lution. At the date stated in such resolution and notice, or at any  
25 adjourned meeting, the board of commissioners shall hear ob-  
26 jections to the proposed improvement and may correct, amend  
27 or modify such plans, specifications, profiles and estimates, not  
28 extending such improvement to any other street or part of street,  
29 and may pass or adopt a resolution or ordinance providing for such  
29-a improvement by direct employment of labor or by contract with  
30 the lowest responsible bidder, and for the assessment of one-third of  
31 the cost thereof against the abutting or specially benefited proper-  
31-a ties on each side of such street or alley.

32 (c) *Assessment, docketing and payment.* The board of

33 commissioners shall, by resolution or ordinance, levy the as-  
34 sessment of one-third of the approved estimate of the cost of  
35 such improvement, including incidental expenses and intersec-  
36 tions, upon the abutting or other specially benefited properties  
37 and against the owners thereof, in proportion to the frontages of  
38 such properties, designating the same by numbers, names of  
39 owners or other convenient description; and shall also assess  
40 against any street car or other railway company the cost of the  
41 improvement of the space between the rails of its track or tracks  
42 and two feet additional outside each rail (unless otherwise pro-  
43 vided in the franchise therefor); which assessments shall be liens  
44 upon the respective properties, and upon the tracks and fran-  
45 chises of such company for the distance of the improvement  
46 thereon, and said liens shall have priority over all other liens  
47 except taxes due the state. The said assessment shall be paya-  
48 ble fifteen days after the levying thereof, unless the owners of  
49 such properties elect to pay the same in ten annual installments as  
50 hereinafter provided; and, within thirty days after the levying  
51 thereof, the city clerk shall cause a memorandum of all unpaid  
52 assessments to be made, showing the names of the owners of such  
53 properties, descriptions of the properties, and the amounts of  
54 the assessments, respectively, and shall file the same in the office  
55 of the clerk of the county court of Monongalia county for rec-  
56 ord in the deed of trust books therein; such assessments, after  
57 said period of thirty days, and before recordation of such mem-  
58 orandum, shall not be liens as against purchasers of such property  
59 for value and without notice. Upon payment thereof, releases  
60 shall be executed and recorded in the manner provided by law.

61 (d) *Collateral bonds.* The board of commissioners shall,  
62 at the option of the owner or owners of such properties, permit  
63 payment of one-tenth of the amount assessed against them,  
64 respectively, within said fifteen days, and issue and sell its notes  
65 or bonds, without vote of the electors of the city, in anticipa-  
66 tion of the payment of such special assessments in annual install-  
67 ments as follows: One-tenth of such amount with interest on said  
68 one-tenth, at six per cent per annum, payable annually, in one year  
69 from the date of levying of such assessment, and a like one-tenth,  
70 with interest as aforesaid, at the expiration of each succeeding year  
71 until the whole amount shall have been paid.

72 (e) *Method of improvement.* The board of commis-  
73 sioners shall, after levying and collecting assessments and issu-



74 ing its notes and bonds as aforesaid, proceed with such local  
75 improvements according to the said approved plans, specifica-  
76 tions and profiles, and shall pay two-thirds of the cost thereof  
77 out of the special assessment fund accruing from such payment  
78 and the sale of its notes or bonds and shall pay the remaining  
79 one-third out of any public funds not otherwise appropriated.  
79-a *Provided*, that the assessment against any such street car or  
80 other railway company shall be deducted from the one-third of  
81 the cost to be paid by the city.

82 (f) *Rebates or further assessments.* Upon the comple-  
83 tion of any improvement, any excess above the actual cost of the  
84 improvement shall be refunded to the owners of properties on  
85 the basis on which assessed, and in the event of a deficit in the  
86 assessment fund, the commissioners may by ordinance lay  
87 a supplementary assessment on the basis of the actual  
88 cost, which shall be made and collected as provided in the case  
89 of the original assessments for the improvement.

90 (g) *Gas and water lines.* The board of commissioners  
91 before making any such local improvements, shall compel any  
92 person, firm or corporation having gas, water, telephone, street  
93 car or other public utility equipment on, in or under such street  
94 or alley under franchise therefor, to be removed, renewed, low-  
95 ered or raised, and the gas or water lines or connections to be  
96 extended from the mains to the abutting properties, as directed  
97 within ten days after notice so to do; and shall also cause the  
98 owners of properties abutting on said street or alley to install  
99 sewer connections at their expense, within ten days after notice  
100 so to do; and if the same be not done within said time, the work  
101 may be done by the city, and the cost thereof, with a penalty of  
102 ten per cent. of the cost, assessed against the owners of such  
103 franchises and against the said properties respectively, for which  
104 such connections are made, which assessments shall be liens and  
105 may be collected as other taxes.

106 (h) *Damages to improvements.* Whenever any street or  
107 alley of the city, or any part thereof, shall have been graded,  
108 sewered, or otherwise permanently improved by order of the board  
109 of commissioners, pursuant to the authority conferred on them  
110 by this section, by providing for an assessment of a part of the  
111 cost thereof, as provided by this section, against abutting prop-  
112 erty and the owners thereof, it shall not be within the power of  
113 the said board of commissioners to thus charge the said property

114 or the owners thereof, with any part of the cost of regrading  
 115 re-paving, re-sewering or against permanently improving such  
 116 street or alley until after fifteen years from the completion of  
 117 such grading, paving, sewerage or otherwise permanently im-  
 118 proving thereof. The board of commissioners shall, by ordi-  
 119 nance provide for the protection, preservation and use of any  
 120 such local improvements and shall prescribe fines and penal-  
 121 ties for damages or injuries thereto, for which the person or  
 122 company causing such injury shall be liable; and no owner or  
 123 owners of abutting properties shall be compelled to pay subse-  
 124 quent special assessments for the reconstruction, repair and  
 125 maintenance of any curb, pavement, sewer or other local im-  
 126 provement, so injured or damaged by any other person or cor-  
 127 poration in violation of such ordinance.

128 (i) The board of commissioners shall have power to pass  
 129 and adopt ordinances not inconsistent with the constitution and  
 130 laws of this state, for the purpose of carrying out the provis-  
 131 ions of this section.

#### *Ratification by Voters.*

Sec. 61. The said act of the legislature of one thousand  
 2 nine hundred and seventeen, as hereby amended, shall not be  
 3 effective until the same shall first be submitted to the voters of  
 4 said city, at a special election called for that purpose, and adopted  
 5 by a majority of the votes cast at said election. Said special  
 6 election shall be held on the fourth Tuesday in March, one  
 7 thousand nine hundred and nineteen, after publication of the  
 8 act one time not less than ten days immediately preceding said  
 9 special election, in two daily papers published in said city.  
 10 Said special election shall be conducted in the regular manner  
 11 of holding municipal elections in said city. If this act is  
 12 adopted at said election it shall become effective at the time  
 13 and in the manner provided in section sixty hereof.

14 The ballot to be voted at said election shall be printed  
 15 in the following form:

16 CITY OF MORGANTOWN.

17 CHARTER ELECTION.

18 Indicate how you desire to vote by a cross in the square.

19 [ ] "For adoption of new charter."

20 [ ] "Against adoption of new charter."

21 *Provided, however,* that if this act shall fail of adoption  
 22 at such election, the same may be voted upon at a subsequent  
 23 election, called by the council of said city, and held in the  
 24 same manner; but no such subsequent election shall be held until  
 25 a period of six months shall have elapsed after any former election  
 26 held for that purpose; and *provided, further,* that if the council  
 27 of said city shall fail or refuse to call a subsequent election  
 28 for that purpose, then upon petition signed by the qualified voters  
 29 of said city, equal in number to at least thirty per centum of the  
 30 entire vote cast for the candidate for mayor, who received the  
 31 highest number of votes at the last preceding municipal election,  
 32 said council shall, by a proper order, call a special election  
 33 for that purpose. And if this act shall fail of adoption, at  
 34 the first election held for that purpose as herein provided, then  
 35 it shall take effect from the date of its adoption, at such sub-  
 36 sequent election, for the purpose of nominating and electing  
 37 officers and all purposes in connection therewith, and for all other  
 38 purposes shall take effect on the first day of July following its  
 39 ratification and adoption in the manner herein provided.

## CHAPTER 11.

(House Bill No. 91—Mr. Weiss.)

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| <p>SEC.<br/>52. Relating to the paving of streets and alleys; assessments for paving a lien on lots or fractional parts thereof; suits in equity for enforcement; completion and acceptance of paving; moneys appropriated for paving, repaving or repairing of streets or alleys to be used for no other purpose.</p> <p>76. Limit on levy for all purposes; amounts that may be raised by levy; for what purposes.</p> | <p>SEC.<br/>83. Limit on indebtedness that may be incurred.</p> <p>84. Authorization to issue and sell bonds; limit; bond issues to be submitted to voters; ordinance providing for bond issue; election, and how conducted; denomination of bonds; sale of same; requirements relative thereto; acts or parts of acts in conflict herewith repealed.</p> |
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[Passed February 7, 1910. In effect from passage. Became a law without the Governor's approval.]

AN ACT to amend and re-enact sections fifty-two, seventy-six, eighty-three and eighty-four 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.

*Be it enacted by the Legislature of West Virginia:*

That sections fifty-two, seventy-six, eighty-three and eighty-four of chapter twenty-one of the acts of one thousand nine hundred and fifteen (greater Wheeling charter), and approved by a majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May in the year one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 52. The council may cause any street or alley to  
2 be paved, between the sidewalks, with cobble, asphalt, stone,  
3 brick, or other suitable materials, under such regulations as  
4 shall be fixed by ordinance, upon the lowest and best terms to be  
5 obtained by advertisement for bids or proposals therefor by the  
6 council as herein provided; or the council may have such work  
7 done without the intervention of contractors or middlemen; and  
8 two-thirds of the cost of such paving shall be assessed against  
9 the owners of the lots or fractional parts of lots abutting or  
10 bounding on that part of the street or alley so paved in propor-  
11 tion to the distance of the frontage owned by each, except in  
12 the case of a street whereon a railway of any kind is being oper-  
13 ated, the railway company, or owner of such railway, shall, upon  
14 thirty days' notice in writing from the city, pave with like ma-  
15 terial and in a like manner as the city paves the residue of the  
16 streets, or pay for the new paving if done by the city, between

17 the rails and a foot outside of the rails, and the residue of the  
18 space between the tracks where more than one are on the street,  
19 and the remainder of the cost to be borne in the proportion of  
20 one-third by the city and the remaining two-thirds by the owners  
21 of the abutting property on both sides of said street or alley on  
22 which said railway is being operated, the intersections of two  
23 streets, or of a street and alley, or of two alleys, to be paved at  
24 the expense of the city. But where the intersection is crossed  
25 by a railway track or tracks of any kind, the railway company or  
26 owner of such tracks shall pay for the paving of so much of such  
27 intersection as is between its rails and one foot outside of such  
28 rails, as well as the residue of the space between double tracks.

29 In case two street railway tracks belonging to different  
30 owners are on a street, the cost of paving between such tracks  
31 on such street shall be paid one-half by the owner or owners of  
32 each of such tracks.

33. The sum or sums of money thus assessed for paving shall be  
34 a lien on the lots or fractional parts of lots upon which they are  
35 assessed, which lien may be enforced by a suit in equity in the  
36 name of the city, in the circuit court of Ohio county, West Vir-  
37 ginia, or the same, or any installment thereof, may be collected  
38 by a suit at law before such court, or before any justice of the  
39 peace of said county, if the amount involved does not exceed  
40 three hundred dollars, exclusive of interest and costs.

41 Immediately upon the completion and acceptance of any  
42 such paving, the council shall direct the city clerk to cause to  
43 be published a notice, which shall name and describe the loca-  
44 tion of the portion of the street or alley upon which said paving  
45 shall have been constructed; give the name or names of the  
46 owners of each lot abutting or bounding upon such portion of  
47 the street or alley, if known, and if the name or names of the  
48 owner of any lot or fractional part of a lot are unknown, such  
49 lot shall be described with reasonable certainty in order that the  
50 same may be identified; and the number of feet that each lot or  
51 fractional part of a lot abuts upon such paved portion, as well  
52 as the amount assessed against each lot or fractional part of a  
53 lot, for the cost of the paving. Said notice shall cite all owners  
54 of lots or fractional parts of lots, abutting upon the portion of  
55 the street or alley which has been paved, to appear before the  
56 council at a regular meeting thereof, within thirty days from  
57 the first publication of the notice, and show cause, if they can,

58 why the assessment aforesaid should not become final, which  
59 notice shall be published once a week for two successive weeks  
60 in one or more newspapers of general circulation published in  
61 said city. The council shall, upon the request of any one or  
62 more of the owners of said lots or fractional parts of lots, ap-  
63 point a day to hear the grievances of said owner or owners, and  
64 may alter or amend any assessment made against any one or  
65 more of said owners for good cause shown. The city clerk shall  
66 give notice to all persons claiming to be injured by said assess-  
67 ment, of the time and place of holding the meeting of the  
68 council to hear such grievances, which meeting shall be held  
69 within ten days after the clerk shall have given the last men-  
70 tioned notice. The council may adjourn the hearing from time  
71 to time. In case any owner or owners of abutting property fail  
72 within such thirty days to complain to the council of any griev-  
73 ance or injury they may have suffered, by reason of the assess-  
74 ment aforesaid, or to appear before the council for the purpose  
75 of having the same corrected on the day appointed by the council  
76 for the hearing of such grievances as have been complained of,  
77 the assessment as laid shall be final. The findings of said council  
78 shall be subject to correction by said circuit court, upon appeal,  
79 which must be taken and perfected within thirty days from the  
80 finding and be heard and determined by such court without de-  
81 lay, having precedence of other cases on the court's docket. The  
82 rights conferred by this section are cumulative and shall not be  
83 exhausted as to any particular street or alley by reason of having  
84 been once exercised.

85 One-tenth of the amount assessed against the property  
86 owner of the cost of the paving shall be paid within one year  
87 after the completion and acceptance of the work, and the remain-  
88 ing nine-tenths thereof shall be paid in nine equal annual install-  
89 ments, with interest, payable annually, payable at such times as  
90 the city shall collect taxes for other purposes.

91 Where the city does the paving which is required to be  
92 done by the traction companies under their franchise rights  
93 of this charter upon completion and acceptance of the work by  
94 the city, the amount of the cost thereof shall be due and payable,  
95 and the city may recover the same by an action at law.

96 But lien upon any real estate created by virtue of this sec-  
97 tion shall be void as to any purchasers of any such real estate  
98 unless the city shall, within sixty days after the completion and

99 acceptance of the paving by the city, cause to be recorded in the  
100 office of the clerk of the county court an abstract of such assess-  
101 ment, giving the location of the real estate affected, the name of  
102 the owner and the date and amount of the assessment, which  
103 recordation shall be in a well-bound book to be furnished by  
104 the city and be preserved in said clerk's office.

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

109 All moneys appropriated for the paving, repaving or re-  
110 pairing of streets or alleys shall be used for that purpose only,  
111 and the revenue received by the city from assessments against  
112 any and all property or property owners shall be placed in a  
113 "street paving" fund and shall be considered and treated the  
114 same as moneys appropriated for that purpose.

Sec. 76. The city shall not levy any aggregate for all city  
2 purposes, including interest and sinking fund on its bonded in-  
3 debtedness, more than seventy cents on each one hundred dollars  
4 of assessed valuation of the property of the municipality accord-  
5 ing to the last assessment thereof for state and county purposes;  
6 the council shall annually cause to be levied and raised by a gen-  
7 eral tax upon all taxable property in the city:

8 First: An amount sufficient to pay the interest and any in-  
9 stallment of principal falling due within the year and the sinking  
10 fund provided to pay said bonds upon all bonds of the public debt  
11 of the city, which shall be kept in a separate fund, to be called  
12 the public debt fund.

13 Second: An amount which, with the revenues from the  
14 water works, gas works, and any other revenue-producing works  
15 of property owned by or in charge of the city, will be sufficient to  
16 defray the expenses for the next fiscal year of all of the works  
17 and property, whether productive of revenue, or not, owned by  
18 or in charge of the city, which taxes, when collected, shall, to-  
19 gether with the revenues from such works, be kept in a separate  
20 fund to be called the public works fund. Of the amount levied  
21 to defray the expenses of the works and property owned by or in  
22 charge of the city, a specified portion, not exceeding twenty-five  
23 cents on every hundred dollars of the assessed value of all taxable  
24 property in the city, shall be for the purpose of paving or mac-  
25 adamizing streets or alleys in said city, except as otherwise pro-

26 vided for in this act, and for the construction of sewers and curb-  
27 ing in said city, and all percentage or money compensation re-  
28 ceived by the city from franchises, grants, rights or privileges  
29 for the use of the streets, alleys or public grounds of the city,  
30 shall be used exclusively for the purpose of paving and repairing  
31 the streets and alleys of said city.

32 Third: An amount sufficient to pay the salaries of all offi-  
33 cers of the city, and the wages of all employees of the city, other  
34 than those engaged upon revenue-producing works, and all neces-  
35 sary, ordinary and contingent expenses of the city, not otherwise  
36 provided for, which, with all other moneys received by the city,  
37 not belonging to any other fund specified by this act, shall be  
38 kept as a separate fund, to be called the general city fund.

39 *Provided, however,* that this section shall not become effective  
40 and operative until it, section seventy-six, as herein above  
41 amended, shall have been submitted to the voters of the city of  
42 Wheeling at an election held for that purpose. The city council  
43 shall provide by ordinance for such election, and shall appoint  
44 judges and clerks for each precinct within the city. Notice of  
45 such election shall be published in two daily newspapers of oppo-  
46 site politics in said city of Wheeling once a week for two succes-  
47 sive weeks, the last publication to be not more than ten days be-  
48 fore the day of election. The ballots used when voting upon this  
49 amendment to said section seventy-six shall contain the words,  
50 "for ratification" and "for rejection." If a majority of the votes  
51 cast at such election shall be for ratification, then section seventy-six  
52 as herein amended and re-enacted, shall thereupon become valid  
53 and binding law; if, however, the majority of votes cast at such  
54 election shall be for rejection, then and in that event this amend-  
55 ment to said section seventy-six shall be null and void and of no  
56 effect. The persons qualified to vote at any general municipal  
57 election shall be qualified to vote at such election, and no regis-  
58 tration of voters shall be required for such election.

Sec. 83. No debt shall be incurred by said city even with  
2 the consent of the voters, in an amount, including existing in-  
3 debtedness, in the aggregate exceeding five percentum on the  
4 value of the taxable property therein, as shown by the assessment  
5 for state and county taxes next preceding the incurring of such  
6 debt.

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 percentum 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  
8 at the same time providing for the collection of a direct annual  
9 tax of an amount sufficient to pay the annual interest of such debt  
10 and the principal thereof within and not exceeding thirty-four  
11 years. Said city shall never impose or exact from the inhabitants  
12 thereof a greater amount annually than seventy cents on each one  
13 hundred dollars on the assessed value of property for state and  
14 county purposes.

15 No bonds shall be issued by said city unless all questions con-  
16 nected with the same shall have been first submitted to the quali-  
17 fied voters of said city and have received three-fifths of all the  
18 votes cast for and against same.

19 When the council shall deem it expedient to issue bonds, an  
20 ordinance specifying the purpose and amount for which such bonds  
21 are to be issued shall be adopted by them at regular meeting and  
22 it shall then be the duty of the mayor of the city to issue a procla-  
23 mation reciting said ordinance and appointing a day at which an  
24 election shall be held by the qualified voters of the city to decide  
25 whether they will ratify or reject said ordinance. Any bond ordi-  
26 nance may be voted on at the time of holding any general municipi-  
27 pal election or a special election may be held for the purpose of  
28 submitting said ordinance to a vote of the people. If a bond ordi-  
29 nance is submitted to a vote at the time of a general municipal  
30 election, separate ballots shall be provided therefor. Such procla-  
31 mation shall be published in two newspapers of opposite politics  
32 published in the city once a week for two weeks previous to the  
33 day of election.

34 Such election shall be conducted in all things according to  
35 the laws governing elections in force at the time said election is  
36 being held and according to the provisions of the charter of the  
37 city. All persons qualified to vote at other municipal elections in  
38 the city shall vote at such elections as are herein authorized.

39 The person voting for the ratification of any such ordinance  
40 shall have written or printed on his ballot "for ratification," and  
41 the person voting against ratification shall have written or printed  
42 on his ballot the words "for rejection."

43 More than one ordinance may be submitted at any election, but

44 each ordinance shall be separately voted upon ; any ordinance may  
45 specify more than one purpose for which said bonds are to be is-  
46 sued, provided, however, that the amount to be appropriated for  
47 each purpose is also specified therein. The proclamation issued  
48 by the mayor, as hereinbefore provided, shall specify the aggregate  
49 amount of indebtedness, outstanding and authorized, of the city  
50 existing at the date of the proclamation.

51 Bonds issued by the city shall be of the denomination of one  
52 hundred dollars or multiples thereof not exceeding one thousand  
53 dollars. They shall be payable not less than one nor more than  
54 thirty-four years after date. They shall bear not more than six  
55 per cent. interest and the interest shall be payable either annually or  
56 semi-annually. No debt shall be created by the city as a bonded  
57 debt except when issued under the provisions of this charter.

58 It shall be unlawful for the officers of the city to privately  
59 issue or sell directly or indirectly any bond or bonds to be used in  
60 payment for work or materials to be furnished, but all such bonds  
61 shall be publicly sold to the highest bidder in writing to be ap-  
62 proved by the officers conducting the sale for cash or its equivalent  
63 in bonds previously issued by the city, and the money arising  
64 therefrom shall be used for the purpose specified in the ordinance  
65 providing for the issuing of same; before any sale of such bonds,  
66 said sale shall be advertised in some newspapers, not exceeding  
67 four, in or out of said city, for once a week for four weeks pre-  
68 vious to said sale.

69 The treasurer and his sureties shall be liable for the sinking  
70 fund and the amount levied for may be levied for a sinking fund  
71 and to pay interest on the bonded debt, and it shall be applied to  
72 the purposes for which it was levied or for investment in United  
73 States bonds or bonds of the city, as the council may direct, to be  
74 used for the payment of principal and interest of any bonded debt  
75 of the city.

76 Bonds of the city shall be sold at not less than their par value.

77 The council shall provide in its ordinance that bonds of the  
78 city be signed by the mayor and city clerk and sealed with the  
79 seal of the city.

80 Should any of the fund derived from the issuance and sale of  
81 bonds of the city be diverted by the council or any officer or officers  
82 of the city from the purpose for which said bonds were issued and  
83 sold, such councilman or city officer using same or consenting to  
84 or aiding in the use thereof for such other purpose shall be guilty

85 of a misdemeanor and be punished by a fine of not less than one  
 86 hundred dollars and not more than five hundred dollars, or by im-  
 87 prisonment not less than thirty days nor more than one year, or  
 88 both.

89 The city may issue and sell its bonds for any of the purposes  
 90 authorized in sections twenty-nine, forty-eight, fifty and fifty-two  
 91 of chapter twenty-one of the acts of one thousand nine hundred  
 92 and fifteen (greater Wheeling charter), passed by the legislature  
 93 of the state of West Virginia on February thirteenth, one thou-  
 94 sand nine hundred and fifteen.

95. All parts of chapter twenty-one, acts of one thousand nine  
 96 hundred and fifteen, inconsistent with this amendment to said  
 97 chapter are hereby repealed.

### CHAPTER 12.

(House Bill No. 272—Mr. Moore.)

AN ACT to amend and re-enact sections three, four-*a*, thirty, forty-  
 one, forty-seven and forty-eight of chapter eighteen of the acts of  
 the legislature of one thousand nine hundred and fifteen, re-  
 lating to the charter of the city of Cameron, Marshall county,  
 West Virginia.

[Passed February 20, 1919. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

<p>SEC.                  3. Officers, city of Cameron.                  4-<i>a</i>. Act effective when; fixing date of                  election; method of election.                  30. Duties of the clerk; compensation.</p>		<p>SEC.                  41. Chief of police; duties.                  47. Sidewalks; method of providing                  for construction of; collection of                  assessment; street paving.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections three, four-*a*, thirty, forty-one, forty-seven and forty-  
 eight of chapter eighteen of the acts of the legislature of one thou-  
 sand nine hundred and fifteen be amended and re-enacted as fol-  
 lows:

#### *Officers.*

Section 3. The officers of said city shall be a mayor, clerk,  
 2 chief of police, and five councilmen. The clerk shall be ex-  
 3 officio assessor, and the chief of police shall be ex-officio collector  
 4 and street commissioner thereof. The said officers shall be  
 5 elected by the qualified voters of said city. The mayor, clerk,  
 6 and five councilmen shall constitute the common council of said  
 7 city, which common council may, at its discretion appoint a super-

8 intendent of water works, city solicitor and such other officers  
9 as may be deemed necessary from time to time, and fix the term,  
10 duties and compensation thereof. No person shall be eligible to  
11 any elective office in said city unless he is a qualified voter thereof,  
12 nor unless he has resided therein for at least one year next pre-  
13 ceding his election, nor who shall have not been assessed for tax-  
14 ation with real estate or personal property of the value of at least  
15 one hundred dollars.

Sec. 4-a. This act shall take effect on the first Thursday in  
2 January, one thousand nine hundred and twenty, at which time the  
3 first election for city officers shall be held. Said election shall  
4 be held and conducted, and the results thereof be ascertained, re-  
5 turned and determined, under such rules and regulations as may be  
6 prescribed by the council of the town of Cameron, the same being  
7 consistent with the general laws of the state governing municipal  
8 elections, and shall conform as nearly as may be thereto; but the  
9 proclamation calling said election, shall, in addition to the usual  
10 matters in such proclamations contained, call attention to this act,  
11 and state fully the boundaries of the city of Cameron herein before  
12 contained. On the said last named day, there shall be elected a  
13 mayor, clerk, chief of police and five councilmen, who shall be elect-  
14 ed for a term of two years beginning on the first day of February  
15 next succeeding their election.

Sec. 30. The clerk shall prepare bills for all license taxes  
2 due said city, whenever the same shall become due and payable,  
3 and turn said bills over to the chief of police for collection, charg-  
4 ing him therefor. The said chief of police shall proceed at once  
5 to collect all such taxes on licenses, and account to the treasurer  
6 therefor, as required herein for other collections. The said clerk  
7 shall keep his office at the office of the mayor, unless otherwise  
8 ordered by council, and shall keep his office open for the transac-  
9 tion of business during such business hours as may be necessary  
10 for the proper performance of his several duties. It shall be his  
11 duty to prepare the annual financial statement of said city, and  
12 when approved by the committee on finance, cause the same to be  
13 published in some newspaper published in said city; and if there  
14 be no newspaper so published, then in some newspaper published  
15 in Marshall county, West Virginia.

16 The said clerk shall receive such compensation as may be

17 fixed by council from term to term, which shall not be more than  
18 six hundred dollars per annum.

*Street Commissioner.*

Sec. 41. The chief of police shall be ex-officio street com-  
2 missioner for said city, who shall perform all such duties as may  
3 now or hereafter, by ordinances, be imposed upon him.

*Sidewalks.*

Sec. 47. The council may lay out and establish sidewalks or  
2 footways on the streets, avenues or alleys of the said city and may  
3 require the same to be paved with brick, stone or other suitable  
4 material as the council may determine, under the direction of the  
5 chief of police, by the owners respectively of the lots or fractional  
6 parts of lots, facing or abutting on such sidewalks or footways,  
7 and if the owners of any such sidewalk or footway, or of the real  
8 property next adjacent thereto, shall fail or refuse to pave the  
9 same in the manner or within the time required by the council,  
10 it shall be the duty of the council to cause the same to be done  
11 at the expense of the city, and to assess the amount of such ex-  
12 pense upon such owner, and the said assessment be not paid within  
13 thirty days from the date of said notice the clerk shall turn the  
14 same over to the city collector for collection; which collection  
15 may be made in the same manner as is now provided for the  
16 collection of city taxes, or by an action in the circuit court of  
17 Marshall county, West Virginia, or before any justice of the  
18 peace of said county having jurisdiction in the matter, and a  
19 judgment obtained before said court or justice may be recorded in  
20 the office of the clerk of the county court of Marshall county,  
21 West Virginia, in the judgment lien docket and may be enforced  
22 in the same manner as other judgments against real estate are  
23 now enforced.

24 The provisions of this section shall also be applicable to  
25 needed repairs to any of the pavements of the city, and to the  
26 substitution of new pavements for any which may have been  
27 heretofore, or which may be hereafter laid and completed, and  
28 which may be deemed insufficient.

29 *Provided, further,* that in the instance where there is a long  
30 stretch of sidewalk on any one street in the city, the common  
31 council may require one sidewalk and may decide upon which

32 side of the street the walk shall be constructed, and in lieu of the  
33 property owner on the opposite side of said street being required  
34 to construct a sidewalk upon their own side, such owners may  
35 be exonerated from building a sidewalk in front of their own  
36 property contributing to the costs of the construction of such  
37 sidewalk adopted by the council; such contribution shall be in  
38 such amounts proportionate to the costs of the work of building  
39 such sidewalk as the council may determine.

40

*Street Paving.*

41 The council shall have the right when in its opinion it is  
42 necessary and proper to do so to pave and properly sewer, or pave  
43 or sewer any street or alley of the said city and to charge one-  
44 third of the total costs thereof of preparing and paving and  
45 sewerage, or paving or sewerage, of the said street or alley to the  
46 property owners on each side of each respective streets or alleys,  
47 and pay one-third thereof out of such funds as the council may  
48 provide for such paving and sewerage which they have done, and  
49 such assessments and charges made against the property owners  
50 as is provided by the general laws of the state of West Virginia.

51 The provisions of this section shall be applicable to the re-  
52 paving and sewerage of any street or alley in said town which  
53 has heretofore been paved or seweraged and which may need to  
54 be taken up and relaid and properly seweraged.

## CHAPTER 13.

(House Bill No. 280—Mr. Parsons.)

AN ACT to amend and re-enact section three of chapter nineteen of municipal charters of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, granting a charter to the city of Point Pleasant in the county of Mason.

[Passed February 20, 1919. In effect from passage. Became a law without the Governor's approval.]

SEC.

3. Fixing wards of the city of Point Pleasant, Mason county.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter nineteen of municipal charters of the acts of the legislature of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 3. The territory of said city is hereby divided into 2 five wards, as follows: That part thereof lying south of Second 3 street, and the same produced and extended as a line from the 4 intersection thereof with Walnut street to the east corporation line 5 by the shortest distance, shall constitute the first ward; that part 6 thereof lying north of the north line of the first ward hereinbefore 7 described, and south of Eighth street, produced and extended as a 8 line from the east end thereof to the east corporation line, shall con- 9 stitute the second ward; that part thereof lying north of Eighth 10 street produced and extended as aforesaid as a line to a point on 11 the Ohio river due west of the plant of the Point Pleasant water 12 and light company, and running due east to a point on the east 13 corporation line by the shortest distance shall constitute the third 14 ward; that part thereof lying north of said last named division line 15 extended as aforesaid as a line on the south side of Twenty-second 16 street extending east to the corporation line and west to Oak street, 17 and south on Oak street to the first street running due west to the 18 Ohio river shall constitute the fourth ward; and all that part lying 19 north of the south side of Twenty-second street produced and ex- 20 tended as aforesaid shall constitute the fifth ward.

## CHAPTER 14.

(House Bill No. 152—Mr. Welch.)

AN ACT to amend and re-enact section two 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 legis-

lature 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 held on the fourth Thursday in May, one thousand nine hundred and fifteen.

[Passed February 18, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 2.	Extending boundaries of the city of Wheeling; repealing acts and		SEC. parts of acts inconsistent.
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*Be it enacted by the Legislature of West Virginia:*

That section two of chapter twenty-one of the acts of one thousand nine hundred and fifteen (Greater Wheeling Charter) and approved by a majority of the voters of the city of Wheeling at an election held on the first Thursday of May, in the year one thousand nine hundred and fifteen, be and the same is hereby repealed and a new section be and is hereby in lieu thereof, to be known as section two, as follows:

Section 2. The city of Wheeling may extend its boundaries so as to include all of the lands, grounds, waters, water courses, and territory contained within the following boundaries (all of which is within Ohio county, West Virginia) in addition to the lands, grounds, waters, water courses and territory included within the city of Wheeling as at present bounded:

Commencing for the same at a point in the south line of the Jacob Zilles property, said point being also located at the northeast corner of the present corporate limits of the town of Warwood, in Richland district of said county and state; thence with the easterly corporate boundaries of said town as the same are recorded in the office of the clerk of the circuit court of said county in law order book number thirty-one, at page four hundred and sixty-eight; south fourteen degrees east nine hundred and sixty-eight feet to the northeast corner of the sub-division known as Glenova, a plat of said sub-division being recorded in the office of the clerk of the county court of said county in plat book number one, at page seventy-one; said corner being located at a distance of three hundred and eighty-eight feet east of the River



20 county road; thence with the easterly lines of Wilston avenue of  
21 said sub-division south five degrees east five hundred and  
22 sixty-five and nine-tenths feet; south three degrees thirty  
23 minutes west two hundred and seventy feet; south five  
24 degrees thirty minutes east four hundred and eighty  
24-a feet; south three degrees thirty minutes east two hundred  
25 and ten feet; south five degrees thirty minutes east five hundred  
26 and ninety-one feet to the southeast corner of said sub-division;  
27 thence leaving the lines of the said sub-division and crossing  
28 Glens run south thirty minutes east eight hundred one and  
29 eight-tenths feet to a point in the north side of Cherry Hill road,  
30 said point being located three hundred and fifty-three feet east  
31 of the said River road; thence with the west line of Orchard  
32 avenue of the subdivisions known as Warwood south five degrees  
33 fifteen minutes east two thousand five hundred and seventy feet  
34 to a point in the south line of said subdivision located three  
35 hundred and fifty feet east of the aforesaid River road; thence  
36 through the property of George and Casper Dorsch south six  
37 degrees fifteen minutes west eight hundred eighteen and five-  
38 tenths feet to a point in the south line of same located two hun-  
39 dred and forty-five feet east of the aforesaid River road, said  
40 point being located at the northeast corner of a subdivision known  
41 as South Warwood, a plat of said sub-division being recorded  
42 in said county clerk's office in plat book number one, at page  
43 one hundred and sixty-six; thence with the east line of said sub-  
44 division south thirty degrees fifteen minutes west seven hundred  
45 seventy-seven eight-tenths feet to a point at the southeast corner  
46 of said subdivision, said point being located two hundred and  
47 twenty-five feet east of the said River road; thence south seven-  
48 teen degrees fifteen minutes west two hundred seventy-five and  
49 eight-tenths feet; thence south twenty degrees forty-five minutes  
50 west one thousand twelve and five-tenths feet to a point in a  
51 north line of the subdivision known as Loveland, a plat of said  
52 subdivision being recorded in the said county clerk's office in  
53 plat book number one, at page one hundred and thirteen; said  
54 line being also the southerly line of the property owned by  
55 Conrad Lasch heirs; thence with said line south sixty-six degrees  
56 forty-five minutes east four hundred and five feet to a point at  
57 the northeast corner of said last mentioned subdivision; thence  
58 leaving the corporate boundaries of said town of Warwood and  
59 with the easterly extension of the last described line south sixty-

60 six degrees forty-five minutes east eight hundred twenty-nine  
61 and four-tenths feet to a post at the northeast corner of the  
62 Loveland improvement company's property, said post being also  
63 in a line of the farm owned by the J. W. Nichols estate; thence  
64 with a line of the same south twenty-seven degrees thirty-six  
65 minutes west three hundred twelve and nine-tenths feet to a  
66 post, corner to a farm owned by Lydia E. Marshall; thence with  
67 the westerly lines of same south thirty-four degrees thirty-five  
68 minutes west one thousand six hundred and thirty-five feet to a  
69 point at the southeast corner of the said improvement company's  
70 property, said point being also located at the northeast corner of a  
71 tract of land owned by the Richland coal company and being part  
72 of lot number seven of the sub-division of the A. P. Woods home  
73 farm, a plat of said subdivision being recorded in the said county  
74 clerk's office in deed book number forty-eight, at page three  
75 hundred and eighty-nine; thence with the easterly line of same  
76 south thirty degrees west eighty-one and twenty-four one hun-  
77 dredths poles to a stake; formerly a hickory stump, corner to  
78 subdivision "A", "C" and "G" of the Walter Marshall farm;  
79 thence in a northeasterly direction with the road through said  
80 farm nine and sixteen-one hundredths poles to a stake, corner  
81 to subdivision "C" and "D" of said farm; thence with the lines  
82 between the last mentioned subdivisions south fifty-one degrees  
83 east fifty-one and one-half poles; south thirty-nine and three  
84 fourths degrees east one hundred one and twenty-four nine hun-  
85 dredths poles to a corner of a tract of land owned by Agra Mc-  
86 Kinley; thence with the southerly lines of the lands of L. Mar-  
87 shall, Frederick Schaefer and George Landmyer and with the  
88 northerly lines of Agra McKinley, D. M. Alexander and another  
89 tract owned by George Landmyer north eighty-three degrees fifty  
90 minutes east two thousand six hundred and twenty-eight feet  
91 to a point in a line of the farm owned by J. W. Nichols estate  
92 thence with said line and with the line between the farm owned  
93 by the J. C. Campbell estate and the tract owned by D. M. Alex-  
94 ander and its extension south forty-two degrees fifteen minutes  
95 east three thousand two hundred and ninety feet to a point in  
96 the Waddells run county road; thence crossing the lands of  
97 Frederick Fisher, Peter Storch, Sisters of Our Lady of Charity  
98 and J. E. Green south fifteen degrees sixty-six min-  
99 utes east four thousand eight hundred and ninety-  
100 two feet to the most northerly corner of a nineteen

100-a and six-tenths acre tract that was conveyed to George  
101 Rentch by J. E. Green and wife by deed recorded in said county  
102 clerk's office in deed book number one hundred and thirty-five, at  
103 page five hundred and seventy-three; thence crossing said tract  
104 south twenty-five degrees fifteen minutes east eight hundred and  
105 seventy-six feet to the most easterly corner of said tract; thence  
106 crossing the lands of the Goshorn estate south thirty-eight de-  
107 grees thirty minutes east two thousand feet to an oak, corner to  
108 the lands of the Goshorn estate and the Baird farm; thence with  
109 a line between said last mentioned farms south thirty-two degrees  
110 forty-five minutes east three hundred and forty-two feet to a  
111 corner of the Hess farm; thence with a line of the same south  
112 thirty-four degrees thirty minutes east fifty-nine and five-tenths  
113 poles to a corner of the W. F. Krieger farm; thence crossing the  
114 same south thirty-four degrees forty-five minutes east ninety-  
115 three and seventy-seven one hundredths poles to a corner of  
116 Wheeling Park; thence with an easterly line of same south thirty-  
117 four degrees thirty minutes east seventy-two poles to a line of a  
118 tract owned by J. Deickman thence with a line of same north  
119 seventy-six degrees east thirty-five feet to its northeast corner;  
120 thence south thirty-three degrees east one thousand nine hundred  
121 and ninety feet to a point in an original line of the Cruger estate;  
122 thence with the same north fifty-nine degrees twenty-five minutes  
123 east nine hundred and forty-four feet to a stone corner to the Bo-  
124 nig, White, McClure and Burkham farms; thence with a line of  
125 the last mentioned farm south thirty-three degrees thirty minutes  
126 east one hundred seventy-six and nine-tenth poles to a beech on  
127 top of the northerly bank of Little Wheeling creek; thence up  
128 said creek in an easterly direction following along to top of the  
129 northerly bank of same one thousand and fifty feet, more or less,  
130 to its intersection with the northwesterly extension of the center-  
131 line of Hervey lane as the same is shown on the subdivision  
132 known as Sigma Pons, a plat of said subdivision being recorded  
133 in said county clerk's office in plat book number one, at page one  
134 hundred and forty-three; thence with said extension and with  
135 said centerline and its southeasterly extension, crossing said  
135-a creek, south eighteen degrees thirty minutes east one thousand  
136 two hundred and ninety feet; thence south eighty degrees west  
137 one thousand seven hundred and fifty feet to a point in an orig-  
138 inal line of the Shepherd estate, said point being also located  
139 at the most easterly corner of the present corporate limits of

140 the town of Elm Grove in Triadelphia district, said county and  
140-a state; thence with the corporate boundaries of said town south  
141 twenty-six degrees forty-five minutes west one thousand five  
142 hundred feet to a point on the east side of the Stone church road ;  
143 thence south fifty-six degrees forty-five minutes west two hundred  
143-a and ninety-six feet ; thence south seventy degrees fifteen minutes  
144 west four hundred and fifty feet to the northeast corner of the  
145 present corporate limits of the town of Patterson, in Triadelphia  
145-a district, said county and state ; thence with the corporate boun-  
146 daries of said last named town south sixteen degrees thirty-  
147 three minutes west nine hundred and eighty-seven feet to a white  
147-a oak ; thence south eleven degrees thirty-two minutes west one  
148 thousand two hundred ninety-seven feet to a stake ; thence north  
149 fifty-seven degrees fifty minutes west five hundred fifty-five feet  
150 to a point in Monument and Big Wheeling creek county road ;  
150-a thence crossing said creek south fifty degrees ten minutes west  
151 nine hundred and seventy-five and five-tenths feet to a fence post ;  
152 thence south thirty-three degrees forty-three minutes west five  
153 hundred and ninety-six feet to a post ; thence north fifty-two  
153-a degrees nine minutes west one thousand seven hundred and  
154 ninety-one feet to a large locust ; thence north nineteen degrees  
155 twenty-five minutes east seven hundred and eighty-six feet to a  
155-a stake ; thence north twenty-five degrees two minutes east fifty  
156 feet to a point in the public road leading from the Wheeling and  
156-a Elm Grove county road to the George H. P. Schmidt farm ;  
157 thence leaving the corporate boundaries of the said town of Pat-  
157-a terson and with the center line of said public road north forty-  
158 five minutes east five hundred feet ; north thirty degrees east  
158-a nine hundred and thirty feet to a point in the present corporate  
159 limits of said town of Elm Grove ; thence with the corporate  
159-a boundaries of said last mentioned town north sixty degrees  
160 west seven hundred twenty-six feet to a point between two wal-  
160-a nuts ; thence north fifteen degrees fifteen minutes west one thou-  
161 sand five hundred twenty-five feet to a stake ; thence north twenty-  
161-a eight degrees forty-five minutes west seven hundred and sev-  
162 enty-four feet to a stake ; thence north forty-five degrees fifteen  
162-a minutes east nine hundred feet to an elm on top of the west  
163 bank of Wheeling creek ; thence leaving the corporate boundary  
163-a lines of the said town of Elm Grove down said creek follow-  
164 ing the top of the westerly bank of same seven thousand seven  
164-a hundred feet, more or less, to a point at the intersection of the

165 top of the westerly bank of said creek with the westerly extension  
165-a of the present northerly line of Greenwood cemetery; thence  
166 leaving the top of the westerly bank of said creek and running in  
166-a a due west direction six thousand five hundred feet; more or  
167 less, crossing the lands of Hugh Clare estate, J. Flynn and W. P.  
167-a Hubbard and A. Reymann to a point in the present corporate  
167-b boundary lines of the city of Wheeling; thence with the present  
168 corporate boundary lines of the city of Wheeling as described by  
168-a an act of the legislature passed February third, one thousand  
169 eight hundred and seventy-one, entitled "An act to amend the  
169-a charter and extend and prescribe the limits of the city of Wheel-  
170 ing," and in a northerly and then westerly direction, crossing the  
170-a Ohio river, to the line between the state of West Virginia and  
171 Ohio, said last mentioned point being at the north side of Hanover  
171-a street in the town of Martins Ferry, Belmont county, Ohio, and  
172 also the most northerly corner of the present corporate limits of  
172-a the city of Wheeling; thence leaving the present corporate  
173 boundary lines of the city of Wheeling and continuing in a north-  
173-a wardly direction with the line between the states of Ohio and  
174 West Virginia, which is low water mark along the westerly shore  
174-a of said river to a point at the intersection of the westerly ex-  
175 tension of the present northerly corporate boundary line of the  
175-a said town of Warwood; thence with said extension crossing the  
176 river north eighty-six degrees thirty minutes east to the north-  
176-a west corner of the present corporate limits of said town of  
177 Warwood; thence with the north boundary line of said town of  
177-a Warwood and with the south line of Jacob Zilles' property  
178 north thirty-eight degrees thirty minutes east eleven hundred  
178-a feet to the place of beginning, containing seventy-six hundred  
179 (7600) acres, more or less.

180 Embraced within the above boundaries are the incorporated  
181 towns of Warwood in Richland district, Fulton in Washington  
182 and Triadelphia districts and Woodsdale, Leatherwood, Edge-  
183 wood, Pleasant Valley, Elm Grove and Patterson in Triadel-  
184 phia district, said county and state.

185 Such extension of boundaries shall be proposed by a reso-  
186 lution of the city council of the city of Wheeling, which resolu-  
187 tion shall

188 (a) accurately define the boundary lines of the territory  
189 proposed to be annexed as herein set forth,

190 (b) fix a time for holding a special election at which the

191 proposed change of boundaries shall be submitted to the quali-  
192 fied voters of the city of Wheeling, and of the territory pro-  
193 posed to be annexed, for approval or rejection,

194 (c) direct that notice of such election be published in each  
195 of the daily and weekly newspapers in the city of Wheeling,  
196 once a week for four successive weeks, the last publication to  
197 be not more than ten days before the day of the election,

198 (d) prescribe the form of ballot to be used at such elec-  
199 tion.

200 The city council of the city of Wheeling, through the city  
201 solicitor, shall notify the mayor of each municipality within the  
202 territory herein described, of the proposed extension of bound-  
203 aries at least six weeks before the time fixed for the election  
204 herein provided for, whereupon, it shall be the duty of the city  
205 council of such municipality to provide for such election by  
206 appointing judges and clerks for each precinct within such  
207 municipality and certify the names of such appointees to the  
208 city council of Wheeling within three weeks from the service  
209 of notice upon the mayor thereof. If such certificate is not so  
210 filed, the city council of Wheeling shall appoint such judges and  
211 clerks of election. Qualified voters residing in any portion of  
212 the described territory which is not within the limits of the  
213 municipal corporation, may vote at such election at a precinct  
214 convenient to their respective places of residence. So far as  
215 they are applicable, and except as specific provision is made  
216 in this charter, such election shall be governed by the general  
217 election laws of the state of West Virginia.

218 When the result of such election is ascertained and certified,  
219 the mayor of the city of Wheeling shall issue his proclamation  
220 of such result and cause the same to be published in each daily  
221 and weekly newspaper in the city of Wheeling within five days  
222 of such certification, and if a majority of the votes cast at such  
223 election shall be in favor of such extension, then all of the terri-  
224 tory within the boundaries herein described shall be and become  
225 a part of the city of Wheeling, on the first day of January, one  
226 thousand nine hundred and twenty, and beginning on that date,  
227 the city of Wheeling shall include all of the territory within  
228 the boundaries herein set forth in addition to the territory con-  
229 stituting the city of Wheeling as at present bounded, and the  
230 corporate existence of any municipality included within the

231 boundaries herein described shall thereupon cease and deter-  
232 mine; except that no moneys in the treasuries of the separate  
232-a municipalities affected shall be turned over to the treasurer of  
232-b the city of Wheeling, and no tax shall be levied upon the tax-  
232-c able property within the boundaries of the territory annexed  
232-d nor upon the inhabitants thereof until proper representation  
232-e of the said annexed territory in the council of the city of  
232-f Wheeling is provided according to law; and if a majority of the  
233 votes cast at such election shall not be in favor of such extension,  
234 then the boundaries of the city of Wheeling shall remain as they  
235 now are and the territory within the boundaries herein stated  
236 shall be in no way affected by such election. All expenses of  
237 holding such election, the payment whereof is not now provided  
238 by law, shall be paid by the city of Wheeling.

239 The failure, neglect or refusal of the publisher of any  
240 newspaper in Wheeling to publish either the notice or procla-  
241 mation herein provided for, shall not effect the validity of the  
242 proceedings to extend the boundaries of the city of Wheeling  
243 if such publication shall appear in two of such papers.

244 If at the time of the extension of its boundaries the city  
245 of Wheeling shall have a bonded indebtedness, the taxes there-  
246 after levied to provide for such indebtedness, principal and in-  
247 terest, shall be levied upon the taxable property within the cor-  
248 porate limits of the city of Wheeling as they existed before  
249 the extension of its boundaries. If any municipal corporation  
250 within the boundaries herein described at the time of such ex-  
251 tension shall have a bonded indebtedness, then the taxes there-  
252 after levied to provide for such bonded indebtedness, principal  
253 and interest, shall be levied upon the taxable property within  
254 the corporate limits of such other municipality as they existed  
255 before such extension of boundaries.

256 Should the territory herein described be annexed to the  
257 city of Wheeling in the manner herein set forth, then from and  
258 after the time of such annexation all of the debts and obliga-  
259 tions of any municipality included within the boundaries herein  
260 set forth shall become and be the debts and obligations of the  
261 city of Wheeling, and shall be enforceable against the city of  
262 Wheeling to the same extent as they might have been enforced  
263 against the municipality creating them.

264 Nothing in this act contained shall be construed as ren-

265 dering the city of Wheeling responsible for the up-keep, care,  
266 repair or maintenance of any part of the National or Cumber-  
267 land road except in like manner as the city of Wheeling is now  
268 responsible for the up-keep, care, repair and maintenance of the  
269 part of such road now lying within the corporate limits of said  
270 city; and the rights, powers and duties of the city of Wheel-  
271 ing and the county of Ohio over said National or Cumberland  
272 road as said road lies within the new corporate limits as herein  
273 set forth, shall, in the event of annexation, be the same as they  
274 are now established by law over the part of such road within the  
275 present corporate limits of the city of Wheeling.

276 It shall be the duty of the city of Wheeling to furnish, in  
277 the event of annexation, to the territory so annexed full and  
278 complete fire and police protection, in quality equal to that  
279 furnished to the territory within the corporate limits of the city  
280 of Wheeling as such corporate limits existed before such an-  
281 nexation, and such police protection shall be furnished immedi-  
282 ately upon such annexation and such fire protection as soon  
283 thereafter as the same may reasonably be provided. It shall  
284 further be the duty of the city of Wheeling properly to light  
285 such annexed territory and to furnish water to the inhabitants  
286 thereof at a rate not to exceed the rate charged to the inhabi-  
287 tants of the territory within the limits of the city of Wheeling  
288 as such limit existed before such annexation; but nothing herein  
289 contained shall be construed as in any way interfering with any  
290 franchise, contract, agreement, right or privilege held by any  
291 public service corporation from any municipality in said an-  
292 nexed territory included.

293 No franchise, right or privilege, as provided in section  
294 twenty-four of this charter shall be granted by the council of  
295 the city of Wheeling after the election herein above provided  
296 for, nor shall any ordinance except a necessary appropriation  
297 ordinance be passed by said council unless and until proper  
298 representation of the said annexed territory in the council of  
299 the city of Wheeling is lawfully provided; and the privileges  
300 of initiative and referendum as provided in sections twenty and  
301 twenty-one hereof are held and enjoyed by the voters of said  
302 territory.

303 In the event of annexation, the territory so annexed shall,  
304 until otherwise changed by ordinance as provided in section  
305 three of this charter, constitute two wards of the city of Wheel-



306 ing and within a period of thirty days after the election herein  
 307 provided for shall have been held, the councils of the various  
 308 municipalities within such annexed territory shall appoint two  
 309 representatives who shall be residents of the annexed territory  
 310 and who shall, by virtue of such appointment, be members of  
 311 the council of the city of Wheeling and entitled to all the privi-  
 312 leges of members of said council until the members of council  
 313 elected at the next succeeding general municipal election shall  
 314 have qualified.

315 The extension of the boundaries of the city of Wheeling  
 316 shall not effect the boundaries or the organization of any school  
 317 district theretofore existing.

318 *Provided, however,* that the said election for the annexation  
 319 of the territory within the boundaries herein set forth, shall be  
 320 held not before October first, one thousand nine hundred and  
 321 nineteen, and not later than December first, one thousand nine  
 322 hundred and nineteen; and should the vote at such election be  
 323 in favor of such annexation then the territory included within  
 324 the boundaries herein set forth shall be and become a part of  
 325 the city of Wheeling on January first, one thousand nine hun-  
 326 dred and twenty.

327 This act shall take effect one hundred and twenty days  
 328 from its passage.

329 All acts and parts of acts inconsistent with this act are  
 330 hereby repealed.

## CHAPTER 15.

(Senate Bill No. 104—Mr. Arnold.)

AN ACT to create and incorporate the municipal corporation of the city of Buckhannon, in the county of Upshur and state of West Virginia, and to grant a charter thereto, and defining the powers of said city, and fixing the corporate limits of said city, and defining the powers and duties of the said city, and the officers thereof.

[Passed February 8, 1919. In effect from passage. Became a law without the Governor's approval.]

<p>Sec.          1. City of Buckhannon.          2. Corporate limits and boundaries described.          3. Board of commissioners; powers.          4. Division of city wards.</p>	<p>Sec.          5. Elective officers; terms; annual elections.          6. Eligibility to elective office.          7. Salaries and compensation.          8. Oath of office.</p>
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- SEC.**
9. Bonds of commissioners.
  10. } Mayor; his powers and duties.
  11. } Police judge; duties.
  12. } City clerk; his duties.
  13. } Actual work of commissioners.
  14. } Fixing salaries of employees.
  15. } Qualifications of appointive officers.
  16. } Legislative department; duties.
  17. } Vacancies; how filled.
  18. } Rules of procedure of commissioners.
  19. } Meetings of board of commissioners.
  20. } Quorum.
  21. } Ordinances.
  22. } Ordinances; when effective.
  23. } Emergency ordinances.
  24. } Power to adopt present ordinances.
  25. } Judicial department; police court.
  26. } Jurisdiction of police court.
  27. } Enforcement of ordinances.
  28. } Fines and costs; prisoners may be worked on streets.
  29. } Collection of fines; disposition of same.
  30. } Style of process.
  31. } Appeals to higher courts.
  32. } Elections; purposes for which elections may be held.
  33. } Date of first election under this act; nominations.
  34. } Municipal election; method of conducting; qualification of voters; declaration of candidacy; arranging of names of candidates; style of ballot; declaring election results; absence of candidates.
  35. } Commissioners only elected by popular vote.
  36. } Duties of city clerk in preparing for an election.
  37. } Commissioner of accounts and finances; duties; estimate of expenses; laying of levy.
  38. } Licenses generally; collection of license fees; police jurisdiction extended.
  39. } Licenses generally; collection of license fees; police jurisdiction extended.

- SEC.**
40. Revenues; collection of taxes; when due and payable; uncollected tickets; discounts.
  41. Lien on real estate for delinquent taxes.
  42. Sewerage and paving; provisions of the code made a part of this act.
  43. Relating to the construction of sewers.
  44. Contracts for public improvements; method of letting; awarding of contracts; violations of rules by bidders; bonds and cash deposits of bidders.
  45. Ordinances admitted as *prima facie* evidence in judicial proceedings.
  46. Claims against the city; filing of suit against the city.
  47. Payment of demands unauthorized.
  48. Individual powers and duties of commissioners.
  49. Commissioner subject to removal, when.
  50. Fiscal year.
  51. Present officials to continue in power until successors qualify.
  52. City solicitor; appointment of; duties; compensation.
  53. Indebtedness of towns of Buckhannon and South Buckhannon at time this act becomes effective; liquidation of same.
  54. City of Buckhannon vested with all rights preserved to towns of Buckhannon and South Buckhannon.
  55. Ownership of real and personal property of said towns.
  56. Providing for change in form of government; procedure.
  57. Act effective upon submission to voters at special election; providing for such election; form of ballot to be used.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county of Upshur as lies within the boundary 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 Buckhannon, 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 assign, let, 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, except where such power may be limited by

15 law; and may have and use a common seal, and alter and renew  
16 the same at pleasure; and generally shall have all the rights,  
17 franchises, capacities and powers conferred herein, and by the  
18 laws of this state upon municipal corporations not inconsistent  
19 with the provisions of this act.

Sec. 2. The corporate limits and boundaries of said city  
2 shall be as follows: Beginning at a stake, where a white oak  
3 formerly stood in a field of P. F. Pinnell's heirs and running  
4 thence south 26 degrees ten minutes east four thousand one hun-  
5 dred and ninety-three feet to a white oak, corner to lands of  
6 Montreville Reger's heirs; thence south thirty-seven degrees fifty  
7 minutes east one thousand six hundred and sixty-four feet to a  
8 stake on the east side of Kanawha street extended, the southwest  
9 corner to the Buckhannon Improvement company's addition to  
10 the town of Buckhannon; thence with the south line of the same  
11 south sixty-seven degrees east one thousand one hundred and  
12 forty-nine feet to the west bank of the Buckhannon river; thence  
13 down said river north thirty-five degrees east seven hundred and  
14 eighty-two feet to the corporation line of South Buckhannon;  
15 thence south fifty-six degrees fifty-four minutes east one hundred  
16 and eighty-nine feet crossing the river to a stake thirty feet east  
17 of the bank thereof; thence with the lines of the South Buck-  
18 hannon corporation, as surveyed in one thousand nine hundred  
19 and eleven, north thirty-six and one-half degrees east four hun-  
20 dred and four feet to a stake on the bank of the river; north  
21 fifty-three and one-half degrees east four hundred and twenty-  
22 nine feet to a stake; north forty-eight and one-half degrees east  
23 three hundred and ninety-six feet to a stake; one hundred and  
24 fifty feet from the forks of the road leading to Little Sand run;  
25 north twenty-seven and one-half degrees east eight hundred and  
26 ninety-one feet to a stake in the road; north thirty-three degrees  
27 east three hundred and sixty-three feet to a stake; north twenty-  
28 five and one-half degrees east four hundred and ninety-five feet  
29 to a stake; north sixteen degrees west five hundred and ninety-  
30 four feet to a stake; north sixty-one and one-half degrees east  
31 one hundred and forty-eight and one-half feet to a stake; north  
32 fifty and one-half degrees east three hundred and thirty feet to a  
33 stake; north thirty-nine degrees east two hundred and sixty-four  
34 feet to a stake on the east bank of the river; thence north thirty-  
35 two and one-half degrees west two hundred and sixty-four feet  
36 crossing the river to a stake on the west bank thereof; thence

37 down the river ten and one-half degrees east one thousand four  
38 hundred and nineteen feet to a stake; thence north seventeen  
39 degrees west one hundred and sixty-five feet to a stake; thence  
40 north sixty-seven and three-fourths degrees west one thousand  
41 one hundred and seventy-five and one-half feet to a stake on the  
42 west bank of the river, a corner to the corporations of Buck-  
43 hannon and South Buckhannon, where a sycamore was formerly  
44 called for; thence with the lines of the corporation of the town  
45 of Buckhannon, as surveyed in the year one thousand eight hun-  
46 dred and eighty-three, and by the bearings of that date east nine  
47 hundred and fifty-seven feet crossing the river to a sycamore at  
48 the forks of the Staunton and Parkersburg turnpike and the old  
49 Crites mill road; thence north thirty-seven and one-half degrees  
50 east seven hundred and twenty-six feet to a spruce on the bank of  
51 the river; thence, by December, one thousand nine hundred and  
52 eighteen, magnetic bearing, north sixty-nine and one-half degrees  
53 west five hundred and eight feet crossing the river to a stake;  
54 being the southeast corner to the Hudkins addition to the town  
55 of Buckhannon, as surveyed and platted by W. G. L. Totten, said  
56 stake being in the line extended with the east side of Seventh  
57 street; thence with Seventh street, eastern boundary, north seven-  
58 teen and three-fourths degrees east one thousand and fifty-three  
59 feet to a stake; thence north one and one-half degrees east six  
60 hundred and twelve feet to a stake at the southeast corner of  
61 Seventh street and Morton avenue; thence with the south side of  
62 Morton avenue north seventy-one degrees west two thousand eight  
62-a hundred and twenty-eight feet to the southwest corner of Morton  
63 avenue and First street; thence north eighty-nine and one-half  
64 degrees west with the south side of the county road four hundred  
65 and ninety-one feet; thence with the south side of said road as  
66 follows: South seventy-four degrees twenty-five minutes west six  
67 hundred and seventy-six feet; south forty-two and one-half de-  
68 grees west three hundred and two feet; south forty-eight and one-  
69 fourth degrees west two hundred and thirty-three feet; south  
70 seventy-five and one-fourth degrees west eighty feet; north  
71 seventy-five and three-fourths west five hundred and fifty-eight  
72 feet to the east side of the Buckhannon and Clarksburg turnpipe;  
73 thence with the south side of the same south zero degree fifteen  
74 minutes west eight hundred and thirty feet to the south side of  
75 Fink's run at the bridge; thence general direction of Fink's run

76 south seventy-two and one-fourth degrees west eight hundred and  
77 forty-one minutes to the northeast corner of the railroad bridge  
78 across Finks' run; thence south fourteen and three-fourths de-  
79 grees west two thousand two hundred feet to the beginning.

Sec. 3. The said city and the board of commissioners  
2 hereinafter provided for, shall have and are hereby granted  
3 power to have the said city surveyed; to open, vacate, broaden,  
4 change grade of, grade and pave streets, sidewalks and gutters  
5 for public use, and to alter, improve, embellish and ornament and  
6 light the same, and to construct and maintain public sewers and  
7 laterals, and shall in all cases except as to lighting have power  
8 and authority to assess upon and collect from the property  
9 benefited thereby all, or such part of the expense thereof, as shall  
10 be fixed by ordinance; to have control of all streets, avenues,  
11 roads, alleys and grounds for public use in said city, and to  
12 regulate the use thereof and driving thereon, and to have the  
13 same kept in good order and free from obstruction, pollution or  
14 litter on or over them, but the said county shall be chargeable  
15 with the construction and maintenance of all bridges within the  
16 said city; to change the name of any street, avenue or road  
17 within said city, and to cause the numbering of houses on any  
18 street, avenue or road therein; to regulate and determine the  
19 width of streets, sidewalks, roads and alleys; to order and direct  
20 the curbing and paving of sidewalks and footways for public  
21 use in said city to be done and kept clean and in good order by  
22 the owners of adjacent property; to prohibit and punish the  
23 abuse of animals; to restrain and punish vagrants, mendicants,  
24 beggars, tramps, prostitutes, drunken or disorderly persons  
25 within the city, and to provide for their arrest and manner of  
26 punishment; to prohibit by ordinance the bringing into the city  
27 of any person or animal afflicted with contagious or infectious  
28 disease, and to punish any violator of said ordinance who knows  
29 or has reason to believe such person or animal to be so afflicted;  
30 to control and suppress disorderly houses of prostitution or ill-  
31 fame, houses of assignation, and gaming houses or any part  
32 thereof, and to punish gaming; to prohibit within said city or  
33 within three miles thereof slaughter houses, soap or glue fac-  
34 tories and houses of like kind; to control the construction and  
35 repair of all houses, basements, walls, culverts and sewers, and  
36 to prescribe and enforce all reasonable regulations affecting the

37 construction of the same, and to require permits to be obtained  
38 for such buildings and structures, and plans and specifications  
39 thereof to be first submitted to the city council or board of  
40 commissioners; to control the opening and construction of  
41 ditches, drains, sewers, cesspools and gutters, and to deepen,  
42 widen and clear the same of stagnant water or filth, and to pre-  
43 vent obstructions therein, and to determine at whose expense  
44 the same shall be done; and to build and maintain fire station  
45 houses, police stations and police courts, and to regulate the  
46 management thereof; to acquire, lay off, appropriate and control  
47 public grounds, squares and parks, either within or without the  
48 city limits as herein defined; to purchase, sell, lease or contract  
49 for and take care of all public buildings, and structures and real  
50 estate, including libraries and hospitals, deemed proper for use  
51 of such city; and, for the protection of the public, to cause the  
52 removal of unsafe walls or buildings, and the filling of excava-  
53 tions; to prevent injury or annoyance to the business of in-  
54 dividuals from anything dangerous, offensive or unwholesome;  
55 to define, prohibit, abate, suppress and prevent all things detri-  
56 mental to the health, morals, comfort, safety, convenience and  
57 welfare of the inhabitants of the city, and all nuisances and  
58 causes thereof, and to that end and thereabout to summon wit-  
59 nesses and hear testimony; to declare and enforce quarantine  
60 against the introduction of any contagious or infectious dis-  
61 ease prevailing in any other state, county or place, and of any  
62 and all persons and things likely to spread such contagion or  
63 infection; to regulate the keeping of gunpowder and other com-  
64 bustible or dangerous articles; to regulate, restrain or prohibit  
65 the use of firecrackers, or other explosives, or fireworks, and all  
66 noises or performances which may be dangerous, annoying to  
67 persons or tend to frighten horses or other animals; to provide  
68 and maintain proper places for the burial of the dead and to  
69 regulate interments therein upon such terms and conditions as  
70 to price and otherwise as may be determined; to provide for  
71 shade and ornamental trees and the protection of the same; to  
72 provide for the making of division fences; to make proper regu-  
73 lation for guarding against danger or damage from fires; to  
74 provide for the poor of the city, and to that end may contract  
75 with the proper authorities of Upshur county to keep and main-  
76 tain the poor, or any number thereof, upon terms to be agreed

77 upon; but until the said city shall assume the maintenance and  
78 support of such poor by proper ordinance or resolution of the  
79 board of commissioners, the poor of said city are to be main-  
80 tained and supported by the said county of Upshur under the  
81 general provisions of law relating thereto; to make suitable and  
82 proper regulations in regard to the use of the streets and alleys  
83 for street cars, railroad engines and cars, and to regulate the  
84 running and operation of the same as to prevent injury, in-  
85 convenience or annoyance to the public; to prohibit prize fight-  
86 ing, cock and dog fighting; to license, tax, regulate or prohibit  
87 theaters, circuses, the exhibition of showmen and shows of any  
88 kind and the exhibition of natural or artificial curiosities,  
89 caravans, menageries, pictures, motion pictures and musical ex-  
90 hibitions and performances; to regulate the construction, height  
91 material used in all buildings, and the maintenance and occu-  
92 pancy thereof; to regulate and control the use for whatever pur-  
93 pose, of the streets and other public places; to create, establish,  
94 abolish and organize employments and fix the compensation of  
95 all employees; to organize and maintain fire companies and to  
96 provide necessary apparatus, engines and implements for the  
97 same; to regulate and control the kind and manner of plumb-  
98 ing and electric wiring for the protection of the health and  
99 safety of said city; to levy taxes on persons, property and li-  
100 censes; to license and tax dogs and other animals, and regulate,  
101 restrain and prohibit them and all other animals and fowls  
102 from running at large; to assess, levy and collect taxes for general  
103 and special purposes upon all the subjects or objects which the  
104 city may lawfully tax; to levy and collect assessments for local  
105 improvements; to borrow money on the faith and credit of the  
106 city by the issue and sale of bonds in the manner prescribed by  
107 law; to appropriate the money of the city for all lawful pur-  
108 poses; to create, provide for, regulate and maintain all things  
109 in the nature of public works and improvements; to adopt rules  
110 for the transaction of business and for its own regulation and  
111 government; to promote the general welfare of the city and to  
112 protect the persons and property of citizens therein; to regulate  
113 and provide for the weighing of produce and other articles sold  
114 in said city and to regulate the transportation thereof, and other  
115 things through the streets; to have the sole and exclusive right  
116 to grant, refuse or revoke any and all licenses for the carrying

117 on of any business within said city on which the state exacts a  
118 license tax; to establish and regulate markets and to prescribe  
119 the time for holding the same, and what shall be sold in such  
120 market, and to acquire and hold property for market purposes;  
121 to regulate the sale and distribution of foodstuffs; to regulate  
122 or prohibit the placing of signs, billboards, posters and adver-  
123 tisements in, on or over the streets, alleys, sidewalks and public  
124 grounds of said city; to preserve and protect the peace, order  
125 and safety and health of the city and its inhabitants, including  
126 the right to regulate the sale and use of cocaine, morphine,  
127 opium and poisonous drugs; to make, enforce and provide local  
128 police, sanitary and other regulations, and fully exercise all  
129 lawful police powers; to appoint and fix the places of holding  
130 city elections; to erect, own, lease, authorize or prohibit the  
131 erection of gas works, telephone plant or electric light works in  
132 or near the city, and to operate the same and sell the products  
133 or services thereof, and to do any and all things necessary and  
134 incidental to the conduct of such business; to provide for the  
135 purity of milk, meats and provisions offered for sale in said  
136 city, and to that end provide for a system of inspecting the  
137 same and making and enforcing rules for the regulation of their  
138 sale, and to prohibit the sale of any unwholesome or tainted  
139 milk, meats, fish, fruits, vegetables, or the sale of milk contain-  
140 ing water or other things not constituting a part of pure milk;  
141 to provide for inspecting dairies and slaughter houses, whether  
142 in or outside of the city, where the milk and meat therefrom are  
143 offered for sale within said city; to prescribe and enforce ordi-  
144 nances and rules for the purpose of protecting the health, prop-  
145 erty, lives, decency, morality and good order of the city and its  
146 inhabitants, and to protect places of divine worship in and about  
147 the premises where held, and to punish violations of such ordi-  
148 nances even if the offense under and against the same shall con-  
149 stitute offenses under the law of the state of West Virginia or  
150 the common law; to provide for the employment and safe keep-  
151 ing of persons who may be committed in default of the payment  
152 of fines, penalties, or costs under this act, who are otherwise  
153 unable or fail to discharge the same, by putting them to work  
154 for the benefit of the city upon the streets or other places pro-  
155 vided by said city, and to use such means to prevent their escape  
156 while at work as the council may deem expedient; and the



157 the council may fix a reasonable rate per day as wages to be  
158 allowed such person until the fine and costs against him are  
159 thereby discharged; to compel the attendance at public meetings  
160 of the members of the council; to prevent any person, associa-  
161 tion or corporation from polluting in any manner any pond, lake,  
162 basin, reservoir, stream, spring, creek, or other body of water  
163 from which the city shall take water to be used for domestic  
164 purposes by the inhabitants thereof, or from casting into any  
165 such body of water, or on the bank thereof or in such proximity  
166 thereto that the same may enter therein, any filthy, unwhole-  
167 some, or obnoxious substance, object, or liquid, or anything  
168 whatsoever, injurious to the health of the people of the city, or  
169 which impairs its value for the ordinary purposes of life, or  
170 which shall render the water offensive to taste or smell, or that  
171 is naturally calculated to excite disgust in those using such  
172 water for the ordinary purposes of life; to exercise all other  
173 powers that now are or hereafter may be granted to municipali-  
174 ties by the constitution or the laws of the state of West Virginia;  
175 and all such powers, whether expressed or implied, shall be  
176 exercised and enforced in the manner prescribed by this charter,  
177 or when not prescribed herein, in such manner as shall be pro-  
178 vided by the ordinances or resolutions of the council.

179 The city of Buckhannon shall have power and authority,  
180 within and without its territorial limits, to construct, condemn  
181 and purchase, acquire, lease, improve, and make additions  
182 thereto, maintain and conduct and operate water works, light  
183 plants, power plants, heating plants, and incinerating plants,  
184 and do everything required therefor, for the use of the said city  
185 and the inhabitants thereof, and may enforce such purchases by  
186 proceedings at law or in equity by the right of eminent domain,  
187 and by condemnation; but the moneys necessary for the pur-  
188 chase and construction of such works, plants, or system of works  
189 and plants shall be derived from the issuance and sale of the  
190 bonds of said city approved by three-fifths of the qualified  
191 voters of the said city voting for and against the same, at any  
192 special election called and held for the purpose. The ordinance  
193 of the said city submitting such bond issue to a vote shall  
194 specify the purpose and amount for which said bonds are to be  
195 issued and sold, said amount being limited only by the consti-  
196 tution and laws of the state of West Virginia, and the other

197 provisions of this charter. *Provided*, That the power to con-  
198 demn may be exercised for the purpose of acquiring such  
199 utilities now existing and operating under franchises granted  
200 by the said town of Buckhannon, or the said town of South  
201 Buckhannon, under the terms of the franchises, or under the  
202 rights of eminent domain, at the election of the city. *Provided*,  
203 *further*, That such utilities now existing shall not be acquired or  
204 purchased by said city except on ordinance of the said city sub-  
205 mitted at a special election and approved by three-fifths of the  
206 qualified voters of the said city voting for and against the  
207 same, authorizing such purchase and the issuance and sale of  
208 bonds in payment of same, and such ordinance shall specify in  
209 detail the property and rights to be acquired and the price to be  
210 paid for the same.

211 The enumeration of particular powers of this charter shall  
212 not be held or deemed to be exclusive, but in addition to the  
213 powers enumerated herein, impliedly thereby, or appropriate  
214 to the exercise thereof, the council shall have and exercise all  
215 other powers, which, under the constitution and laws of the  
216 state of West Virginia it would be competent for this charter  
217 specifically to enumerate.

218 The council shall provide for the enforcement of all ordi-  
219 nances by reasonable and proper penalties, consisting of fines or  
220 imprisonment, or fines and imprisonment, with suitable rules  
221 and regulations for the enforcement of such penalties. For all  
222 such purposes the jurisdiction of the city shall, when necessary,  
223 extend for one mile beyond the corporate limits of said city.  
224 In order to prevent the pollution of the waters from which the  
225 people of the city take water for domestic uses, the jurisdiction  
226 of the city shall be co-extensive with the location and extent of  
227 the waters from which such supply is taken, and each day such  
228 act of pollution of the water continues may be deemed a separate  
229 offense; *provided, however*, That in no event shall imprison-  
230 ment for a longer period than sixty days or a greater fine than  
231 one hundred dollars, or both, be imposed for any one offense.  
232 The word "council" where used in this act shall be deemed to  
233 mean "board of commissioners" where also used herein.

Sec. 4. The city shall be divided into three wards, as  
2 follows:

3 *First Ward*—All that part of the city lying southward of a

4 line drawn from the Buckhannon river by way of College avenue,  
5 and said line projected straight therefrom and therewith to its  
6 intersection with the southwestern exterior boundary line.

7     *Second Ward*—All that part of the remainder of the said  
8 city lying northward of a line beginning at the intersection of  
9 Main street with the western exterior line of said city, and run-  
10 ning thence with Main street and Florida street to College avenue.

11     *Third Ward*—All the remainder of said city.

Sec. 5. The elective officers of this city shall be three com-  
2 missioners, namely, the mayor, who is commissioner of public  
3 affairs; the police judge, who is commissioner of public justice,  
4 and the city clerk, who is commissioner of public accounts and  
5 finances, who shall be nominated and elected at large by the  
6 qualified electors of the city of Buckhannon, for a term of three  
7 years and until their successors are elected and qualified; *pro-*  
8 *vided*, that the commissioners elected at the first election under  
9 this charter shall assume the duties of their respective offices on  
10 the first day of July, after their election, and their terms of office  
11 shall expire as follows: The term of office of the mayor and com-  
12 missioner of public affairs first elected under this charter shall  
13 expire in one year from the beginning of his term; the term of  
14 the office of the police judge and commissioner of public justice  
15 first elected under this charter shall expire in two years from the  
16 commencement of his term; and the term of office of the city clerk  
17 and commissioner of public accounts and finances, first elected  
18 under this charter, shall expire in three years from the com-  
19 mencement of his term. The annual election of commissioners  
20 shall be held on the second Tuesday of May. Each person elected  
21 or appointed to an office in the city shall within thirty days after  
22 his election or appointment and before entering upon the duties  
23 of his office, take and subscribe the oath of office prescribed by  
24 law for county officers, which shall be done before a notary pub-  
25 lic, and the certificate of the officer administering the oath shall  
26 be filed with the city clerk.

27     The term of office of a commissioner elected and qualified  
28 shall begin with the first day of July next following the day of  
29 his election. A vacancy in the office of commissioner shall be  
30 filled by appointment by the remaining commissioners until the  
31 said vacancy shall be filled at the next municipal election for the  
32 part of the term then unexpired. If the remaining commissioners

33 fail to make appointment to fill a vacancy in the office of com-  
34 missioner within ten days after the vacancy occurs, then said  
35 vacancy shall be filled until the next municipal election by ap-  
36 pointment by the city clerk, as such.

Sec. 6. Each commissioner must be at least twenty-two  
2 years of age, an elector of the city, not in litigation with the city  
3 nor in arrears for city taxes when elected, and not the owner of  
4 stock or bonds of any public service corporation doing business  
5 in the city, and must for one year next preceding the date of his  
6 election have been a *bona fide* resident and taxpayer of the city  
7 of Buckhannon; *provided*, that at the first election held under  
8 this charter this provision as to residence shall be construed so  
9 as to make qualified to hold the office of commissioner any person  
10 possessing the qualifications required by this section who shall  
11 have been a *bona fide* resident and taxpayer for one year next  
12 preceding his election within the boundaries set out in section two  
13 of this act.

Sec. 7. The compensation of the mayor and commissioner  
2 of public affairs shall be fifty dollars per month, and the com-  
3 pensation of each of the other commissioners shall be twenty-  
4 five dollars per month, payable monthly; *provided*, that a larger  
5 or smaller salary may be paid when the amount shall first be fixed  
6 by a majority vote of all the votes of the city of Buckhannon  
7 cast at a regular annual general election held in said city; *pro-*  
8 *vided*, a board of commissioners may, by proper ordinance or  
9 resolution, allow to the city clerk and commissioner of public  
10 accounts and finances, a commission not to exceed two and one-  
11 half per centum upon all taxes collected by him, as additional  
12 compensation, and in addition to his salary aforesaid, or such  
13 commission may be paid to any employee acting under said com-  
14 missioner of accounts and finances in collecting such taxes.

Sec. 8. Each commissioner and all other officers of the city,  
2 before entering upon the discharge of their duties, shall take and  
3 subscribe the oath of office prescribed for county officers in this  
4 state, and in addition thereto shall also take an oath that he is  
5 not under direct or indirect obligation or promise to appoint any  
6 person to office, position or employment under the city govern-  
7 ment.

Sec. 9. Each commissioner, as such, shall give a good and  
2 sufficient bond for the faithful performance of the duties of his

3 office, the mayor and commissioner of public affairs and the com-  
4 missioner of public justice each in the sum of three thousand five  
5 hundred dollars, and the city clerk and commissioner of public  
6 accounts and finances in the penalty twenty thousand dollars,  
7 payable to the city of Buckhannon., for the use and benefit of said  
8 city, and to be executed by some surety company duly licensed to  
9 do business in this state, or by not fewer than two good and suffi-  
10 cient sureties, in such form as the board of commissioners may  
11 require, and to be approved by the other two commissioners; and  
12 each of said commissioners shall give such additional bond as the  
13 board of commissioners may by ordinance require, the cost of  
14 such additional bond to be paid by the city; and all other officers  
15 and employees shall give such bond as may by ordinance be re-  
16 quired.

Sec. 10. The mayor, as such, shall be the chief executive  
2 officer of the city, and chairman of the board of commissioners,  
3 and when present shall preside at all meetings of the board; and,  
4 in addition to all other duties imposed upon him by state and  
5 municipal laws and the board of commissioners, shall sign the  
6 commissions of all appointive officers, shall indorse the approval  
7 of all official bonds when same shall be approved by the com-  
8 missioners, sign all warrants and orders drawn upon the com-  
9 missioner of public accounts and finances for money, sign all  
10 bonds, contracts, conveyances and other written obligations of  
11 the city and all ordinances passed by the board of commissioners,  
12 and shall cause each of the above enumerated writings to be  
13 attested by the commissioner of public accounts and finances as  
14 the clerk of the board, under the seal of the city.

Sec. 11. The mayor, as commissioner of public affairs.  
2 shall have supervision of the health department and department  
3 of sanitation; he shall also have charge and be superintendent of  
4 the department of public affairs, which shall include water works,  
5 parks, libraries, cemeteries, public service corporations operating  
6 under city franchise; the opening, grading, paving, lighting,  
7 cleaning, repairing and sprinkling of streets, sewer and viaduct  
8 construction, sidewalks and crossings, and the city engineering  
9 department, and shall have charge of all other city property not  
10 delegated to other departments. He shall perform such other  
11 duties, not inconsistent herewith, as the board of commissioners  
12 may from time to time prescribe, and in case of absence from

13 the city, sickness or inability of the police judge to perform the  
14 duties of his office the mayor shall temporarily act as judge of the  
15 police court.

Sec. 12. The police judge, as commissioner of public justice,  
2 shall be the head of the department of peace and safety, and he  
3 shall have supervision of the fire department, and police depart-  
4 ment. He shall see, except as may be herein otherwise provided,  
5 that the laws and ordinances of the city and the resolutions and  
6 orders of the board of commissioners are enforced; that the peace  
7 and good order of the city are preserved; and that the persons  
8 and property therein are protected. In case of absence, sickness  
9 or inability of the mayor to perform the duties of his office he  
10 shall act as mayor. He shall also perform such other duties, not  
11 inconsistent herewith, as may be hereinafter prescribed, or by  
12 the board of commissioners from time to time imposed.

Sec. 13. The city clerk, as commissioner of public accounts  
2 and finances, shall have charge of the department of accounting  
3 and finance, which shall include the collection of all city taxes,  
4 rents, licenses, fees, and all revenues of the city from whatever  
5 source derived. He shall have charge of all bond issues, assess-  
6 ments, printing, and city fiscal affairs generally. He shall be the  
7 purchasing agent for the city, and, subject to the directions of  
8 the board of commissioners and the provisions of this charter,  
9 shall purchase all supplies and make all contracts for city print-  
10 ing. He shall be clerk of the board of commissioners, and as  
11 such, perform such duties as usually devolve upon a city clerk,  
12 and shall perform such other duties, not inconsistent herewith, as  
13 the board of commissioners may, from time to time, prescribe.  
14 He shall also be the city treasurer and have custody of the funds  
15 of the city, and shall pay out the same only upon the order of the  
16 board of commissioners, duly signed and attested. He shall in-  
17 vest the funds of the city only in such securities as are provided  
18 by the constitution and laws of the state of West Virginia in  
19 such cases made and provided, and such investments, if any, shall  
20 be made only upon the direction of the board of commissioners,  
21 and all uninvested funds shall be deposited in the city depositories  
22 in the city of Buckhannon, and in the name of the city. The  
23 Traders National bank of Buckhannon, the Peoples bank of West  
24 Virginia, and the Buckhannon bank, all located within the said  
25 city of Buckhannon, are here made depositories of the said city;

26 and the board of commissioners may prescribe such bonds for  
27 such depositories, to be given by them to the city, as the board  
28 may deem proper.

Sec. 14. Each of the commissioners provided for in this  
2 charter shall be required to engage in the actual work of his  
3 office to the extent his services may be necessary for the full and  
4 proper discharge of his duties thereunder. At all times each  
5 commissioner shall have actual management and control of the  
6 affairs of his department and shall be responsible directly to the  
7 people therefor, and he shall also be held directly responsible by  
8 the people of the city for his vote upon any action taken by the  
9 board.

Sec. 15. The board of commissioners shall fix the number  
2 and salary of all officers and employees in each department, but  
3 every officer and employee of the city shall be appointed and  
4 employed by the commissioner in whose department their re-  
5 spective duties mainly fall and their services are required, and  
6 such commissioner shall be responsible to the people therefor;  
7 and all officers and employees shall hold their respective positions  
8 at the will and pleasure of the power appointing and employing  
9 them.

Sec. 16. All appointive officers and employees of the city  
2 shall be selected with reference to their qualification and fitness  
3 and for the good of the public service; but no person who is a  
4 near relative by blood or marriage of any of the commissioners  
5 or any of the heads of any of the departments of the city, shall  
6 be appointed to any office or employment under the city, unless  
7 such appointment be approved of record by the whole commission;  
8 otherwise any such appointment or employment shall be void.

*Legislative Department.*

Sec. 17. The legislative powers of the city are hereby  
2 vested in a board composed of the three commissioners herein.  
3 provided for, sitting as a board of commissioners. Said board  
4 shall have the power to enact all ordinances for the city, not in  
5 conflict with this charter or the constitution and laws of this  
6 state, the intention being that the said board shall be vested with  
7 the power and charged with the duty of enacting and adopting  
8 all laws and ordinances not inconsistent with this charter, the  
9 statutes of this state and the constitution thereof, touch-  
10 ing every subject and matter of local or general application

11 within the boundaries of the city or within one mile thereof;  
12 within the purview of the local government instituted by this  
13 charter and within the powers granted and conferred by the con-  
14 stitution and laws of the state of West Virginia.

Sec. 18. In case of the death, resignation, removal from  
2 office, or removal from the corporate limits of the city of any  
3 commissioner, or when from any cause the office of any member  
4 of the board may become vacant, the remaining members or  
5 member shall elect a successor or successors to fill the vacancy,  
6 who shall hold office and perform the duties pertaining thereto  
7 until the next regular annual city election, and until a successor  
8 is elected by the people of the city to fill the unexpired term of  
9 said commissioner.

Sec. 19. The board of commissioners shall determine its  
2 own rules of procedure, may punish its members for disorderly  
3 conduct and compel their attendance at its meetings; *provided*,  
4 that any commissioner who shall fail to attend at least one meet-  
5 ing in any month of the board of commissioners shall forfeit his  
6 salary as such commissioner for said month unless said commis-  
7 sioner shall be excused from said attendance by unanimous vote  
8 of the board of commissioners on account of sickness, physical  
9 disability or other cause; *and provided further*, that any com-  
10 missioner who shall from any cause, fail or refuse to perform the  
11 duties of his position including attendance at the meetings of the  
12 board for a period of three months shall lose his office and the  
13 same shall be declared vacant by the remaining commissioner or  
14 commissioners and said vacancy filled as herein provided.

Sec. 20. The regular meetings of the board of commis-  
2 sioners shall be held on the first Monday after the election of the  
3 commissioners and thereafter at least twice a month, and on such  
4 day and at such hour as shall be designated by ordinance or  
5 resolution of the board. Adjourned meetings may be held and  
6 special meetings called at any time by the mayor or by two com-  
7 missioners as circumstances may demand.

Sec. 21. Two members of the board shall constitute a  
2 quorum and the affirmative vote of two members shall be necessary  
3 to adopt any motion, resolution or ordinance, or pass any measure,  
4 unless a greater number is provided for by this charter. Upon  
5 every motion involving the expenditure of money and for the  
6 letting of any public contract, and on all ordinances, the ayes



7 and nays shall be taken and recorded, and every ordinance shall  
8 be reduced to writing and read before a vote is taken thereon.  
9 The chairman of the board shall have a vote on all questions, but  
10 shall have no veto power. Every resolution or ordinance passed  
11 by the board shall be signed by the chairman or acting chairman,  
12 attested by the clerk, or acting clerk, and recorded before the  
13 same shall be in force.

Sec. 22. Every ordinance shall embrace but one subject,  
2 which shall be clearly expressed in the title. *Provided*, that if  
3 subject matter be embraced in any ordinance contrary to the  
4 provisions of this section, such ordinance shall be void only as  
5 to so much of the ordinance as may not be clearly expressed in  
6 the title thereof. Such subject may be omitted when ordinances  
7 are published in book form.

Sec. 23. All ordinances passed by the board of commission-  
2 ers, except emergency ordinances, shall take effect and become  
3 valid and binding at the expiration of thirty days from the date  
4 of their passage, unless otherwise provided in this charter.

Sec. 24. The board of commissioners, by unanimous vote,  
2 may pass an emergency ordinance when the public peace, public  
3 health or public safety shall, in the judgment of the board, de-  
4 mand it. Every emergency ordinance must as a part of the title,  
5 contain the words: "And declaring an emergency," and every  
6 such ordinance shall provide that such ordinance shall take effect  
7 and be in full force immediately upon its passage.

Sec. 25. The first board of commissioners elected under the  
2 provisions of this act shall have authority to compile and adopt  
3 *co instanti* such of the ordinances of the present towns of Buck-  
4 hannon as may be applicable to the changed form of government  
5 under this charter, change the penalties fixed by said ordinances,  
6 and adopt the same together with such other proper ordinances as  
7 may be necessary to preserve the public peace and insure the  
8 general welfare of the said city, and to carry into effect the pro-  
9 visions and purposes of this charter; and it shall be their duty  
10 to so compile, adopt and enact such ordinances and publish all  
11 of said ordinances in one book or pamphlet, and the said ordi-  
12 nances, when so compiled, shall be, in effect, in the form com-  
13 piled, after the tenor thereof, immediately from the date of said  
14 adoption and compilation, and all ordinances of the towns of  
15 Buckhannon and South Buckhannon, not included in such com-

16 pilation shall then cease to be effective in the said city, but until  
17 such adoption and compilation shall have been completed, the  
18 said ordinances of the towns of Buckhannon and South Buck-  
19 hannon, to the extent that they are not in conflict with the pro-  
20 visions of this charter, shall be deemed the ordinances of the said  
21 city and enforceable as such.

*Judicial Department.*

Sec. 26. The judicial power of the city of Buckhannon  
2 shall be vested in a police court, which court is hereby created,  
3 and the police judge and commissioner of public justice shall be  
4 *ex-officio* the judge of said court. All trials shall be before said  
5 judge without any jury.

Sec. 27. The police court shall have original and exclusive  
2 jurisdiction to hear and determine all offenses against the ordi-  
3 nances or the charter of the city of Buckhannon; and for the  
4 collection of all licenses, fees, rents or other revenues required by  
5 ordinances except such actions and proceedings as fall within the  
6 exclusive jurisdiction of other courts under the provisions of the  
7 constitution and laws of this state.

Sec. 28. The ordinances of the city of Buckhannon shall  
2 be enforced by the imposition of fines, forfeitures or penalties  
3 against any person violating such ordinances, or any of them;  
4 and the commissioners shall prescribe in each particular ordinance  
5 made for that purpose, the minimum and maximum fine for the  
6 infraction thereof, which maximum shall not exceed one hun-  
7 dred dollars, exclusive of costs, for any one specific offense.  
8 The same costs shall be taxed in each criminal case tried in the  
9 police court as is provided by law to be taxed by justices of the  
10 peace in the trial of misdemeanor cases coming under the juris-  
12 diction of justices of the peace, except that in every contested  
13 criminal case, the police judge may also tax an attorney fee of  
14 not exceeding five dollars, to be paid to the city prosecutor for  
15 his services in said case, if a conviction be had in said case.

Sec. 29. The police court may provide in all judgments of  
2 conviction for the violation of any ordinance of the city a fine,  
3 and that the person against whom said fine is assessed shall be  
4 imprisoned until the fine and costs of prosecution shall be paid,  
5 but not to exceed thirty days. And any person committed for the  
6 nonpayment of fine and costs, while in custody, may be compelled

7 to work on the streets, alleys, public grounds or works until such  
8 fine and costs are paid, allowing one dollar per day for the work  
9 of said prisoner to apply on said fine and costs.

Sec. 30. All fines, penalties, forfeitures and collections of  
2 every kind made by the police judge shall be the property of the  
3 city and shall be deposited with the commissioner of public ac-  
4 counts and finances, within ten days after the collection thereof,  
5 to be by him applied to the proper fund of the city as may be  
6 ordinance be required.

Sec. 31. The style of all process of the police court shall  
2 run in the name of the city of Buckhannon.

Sec. 32. Appeals from the police court shall lie to the cir-  
2 cuit or criminal court of Upshur county, as is now or may be  
3 provided by the statutes of this state governing appeals from  
4 police courts to circuit or criminal courts.

#### *Elections.*

Sec. 33. The board of commissioners may by ordinance ap-  
2 proved at a referendum election called for the purpose, and held  
3 not less than sixty days before any regular municipal election,  
4 change the boundaries of the city, the number of the commission-  
5 ers, the length of their term and the manner of their election,  
6 except that municipal elections shall always be without political  
7 party designation and non-partisan. When an election is held for  
8 the purpose of annexing additional territory to the city, the  
9 qualified voters of the territory that it is sought to annex, shall  
10 also vote upon the proposition and it shall be necessary that a  
11 majority of the total vote cast within or without the city, be cast  
12 for the proposition. In the absence of other municipal authority  
13 to act for the residents outside of the city of Buckhannon the  
14 county court shall appoint the necessary election officers, cause all  
15 necessary arrangements to be made for the holding of said elec-  
16 tions and the return of the results of same to the board of com-  
17 missioners of the city of Buckhannon, who shall act as a canvassing  
18 board to ascertain the aggregate results of the said election both  
19 within and without the city. The cost of the election shall be  
20 borne by the city of Buckhannon, except that where another  
21 municipal corporation participates in the election, it shall bear  
22 such part of the total cost as shall have been incurred within its  
23 boundaries.

Sec. 34. The first election under this act shall be held on

2 the second Tuesday of May, one thousand nine hundred and nine-  
3 teen, at the regular voting places within the city, under the super-  
4 vision of the council and officials of the town of Buckhannon as  
5 at present constituted, and be conducted, certified, returned and  
6 finally determined, in accordance with the provisions of this act  
7 and the laws and ordinances, or such parts thereof, as are now in  
8 effect and not inconsistent with the provisions of this act, and  
9 the nominations of candidates for such first election shall be  
10 certified to the clerk of said town and said clerk shall prepare  
11 the ballots therefor.

Sec. 35. Municipal elections under this act shall be con-  
2 ducted as 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  
9 limits for any temporary purpose and expects to remove from  
10 the city after said purpose shall have been accomplished. The  
11 board of commissioners shall by ordinance provide for such  
12 regulations for the registration of voters as may be rendered  
13 necessary by state laws.

14 (b) Any person eligible to the office of commissioner may  
15 be a candidate and have his name placed upon the ballot by  
16 filing with the city clerk a declaration of his candidacy, stating  
17 specifically the particular commissionership for which he is a  
18 candidate, and a certificate of his eligibility signed not less  
19 than thirty days next preceding the day of the election by not  
20 less than one hundred qualified voters of the city, not less than  
21 one-third of whom shall reside in the same ward with the can-  
22 didate. Said declaration and certificate shall be filed with the  
23 city clerk not less than fifteen days prior to the day of election.  
24 The names of all candidates for the several offices of commis-  
25 sioner shall appear on one ballot, having three columns, those  
26 for commissioner of accounts and finances in the second column  
27 and those for commissioner for public justice in the third column,  
28 and said ballot shall be without party emblem or designation.  
29 The whole number of ballots to be printed for the election of  
30 commissioners shall be divided by the number of candidates ap-  
31 pearing in the first column, and the quotient so obtained shall

32 be the number of ballots in each series of ballots to be printed.  
 33 (c) The names of the candidates shall be arranged in  
 34 alphabetical order in each column, and the first series of ballots  
 35 printed. The first name in the first column shall be placed last  
 36 therein and the next series of ballots printed, and this process  
 37 shall be repeated until each name in the first column shall have  
 38 been first, and for each series the same changes, so far as may be,  
 38 shall likewise be made in each of the other columns. These bal-  
 39 lots shall then be combined into tablets in the order of the series  
 40 with no two of the same series together.

41 (d) The ballot to be used for the election of commis-  
 42 sioners shall be in the form as follows:

*Candidates for Election to the Several Offices of Commissioner,  
 City of Buckhannon, W. Va..*

Commissioner of Public Affairs		Commissioner of Accounts and Finances		Commissioner of Public Justice	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	

*Direction to Voter.*

43 Vote for only one candidate in each column by putting a  
 44 cross mark in the square opposite the name of the candidate for  
 45 whom you desire to vote. Do not mar kfor more than one can-  
 46 didate in each column. If you spoil this ballot, tear it across once  
 47 and hand to the election officer in charge and he will give you  
 48 another.

49 (e) A valid ballot shall be one on which the voter has  
 50 clearly expressed his choice of one or more candidates. If a  
 51 voter express the same choice for more than one candidate in  
 52 any column his vote as to that column shall be void.

53 (f) The candidate in each column receiving the highest  
54 number of votes cast for the office of commissioner indicated by  
55 such column shall be declared elected. During the counting of  
56 the votes all ballots or votes not counted shall be marked by the  
57 election commissioners of each precinct with the words "not  
58 counted" written upon the ballot or opposite the vote not counted,  
59 together with a statement with the reasons for not counted, and  
60 the total number of invalid ballots marked thus and not counted  
61 shall be ascertained by them at the conclusion of the counting,  
62 and be shown upon the precinct return certificate and subtracted  
63 from the total number of ballots taken from the ballot box.

64 (g) If at any election there be no candidates for the office  
64-a of commissioner as indicated by the first column, then in making  
64-b up the series of ballots as herein provided, the second column  
64-c shall be used, and if there be no candidates as indicated for the  
64-d office of commissioner under neither the first nor the second,  
64-e then the third column shall be so used. If there be a tie in  
65 the votes for the candidates for the office of either of said com-  
66 missioners, then selections shall be made by lot by the commis-  
67 sioners of election by placing within a hat the names of those  
68 candidates who are so tied and drawing therefrom one name,  
69 and the candidate whose name is thus drawn shall be declared  
70 elected for that particular office.

Sec. 36. Commissioners only shall be elected by popular vote.  
2 All other officials and employees shall be appointed by the com-  
3 missioners in such manner as is provided by this act or as they  
4 may by ordinance properly prescribed.

Sec. 37. At least four weeks before the day of an election  
2 the city clerk and one of the said commissioners, acting as ballot  
3 commissioners, shall prepare the ballots for such election, and the  
4 board of commissioners shall select the commissioners of election  
5 and poll clerks from the two leading political parties with the  
6 qualifications provided by the general laws of the state. The board  
7 of commissioners shall, by ordinance, provide such additional regu-  
8 lations in conformity with the provisions of this act and the  
9 general law of the state as are necessary for the proper conduct  
10 of election. Elections under this act shall be conducted, returned  
11 and the results thereof ascertained and declared in the manner  
12 prescribed by the constitution and laws of the state, in so far as  
13 said laws are not inconsistent with this act, and all penalties

14 prescribed by said laws of the state in so far as consistent, shall  
15 be applicable unto this act.

16 The duties required by the clerk of the circuit and county  
17 courts under the election laws of West Virginia, shall be performed  
18 by the city clerk of said city. The duties required of the com-  
19 missioners of the county court under the provisions of said laws  
20 shall be performed by the board of commissioners of said city.  
21 The duties required of the sheriff under the provisions of said laws  
22 shall be performed by the chief of police of said city. And the  
23 duties required of any constable under the provision of said laws  
24 shall be performed by any member of the police force of said city.  
25 Whenever the word "county" appears in said laws, the same shall  
26 be taken to refer to the city of Buckhannon, and whenever the  
27 words "election precinct" or "precincts" appear in said laws, they  
28 shall be taken to refer to the election precinct or precincts for  
29 the municipal election, and wherever the word "court-house" shall  
30 appear in said laws as designating the place of meeting of election  
31 officers, the same shall be taken to refer to the municipal building.

Sec. 38. The commissioner of accounts and finances shall,  
2 on or before the first day of August, of each year, prepare and  
3 submit to the board of commissioners an estimate of the amount  
4 of money necessary and advisable to be expended by the city for  
5 the current fiscal year next ensuing, and to be provided for by  
6 the tax levy as herein provided for each current year, in which  
7 estimate said commissioner shall ascertain and present a detailed  
8 and itemized account or estimate of the money necessary to pay  
9 interest on the bonded indebtedness of the city, the amount re-  
10 quired for the several sinking funds for the reduction of the prin-  
11 cipal thereof, the amount to be expended severally by the depart-  
12 ment of public affairs, the department of public accounts and  
13 finances, (the amounts to be expended by each of the other two  
14 departments to be furnished said commissioner of public accounts  
15 and finances by the commissioner having charge of each of such  
16 other departments,) together with statements of the probable  
17 contingent expenses and miscellaneous expenses, and including in  
18 said estimate an itemized statement of the estimated receipts,  
19 other than to be derived from the annual levy, and after receiving  
20 such estimate, and before making the levy, the board of commis-  
21 sioners shall apportion the rate thereof, including estimated re-  
22 ceipts from licenses and all other sources, among the several funds  
23 so ascertained and provided for, which said apportionment when

24 adopted, shall be spread upon the records of the board of com-  
25 missioners. Upon the estimate of such expenses, the board of  
26 commissioners shall thereupon, by an ordinance, lay a levy for  
27 the ensuing year of a sum not to exceed fifty cents on each  
28 one hundred dollars assessed valuation of all taxable property,  
29 real and personal, subject to taxation in said city, as well as capita-  
30 tion tax not to exceed two dollars upon every male inhabitant of  
31 said city over the age of twenty-one years who is subject to a  
32 capitation tax under the laws of the state of West Virginia, and  
33 said board of commissioners is authorized to levy to such maximum  
34 of fifty-five cents on each one hundred dollars of valuation, not-  
35 withstanding any general laws now in force, or which may be  
36 enacted, restricting the powers of municipal corporations to levy  
37 taxes.

Sec. 39. Whenever anything for which a state license is re-  
2 quired, is to be done within said city, or within one mile of the  
3 corporate limits thereof, the board of commissioners, as herein  
4 provided, may require a city license to be had for doing the same,  
5 except that no license taxes shall be levied by said city under  
6 paragraph "r" and "s" of section two of chapter thirty-two of the  
7 code and may, in any case require from any person licensed a bond  
8 with sureties, and in such penalty and with such conditions as it  
9 may deem proper, and the board of commissioners may on notice  
10 revoke such license if the conditions of such bond are broken, or  
11 for any other good cause. The city authorities may prescribe,  
12 impose and enforce a fine, under order of the police judge of said  
13 city upon any person carrying on or attempting to carry on any  
14 business or doing anything for which a city license may by ordi-  
15 nance be required, without first obtaining a city license therefor  
16 and paying the city license tax assessed thereon. All licenses  
17 shall be paid to the commissioner of public accounts and finances.  
18 For the purpose of enforcing the provisions of this section the  
19 city shall have police jurisdiction for one mile beyond the cor-  
20 porate limits of the city.

#### *Revenues.*

Sec. 40. The city taxes annually levied by the board of com-  
2 missioners shall be collected as follows: Immediately after the  
3 annual levy for city taxes is laid, the city clerk shall extend the  
4 same on the property books made out by him, including thereon  
5 the proper capitation taxes. He shall make out proper tax tickets



6 in the following manner, that is to say: There shall be a single  
7 ticket for the whole amount charged to any person, firm or cor-  
8 poration, and after the tickets have been examined and compared  
9 and found to be correct by the board of commissioners, they shall be  
10 turned over to the city clerk and commissioner of public accounts  
11 and finances, and said city clerk shall then give notice, by publica-  
12 tion or posting for at least ten days, stating that the tax tickets  
13 are in his hands for collection, the penalty for the non-payment  
14 thereof, and the time and place where the same may be paid;  
15 *provided, however,* that the tax payer shall have the right to  
16 anticipate the payment of the whole or any part of the taxes as  
17 assessed. Immediately upon the payment of said taxes, or any  
18 part thereof, the said amount shall be deposited by the commis-  
19 sioner of public accounts and finances in the city depository to  
20 the credit of the city of Buckhannon. All taxes shall be due and  
21 payable within thirty days after the expiration of the notice posted  
22 by the city clerk, as hereinbefore set forth, and in case the same  
23 are not paid within said time, he may distrain and sell therefor,  
24 in like manner as the officer collecting the state taxes may distrain  
25 therefor, and he shall have in all other respects the same power  
26 to enforce the payment and collection thereof. On all tickets  
27 remaining uncollected in the hands of the commissioner of public  
28 accounts and finances, thirty days after the date of the expiration  
29 of the notice posted by him, there shall be added and collectable,  
30 ten per cent interest until paid; *provided, however,* that the board  
31 of commissioners shall have the power any year, by resolution, to  
32 extend the time that such tax tickets may remain in the city  
33 clerk's hands and to be paid to him, before adding the interest, for  
34 a period not to exceed ninety days. The board of commissioners  
35 may by ordinance allow a discount not to exceed two and one-half  
36 per cent for prompt payment of taxes. The city clerk and com-  
37 missioner of public accounts and finances shall have the power  
38 to collect said taxes so placed in his hands together with the in-  
39 terest thereon, heretofore provided, to be added thereto. The  
40 commissioner of public accounts and finances shall be charged with  
41 the gross amount of all tax tickets delivered to him for collection,  
42 and no deduction therefrom shall be allowed, unless on or before  
43 the first day of June of each year he makes out and publishes at  
44 least once in two newspapers of opposite politics in said city, and  
45 returns to the board of commissioners a delinquent list of the  
46 taxes uncollected for the year previous, with his oath attached

47 thereto, stating that such delinquent list is correct and just, that  
48 he has received no part of the taxes mentioned thereon, that he  
49 used due diligence to find the property to distress for said taxes  
50 and has found none, and that same are uncollectable. Interest,  
51 provided for in this section, to be added to such taxes, shall not  
52 be deemed or considered any part of the limitation in this act  
53 hereinbefore prescribed, restricting the annual city levy to fifty-five  
54 cents on each one hundred dollars valuation. The commissioner  
55 of public accounts and finances shall not take or collect any thing  
56 but money for the payment of taxes and city revenues.

Sec. 41. There shall be a lien upon all real estate within  
2 said city for the city taxes assessed thereon, including such penal-  
3 ties and interest added thereto for non-payment thereof as pre-  
4 scribed by this act, from the first day of January of the year in  
5 which said taxes are assessed. Said liens may be enforced in any  
6 court of record in Upshur county by appropriate suit; *provided*,  
7 such suit be entered within five years from the time said liens  
8 attached as herein provided, and such suit may be either by and in  
9 the name of the said city of Buckhannon as plaintiff, or said city  
10 may intervene by petition in any suit pending to sell or enforce  
11 liens against real estate which is subject to such liens for taxes.  
12 Said liens for city taxes and attendant penalties, as well as for  
13 improvement assessments, may also be enforced by certifying the  
14 same to the clerk of the county court of Upshur county for cer-  
15 tification to the state auditor, and the same may be certified down  
16 by the state auditor and sold for taxes, interest and penalties and  
17 commissions thereon, in the same manner, at the same time and  
18 by the same officer as real estate is sold for taxes, interest, dam-  
19 age, costs and commissions due the state thereon, which officer  
20 shall account therefor on settlement with the board of commis-  
21 sioners and pay the same over to the commissioners of public  
22 accounts and finances of the city of Buckhannon.

*Sewerage and Paving.*

Sec. 42. All the provisions of sections forty-nine-c (1),  
2 forty-nine-c (2), forty-nine-c (3), forty-nine-c (4), forty-nine-c  
3 (5), forty-nine-c (6), forty-nine-c (7), forty-nine-c (8), forty-  
4 nine-c (9), forty-nine-c (10), forty-nine-c (11), forty-nine-c  
5 (12), forty-nine-c (13), forty-nine-c (14), forty-nine-c (15),  
6 forty-nine-c (16), forty-nine-c (17) and forty-nine-c (18) of  
7 chapter forty-seven of the Barnes' code of West Virginia, of one  
8 thousand nine hundred and sixteen, not inconsistent herewith, are

9 hereby made parts of this chapter as though set forth therein in  
10 detail, and the board of commissioners, by a majority vote of their  
11 members, shall have power to enforce the same in said city, and  
12 they shall adopt all such ordinances and resolutions as may be  
13 necessary to put said provisions into effect; and the adoption of this  
14 charter by a vote of the people of the said city as hereinafter pro-  
15 vided, shall be taken and deemed an adoption of all said pro-  
16 visions of said sections without the vote thereon required by sec-  
17 tion forty-nine-c (17) of said chapter.

Sec. 43. The sewers heretofore constructed in any of the  
2 streets or alleys of said city at the expense of the property owners  
3 abutting thereon, and by the authority of the council of the town  
4 of Buckhannon, or council of the town of South Buckhannon,  
5 may be taken for public use by the said city, and the same may  
6 be used subject to the provisions of the preceding section; but  
7 before such sewer is so occupied by the city, compensation shall  
8 be made to the persons having paid for the same or entitled  
9 thereto. Such compensation shall be determined by the award  
10 of three arbitrators, one selected by the board of commissioners,  
11 one selected by the person or persons having paid for the construc-  
12 tion of the said sewer, or his assigns, and the two selected shall  
13 choose a third arbitrator, and the said arbitrators shall, after hear-  
14 ing all evidence as to what would be a just compensation for such  
15 sewer, make their award in writing, which award shall be final,  
16 and entered of record by said commissioners. The arbitrators so  
17 selected and chosen, shall not be interested in the matters sub-  
20 mitted to them other than as tax payers of said city. And the  
21 owners of any real estate abutting on any such street or alley, in  
22 which any such private sewer has been constructed by authority of  
23 said councils, or either of them, and at their own expense, shall  
24 not be required to pay any assessment levied or assessed against  
25 the same for the construction of a sewer in a street or alley, in  
26 which such private sewer has been so constructed, until said private  
27 sewer is taken by said city and compensation made therefor as  
28 herein provided; and any private sewer so taken by said city  
29 shall be held, used and occupied as provided in the next preceding  
30 section, and the property abutting thereon subject to the assess-  
31 ments as therein provided.

#### *General Provisions.*

Sec. 44. All contracts pertaining to public improvements,

2 maintenance of public property, public printing, purchase of sup-  
3 plies, and all other contracts of whatsoever character, involving an  
4 outlay of as much as five hundred dollars, shall be made by the  
5 board of commissioners and shall be based upon specifications  
6 provided for the said board. Such contracts shall be entered into  
7 only after inviting competitive bids. Such competitive bids shall  
8 be sealed and one copy of each bid shall be filed with the clerk  
9 of the board. Each bidder shall accompany his bid with a sworn  
10 statement, in writing, that the bidder has not directly, nor in-  
10-a directly, entered into any agreement, express or implied, with  
10-b any other bidder or bidders, having for its object the control or  
10-c amount of such bids, or limiting of the bids or bidders, parceling  
10-d or farming out to any bidder or bidders or other persons, of any  
10-e part of the contract or any part of the subject matter of the bid or  
10-f the parts thereof. No bidder shall divulge said sealed bid to any  
10-g person whatever except those having a partnership or other finan-  
10-h cial interest with him in said bid, until after said sealed bids are  
10-i opened. The violation of any of the foregoing provisions on the  
10-j part of the bidder shall, at the election of the board of commis-  
11 sioners, make void any contract made by him with said city based  
12 upon such bid. The awarding of a contract upon a successful bid  
13 shall give the bidder no right of action or claim against the city  
14 upon such contract until the same shall have been reduced to  
15 writing and duly signed by the contracting parties. All bids filed  
16 with the clerk of the board shall be opened in the presence of the  
17 board of commissioners two days before the contract shall be  
18 entered into based upon any such bids. The board of commis-  
19 sioners shall consider the bids and may reject any and all bids and  
20 ask other bids, or may enter into a contract with the party offer-  
21 ing the lowest and best bid, or may have such work done under  
22 the supervision of the proper department and keep account of the  
23 expenses thereof. Pending acceptance of bids, the plans and  
24 specifications and profiles shall remain on file in the office of the  
25 clerk of the board subject to the inspection of any person. For  
26 safeguarding the interests of the city, the board of commissioners  
27 shall make such regulations providing for the filing of the esti-  
28 mates furnished them by the city engineer, or other persons making  
29 such estimates of cost, as they may deem best. The board of com-  
30 missioners shall have power to require all bidders to make such  
31 bonds or cash deposits as they may deem proper to secure the  
32 performance of the contract awarded.

Sec. 45. All printed ordinances or codes of ordinances published by the authority of the board of commissioners shall, in all judicial proceedings in all courts, be admitted as *prima facie* evidence, and in any such proceedings it shall not be necessary to plead the entire ordinance or section but only such parts thereof as are admitted in evidence.

Sec. 46. Every claim against the city must be approved by the commissioner in whose department it originated, and be filed with the clerk of the board in writing, with a full account of all items thereof, and must be subscribed by the claimant or his agent or attorney, who, on oath, shall declare that the same is correct, just, due and unpaid, and no claim or demand shall be allowed or suit filed thereon unless so prepared and filed, and unless suit shall be filed upon such claim within twelve months after the same shall have been so filed with the clerk of the board in writing, as above provided, such claims shall be forever barred, and upon all suits filed to enforce such claims such bar shall be pleaded.

Sec. 47. Every officer who shall knowingly approve or allow or pay any demand upon the treasury of the city not authorized by law, ordinance or this act, shall be liable to the city individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Sec. 48. Each commissioner of the city of Buckhannon shall be a public conservator of the peace, shall have power to administer oaths, and said commissioners and each member of the police department, in addition to the power of enforcing ordinances of the city and in aid of such powers, shall have the same police powers as are given to a constable in making arrests and in preserving the peace and safety within the city; *provided*, that such officer shall have power over territory outside of the city, but under its control, as may be conferred by the laws of the state and the provisions of this act; and, *provided, further*, that all regular officers of the city of Buckhannon, except extra policemen serving less than one week at a time, appointed under the provisions of this act shall give bond payable to the city of Buckhannon for the faithful performance of their duties in such amount as may be fixed by the board of commissioners; *provided*, that said bond shall be in a penalty of not less than one thousand dollars.

Sec. 49. Any commissioner shall be subject to removal from office in the manner and for the same cause or causes as provided

3 by the laws of the state of West Virginia for the removal of county  
4 officers.

Sec. 50. The fiscal year of the city shall commence on the  
2 first day of July each year and shall end on the thirtieth day of  
3 June next following.

Sec. 51. The offices of mayor, recorder and councilmen of  
2 the town of Buckhannon and of the town of South Buckhannon  
3 shall be terminated and be and become vacant upon the election  
4 and qualification of the commissioners provided by this act. All  
5 other officers and employees of the present corporations of Buck-  
6 hannon and South Buckhannon shall continue in office and to  
7 perform their duties until their successors are appointed, or until  
8 their services are dispensed with by the commissioner having  
9 charge of the department in which they are employed.

Sec. 52. The board of commissioners shall appoint a city  
2 solicitor who shall be an attorney at law admitted to practice in  
3 the state of West Virginia, and a citizen of the said city of Buck-  
4 hannon. He shall be the legal advisor of and attorney and counsel  
5 for the municipality and for all officers thereof in matters re-  
6 lating to their official duties. He shall prepare all contracts,  
7 bonds and other instruments in writing in which the city is con-  
8 cerned, and shall certify thereon to the correctness thereof; and  
9 no such contract with the city shall take effect until so certified  
10 by him, or some attorney at law temporarily appointed by the  
11 board of commissioners to act in his place and stead in his absence,  
12 or during his sickness or other inability to attend to the duties of  
13 his office. He or assistant, if any be provided, shall be the prose-  
14 cuting attorney of the municipal court, and he shall perform such  
15 other duties as the board of commissioners shall require. In all  
16 criminal proceedings, before the department of justice of the  
17 said city in which there is conviction, and wherein a fine of twenty-  
18 five dollars or more, or imprisonment, or both, are imposed, an at-  
19 torney's fee of \$5.00 shall be added thereto which, when collected,  
20 shall be received by the said city solicitor as a part of his com-  
21 pensation, and the board of commissioners shall otherwise provide  
22 for the compensation of the said city solicitor.

Sec. 53. The present municipal corporations of the towns  
2 of Buckhannon and South Buckhannon, the territories of which  
3 are embraced in the corporate limits of the proposed city, shall,  
4 for the purpose of raising revenue to liquidate respectively their  
5 existing indebtedness, bonded and otherwise, and for the purpose

6 of collecting all outstanding taxes and other claims and demands  
7 due, said respective towns, be taken and deemed separate assess-  
8 ment districts, and the said board of commissioners shall, in ad-  
9 dition to the levy of taxes herein provided for the city of Buck-  
10 hannon, have power to levy and collect, and shall levy and collect  
11 in like manner as herein provided for levying and collecting taxes  
12 for the said city of Buckhannon, each year until such respective in-  
13 debtedness of the said towns of Buckhannon and South Buck-  
14 hannon shall have been fully paid, a special assessment of not to  
15 exceed twenty cents on each one hundred dollars of the assessed  
16 valuation, to be levied upon the property, real and personal, within  
17 the present respective corporate limits of the said towns, and upon  
18 none other, and the money so raised in said towns shall be applied  
19 to the liquidation of their respective said indebtedness, and to  
20 none other, and as soon as such respective indebtedness shall have  
21 been paid such special levies shall respectively cease, and said  
22 special assessment districts shall likewise respectively cease to  
23 exist. It is the intention by this provision to authorize said com-  
24 missioners, in the manner aforesaid, to raise funds and pay off all  
25 existing indebtedness of the said respective towns of Buckhannon  
26 and South Buckhannon by taxes so assessed and levied upon the  
27 property, real and personal, located within the respective cor-  
28 porate limits of said towns, without rendering any other property  
29 situate within the corporate limits of the said proposed city and  
30 outside the present respective corporate limits of the said towns  
31 liable for any part thereof, and without making the property  
32 located in either such towns liable to assessment and levy to pay  
33 the indebtedness of the other; and the said commissioners shall  
34 have no power or authority to create any other debt, or liability,  
35 for, in the name or on behalf of the said towns or either of them.

36 For the purpose of levying and collecting such taxes and out-  
37 standing claims and indebtedness in favor of said respective towns  
38 now unpaid, and for the purpose of levying and collecting said  
39 special tax and of enforcing against the said respective towns of  
40 Buckhannon and South Buckhannon the collection of their re-  
41 spective said indebtedness, the said towns of Buckhannon and  
42 South Buckhannon shall be deemed continuing corporations and  
43 may sue and be sued in their corporate name of the town of Buck-  
44 hannon and the town of South Buckhannon, and process upon  
45 them may be had by service upon the said mayor and commissioner  
46 of public affairs of the city of Buckhannon. The said commis-

47 sioners, if found necessary, shall have power to refund the bonded  
48 indebtedness of the said town of Buckhannon, but only for the  
49 period within which a special levy of twenty cents upon the one  
50 hundred dollars of the assessed valuation annually applied shall  
51 pay the same; and as soon as all of said claims and taxes so due  
52 or to become due the respective towns shall have been collected and  
53 all of said respective indebtedness shall have been paid the said  
54 towns of Buckhannon and South Buckhannon shall cease respec-  
55 tively to have such corporate existence.

Sec. 54. The city of Buckhannon shall succeed to and be in-  
2 vested with all the rights preserved to the said municipalities of  
3 the towns of Buckhannon and South Buckhannon, and each of  
4 them, in franchises heretofore granted by them, and in all con-  
5 tracts made by them respectively through, to and with all public  
6 service corporations, including especially, the reserved rights to  
7 purchase and take over the plant and holdings of the Buckhannon  
8 Light and Water Company contained in the contracts and fran-  
9 chises under which the said company is operating in the said towns.

Sec. 55. The city of Buckhannon shall succeed to and be  
2 invested with all right, title and interest in and to all of the  
3 property, real and personal, owned and held for public use by the  
4 said towns of Buckhannon and South Buckhannon, except the  
5 taxes, claims and other demands due and to become due to the  
6 said towns and each of them; *provided*, that when the indebtedness  
7 or other liabilities of said towns, respectively, shall have been paid,  
8 as in this act provided, then any cash, funds, claims or demands  
9 in the hands of, or belonging to, said respective towns, shall be  
10 turned over to said city and it shall succeed thereto and shall  
11 have the right to collect and use the same for its public purposes.

#### *Change in Form of Government.*

Sec. 56. At any time after the expiration of three years  
2 from the date of the election and installation of the first officers  
3 under this charter, upon a petition in writing signed by not less  
4 than twenty per cent of the legal voters of said city, praying for  
5 a change from the commission form of city government, the board  
6 of commissioners shall call a special election to be held within  
9 a majority of the votes cast at such special election be in favor of  
10 such change, then at the next succeeding general city election  
8 submit the question of such change to a vote of the people, and if  
11 there shall be elected, in lieu of said commissioners, a mayor, a



12 city recorder and five councilmen, who shall have the same quali-  
14 conventions called therefor in writing signed by at least two hun-  
13 fications as said commissioners, and who shall be nominated by  
15 dred voters of said city and by notice thereof published at least  
16 two successive weeks in two public newspapers of opposite political  
7 not less than sixty days before the next general city election, and  
17 parties published in said city, such published notice to be signed  
18 by a committee of not fewer than five, reciting the filing of said  
19 petition or petitions, with the city clerk. Such election shall be  
20 held in manner and form as herein prescribed and as prescribed  
21 by general laws. Upon such change in the form of city govern-  
22 ment being made and the election and qualification of such mayor,  
23 city recorder and councilmen, and their induction into office, the  
24 terms of office of all the commissioners shall expire, and likewise  
25 the terms of office of all appointive officers and employees under  
26 said commissioners shall expire.

27 Upon the filing of the petition aforesaid, it shall be the  
28 duty of said board of commissioners then in office immediately  
29 to divide the city into five wards, make such division fair and  
30 equitable, having respect to a fair and equitable apportionment  
31 of the population in each ward, and the selection and nomina-  
32 tion of such councilmen shall be made with respect to such  
33 wards, one councilman to be nominated from each ward upon  
34 each ticket; *provided*, that a failure to nominate or elect with  
35 respect to such wards shall not invalidate any election or the  
36 right of any officer elected to hold his office. Notwithstanding  
37 such conventions, any person may be nominated for any office  
38 under this section by petition duly signed by not fewer than fifty  
39 voters of the city, and in any event by not less than one per  
40 centum of the legal voters of the ward in which he resides, in  
41 manner and form as provided by general law, such petition to be  
42 filed with the city clerk not less than fifteen days before such  
43 general election.

44 In case such change be made, the mayor shall be the chief  
45 executive officer of the city, and shall perform all the duties  
46 required of the mayor by sections ten, twelve, twenty-six, twenty-  
47 nine and thirty of this act, and shall perform such other duties  
48 not inconsistent herewith as are required by general law, and  
49 as are required by all other provisions of this act. He shall also  
50 be the police judge of the city and shall perform such duties as  
51 are herein required of the police judge with respect to the ad-

52 ministration of the law and the enforcement thereof in the city,  
53 and also such other duties as may be prescribed by the city council  
54 from time to time by ordinances and resolutions not inconsistent  
55 herewith.

56 The city recorder shall perform such duties as are usually  
57 incident to the office of city clerk, and shall keep a record  
58 of all meetings of the council, ordinances, resolutions, orders  
59 and judgments of the police court and shall perform such other  
60 duties as are herein required of the city recorder and commis-  
61 sioner of accounts and finances, except the collection of taxes  
62 and accounts, claims and fines. He shall also perform such other  
63 duties as the city council may from time to time require by  
64 ordinances and resolutions not inconsistent with the provisions  
65 of this charter or the general law.

66 The mayor and city recorder shall be members of the city  
67 council and as such shall have a right to vote on all questions  
68 therein, and in the absence of the mayor, or in case of his sick-  
69 ness or other inability to attend to the duties of his office the city  
70 recorder shall act as mayor.

71 The city council shall do and perform all other duties re-  
72 quired of the board of commissioners and the members thereof  
73 in the various sections of this act, and such other duties as come  
74 within the purview of this charter to carry into effect its pro-  
75 visions in the interest of the city and the inhabitants thereof,  
76 and especially the duties provided in sections seventeen, eighteen,  
77 nineteen, twenty, twenty-one, twenty-four, thirty-three, forty-  
78 eight and forty-nine, but the enumeration of said special sections  
79 shall not be construed to exclude any other sections or provisions  
80 hereof respecting the duties of the said city council. No bond  
81 shall be required of the members of the council, but the mayor  
82 and city recorder shall be required to give bond as hereinbefore  
83 provided in such penalties as may be prescribed by ordinance.

84 The city council shall have power to appoint a city collector  
85 and fix his compensation, who shall be city treasurer and col-  
86 lector of all taxes and other claims and demands of the city,  
87 and who shall give bond as herein required of the city clerk and  
88 commissioner of public accounts and finances, and all funds of  
89 the city shall, immediately upon receipt thereof, or any part  
90 thereof, by him, be deposited by him in one or more of the city  
91 depositories in the name of the city of Buckhannon. The city  
92 council shall fix the salaries of the mayor, city recorder, and

93 councilmen, and of all appointive officers and employees, and  
94 shall select one of their own members, or some other person, to  
95 be a street commissioner who shall perform the duties with re-  
96 spect thereto required of the mayor as commissioner of public  
97 affairs by the provisions of this charter hereinbefore contained.  
98 The council shall have power to give to said collector, as com-  
99 pensation in whole or in part, a commission not to exceed two  
100 and one-half per centum upon all taxes collected by him, and the  
101 said city collector and the said street commissioner shall per-  
102 form such other duties as the council may from time to time  
103 prescribe by appropriate ordinances and resolutions.

104 The term of office of the said mayor, city recorder, and  
105 councilmen shall be one year.

106 Should the people of said city desire at any time to re-  
107 adopt the commission form of government as herein provided,  
108 they may do so by filing with the recorder a petition in writing  
109 as hereinbefore described praying therefor, and upon the filing  
110 of the same the city council shall call a special election therefor  
111 in manner and form as in this section provided to be held not  
112 less than sixty days before the next general city election, and if  
113 at such special election a majority of the votes cast be in favor  
114 of returning to said commission form of government, then  
115 the form thereof as prescribed by this charter shall be readopted  
116 at the next general city election, and the commissioners shall be  
117 nominated and three of them elected as hereinbefore provided,  
118 and thereafter the commission form of city government as here-  
119 inbefore provided shall be in effect subject to all the provisions of  
120 this charter.

Sec. 57 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 jointly called for the purpose by the common councils of the towns  
4 of Buchannon and South Buckhannon, and adopted by a majority  
5 of the votes cast at said election. Said special election shall be  
6 held on the first Tuesday in April, one thousand nine hundred and  
7 nineteen, after publication of the act one time not less than ten  
8 days immediately preceding said special election in two weekly  
9 papers of opposite politics published in said city. Said special  
10 election shall be conducted in the regular manner of holding  
11 municipal elections in said towns. If this act is adopted at said  
12 election it shall go into effect in the manner provided in this  
13 charter and at the time therein fixed.

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 BUCKHANNON.

17 Charter Election.

18 Indicate how you desire to vote by a cross in the square.

19 For adoption of new charter.

20 Against adoption of new charter.

## CHAPTER 16.

(Senate Bill No. 162—Mr. Hough.)

AN ACT to amend and re-enact sections three and fourteen of chapter fourteen of the acts of the legislature of West Virginia of one thousand eight hundred and eighty-seven, in reference to the charter of the city of Wellsburg, as amended by chapter sixty-five of the acts one thousand eight hundred and ninety-five, chapter one hundred and forty-nine of the acts of one thousand nine hundred and one; chapters sixty-eight and sixty-nine of the acts of one thousand nine hundred and three; chapter ten of the acts of one thousand nine hundred and seven; and chapter four of the acts of one thousand nine hundred and fifteen; and chapter one hundred and sixteen of the acts of one thousand nine hundred and seventeen.

[Passed February 17, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

Sec.

3. Officers of city of Wellsburg.

14. Terms of elective officers.

*Be it enacted by the Legislature of West Virginia:*

That sections three and fourteen of the charter of the city of Wellsburg be amended and re-enacted so as to read as follows:

### *Officers.*

Section 3. The officers of said city shall be a mayor, two councilmen from each ward, collector and treasurer, solicitor, clerk, street commissioner and chief of police. The mayor, members of council, collector and treasurer and clerk of said city shall be elected by the voters of said city as hereinafter provided; the other officers shall be appointed by the council.

Sec. 14. At the election of officers to be held upon the second Tuesday in April, one thousand nine hundred and nineteen, there shall be elected a mayor, collector and treasurer and one councilman from each ward; and thereafter the mayor and collector and treasurer shall be elected every two years and shall hold their respective offices for the term of two years and until their successors shall be elected and qualified.

The clerk elected in said city at the election held therein on the second Tuesday in April, one thousand nine hundred and eighteen, shall hold his office for the term of two years from the first Monday in May, one thousand nine hundred and eighteen, and thereafter a clerk shall be elected every two years, who shall hold his office for the term of two years and until his successor is elected and qualified.

## CHAPTER 17.

(Senate Bill No. 195---Mr. Staats.)

AN ACT to amend and re-enact sub-section (e) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen of the legislature of West Virginia, entitled "An act to amend and re-enact section nineteen of chapter eighty-three of the acts of one thousand nine hundred and eleven of the legislature of West Virginia, entitled 'An act to amend and re-enact chapter sixty-six of the acts of one thousand nine hundred and three, and chapter four of the acts of one thousand nine hundred and seven, extraordinary session of the legislature incorporating the city of Parkersburg in the county of Wood as amended by chapter one hundred and nineteen of the acts of the legislature of one thousand nine hundred and seventeen and repealing all acts and parts of acts inconsistent or in conflict therewith, and to amend and re-enact sub-section (f) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen of the legislature of West Virginia.

[Passed February 18, 1919. In effect from passage. Became a law without the Governor's approval.]

SEC.  
Sub-section (e). City of Parkersburg authorized to issue bonds for paving, laying sidewalks, curbing streets and alleys and constructing sewers for drainage.

SEC.  
Sub-section (f). Question of issuing bonds to be submitted to qualified voters of the city; provisions of chapter 47-a of the code to apply.

*Be it enacted by the Legislature of West Virginia:*

That sub-sections (e) and (f) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Sub-section (e). Whenever it is deemed expedient by the  
2 council to provide for paving, sidewalks, curbing or sewers in  
3 or upon any of the streets or alleys of the city by the issue and  
4 sale of bonds of the city, it shall, by resolution entered of record  
5 on the minutes of its proceedings, so declare and thereupon the  
6 city shall be and is hereby empowered and authorized to issue  
7 its bonds for the purpose of providing for paving, laying side-  
8 walks, curbing the streets and alleys of the city and of construct-  
9 ing sewers for the proper drainage of said city, in anticipation  
10 of special assessments to be made upon the property abutting  
11 upon the streets and alleys so improved, and upon street car and  
12 other railway companies occupying the said streets or alleys with  
13 tracks, and such bonds may be in such amount as shall be suf-  
14 ficient to pay the entire cost and expense of said improvements  
15 for which such special assessments are levied; and said city is  
16 also authorized to sell said bonds; *provided*, that the price for  
17 which they are sold shall not be below par value of said bonds;  
18 said bonds shall be payable not to exceed fifteen years from the  
19 date of the issue thereof, and shall bear interest not to exceed  
20 six per centum per annum, payable semi-annually; and in the issu-  
21 ance or sale of said bonds the city shall be governed by all the re-  
22 strictions and limitations of the constitution of this state, and  
23 so far as not in conflict with the provisions of this section  
24 by the restrictions and limitations of this state with respect  
25 to the issuance and sale of other bonds; and said bonds may be  
26 either straight sinking fund bonds all of which shall bear the same  
27 date of maturity not to exceed fifteen years from the date of their  
28 issuance, or serial bonds, any number of which may be made to  
28-a mature at such times not to exceed fifteen years from the date of  
28-b issuance, as may be provided in the ordinance providing for the  
29 issue and sale of said bonds and in the event that the bonds so  
30 issued and sold are straight sinking fund bonds, as hereinbefore  
31 provided, the assessments as paid and provided for in this section  
32 shall be applied to the liquidation of said bonds and the interest  
33 thereon, and to that end paid to the trustees of the sinking funds  
34 of the city, to be by them invested to the best advantage of the said  
35 city, anything in any general or special statute of the state not-

36 withstanding to the contrary, and in the event that the bonds so  
37 issued and sold are serial bonds, the assessments as provided  
38 for in this section shall be deposited as collected by the city  
39 with the city treasurer in a fund to be known as—fund for the  
40 redemption of the principal and interest of the bonds so issued  
41 and sold, from which fund the council of the city shall cause  
42 the interest and principal of said bonds to be paid as the same  
43 mature and said fund shall be issued for no other purpose; and  
44 if by reason of penalties collected with the delinquent installments,  
45 there may be any balance after the payment of said bonds and all  
46 accrued interest and costs said balance shall be turned into the  
47 city treasury to the credit of a fund for street improvements  
48 for said city and used for no other purpose; *provided*, that the city  
49 shall not by the sale or issue of such bonds cause the aggregate  
50 of its debts of every kind whatsoever to exceed five per centum  
51 of the value of the taxable property therein; nor shall the city  
52 make such issue and sale without at the same time providing for  
53 the collection of a direct annual tax sufficient to pay annually the  
54 interest on such debt and principal thereof within and not ex-  
55 ceeding fifteen years.

56 *Provided, further*, that nothing herein contained shall be  
57 construed to prohibit said city from becoming indebted; but  
58 said city is hereby authorized to become indebted, in any lawful  
59 manner or for any lawful purpose, other than the purpose men-  
60 tioned in this section, to an amount including existing indebtedness  
61 (and in determining the amount of “existing indebtedness bonds  
62 issued for the purposes provided in this section, shall not be includ-  
63 ed) in the aggregate not exceeding two and one-half per cent on a  
64 value of the taxable property therein to be ascertained by the last  
65 assessment, for state and county taxes previous to the incurring of  
66 said indebtedness.

67 All of the assessments, interest and penalties thereon, col-  
68 lected from the abutting property owners on account of the grad-  
69 ing, paving, sewerage or otherwise improving the streets and alleys  
70 of the city, under the provisions of this section, shall annually be  
71 applied to the annual tax required to pay the interest on such  
72 debt, and such principal within and not exceeding fifteen years;  
73 and in the event that the assessments, interest and penalties so col-  
74 lected should not amount to a sum sufficient to pay annually the  
75 interest on such debt and the principal thereof, within and not ex-  
76 ceeding fifteen years, then the council shall collect so much of said

77 levy as will pay annually the interest on such debt and the princi-  
78 pal thereof within and not exceeding fifteen years.

Sub-Sec. (f). It is especially provided that no bonds shall  
2 be issued under the provisions of this section, unless and until the  
3 question of issuing said bonds shall have first been submitted to a  
4 vote of the people of the city and shall have received three-fifths  
5 of all votes cast at said election for or against the same. The  
6 council may provide by ordinance for an election every year, at  
7 which the question shall be submitted to the people as to whether  
8 the city shall be authorized to issue bonds for the purpose and  
9 under the provisions of this section, to an amount not to exceed  
10 in the ensuing year the amount recommended by said ordinance  
11 for said ensuing year; but the ordinance providing for said  
12 election need not specify in detail the location of the improvements  
13 contemplated to be paid for during the ensuing year out of said  
14 aggregate issue authorized for said year, and not withstanding the  
15 provisions of section two, three and six of chapter forty-seven-a of  
16 the code, it shall be sufficient description of the purpose for which  
17 said election is held if the ordinance calling the same shall cite  
18 that it authorizes the council to issue bonds for the purpose of  
19 paving, curbing, laying side walks or sewerage the street and al-  
20 leys of said city, at such times as to the council may seem fit  
21 during the ensuing year ending on the . . . . . day of . . . . . ,  
22 issue bonds for the said purpose and to a sum not to exceed the  
23 year the sum of \$. . . . . , and the council may provide  
24 in said ordinance that said bonds may be either serial or sinking  
25 fund bonds and that bids may be received for either or both  
26 kinds of said bonds and at different rates of interest, none of  
27 which shall exceed six per cent per annum and upon receipt  
28 of said bids, council shall by resolution entered upon its minutes  
29 and without further ordinance determine the kind of said bonds  
30 and the rate of interest which they shall bear; and when the  
31 council shall have once been authorized by vote of the people to  
32 issue bonds for the said purpose and to a sum not to exceed the  
33 amount set forth in the ordinance calling the said election, no  
34 further election shall be necessary for the issuing of bonds during  
35 said ensuing year up to the amount stipulated in said ordinance  
36 calling said election, but the council shall from time to time dur-  
37 ing said ensuing year by ordinance authorize the issue of said



38 bonds, in such sums, and for the improvement of such streets and  
 39 alleys as to it may seem best, *providing* the requirements of this  
 40 section are complied with. The aggregate amount of bonds  
 41 authorized by said annual election shall not be exceeded during  
 42 said year, unless and except the same be authorized by a special  
 43 election held at a subsequent time in said year and duly called as  
 44 provided for the calling of the annual bond election.

45 The provisions of chapter forty-seven-a of the code concern-  
 46 ing bond elections, shall, so far as they are not in conflict with  
 47 the provisions of this section apply to the annual bond elections  
 48 and special bond elections therein provided for.

## CHAPTER 18.

(Senate Bill No. 180—Mr. Harmer.)

AN ACT to amend and re-enact sections six and fifteen of chapter two of the acts of the legislature of West Virginia, regular session, one thousand nine hundred and fifteen, as codified under municipal charters relating to the charter of the city of Shinnston.

[Passed February 14, 1919. Effective from passage. Became a law without the Governor's approval.]

<p>SEC.          6. Eligibility to office in city of          Shinnston.          15. Councilman entitled to vote;</p>	<p>SEC.          mayor entitled to vote in case of tie; acts and parts of acts inconsistent herewith repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections six and fifteen of chapter two of the acts of the legislature of one thousand nine hundred and fifteen, regular session, as codified under municipal charters, be amended and re-enacted so as to read as follows:

Section 6. No person shall be a candidate for the office of  
 2 mayor, recorder, or councilman at any city election, unless he  
 3 shall have filed with the recorder of said city, at least fifteen days  
 4 prior to the election day, a statement in writing showing his name  
 5 and the designation of the office to which he aspires, and such  
 6 statement shall be filed with the records of said office and open  
 7 to public inspection. And no person shall be eligible to the office  
 8 of mayor, recorder or councilman, unless at the time of his election  
 9 he is legally entitled to vote in the city election for city officer;  
 10 and was in the preceding year assessed with taxes upon real or

11 personal property within said city of an assessed value at least  
 12 two hundred dollars and shall have actually paid the taxes so  
 13 assessed. And the council of said city shall fix and determine  
 14 such rules and regulations as to the eligibility and employment of  
 15 subordinate officers of said city as to them may seem best.

Sec. 15. Each councilman present at any meeting of coun-  
 2 cil shall be entitled to a vote upon any matter or question prop-  
 3 4 5 6 7  
 4 ily pending before council, and the mayor shall have a vote  
 4 only in case of a tie, and in no case shall the presiding officer  
 5 have two votes; and no member of the council shall vote or take  
 6 part in the consideration of any proposition or measure in which  
 7 he may be interested otherwise than a resident of the city.

8 All acts or parts of acts in conflict or inconsistent with this  
 9 act are hereby repealed.

## CHAPTER 19.

(Senate Bill No. 251—Mr. Kump.)

AN ACT to amend and re-enact sections forty-nine and fifty of chap-  
 ter six of the acts of the legislature of West Virginia of the reg-  
 ular session of nineteen hundred and fifteen, relating to the char-  
 ter of the city of Martinsburg.

[Passed February 21, 1919. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

Sec.

49. Contracts for permanent paving of  
 streets and alleys of city of  
 Martinsburg; paying for same.

SEC.

50. Construction of sewers; conditions  
 and rules governing.

*Be it enacted by the Legislature of West Virginia:*

That sections forty-nine and fifty of chapter six of the Acts of the  
 Legislature of West Virginia of the regular session of one thousand  
 nine hundred and fifteen be amended and re-enacted so as to read as  
 follows:

Section 49. Whenever the council may deem it expedient to  
 2 cause any street or alley in said city, or portion thereof, to be  
 3 paved in a permanent manner, it shall order the work done in the  
 4 following manner and upon the following terms: The contract  
 5 for such paving shall, after due advertisement in which the coun-  
 6 cil shall reserve the right to reject any and all bids, be let, if let,  
 7 to the lowest and best bidder. The contractor shall look only to  
 8 the city for payment for the work and in no sense to the abutting

9 land owners. The total cost of grading and paving any such  
10 street or alley, (except when streets are occupied by street car or  
11 tracks, for the distance between the rails and two additional feet  
12 outside of each rail, which portion shall be borne and paid en-  
13 tirely by the street car company owning or operating such railway  
14 and tracks,) shall be borne by the city and the abutting property  
15 owner, at the option of the council, which plan is to be deter-  
16 mined by it, before beginning the work, in the proportions of  
17 one-third by the city and one-third each by the abutting prop-  
18 erty owner, or by charging the entire cost to the abutting prop-  
19 erty owner on each side of the block or street on which said pav-  
20 ing shall be constructed, apportioned according to the respective  
21 frontage of each owner thereon. The cost of such paving charge-  
22 able to the abutting property is not to include any portion or  
23 amount paid for paving of squares at intersections of streets,  
24 which shall in all cases be borne and paid by the city.

25 When the paving of any street or alley or portion thereof  
26 shall have been let to contract and the work done as hereinbefore  
27 provided, it shall be the duty of the commissioner of streets to  
28 cause the several frontages abutting thereon to be measured, to  
29 calculate the assessment upon each and every land owner so abut-  
30 ting, and to certify the same to the council, showing the proper  
31 amount to be determined as provided in the foregoing plan. It  
32 shall be the duty of the council to examine and compare such as-  
33 sessments, amounts and names so certified to it. Thereupon the  
34 council shall give notice by publication for two successive weeks  
35 in some newspaper published in said city that an assessment,  
36 under this act, is about to be made against abutting property for  
37 paving done on said streets or alleys, describing the location of  
38 such paving. Any owner or owners of abutting property shall  
39 have the right to appear before said council, within three weeks  
40 from the first publication thereof, and move such council to cor-  
41 rect any apportionment or assessments improperly made; which  
42 corrections said council shall have the power to make. If found  
43 to be correct, or when rectified, the council shall cause the same  
44 to be entered, together with the description as to the location,  
45 frontage, depth and ownership of the land, so far as the same  
46 may be ascertained, upon its record, and to enter in its record,  
47 that such owners and lots be assessed and chargeable with the  
48 amounts so ascertained to be borne by them respectively. When  
49 so approved, certified and entered of record, the same shall be

50 and constitute an assessment against said owners and lots for  
51 such respective amounts. It shall be the duty of the council to  
52 immediately certify such assessment to sergeant for collection  
53 as hereinbefore provided. A copy of such orders shall be certi-  
54 fied by the recorder to the clerk of the county court of Berkeley  
55 county, who shall be required to record and index the same in the  
56 proper deed book in the name of each person against whose prop-  
57 erty assessments appear therein. The amount so assessed against  
58 any land owners, as aforesaid, shall be paid in ten installments as  
59 follows; that is to say: One-tenth thereof within sixty days from  
60 the date the same is certified to the sergeant; one-tenth thereof,  
61 with interest from day of entry, on the first day of October next  
62 ensuing, and one-tenth thereof, with interest from the date of  
63 entry payable October first of each year, on the first day of Oc-  
64 tober in each year thereafter until the whole thereof shall have  
65 been paid; *provided, however*, that any owner or owners so liable  
66 for any part of the costs of such paving shall have the right at  
67 any time after certification as aforesaid to anticipate the payment  
68 of such installment, or any of them, and to discount the same for  
69 cash on the basis of two and one-half per cent. To each of such  
70 installments of assessments remaining unpaid in the scrgenant's  
71 hands at the time specified for such payment, a penalty of five  
72 per cent, together with six per cent per annum interest until paid,  
73 shall be added; and payment thereof enforced in all respects as  
74 hereinbefore provided for the collection of any other taxes due  
75 the city and such shall be a lien upon the property liable therefor,  
76 the same as for other taxes, and the lien may be enforced in the  
77-78 same manner as provided for the taxes.

79 The liens hereinbefore provided for shall have priority over  
80 all other liens, except those for taxes due the state and county,  
81 and shall be on a parity with other taxes and assessments due the  
82 city. Upon the payment of any assessment to the sergeant, he  
83 shall deliver to the parties paying the same a lease of the lien  
84 therefor, which may be recorded in the county clerk's office as  
85 other releases of liens. Should such assessment not be in his  
86 hands, or have not by him been turned over to the treasurer, if  
87 the same shall have been shown to the satisfaction of the council  
88 to have been paid in full to any officer entitled to receive the  
89 same as designated by it, the council may direct the recorder and  
90 auditor to execute a release of such lien, which release may in like  
91 manner be recorded.

*Sewers.*

Sec. 50. Whenever the council shall deem it expedient to construct a public sewer in any one or more city blocks, or any part thereof, or in any street or alley, or any part of a street or alley, or to provide at once an adequate sanitary sewerage system, inclusive of all necessary or convenient incinerating and disposal plants, or any part thereof, for said city, it shall so order and the improvement thus ordered shall be made in accordance with the following conditions, to-wit:

*First:* The council shall adopt a general, comprehensive plan for sewerage, and sewage disposal, inclusive of incinerating and disposal plants, approved by some competent sewerage engineer, and of sufficient capacity to serve the whole territory within the city limits.

*Second:* Upon the adoption of such plan, the council shall fix by order, the time when and place where the work upon such improvement shall be begun, and whether the same shall be begun, and whether the same shall be undertaken as a whole, or, for the time being, confined to certain designated sections, blocks, squares and streets; and if less than the whole improvement be authorized, the construction of such part or parts as shall be so ordered shall be executed in accordance with the specifications therefor embraced in said general plan so that when completed the whole shall form a properly co-ordinated sewerage system conforming to said general plan.

*Third:* The contract for such work, whether for the whole or for parts of said system shall be submitted to competitors bidding, after an advertisement of not less than once a week for two successive weeks in two newspapers published in said city, and awarded to the lowest and responsible bidder. The council, however, shall have the right to reject any and all bids; and no contract shall be made in pursuance of this authority except upon the express condition that, before the same becomes binding upon the city, the contractor, or some one for him, shall enter into and acknowledge bond, with security to be approved by the council, in a penalty double the price named in the contract for the work therein specified, with conditions that he will faithfully perform the duties and promptly and skillfully perform the labor provided for in said contract, and pay all costs and damages that may be sustained by said city or by any

40 citizen, inhabitant, resident or tax payer thereof, in respect to  
41 both persons and property, in the execution thereof, and save it  
42 and them harmless in the premises.

43 *Fourth:* The contractor shall look alone to the city for pay-  
44 ment for the work covered by such contract.

45 *Fifth:* The contractor shall receive payment for his ser-  
46 vices, not to exceed the contract price, at such times and in such  
47 sums as the council may by said contract prescribe, but ten per  
48 centum, at least, of the contract price shall be retained by the  
49 council for ninety days after the completion of the work speci-  
50 fied in the contract as additional security for the proper execu-  
51 tion of the work. The contract may contain all such other safe  
52 guards, limitations, provisions and conditions, as are usual and  
53 as to the council may seem fair and right.

54 *Sixth:* The total cost of the disposal and incinerating  
55 plants, including the acquisition and purchase of the ground,  
56 if any, necessary therefor, as well as the acquisition and purchase  
57 of any other real estate necessary to the work as a whole, shall  
58 be borne by the city.

59 *Seventh:* The total cost of laying sewers in public squares,  
60 and in squares formed by the intersection of streets and alleys,  
61 (and in front of all city property) shall be borne by the city.

62 *Eighth:* The total cost of all other work incident to laying  
63 such sewer or sewers in any city block or blocks, and in the  
64 streets and alleys of the city, not herein made a special charge  
65 against the city, shall be borne by the city and by the abutting  
66 property owners, at the option of the council, which plan is to be  
67 determined by it before beginning the work, in the proportion  
68 of one-third by the city and one-third each by the abutting prop-  
69 erty owner, or by charging the entire cost to the abutting prop-  
70 erty owner on each side of the block or street in which such  
71 sewer shall be constructed, apportioned according to the respec-  
72 tive frontage of each owner thereon, except that corner lots shall  
73 be estimated on a basis of not exceeding one hundred and fifty  
74 feet in depth.

75 *Ninth:* When said sewer is completed, in whole or in part,  
76 and connected up with the disposal plant ready for use, then,  
77 as to so much and such part or parts thereof as have been so  
78 completed and connected up, the city engineer shall report to  
79 the council in writing the total cost, together with a description  
80 of the lots and lands abutting thereon, their location, frontage,

81 depth and ownership, so far as ascertainable, with the amount  
82 chargeable against each lot and owner thereof estimated on the  
83 basis above named. The council shall verify said report and  
84 correct any errors that appear upon the fact thereof, and give  
85 notice by publication once a week for two successive weeks in  
86 two newspapers of opposite politics published in said city, that  
87 on a day named in said notice, an assesment under this contract  
88 will be laid against abutting property and the owners thereof  
89 in the amounts and against the owners, respectively, appearing  
90 in said report, for the sewers constructed in the blocks, streets  
91 and alleys in the notice designated. Any owner or owners of  
92 abutting property shall have the right to appear before the  
93 council on or before the day fixed in said notice and move the  
94 review and revision of any such proposed assessment. The coun-  
95 cil shall have power, in its discretion, to make any proper cor-  
96 rection and adjustment of the proposed assessment complained  
97 of; *provided*, the application therefor be made within the time  
98 limited by said notice, but not if made afterwards. At the  
99 expiration of the time fixed by said notice, if no application for  
100 review or revision of any assessment be pending, or, if pending,  
101 then upon the determination thereof the council shall proceed  
102 to lay an assessment on the basis aforesaid against the lots and  
103 lands abutting on such sewer and the respective owners thereof,  
104 and cause the same to be entered upon its records, together with  
105 a description thereof substantially as reported by said engi-  
106 neer, and from the date of such entry the amount so reported,  
107 laid and found, shall constitute an assessment against the lots  
108 and lands and the owners thereof and in the amounts therein  
109 named respectively.

110 It is expressly *provided, however*, that in appcrtioning said  
111 cost the amount assessed against the abutting property owner  
112 shall in no case exceed a sum equal to a charge of one dollar  
113 per front foot for inside lots and one dollar and fifty cents per  
114 front foot (calculated to a depth of not exceeding one hun-  
115 dred and fifty feet) for corner lots.

116 A copy of the order making such assessments, certified by  
117 the city recorder, shall be filed for record with the clerk of the  
118 county court of Berkeley county, and be recorded and indexed  
119 by him in the proper deed-of-trust book, or judgment lien docket,  
120 in the name of each owner against whose property assessments  
121 appear therein.

122 Immediately upon the entry of such assessments the coun-  
123 cil shall certify the same to the sergeant for collection, and  
124 from the time of filing same for record in the office of the clerk  
125 of the county court such assessments shall be a lien against  
126 the lots and lands in respect to which the assessments was made.  
127 The amounts so assessed against said lots and lands and  
128 the owners thereof shall be payable in ten installments as fol-  
129 lows: One-tenth thereof within sixty days from the date the  
130 same is certified to the sergeant for collection; one-tenth thereof,  
131 with interest from date of entry, on the first day of October  
132 next ensuing; and one-tenth thereof, with interest from the  
133 date of entry, payable October first of each year, on the first  
134 day of October in each year thereafter until the whole thereof  
135 shall have been paid; *provided, however,* that any owner or own-  
136 ers so liable for any part of the costs of such sewers shall have  
137 the right at any time after certification as aforesaid to antici-  
138 pate the payment of such installments, or any of them, and to  
139 discount the same for cash on the basis of two and one-half per  
140 cent. To each of said installments remaining unpaid at ma-  
141 turity, or to any part thereof, a penalty of five per cent shall be  
142 added, in addition to the interest and payment thereof enforced  
143 in all respects as provided for the collection of other city levies;  
144 all of which charges, assessments and penalties shall be a lien  
145 upon the property liable therefor the same as other city levies  
146 and enforced in the same manner. The liens herein provided  
147 for shall have priority over all other liens except for state and  
148 county levies, and shall be on a parity with other taxes and  
149 assessments made for the benefit of the city. Upon payment  
150 of any such assessment the sergeant shall deliver to the party  
151 making payment a release of the lien therefor substantially in the  
152 form and to the effect provided by the statutes of West Virginia  
153 for the release of liens created by deeds-of-trust, judgments, or  
154 otherwise, or in lieu hereof, the sergeant may endorse satisfaction  
155 of such assessment on the margin of the page of the book in  
156 which the same is recorded in said clerk's office and such en-  
157 dorsement shall be deemed a sufficient release of said lien. Should  
158 such assessment not be paid to the sergeant, or being paid to  
159 him not be turned over by him to the treasurer, and it be **made**  
160 to appear to the satisfaction of the council that the same has  
161 been actually paid to any person authorized to receive the same,  
162 the council may direct the recorder, auditor, or other person



163 specially designed for the purpose, to execute a release of the  
164 lien securing the same or to enter the satisfaction thereof as  
165 provided in case of the sergeant's receipt of same, and in either  
166 case the release or entry of satisfaction shall be held to release  
167 said lien.

168 *Tenth:* The owner or owners of any lot abutting upon  
169 any street or alley in said city in which a public sewer is or  
170 may hereafter be laid and constructed on which lot any busi-  
171 ness or residence building is or shall hereafter be erected, and  
172 which building is not otherwise lawfully connected with a pub-  
173 lic sewer, may be required and compelled by the council, or by  
174 the board of health of the city, to connect such building with  
175 such sewer. Notice to so connect shall be deemed sufficient if  
176 given to the owner, lessee, or occupant of such building. Each  
177 day's failure to comply with such notice and to make such con-  
178 nection by such owner or owners, after the lapse of ten days  
179 from the day such notice is given, shall be a misdemeanor and  
180 a separate and new offense under this act, and each such offender  
181 shall be punishable, on conviction, by a fine of not less than  
182 five dollars nor more than twenty-five dollars. Jurisdiction to  
183 hear, try, determine and sentence for violations of this section  
184 is vested in the police court of said city. Notwithstanding any-  
185 thing herein, however, if said owner or owners shall fail to  
186 comply with such notice the council may also, by ordinance, order  
187 such connection to be made at the expense of the city and the  
188 cost thereof to be certified to the clerk of the county court of  
189 Berkeley county for record, and the same shall constitute a lien  
190 upon the lots and lands of said owner or owners abutting on  
191 such sewer from the date of filing said certificate for record  
192 with the same force and effect and with the same penalties and  
193 remedies as in the case of the assessments hereinbefore provided  
194 for.

195 *Eleventh:* Whenever the council deems it expedient to  
196 permanently pave or re-surface any street or alley, or any part  
197 thereof, of said city, not then served by a public sewer, and it  
198 is in the interest of economy that a sewer should first be laid  
199 therein in anticipation of being later made a part of the general  
200 sewerage system hereinbefore mentioned, it shall have the power,  
201 and it is hereby authorized to order the construction of such  
202 sewer and to assess against and collect of the abutting property  
203 owners the same proportion of the cost thereof, upon the same

204 terms, with the same rights, remedies and penalties in all re-  
 205 spects, as provided for the construction of the general sewerage  
 206 system hereinbefore set forth, excepting, however, that the right  
 207 to lay such assessments and to collect the same shall not be de-  
 208 pendent upon the connection of such sewer with the disposal  
 209 plant as a matter precedent to the payment therefor.

## CHAPTER 20.

(Senate Bill No. 235—Mr. York.)

AN ACT to amend and re-enact sections three, five, six, ten, eleven, sixteen, thirty, thirty-one, thirty-three, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two, forty-six, forty-seven, fifty-two and fifty-four of chapter fourteen of the acts of the legislature of one thousand nine hundred and fifteen amending the charter of the city of Williamson.

[Passed February 17, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

<b>Sec.</b>		<b>Sec.</b>	
3.	Municipal authorities of the city of Williamson; method of election.	35.	Department of public service; general powers and duties.
5.	Subordinate officers.	36.	Department of public welfare; powers and duties.
6.	Eligibility to office.	37.	Health officer; duties.
10.	Elections and appointments.	38.	Department of public safety; powers and duties.
11.	Nominating of candidates by ordinance and otherwise; ballot commissioners; contested elections; right of appeal by candidates; procedure; vacancies, how filled.	39.	Division of police.
16.	Vote of members.	41.	Division of fire.
30.	Mayor and clerk; their powers and duties.	42.	Suspension of chiefs of police and fire.
31.	Clerk of the commission.	52.	Salaries of elective and appointive officers; how paid.
33.	Directors of departments.	54.	Officers of city at time this act is effective to continue until successors qualify.

*Be it enacted by the Legislature of West Virginia:*

That sections three, five, six, ten, eleven, sixteen, thirty, thirty-one, thirty-three, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two, forty-six, forty-seven, fifty-two and fifty-four of chapter fourteen of the acts of the legislature of one thousand nine hundred and fifteen amending the charter of the city of Williamson be amended and re-enacted so as to read as follows:

Section 3. The municipal authorities of said city shall consist of six commissioners, who together, shall form the board of commissioners and otherwise be known as the commission.

Said commissioners shall be elected by the voters thereof except as herein provided.

The six commissioners receiving the greatest number of

7 votes cast for the office of commissioner, shall, subject to the  
8 provisions mentioned below, be declared elected to that office;  
9 *provided, nevertheless,* that not more than three persons of the  
10 same political party may be so elected. One of the said com-  
11 missioners shall serve as mayor and one as clerk.

*Subordinate Officers.*

Sec. 5. The commission shall appoint an attorney, a treas-  
2 urer and a chief of police and other officers for the city, except  
3 as herein otherwise provided.

*Eligibility of Office.*

Sec. 6. No person shall be eligible to the office of commis-  
2 sioner unless at the time of his election he is legally entitled to  
3 vote in the city election for member of the commission, and was  
4 for the preceding year assessed with taxes upon real or personal  
5 property within the said city of the assessed value of two hun-  
6 dred dollars, and shall have actually paid the taxes so as-  
7 sessed. And no person shall be eligible to any subordinate of-  
8 fice under said city, who is not at the time of his election or  
9 appointment entitled to vote for members of the commission.  
10 No person holding an elective or appointive office under the state  
11 or county governments shall be eligible to appointment to any  
12 office under the city government.

*Elections and Appointments.*

Sec. 10. The first election hereunder shall be held on the  
2 first Thursday in June, one thousand nine hundred and nine-  
3 teen, at which time a full board of commissioners shall be elected.  
4 The term of office of the commissioners so elected shall continue  
5 for two years thereafter and until their successors are elected  
6 and qualified. The term of office of the commissioners elected  
7 at the election held on the first Thursday in June, one thousand  
8 nine hundred and nineteen, and at all succeeding elections, shall  
9 begin on the first day of July next ensuing after such elections  
10 and shall be for two years and until their successors are elected  
11 and qualified, unless they are sooner removed in the manner  
12 provided by law.

13 All appointive officers shall hold their office during the  
14 pleasure of the commission.

15 The commission shall hold a meeting at the city hall of said  
16 city on the first Monday in May, one thousand nine hundred and

17 nineteen, at 7:30 o'clock, P. M., at which meeting it shall appoint  
18 four qualified persons to act as commissioners of election, two  
19 qualified persons to act as clerks of election and two qualified  
20 persons to act as challengers of election at each voting precinct  
21 of said city, to hold and conduct said election, ascertain and  
22 certify the result thereof, in the manner following: Two of  
23 said commissioners, a clerk and a challenger for each voting  
24 precinct shall be appointed by the commissioners now consti-  
25 tuting a majority of the commission and being the representa-  
26 tives of one of the two leading political parties and two of the  
27 said commissioners, a clerk and a challenger for each voting pre-  
28 cinct shall be appointed by the commissioners constituting the  
29 minority of said commission and being the representatives of  
30 the other leading political party; *provided, however,* that if at  
31 any time before or during said meeting the chairman of the  
32 county executive committee of either political party from which  
33 said commissioners of election are to be selected or appointed  
34 shall present to the commission a writing, signed by them re-  
35 questing the appointment of a qualified voter of their political  
36 party for commissioner at each voting precinct of said city, it  
37 shall be the duty of the commission to appoint the person so  
38 named in such writing as one of such commissioners.

39 At all subsequent elections the commission created by this  
40 charter shall meet on the first Monday in the month preceding  
41 such election and appoint election officers in the manner herein  
42 provided, except that the commissioners representing each  
43 political party on the commission created hereby shall select the  
44 election officers as herein provided, but the chairman of the ex-  
45 ecutive committees of the two dominant political parties of the  
46 city shall have the right to designate a commissioner for each  
47 voting precinct to represent each of said parties, and in all other  
48 respects said commissioners, clerks and challengers shall be ap-  
49 pointed as hereinabove provided.

Sec. 11. The commission may also, by ordinance, make  
2 provision as to the manner of nominating candidates for offices  
3 to be filled by the voters of the city not in conflict with the laws  
4 of the state with reference to the nomination of candidates in  
5 city elections and not in conflict with the other provisions of this  
6 act.

7 Any political party may nominate for the office of com-

8 mission not more than three persons, certificates of such nomina-  
9 tion to be filed with the clerk, at least twenty days prior to the  
10 day of the election.

11 Two ballot commissioners shall be appointed by the com-  
12 mission to be designated by the membership from the two leading  
13 political parties represented by the commission, respectively. The  
14 mayor shall be *ex-officio* member of the board of ballot commis-  
15 sioners, and as such the chairman thereof. The duties of the  
16 ballot commissioners shall, in the city election, conform as nearly  
17 as may be to the duties of ballot commissioners acting in a general  
18 election for state and other offices.

19 The election shall be held, conducted and result thereof as-  
20 certified, certified, returned and determined under the consti-  
21 tution and general laws of the state governing municipal elec-  
22 tions, and shall conform as nearly as practicable to such laws,  
23 except as otherwise provided herein. Contested elections shall  
24 be heard and decided by the commission and the proceedings  
25 thereon shall conform as nearly as may be to similar proceed-  
26 ings in the case of county and district officers. The commission  
27 shall be the judge of the election returns and qualifications of  
28 its own members. Any candidate shall, however, have the right  
29 of appeal to the circuit court of Mingo county from the decision  
30 of the said commission upon a matter of recount or from the  
31 result of a contest in the matter of election heard by said com-  
32 mission. The candidate, in order to secure such appeal, shall  
33 file before the said board a petition praying for such appeal and  
34 a bond conditioned to pay costs in a penalty not to exceed two  
35 hundred dollars. Upon the filing of such petition and bond it  
36 shall be the duty of the commission to grant the appeal. If the  
37 commission shall omit so to do, then the judge of the said circuit  
38 court shall award such appeal upon condition that the applicant  
39 shall give bond in the penalty of two hundred dollars. When  
40 the appeal is perfected in the circuit court, then the said matter  
41 shall be heard *de novo* by the judge of the said court, who shall  
42 determine the rights of the parties and award judgment accord-  
43 ingly and an appeal may be taken from the decision of the judge  
44 of the said circuit court to the supreme court of appeals of this  
45 state, if the latter court, or one of the judges thereof in the  
46 vacation of the court, shall be of opinion that there is error in the  
47 judgment of the circuit court.

48 In event there shall be a vacancy in the office of commis-  
49 sioner, the remaining commissioners shall appoint a suitable and  
50 qualified person as commissioner to fill such vacancy and such  
51 appointee to be such person as is recommended by the chairman  
52 of the county executive committee of the party to which vacating  
53 member belonged and to be of the same political party as was  
54 the commissioner whose place the said appointee is designated  
55 to fill.

*Votes of Members.*

Sec. 16. The mayor shall have a vote as a member of said  
2 commission, but in no case shall he have but one vote. No  
3 member of the commission shall vote upon or take part in the  
4 consideration of any proposition in which he is or may be in-  
5 terested otherwise than as a resident of said city.

*Mayor and Clerk.*

Sec. 30. The commissioner receiving the highest number  
2 of votes in the city, shall by reason thereof, be the mayor of said  
3 city; and the person receiving the greatest number of votes, of  
4 the opposite political party, shall by reason thereof, be the clerk  
5 of said commission.

6 In the event of a vacancy in the office of mayor by death,  
7 resignation or removal, the commission shall choose his successor  
8 for the unexpired term from their own number, but only by  
9 the affirmative vote of at least four members of said commission.

9-a The mayor shall be the presiding officer of the commission  
10 except, that in his absence a mayor *pro tem* may be chosen. He  
11 shall exercise all such powers as are conferred and perform all  
12 duties imposed upon him by this charter, by the ordinance of the  
13 city, as well as by the laws of the state, not in conflict herewith.  
14 He shall be recognized as the official head of the city by the courts  
15 for the purpose of serving civil processes; by the government for  
16 the purposes of military law, for all ceremonial purposes; and  
17 by virtue of his said office, shall be the administrative head of  
18 the municipal government and shall be responsible for the efficient  
19 administration of all departments, and it shall also be his duty  
20 to

21 (a) Attend all meetings of the commission.

22 (b) To recommend to the commission for adoption such  
23 measures as he may deem necessary or expedient.

24 (c) To keep the commission fully advised as to the finan-  
25 cial condition and needs of the city.

26 (d) To perform such other duties as may be prescribed by  
27 this charter or be required of him by ordinance or resolution of  
28 the commission.

29 (e) The mayor is hereby authorized and empowered to  
30 exercise all the duties and functions of a justice of the peace in  
31 the trial of criminal cases, but before doing so, the said mayor  
32 shall qualify before the county court and give the bond required  
33 of justices of the peace.

*Clerk of the Commission.*

Sec. 31. The city clerk shall be known as the clerk of the  
2 commission and shall keep the records and minutes of the com-  
3 mission, and in addition thereto shall do and perform all and  
4 singular the matters and things required of the city assessor by  
5 section forty-six of this charter, and do and perform all and  
6 singular the matters and things required of the city collector  
7 as set forth in section forty-seven of this charter, and no other  
8 assessor or collector shall be appointed for said city, and he shall  
9 perform such other duties as may be required of him by the  
10 commission or by this charter. He is also hereby empowered  
11 to certify, under the seal of the city, any copy of the records,  
12 papers or documents of the city for use as evidence in any court  
13 or other tribunal.

*Directors of Departments.*

Sec. 33. The commission shall designate the directors of the  
2 departments established as above, and the directors of the de-  
3 partment assigned as aforesaid shall be subject to the supervision  
4 and management of the commission, conduct the affairs of his  
5 department in accordance with the rules and regulations promul-  
6 gated by the commission and shall be responsible for the other  
7 officers and members of his department, for the performance of  
8 its business and for the custody and preservation of the books,  
9 records, papers and property under its control. Subject to the  
10 supervisions and control of the said commission in all matters,  
11 the directors so designated for each department shall manage the  
12 department.

*Department of Public Service; General Powers and Duties.*

Sec. 35. Subject to the supervision and control of the commission the director of public service, if one there be, shall manage and have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways; of sewers, drains, ditches, culverts, canals, streams and water courses; of all public buildings; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except parks and play grounds. He shall manage market houses, sewer disposal plants and all public utilities of the city. He shall have charge of the enforcement of all of the obligations of privately owned or operated public utilities enforceable by the city. He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public works; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools, and appliances belonging to the city and pertaining to the department.

*Department of Public Welfare; General Powers and Duties.*

Sec. 36. Subject to the supervision and control of the commission, the director of public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the city; the use of all recreational facilities of the city including parks and play grounds. He shall have charge of the inspection and supervision of all public amusements. He shall enforce all laws, ordinances and regulations relative to the preservation and promotion of the public health; the prevention and restriction of disease; the prevention, abatement and suppression of nuisances, and the sanitary inspection and supervision of productions, transportation, storage and sale of food and food-stuffs. In time of epidemic, or threatened epidemic, he may enforce such quarantine and isolation regulations as are appropriate to the emergency.

*Health Officer.*

Sec. 37. The health officer of the city shall be under the direction and control of the commission and shall enforce all ordinances and laws relating to health and shall perform all duties and have all powers provided by general law relative to public health to be exercised in municipalities by health officers;



6 *provided*, that regulations affecting the public health additional  
7 to those established by general law and for the violation of which  
8 penalties are imposed, shall be enacted by the commission and  
9 enforced as provided herein.

*Department of Public Safety; General Powers and Duties.*

Sec. 38. Subject to the supervision and control of the com-  
2 mission the director of public safety—if there be one, shall be  
3 the executive head of the division of police and fire. He shall  
4 also be the chief administrative authority in all matters affecting  
5 the inspection and regulation of the erection, maintenance, re-  
6 pair and occupancy of buildings as may be ordained by the com-  
7 mission or established by the general law of the state of West  
8 Virginia. He shall be charged with the enforcement of all laws  
9 and ordinances relating to weights and measures.

*Division of Police.*

Sec. 39. The chief of police, subject to the approval of the  
2 commission, shall have control of the stationing and transfer  
3 of all patrolmen and other officers and employees constituting the  
4 police force, under such rules and regulations as the director  
5 of public safety—or in his absence, the mayor as city manager  
6 —may prescribe. The police force shall be composed of a chief  
7 of police and such officers, patrolmen and other employees as the  
8 commission may determine.

*Division of Fire.*

Sec. 41. The fire chief, subject to the approval of the com-  
2 mission, shall have control of the stationing and transfer of all  
3 firemen and other officers and employees constituting the fire-  
4 force under such rules and regulations as the director of public  
5 safety may prescribe. The fire force shall be composed of a  
6 chief and such other firemen, officers and employees as the com-  
7 mission may determine.

*Suspension of Chief of Police and Fire Chief.*

Sec. 42. The commission shall have the right to suspend the  
2 chief of police, fire chief and all other subordinate officers for  
3 incompetency, neglect of duty, immorality, drunkenness, failure-

4 to obey orders given by the proper authority, or for any other  
5 just and reasonable cause.

### *Salaries.*

Sec. 52. The annual salaries of the officers to be appointed  
2 or elected hereunder, shall be fixed by the commission, not to ex-  
3 ceed the following amounts:

4 The mayor, not more than two thousand five hundred dol-  
5 lars.

6 The clerk, not more than two thousand five hundred dollars.

7 Commissioners, other than those acting as mayor and clerks,  
8 each three hundred dollars.

9 City attorney, not more than one thousand two hundred  
10 dollars.

11 *Provided, however,* that no member of the commission shall  
12 either directly or indirectly receive any other compensation or  
13 emolument for any service rendered the said city in any capacity  
14 save and except as above provided, nor shall any member of said  
15 commission be either directly or indirectly interested in the fur-  
16 nishing of any supplies or in the doing or performance of any  
17 contract procured or made for and on behalf of said city.

18 The salaries to be paid out of the city treasury proportion-  
19 ately at the end of each month, but never in advance. All fees,  
20 commissions and other emoluments, except salaries, shall be  
21 taxed and collected, and when so collected shall be paid into the  
22 treasury, by the officers, respectively, for the absolute use of the  
23 city.

Sec. 54. The officers of the city as the same may be at the  
2 time this act takes effect shall continue to hold their respective  
3 offices and perform the duties thereof until after the first elec-  
4 tion is held hereunder and their successors are elected or ap-  
5 pointed and qualified.

## CHAPTER 21.

(Senate Bill No. 18—Mr. Sanders.)

AN ACT to amend and re-enact chapter nine of the acts of the legis-  
lature of West Virginia, session one thousand nine hundred and  
fifteen, granting a charter to the city of Bluefield.

[Passed January 27, 1919. In effect from passage. Became a law without the Governor's approval.]

## SEC.

1. The city of Bluefield; corporate name; powers conferred.
2. Corporate limits.
3. Boundaries of wards.
4. Municipal authorities; constitution of "common council."
5. Additional officers; board of health; enforcement of orders; appointive officers; compensation; removal.
6. Corporate powers; vested in "common council."
7. General and specific powers of "common council"; authority to enforce needful rules and orders.
8. Registration and qualification of voters.
9. Council to provide for proper registration.
10. Constitution of "common council"; tenure of office.
11. Councilman to be residents of ward from which elected.
12. Term of office of councilman.
13. Vacancy of office of councilman; how filled.
14. Councilman may not receive compensation from city.
15. The mayor; term of office.
16. Qualification of mayor.
17. Salary of mayor.
18. Vacancy in office of mayor; unexpired term.
19. Mayor, chief executive; appointment of special officers; power to suspend officers or employees.
20. Mayor to be member of council; to preside at meetings; entitled to vote in case of tie.
21. Elections; laws governing; duties of recorder.
22. Contested elections; how same shall be conducted.
23. Oath of officers; councilmen not to be interested in contracts with city.
24. Bond of officers; approval of bonds; proceedings to enforce conditions.
25. Meetings of council.
26. Special meetings of council; manner of calling same.
27. Quorum for transaction of business; presiding officer.
28. Vote of council; how taken.
29. Recorder to be *ex-officio* clerk; minutes and proceedings of council; open to public inspection.
30. Limitations imposed upon members of "common council."
31. Appointive officers; term of service.
32. Supplies and materials for city to be purchased by council.
33. Eligibility to position, office or appointment.
34. Contractual connivance of city officials; penalty; council to pay all just obligations of city.
35. General powers of "common council"; may administer oaths and enforce attendance of witnesses.

## SEC.

36. Franchises and ordinances; limitation on granting of franchises.
37. Publication of notice in granting of franchises.
38. Style of ordinance indicated.
39. Ordinance to be passed only by bill; subjects to be embraced.
40. Ordinances to be spread upon record; council may adopt code of laws and ordinances.
41. Certain ordinances to be published in newspapers; time of publication.
42. Duties of officers; police judge; general duties and powers.
43. Treasurer of city; duties; compensation.
44. Chief of police; subject to mayor's direction; shall supervise police; other duties.
45. Street commissioner; other officers; salaries.
46. The city solicitor; chief legal adviser of city.
47. Taxes; power and authority of council in making levy.
- 47-a. Additional authority of council in making levies.
48. Annual tax on real estate and personal property.
49. Method of collecting taxes; authority of collecting officer.
50. City treasurer; duties.
51. Property liable for taxation; power of treasurer to distrain.
52. Tax liens; penalty for non-payment of tax assessments.
53. How liens for city taxes may be enforced.
54. Relating to the un-keep of roads and care of the poor within the city limits.
55. Depositive of city funds; interest on same.
56. Paying and sewers; assessments; rights of city; of property owners.
57. Sewer connections; council to regulate by ordinance.
58. Refunding bonded indebtedness; annotation on same.
59. Hospitals and libraries.
60. Notice, summons, warrant; service of same.
61. Licenses; imposition and collection.
62. Nuisances; authority to abate and remove.
63. Sewerage connection; requirements of property owners, tenants, etc.
64. Sidewalks; establishment and maintenance of same.
65. First election and present officers.
66. Recorder's duties with regard to elections.
67. Existing officers and ordinances.
68. Provisions of general laws applicable to issuance and sale of bonds.
69. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

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

to the city of Bluefield, be, and the same is, hereby amended and re-enacted so as to read as follows:

#### ARTICLE I.

##### *The City of Bluefield.*

Section 1. The inhabitants of all that part of the county of Mercer included within the limits hereinafter prescribed in article II are hereby made a city corporate and body politic by the name of "the city of Bluefield," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, and may purchase, hold, lease, or sell real estate and personal property necessary to the discharge of its corporate duties, or needful or convenient for the good order, government, and welfare of said corporation.

#### ARTICLE II.

##### *Corporate Limits.*

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

Beginning at the intersection of the state line between Virginia and West Virginia with the center of a street between Bluefield, West Virginia, and Graham, Virginia, known as "Bluefield avenue," east of the state line and "Graham avenue" west of the state line; thence with the state line north  $49^{\circ} 34'$  west 3058 feet to a stone corner 740 feet north of Stony ridge; thence north  $66^{\circ} 35'$  east 21817 feet to a stone corner on the north side of Stony ridge; thence south  $23^{\circ} 25'$  east, crossing Stony ridge at 454 feet and running along the west side of the county road overhead bridge 3816 feet to a point on top of Valley ridge; thence following the dividing line of Valley ridge in a southwestern direction 5768.5 feet to a point on top of said ridge, dividing the property of R. W. Tuggle and Marinda Wilson; thence along the said dividing line in a southeastern direction 6919.5 feet to a black oak at the Cumberland Gap turnpike; thence in a northwesterly direction with said line dividing Virginia from West Virginia to the beginning.

#### ARTICLE III.

##### *Boundaries of Wards.*

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

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

9        *Ward No. 2.*—On the north by the Norfolk and Western  
10 Railway 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  
14 Railway Company's right of way; on the east by the center line  
15 of Monroe street to its intersection with the south line of the  
16 alley in the rear of section number twenty-six; thence a straight  
17 line south  $23^{\circ} 25'$  east to the summit of Valley ridge; on the  
18 south by the summit of Valley ridge and the lines of the Blue-  
19 field Water Works and Improvement Company; and on the west  
20 by Higginbotham avenue.

21        *Ward No. 4.*—On the north by the south lines of wards  
22 Nos. 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  
25 to a point south  $23^{\circ} 25'$  east from the intersection of the center  
26 line of Monroe street with the south line of the alley in the rear  
27 of section twenty-six, said line being a part of the northern bound-  
28 ary line of ward number eight; on the west by ward number  
29 three, and crossing the Norfolk and Western railway to Henry  
30 street; thence along Henry, Sussex, and Warren streets to the  
31 head of Warren street; thence a straight line to the northern  
32 boundary of said city; and on the north and east by the corporate  
33 limits of said city.

34        *Ward No. 6.*—On the south by the Norfolk and Western  
35 Railway Company's right of way; on the east by the lines of  
36 ward number five; on the north by the corporate line to a point  
37 on a 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  
43 of 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 number  
45 six.

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

#### ARTICLE IV.

##### *Municipal Authorities.*

Sec. 4. The municipal authorities of the city of Bluefield  
2 shall consist of a mayor and eight councilmen who, together shall  
3 constitute and be known as "the common council of the city of  
4 Bluefield."

Sec. 5. In addition to the municipal authorities mentioned  
2 in section four of this act, said city may have a treasurer,  
3 recorder, police judge, city solicitor, chief of police, chief of fire  
4 department, city engineer, street commissioner, health commis-  
5 sioner, and such other officers and agents as the said council may  
6 from time to time create or employ. The health commissioner,  
7 the city solicitor, and the chief of police shall constitute the  
8 board of health of the city of Bluefield, and all orders of said  
9 board of health in cases of epidemic and contagious diseases  
10 shall be executed and carried out by the physicians, and all other  
11 persons whomsoever they effect; and all of said orders of the said  
12 board of health shall be enforced by the mayor and police officers  
13 of the said city under fines and penalties prescribed by the  
14 council by ordinances.

15 The selection of all appointive officers named or provided  
16 for in this section, and the power to fix their salaries, shall be  
17 vested in the council unless otherwise herein provided. The  
18 duties, in addition to these prescribed herein, of all appointive  
19 officers named or authorized in this act shall be prescribed by  
20 the council by ordinances; and all such appointive officers and  
21 all agents, servants, or employees of the said city shall be subject  
22 to removal from office or employment at the will of the council of  
23 said city.

#### ARTICLE V.

##### *Corporate Powers.*

Sec. 6. All the corporate powers of said city shall be vested  
2 in and exercised by the common council, or under its authority,  
3 except as otherwise provided in this act.

Sec. 7. The common council of said city shall have, and is hereby granted, power to have said city surveyed; to lay out, open, vacate, straighten, broaden, change grade of, grade, regrade, curb, widen, narrow, repair, pave, and repave streets, alleys, roads, squares, steps, sidewalks, and gutters for public use, and to alter, improve, embellish, and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon, and collect from, the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys, and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city and the traffic there-over; to change the name of any street, avenue, or road within said city, and regulate and cause the numbering and renumbering of houses on any street, avenue, or road therein; to provide for and regulate the naming of streets, avenues, and public places; to regulate and determine the width of streets, sidewalks, roads, and alleys; to order and direct the curbing, recurbing, paving, repaving and repairing of sidewalks and footways for public use in said city, to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit by ordinance the bringing into the city of any person or animal afflicted with contagious or infectious disease, and to punish any violator of said ordinance who knows or has reason to believe such person or animal to be so afflicted; to control and suppress disorderly houses, houses of prostitution or ill-fame, houses of assignation, and gaming houses, or any part thereof, and to punish those engaged in gaming; to prohibit within said city, or within two miles thereof, slaughter houses, soap or glue factories, and houses and places of like kind, and any other thing or business dangerous, unwholesome, unhealthy, offensive, indecent, or dangerous to life, health, peace or property; to provide for the entry into, and the examination of, all dwellings, lots, yards, enclosures, buildings, and structures, cars, vehicles

41 of every description, and to ascertain their condition for health,  
42 cleanliness, or safety; to regulate the building and maintenance  
43 of party walls, partition fences or lines, fire walls, fire places,  
44 boilers, smokestacks, and stove pipes; to provide for and regu-  
45 late the safe construction, inspection, and repairs of all public  
46 and private buildings, bridges, basements, culverts, sewers, or  
47 other buildings or structures of any description; to take down  
48 and remove, or make safe and secure, any and all buildings,  
49 walls, structures or superstructures at the expense of the own-  
50 ers thereof, that are, or may become, dangerous, or to require  
51 the owners, or their agents, to take down and remove them, or  
52 put them in a safe condition, at their own expense; to regulate,  
53 restrain, or prohibit the erection of wooden or other buildings  
54 within the city; to regulate the height, construction, and in-  
55 spection of all new buildings hereafter erected, and the altera-  
56 tion and repair of any buildings already erected, or hereafter  
57 erected in said city, and to require permits to be obtained for  
58 such buildings and structures, and plans and specifications  
59 thereof to be first submitted to the building inspector; to regu-  
60 late the limit within which it shall be lawful to erect any steps,  
61 porticos, bay windows, bow windows, show windows, awnings,  
62 signs, columns, piers, or other projection or structural ornaments  
63 of any kind for the houses or buildings fronting on any street  
64 of said city; to establish fire limits and to provide the kind of  
65 buildings and structures that may be erected therein, and to  
66 enforce all needful rules and regulations to guard against fire  
67 and danger therefrom; to require, regulate, and control the  
68 construction of fire escapes, for any buildings or other structures  
69 in said city; to control the opening and construction of ditches,  
70 drains, sewers, cesspools, and gutters, and to deepen, widen, and  
71 clear the same of stagnant water or filth, and to prevent obstruc-  
72 tion therein, and to fill, close or abolish the same, and to de-  
73 termine at whose expense the same shall be done; and to build  
74 and maintain fire station houses, crematories, jails, lock-ups, and  
75 other buildings, police stations and police courts, and to regu-  
76 late the management thereof; to acquire, establish, lay-off, ap-  
77 propriate, regulate, maintain, and control public grounds, squares  
78 and parks, hospitals, market houses, city buildings, libraries, and  
79 other educational or charitable institutions, either within or  
80 without the city limits; and when the council determines that  
81 any real estate in or out of the city is necessary to be acquired



82 by said city for any such purpose, or for any public purpose, or  
83 is necessary in the exercise of its powers herein granted, the  
84 power of eminent domain is hereby conferred upon said city,  
85 and it shall have the right to institute condemnation proceedings  
86 against the owner thereof in the same manner, to the same extent  
87 and upon the same conditions, as such power is conferred upon  
88 public corporations by chapter forty-two of the code of West  
89 Virginia, of the edition of one thousand nine hundred and six,  
90 and as now, or may be hereafter, amended; to purchase, sell,  
91 lease, or contract for, and take care of, all public buildings and  
92 structures and real estate deemed proper for the use of said city;  
93 and for the protection of the public, to cause the removal of un-  
94 safe walls, structures, or buildings, and the filling of excavations;  
95 to prevent injury or annoyance to the business of individuals  
96 from anything dangerous, offensive, or unwholesome; to abate,  
97 or cause to be abated, all nuisances, and to that end and there-  
98 about to summon witnesses to bear testimony; to regulate or  
99 prohibit the keeping of gunpowder and other combustible or  
100 dangerous articles; to regulate, restrain, or prohibit the use of  
101 firecrackers or other explosives or fireworks, and all noises or  
102 performances which may be dangerous or annoying to persons,  
103 or tend to frighten horses or other animals; to provide and main-  
104 tain proper places for the burial of the dead, in or out of the  
105 city, and to regulate interments therein upon such terms and  
106 conditions as to price and otherwise as may be determined; to  
107 provide for shade and ornamental trees, shrubbery, grass, flow-  
108 ers, and other ornamentation, and the protection of the same; to  
109 provide for the poor of the city, and to that end may contract  
110 with the proper authorities of Mercer county to keep and main-  
111 tain the poor, or any number thereof, upon terms to be agreed  
112 upon; *provided, however,* that the said city of Bluefield shall not  
113 keep nor maintain the paupers of said city until such time as  
114 the county court of Mercer county shall relieve the said city of  
115 Bluefield from the payment of all taxes for the support of the  
116 paupers residing outside of the corporate limits of said city;  
117 to make suitable and proper regulations in regard to the use of  
118 the streets, public places, sidewalks, and alleys by street cars, foot  
119 passengers, animals, vehicles, motors, automobiles, traction en-  
120 gines, railroad engines and cars, and to regulate the running and  
121 operation of the same so as to prevent obstruction thereon, en-  
122 croachments thereto, or injury, inconvenience, or annoyance to

123 the public; to prohibit prize fighting, cock and dog fighting; to  
124 license, tax, regulate, or prohibit theaters, moving pictures, cir-  
125 cuses, the exhibition of showmen, and shows of any kind, and  
126 the exhibition of natural or artificial curiosities, caravans, menag-  
127 eries, and musical exhibitions and performances, and other things  
128 or business on which the state does, or may, exact a license tax;  
129 to organize and maintain fire companies and departments, and  
130 to provide necessary apparatus, engines and implements for the  
131 same, and to regulate all matters pertaining to the prevention  
132 and extinguishment of fires; and to make proper regulations for  
133 guarding against danger and damage from fires, water, or other  
134 elements, to regulate and control the kind and manner of plumb-  
135 ing and electric wiring, airships, balloons, wireless stations, and  
136 other appliances, for the protection of the health and safety of  
137 said city; to levy taxes on persons, property, and licenses; to  
138 license and tax dogs and other animals, and regulate, restrain,  
139 and prohibit them, and all other animals and fowls running at  
140 large; to provide revenue for the city and appropriate the same  
141 to its expenses; to adopt rules for the transaction of business for  
142 its own regulation and government; to promote the general  
143 welfare of the city, and to protect the persons and property of  
144 citizens therein; to regulate and provide for the weighing of  
145 produce and other articles sold in said city, and to regulate the  
146 transportation thereof, and other things through the streets,  
147 alleys, and public places; to have the sole and exclusive right to  
148 grant, refuse, or revoke any and all licenses for the carrying on  
149 of any business within said city on which the state exacts, or  
150 may exact, a license tax; to establish and regulate markets and  
151 to prescribe the time for holding the same, and what shall be  
152 sold in such market, and to let stalls or apartments and regu-  
153 late the same, and to acquire and hold property for market pur-  
154 poses; to regulate the placing of signs, billboards, posters and  
155 advertisements in, or over the streets, alleys, sidewalks, and  
156 public grounds of said city; to preserve and protect the peace,  
157 order, and safety and health of the city and its inhabitants, in-  
158 cluding the right to regulate the sale and use of cocaine, mor-  
159 phine, opium, and poisonous or dangerous drugs; to appoint and  
160 fix the places of holding city elections; to erect, own, lease, and  
161 authorize or prohibit the erection of gas works, electric light  
162 works, or water works, telephone plants, and other public utili-  
163 ties in or near the city, and to operate or to regulate the opera-

164 tion of the same, and sell the products or services thereof, and  
165 to do any and all things necessary and incidental to the conduct  
166 of such business; to provide for the purity of water, milk, meats,  
167 and provisions offered for sale in said city, and to that end pro-  
168 vide for a system of inspecting the same and making and en-  
169 forcing rules for the regulation of their sale, and to prohibit  
170 the sale of any unwholesome or tainted milk, meats, fish, fruits,  
171 vegetables, or the sale of milk containing water or other things  
172 not constituting a part of pure milk; to provide for inspecting  
173 dairies and slaughter houses, whether in or outside of the city,  
174 where the milk and meat therefrom are offered for sale within  
175 said city, and to prohibit the sale of any article deemed unwhole-  
176 some, and to condemn the same or destroy or abate it as a nuis-  
177 ance; to provide for the regulation of public processions so as to  
178 prevent interference with public traffic, and to promote the good  
179 order of the city; to prescribe and enforce ordinances and rules  
180 for the purpose of protecting the health, property, lives, decency,  
181 morality, cleanliness, and good order of the city and its in-  
182 habitants, and to protect places of divine worship in and about  
183 the premises where held, and to punish violations of all ordi-  
184 nances even if the offenses under and against the same shall also  
185 constitute offense under the law of the state of West Virginia or  
186 the common law; to provide for the employment and safe keep-  
187 ing of persons who may be committed in default of the payment  
188 of fines, penalties, or costs under this act, who are otherwise  
189 unable, or fail, to discharge the same, by putting them to work  
190 for the benefit of the city upon the streets or other places in or  
191 out of the city provided by said city, and to use such means to  
192 prevent their escape while at work as the council may deem ex-  
193 pedient; and the council may fix a reasonable rate per day as  
194 wages to be allowed such person until the fine and costs against  
195 him are thereby discharged; to compel the attendance at public  
196 meetings of the members of the council; to have and exercise such  
197 additional rights, privileges, and powers as are granted to mu-  
198 nicipalities by chapter forty-seven of the code of West Virginia,  
199 as amended. For all such purposes, except that of taxation, and  
200 for purposes otherwise limited by this act, the council shall have  
201 jurisdiction, when necessary, for one mile beyond the corporate  
202 limits of said city.

203       And the council shall have the right to establish, construct,  
204 and maintain public markets on the ground which does, or shall,

205 belong to said city, or which it shall acquire, by purchase, or  
206 otherwise, and to sell, lease, repair, alter, or remove any public  
207 markets, or buildings which have been, or shall be, so constructed,  
208 and to preserve and protect the peace and good order at the  
209 same, and regulate the manner in which they shall be used.

210 To carry into effect these enumerated powers and all other  
211 powers conferred upon said city expressly or by implication in  
212 this and other acts of the legislature, the council of said city  
213 shall have the power, in the manner herein prescribed, to adopt  
214 and enforce all needful orders, rules, and ordinances not con-  
215 trary to the laws and constitution of this state; and to prescribe,  
216 impose, and enforce reasonable fines and penalties, including im-  
217 prisonment in the city lock-up, jail, or station-house, and to  
218 work prisoners found guilty as the council may prescribe, and  
219 market the products of such labor, and with the consent of the  
220 county court of Mercer county entered of record shall have the  
221 right to use the jail of said county for any purpose necessary to  
222 the administration of its affairs.

## ARTICLE VI.

### *Registration and Qualification of Voters.*

Sec. 8. Every person qualified by law to vote for mem-  
2 bers of the legislature of the state, and who shall have been a  
3 resident of said city for sixty days preceding the day of election,  
4 and a *bona fide* resident of the election precinct in which he  
5 offers to vote, shall be entitled to vote at all elections held in  
6 said city by, or under, the corporate authorities thereof.

Sec. 9. The council shall by ordinance provide for such  
2 regulations for the registration of voters as may be rendered  
3 necessary by state laws.

## ARTICLE VII.

### *The Council.*

Sec. 10. The present members of the council of the city  
2 of Bluefield shall remain in office until their successors are  
3 elected and qualify.

4 On the first Tuesday in June, one thousand nine hundred  
5 and nineteen, and every two years thereafter, there shall be  
6 elected by the qualified voters of said city eight councilmen,  
7 who, together with the mayor, shall constitute the common  
8 council.

Sec. 11. One of such councilmen shall be elected by the 2 voters of each of the several wards of the said city, and he 3 shall be a resident of the ward from which he is elected.

Sec. 12. The term of office of councilmen shall begin on 2 the first day of July next after their election.

Sec. 13. In case of a vacancy in the office of councilman 2 occasioned by death, resignation, or otherwise, the same shall 3 be filled by the councilmen remaining by the election of some 4 qualified person for the unexpired term.

Sec. 14. No member of the council shall receive any com- 2 pensation for his services as such councilman, nor for any 3 further service that may be performed by him for the city 4 during his term of office.

## ARTICLE VIII.

### *The Mayor.*

Sec. 15. The present mayor shall hold his office until his 2 successor is elected and qualifies.

3 At the election to be held in the said city on the first Tues- 4 day in June, one thousand nine hundred and nineteen, and 5 every two years thereafter, there shall be elected by the qualified 6 voters of said city a mayor, whose term of office shall be for 7 two years.

Sec. 16. The mayor shall possess the same qualifications 2 as members of the council.

Sec. 17. The mayor shall receive for his services a salary 2 of eighteen hundred dollars (\$1,800.00) per annum.

Sec. 18. In the case of a vacancy in the office of mayor, 2 the same shall be filled by the council by the election of some 3 qualified person for the unexpired term.

Sec. 19. The mayor shall be the chief executive officer of 2 the city, and shall take care that the orders, by-laws, ordinances, 3 acts, and resolutions of the council are faithfully executed. He 4 shall have control of the police of the city, and shall have power 5 to appoint special officers when he deems it necessary, and sub- 6 ject to the action of the council at its next meeting; and it shall 7 be his duty to see that the peace and good order of the city are 8 preserved, and to this end he may cause the arrest and de- 9 tention of all riotous and disorderly persons within the city 10 before the issuance of a warrant therefor. He shall from time

11 to time recommend to the council such measures as he may  
12 deem needful for the welfare of the city. The mayor shall  
13 have the power and authority to suspend any officer or em-  
14 ployee of the city, and in case of such suspension by him, he  
15 shall report the same to the council at its next meeting for such  
16 action as the council may determine.

Sec. 20. The mayor shall be a member of the common  
2 council of said city and shall preside at the meetings of the  
3 same, but shall only be entitled to vote in case of a tie.

## ARTICLE IX.

### *Elections.*

Sec. 21. The laws of the state of West Virginia governing  
2 the holding of elections, and the ascertaining of the result  
3 thereof, shall govern the conduct of the elections hereunder,  
4 so far as applicable, except that the recorder shall perform the  
5 duties required of the circuit and county clerks under general  
6 election laws, and the council shall perform the duties re-  
7 quired of the county court under general election laws.

### *Contested Elections.*

Sec. 22. All contested elections shall be heard and decided  
2 by council for the time being, and the contest shall be made and  
3 conducted in the same manner as provided for in such contests  
4 for county and district offices; 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, except  
7 that for the first election hereunder the council shall hear such  
8 contests.

### *Oath of Officers.*

Sec. 23. All officers, elective and appointive, shall make  
2 oath, before some one authorized to administer oaths, that they  
3 will support the constitution of this state, and will faithfully  
4 and impartially discharge the duties of their respective offices  
5 to the best of their skill and judgment; and in the case of mem-  
6 bers of the council they shall add in their oath that they are not,  
7 or will not, during their term of office become pecuniarily in-  
8 terested, directly or indirectly, in any contract with the city, or  
9 any franchise, or the purchase of supplies therefor. When the

10 officer shall have made such oath in writing and filed the same  
12 with the recorder, and shall have given bond required of, and  
13 accepted from him, he shall be considered as having qualified  
14 for the office to which he was elected or appointed; *provided*,  
15 that if any person elected as member of the council shall not  
16 qualify for said office as herein prescribed within ten days  
17 after he shall have been officially declared elected thereto, said  
18 office shall *ipso facto* become vacant, and said vacancy shall be  
19 filled in the manner provided for in this act.

*Bond of Officers.*

Sec. 24. Each member of the council, and the treasurer,  
2 recorder, health commissioner, chief of police, and chief of fire  
3 department, shall, before entering upon the discharge of their  
4 duties, give an official bond, conditioned for the faithful per-  
5 formance of their respective duties as prescribed in this act or  
6 any ordinance now or hereafter passed, in amounts as follows:  
7 Each member of the council, one thousand dollars; the treas-  
8 urer, forty thousand dollars; the recorder, three thousand dol-  
9 lars; health commissioner, chief of police, and the chief of fire  
10 department, each one thousand dollars.

11 The council may require additional bond from any of said  
12 appointive officers, and may likewise require bond, in whatever  
13 sum they may fix, of any other appointive officer. All bonds of  
14 appointive officers shall, before their acceptance, be approved by  
15 the council; and the bonds of the councilmen shall be approved  
16 by the retiring council. All other bonds of whatsoever kind  
17 shall not be accepted until first approved by the council. The  
18 minutes of the meeting of the council shall show all matters  
19 touching the consideration or approval of all bonds, and when  
20 said bonds are approved and accepted, they shall be recorded  
21 by the recorder in a well-bound book kept by him at his office  
22 for that purpose, which book shall be open to public inspection;  
23 and the recordation of such bonds as aforesaid shall be *prima*  
24 *facie* proof of their correctness, and they, as so recorded, shall  
25 be admitted as evidence in all the courts of this state. The  
26 recorder shall be the custodian of all bonds, except those give  
27 by him, and as to them, the city treasurer shall be custodian.  
28 All bonds, obligations, or other writings, taken in pursuance of  
29 any provisions of this act shall be made payable to "the city of

30 Bluefield," and the respective persons, and their heirs, executors,  
31 administrators, and assigns bound thereby shall be subject to the  
32 same proceedings on said bonds, obligations, and other writings,  
33 for enforcing the conditions of the terms thereof, by motion or  
34 otherwise, before any court of record held within the county of  
35 Mercer, that collectors of county levies and other sureties are,  
36 or shall be, subject to on their bonds for enforcing the payment  
37 of the county levies.

## ARTICLE X.

### *Meetings of Council.*

Sec. 25. The council shall have regular public meetings on  
2 the first and third Fridays of each calendar month, at an hour to  
3 be fixed by rules governing the council.

Sec. 26. Special meetings of the council may be called at  
2 any time by the mayor or any three members of the council, by  
3 giving twenty-four hours notice of such meeting, and the purpose  
4 thereof; but no business shall be transacted at any special meeting  
5 but that for which the meeting is called.

Sec. 27. At all meetings of the council five members there-  
2 of, exclusive of the mayor, shall constitute a quorum for the trans-  
3 action of business. The mayor shall preside at all meetings of  
4 the council when present, but in his absence a presiding officer  
5 shall be elected by the council for the time being.

Sec. 28. Unless otherwise herein provided, the vote upon  
2 any question or motion before the council may be *viva voce* when  
3 unanimous; but if the question or motion does not receive the  
4 unanimous vote of the members present, then the vote shall be  
5 taken by roll call of the members and made a part of the minutes  
6 of the meeting; and when the vote is unanimous the minutes  
7 shall so state.

Sec. 29. The recorder shall be *ex-officio* clerk of the council.  
2 Said council shall cause detailed minutes of its meetings and pro-  
3 ceedings to be kept by the recorder in a well bound book for that  
4 purpose, which shall remain in the custody of the recorder at his  
5 office, and open to public inspection. The minutes of every regu-  
6 lar or special meeting shall be read publicly at the next regular or  
7 special meeting, and after being corrected, shall be signed by the  
8 mayor and recorder, and a copy from such records certified by  
9 the recorder under the seal of the city shall be admitted as evi-  
10 dence in any court of record in this state.



Sec. 30. The members of the council shall not hold any  
2 other city office, except as prescribed in this act, nor be an em-  
3 ployee of the city in any other capacity with a compensation, nor  
4 hold any other office, with or without compensation, which may  
5 interfere with the faithful discharge of their duties as members of  
6 the council.

Sec. 31. No appointive officer of the city shall hold two of-  
2 fices with the city at the same time, nor become the employee of  
3 the city in any other capacity, without first having the consent of  
4 the council. All appointive officers shall hold for a term of one  
5 year, unless sooner removed by, and at the pleasure of, the coun-  
6 cil, and until their successors are appointed and qualified.

Sec. 32. The council shall purchase all of the supplies and  
2 materials for the departments of the city government at the low-  
3 est price possible, considering the quality and grade of the sup-  
4 plies desired. And whenever any such supplies or materials in-  
5 volve the expenditure of five hundred dollars, or more, the coun-  
6 cil shall advertise by reasonable notice in at least two newspapers  
7 published in the city, of opposite politics, for bids on supplies or  
8 materials to be furnished, and shall award the contract thereon  
9 (unless all bids are rejected) to the lowest bidder, taking from  
10 such bidder a written contract and bond thereon, to be approved  
11 by the council, for the faithful performance of said contract.

Sec. 33. Any one entitled to vote for members of the legis-  
2 lature shall be eligible to any position, office, or appointment  
3 hereunder, except member of the council. Any one entitled to  
4 vote for members of the legislature and who, for the year next  
5 preceding, has paid taxes upon property within the city of the  
6 value of at least five hundred dollars shall be eligible to the coun-  
7 cil.

Sec. 34. Any member of the council, or any officer 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, al-  
6 low, or certify for allowance, any claim or demand against the  
7 city, which claim or demand shall be on account, or under color  
8 of any contract or agreement not authorized by, or in pursuance  
9 of, the provisions of this act, or the ordinances of the city, or any  
10 claim or demand against the city, which claim or demand, or any  
11 part thereof, shall be for work not performed for, and by author-

12 ity of, said city, or by the council, or for the supplies or materials  
13 not actually furnished thereto pursuant to law, or ordinance, and  
14 every such member or officer as aforesaid, who shall knowingly  
15 vote for, assent to, assist or otherwise permit, or aid, in the dis-  
16 bursement or disposition of any money or property belonging to  
17 the city to any other than the specific use or purpose for which  
18 such money or property shall be, or shall have been, received or  
19 appropriated or collected, or authorized by law to be collected,  
20 shall, upon conviction thereof, be punished by imprisonment in  
21 the county jail for not more than one year, or by fine of not less  
22 than five hundred dollars, nor more than two thousand dollars, or  
23 by both. But the council shall pay any just obligations made by  
24 the city and keep and perform all contracts, agreements, and ob-  
25 ligations made under the law as it was the day before this act  
26 goes into effect, and for which, and on which, the city is liable  
27 or obligated when the council herein provided for goes into  
28 office.

Sec. 35. 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 un-  
6 der the same penalties as notaries public, justices of the peace, and  
7 other officers of the state authorized to administer oaths under  
8 state laws; and said council shall have such power for contempts  
9 as is conferred on county courts by section thirteen, of chapter  
10 thirteen, of the code. All process necessary to enforce the powers  
11 conferred by this act on the council shall be signed by the mayor  
12 (or acting mayor), and shall be executed by any member of the  
13 police force.

## ARTICLE XI.

### *Franchise and Ordinances.*

Sec. 36. All franchises granting the right of occupancy of  
2 any portion of the streets of the city for work of public service,  
3 shall be granted by ordinance by the council, but no such fran-  
4 chise shall hereafter be granted except upon the following re-  
5 strictions and conditions:

6 No grant of any such franchise shall be made without, at the  
7 time of making it, providing that the grantee shall indemnify the  
8 city against all damages caused by construction, maintenance or

9 operation of such works. All reasonable additional provisions  
10 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 an addition  
14 to, any line or work of public service through, over, or under any  
15 additional street or territory of the city shall be made for a period  
16 extending beyond the time limited for the expiration of the fran-  
17 chise of the principal work of which it is extended, and if the  
18 franchise of the principal work is one granted before this act goes  
19 into effect, and not limited as to time, any franchise granted for  
20 an extension or addition thereto shall nevertheless be made sub-  
21 ject to the conditions hereof, including a time limit of not ex-  
22 ceeding fifty years.

23 The council shall, in all franchises hereafter granted, em-  
24 body therein a plainly expressed condition, where the franchise is  
25 for work to be useful chiefly to the citizens of the city, that at the  
26 expiration of such franchise the grantee shall, if required by the  
27 council, or of the governing body of the city, sell to the city the  
28 plant at what it is then worth. If the city and the owner of the  
29 plant cannot agree upon its worth, then the value shall be ascer-  
30 tained by an impartial arbitration, one arbitrator to be selected  
31 by the city, one by such owner of the plant, and these two to se-  
32 lect the third, and the decision of any two to be binding upon  
33 both parties.

Sec. 37. Publication of notice to present franchise and other  
2 preliminaries prescribed by the laws of the state relating thereto  
3 shall be had in the manner prescribed by state laws before the  
4 council shall act on any such franchise; but the passage of any  
5 franchise shall be *prima facie* proof that such notice was given as  
6 prescribed by law.

Sec. 38. The style of any ordinance enacted by the coun-  
2 cil shall be: "Be it ordained by the common council of the city  
3 of Bluefield."

Sec. 39. No ordinance shall be passed except by bill and no  
2 bill shall be amended in its passage as to change its original pur-  
3 pose. All bills must be in writing or printed and presented at  
4 the regular weekly public meeting of the council, and read in full  
5 by the recorder. No bill shall be considered for final passage at  
6 the meeting at which it was introduced, but at any subsequent  
7 regular weekly public meeting of the council, such bill may be

8 taken up by the council for consideration and final action. No  
9 bill except general appropriation bills, which may embrace the  
10 various subjects and accounts for, and on account of, which  
11 moneys are appropriated, shall contain more than one subject,  
12 which shall be clearly expressed in its title. No bill shall become  
13 an ordinance unless on its final passage a majority of the mem-  
14 bers of the council present vote in its favor, and the vote be taken  
15 by yeas and nays, and the names of the members voting for and  
16 against the same be entered of record in the minutes of the pro-  
17 ceedings of the council. No ordinance shall be revived or re-en-  
18 acted by mere reference to the title thereof, but the same shall be  
19 set forth at length as if it were an original ordinance, nor shall  
20 any ordinance be amended by providing that designated words  
21 thereof be stricken out, or that designated words be inserted, or  
22 that designated words be stricken out and others inserted in lieu  
23 thereof, but the ordinance or sections amended shall be set forth in  
24 full as amended. All ordinances in force at the time this charter  
25 goes into effect not inconsistent therewith shall remain in full  
26 force until altered or repealed as herein provided, and all rights,  
27 actions, proscriptions, and contracts of the city not inconsistent  
28 therewith shall continue to be valid as if this act had not been  
29 passed.

Sec. 40. All ordinances passed by the council shall be spread  
2 in *extenso* upon the record of the proceedings of the said council,  
3 and at the next regular weekly public meeting, the same shall be  
4 read in the open meeting of said council. The council shall pro-  
5 vide a well-bound book, in which shall be copied by the recorder  
6 all ordinances in the order in which they are passed, which ordin-  
7 ances so copied shall be compared with the originals by the mayor,  
8 and shall be signed by him when found correct. Such book shall  
9 be indexed so as to show in brief form the substance of the ordin-  
10 ance, and copies therefrom, certified by the recorder under seal  
11 of the city, shall be received by all courts and justices in this state  
12 as evidence, but the council may adopt, by ordinance properly  
12-a designating and describing it, a code of laws and ordinances  
13 which, when adopted, shall be printed in book form, or it may be  
14 adopted as a whole after it is printed, and the said code shall be  
15 and become the laws and ordinances of said city, and shall be re-  
16 ceived as such in all courts of this state, and the printed volume  
17 published under the orders of the council shall be so received as

18 evidence of what is printed therein until errors or omissions be  
19 affirmatively shown therein.

Sec. 41. It shall be the duty of the council, except as here-  
2 inafter provided, to cause such of the ordinances imposing a pen-  
3 alty, fine, or assessment, and such other ordinances of a public and  
4 general nature as they may deem best calculated to give general  
5 information to the citizens, to be published within five days in  
6 two newspapers of opposite politics published in said city; but the  
7 failure to publish any such ordinance, unless otherwise herein pro-  
8 vided, shall not invalidate such ordinance.

## ARTICLE XII.

### *Duties of Officers.*

Sec. 42. All persons elected or appointed to the offices  
2 named in this act shall be conservators of the peace within said  
3 city, and any other officer provided for under this act may be  
4 given authority of police officers by the council.

5 The police judge shall be *ex-officio* a justice and conservator  
6 of the peace, with authority to issue process for all offenses com-  
7 mitted within the police jurisdiction of the city of Bluefield, of  
8 which a justice of the peace has jurisdiction under state statutes,  
9 and for all violations of any city ordinances, and shall have charge  
10 of, and preside over, the police court of said city; and may com-  
11 mit persons charged with felony or misdemeanor to jail, or take  
12 bond for their appearance before the grand jury of the circuit or  
13 criminal courts of Mercer county; he shall keep an accurate rec-  
14 ord of all his judicial proceedings in said court, showing the style  
15 of each case, which record shall be indexed and numbered. It  
16 shall be his duty to hold daily sessions of his court, Sundays ex-  
17 cepted.

18 Before trying any person charged with any violation of any  
19 ordinance, he shall issue his warrant, specifying the offense or vio-  
20 lation charged; he shall render judgment in any case as the  
21 law of the state or the ordinance of the city applying thereto may  
22 require; he shall also have the power to issue executions for all  
23 fines, penalties, and costs imposed by him, and he may require the  
24 immediate payment thereof, and in default of such payment may  
25 commit the party so in default to the jail of the county of Mercer  
26 or place of imprisonment in said city until the fine and penalty,  
27 and costs, shall be paid or satisfied, to be employed during the  
28 term of imprisonment as hereinafter provided, but the term of

29 imprisonment in any such case shall not exceed ninety days, and  
30 in all cases where a person is sentenced to imprisonment or to the  
31 payment of a fine of ten dollars or more, such person shall be al-  
32 lowed an appeal from such decision to the criminal court of said  
33 Mercer county, upon the execution of an appeal bond, with surety  
34 deemed sufficient by the said police judge in a penalty double the  
35 amount of the fine and costs imposed by him, conditioned that the  
36 person proposing to appeal will perform and satisfy any judgment  
37 which may be rendered against him on such appeal, and in no  
38 case shall judgment for a fine of less than ten dollars be given by  
39 the police judge if the defendant, his agent, or attorney object  
40 thereto. If such appeal be taken, the warrant of arrest, the  
41 transcript of the judgment, the appeal of bond, and other papers  
42 of the case shall be forthwith delivered by the said police judge to  
43 the clerk of the 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 cost, as the law and the evidence may re-  
46 quire.

47 The police judge shall have authority to issue, and cause to be  
48 executed a *capias pro fine* in all cases where such process is proper.

49 It shall be the duty of the prosecuting attorney of the county  
50 of Mercer to prosecute any cases appealed from the decision of the  
51 police judge to the criminal court or the circuit court of the coun-  
52 ty of Mercer, and the services so rendered by such prosecuting at-  
53 torney as above required shall be performed by him without pay-  
54 ment of any extra compensation on the part of the city of Blue-  
55 field.

56 The expenses of maintaining persons committed to the jail of  
57 the county by such police judge shall be paid by the city. The  
58 police judge shall account for and pay over the amount of all  
59 fines collected by him immediately to the treasurer of the city, and  
60 shall make monthly reports thereof, and of all other matters per-  
61 taining to his office, to the council of the city. In the absence of  
62 the police judge, the mayor of the city shall act as such with the  
63 same power and authority.

64 The police judge shall also perform the other duties imposed  
65 by this act, as well as such duties as may be prescribed from time  
66 to time by the council. He shall receive for his services a salary  
67 to be fixed by the council not to exceed six hundred dollars per  
68 annum.

69 The recorder of the city shall also perform the other duties

70 imposed by this act, as well as such duties as may be prescribed  
71 from time to time by the council. He shall receive for his ser-  
72 vices a salary to be fixed by the council not to exceed one thous-  
73 and and eight hundred dollars per annum; and all fees collected  
74 by him shall be paid over to the treasurer of the city.

Sec. 43. The treasurer shall collect and receive all moneys  
2 and funds of the city and pay same out only upon the order of the  
3 council. He shall receive a salary to be fixed by the council not  
4 to exceed twelve hundred dollars per annum.

Sec. 44. The chief of police shall see that the laws and  
2 ordinances of the city are enforced, and shall have direct super-  
3 vision and control over the police of said city, subject to the di-  
4 rection of the mayor and the council. He shall perform such ser-  
5 vices in addition to the above as may be required by the mayor  
6 or council; and shall receive a salary to be fixed by the council  
7 not to exceed one thousand and eight hundred dollars per annum.

Sec. 45. The street commissioner, health officer, chief of  
2 fire department, and city engineer shall perform such duties as  
3 may be required of them by council, or by this act, and shall re-  
4 ceive such salary as may be fixed by the council not to exceed in  
5 any case eighteen hundred dollars per annum.

Sec. 46. The city solicitor shall be the chief legal advisor  
2 of the city, and shall give advice on legal questions to the council  
3 and other city officers upon request. He shall represent the city  
4 in any litigation in which it may be a party, or have an interest.  
5 He shall receive such compensation, either in the way of fees, or  
6 salary, as may be fixed from time to time by the council. He  
7 shall assist the prosecuting attorney of the county in the prosecu-  
8 tion of all cases appealed from the police court of the city.

### ARTICLE XIII.

#### *Taxes.*

Sec. 47. The council shall have power and authority to levy  
2 taxes on all property subject to taxation within the city in ac-  
3 cordance with the provisions of chapter nine of the acts of the  
4 legislature of West Virginia, special session of one thousand, nine  
5 hundred and eight, and as it may be amended, and in the making  
6 of such levies the said council shall comply with all the provisions  
7 of said act as the same now exists, or as it may be hereafter  
8 amended in so far as it applies to the laying of levies by municipi-  
9 palities. The taxes so levied as aforesaid shall be levied upon the

10 values of the real and personal property within the city as the  
11 same shall be ascertained by the assessor of Mercer county.

Sec. 47-a. The council shall have authority to levy ten cents  
2 on each one hundred dollars of the assessed valuation of said  
3 property within the limits of the city in addition to the thirty-  
4 five cents on the one hundred dollars provided for by chapter nine  
5 of the acts of the legislature of West Virginia, session of one  
6 thousand nine hundred and eight, for the purpose of taking care  
7 of water rentals due, and to become due, by the said city.

Sec. 48. The council shall have authority to levy and col-  
2 lect 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 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 taxes shall be uniform with re-  
7 spect to persons and property within the jurisdiction of said city,  
8 and shall only be levied on such property, real, personal, and  
9 mixed, and on capital on which the state imposes a tax. There  
10 shall be a tax of one dollar annually assessed on each and every  
11 male inhabitant of said city over the age of twenty-one years  
12 who is subject to a capitation tax under the laws of the state of  
13 West Virginia. The same shall be set out and included in the  
14 personal property book against every such inhabitant, and shall  
15 be collected under the authority of the council at the time of col-  
16 lecting other levies and taxes.

Sec. 49. The taxes levied by the council for the use of the  
2 city shall become due at the same time as taxes levied for the use  
3 of the county of Mercer, and the treasurer of said city, or such  
4 other person as the council may direct, shall collect the same at  
5 the same time, and in the same manner, as taxes are collected by  
6 the sheriff of Mercer county for county purposes, and the same  
7 discount shall be allowed to those paying taxes to the city and the  
8 same penalties added as in the cases of taxes collected by the sher-  
9 iff of Mercer county, it being the intention of this act to make the  
10 collection of taxes levied for the purposes of the city uniform in  
11 all respects with the collection of taxes for county purposes, and  
12 the treasurer of said city, or such other person as may be designat-  
13 ed by the council for the collection of taxes, is hereby clothed with  
14 all the power within the said city for the purposes of collecting  
15 city taxes that is now possessed by the sheriff of Mercer county  
16 for the collection of county taxes.



17       The treasurer or collector, on the first Monday in June next  
18 succeeding the year for which such taxes were assessed, shall make  
19 out and return to the council two alphabetical lists, one a list of  
20 real estate, and the other a list of persons and property other than  
21 real estate, in the city delinquent for the non-payment of taxes  
22 thereon for such year and shall subscribe an oath to each list in  
23 form and effect as sheriffs are required to make to delinquent lists  
24 returned to county courts and the council shall not give the  
25 treasurer or collector credit for any uncollected taxes unless the  
26 same have been abated as prescribed herein or are mentioned in  
27 such lists. If any real estate within said city be returned de-  
28 linquent for the non-payment of the taxes thereon, and such re-  
29 turn shall be made by the treasurer or collector thereof, in the  
30 manner aforesaid, a copy of such delinquent list shall be certified  
31 by the council to the auditor of the state, and the same shall be  
32 sold for taxes, interest, and commissions thereon, in the same  
33 manner and at the same time, and by the same officer as real es-  
34 tate is sold for the non-payment of state and county taxes. A  
35 copy of said delinquent list, within ten days after it has been cer-  
36 tified by the council, shall be filed in the office of the clerk of  
37 the county court of Mercer county, and recorded in a well-bound  
38 permanent book, to be furnished by the city, and kept and pre-  
39 served in said office for that purpose. *Provided, however, that a*  
40 copy of each of said lists shall be posted at the front door of the  
41 city hall of said city at least two weeks before said lists are re-  
42 turned to the council, and a copy of said lists shall at the same  
43 time be printed for one time in two newspapers of opposite poli-  
44 tics, if such there be in said city.

Sec. 50. 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  
4 hands by the council for collection, and to execute, within the  
5 city, any process which might be executed by the sheriff of Mer-  
6 cer county.

Sec. 51. 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 a

8 debt to or having in his possession, any estate belonging to a per-  
9 son assessed with any tax or assessment of any kind that the sher-  
10 iff has to collect state taxes in such cases. The treasurer may  
11 distrain and sell for all city taxes and assessments and in all re-  
12 spects have the same power to enforce the collection thereof as the  
13 sheriff has to enforce the collection of state taxes.

Sec. 52. 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. 53. Said liens for city taxes and attendant penalties  
2 may also be enforced by certifying the same to the clerk of the  
3 county court of Mercer county for certification to the state audit-  
4 or, and the same may be certified down by said auditor, and sold  
5 for the taxes, interest, penalties, and commissions thereon, in the  
6 same manner, at the same time, and by the same officer as real es-  
7 tate is sold for the taxes, interest, damages, costs, and commis-  
8 sions due the state thereon, which officer shall account therefor on  
9 settlement with the council, and pay over same to the treasurer of  
10 the city.

Sec. 54. No taxes or levies shall be assessed upon, or col-  
2 lected from, the taxable persons or property within the cor-  
3 porate limits of said city for the construction, improvement, or  
4 keeping in repair of roads, or for the support of the poor of  
5 Mercer county outside of said corporate limits, for any year in  
6 which it shall appear that said city shall, at its own expense,  
7 provide for its own poor and keep its own roads, streets, and  
8 bridges in good order. And neither the county court of Mercer  
9 county nor the authorities of the districts in which said city is  
10 situated shall have or exercise jurisdiction within the corporate  
11 limits with relation to the roads, streets, alleys, or bridges, but  
12 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, and bridges in  
16 its corporate limits.

#### ARTICLE XIV.

##### *Depositing City Funds.*

Sec. 55. It shall be the duty of the treasurer of the city  
2 to keep all funds of the city in some bank, or banks, within  
3 said city, which shall pay interest on such deposit, and which  
4 shall pay interest on the average daily balance of such  
5 funds in all accounts of the per centum equal to that paid by  
6 the state depositories on all funds of the state of West Virginia,  
7 and in the same manner and at the same time. If no bank  
8 within said city is willing at any time to receive deposits of the  
9 treasurer and to pay such interest thereon, the treasurer shall  
10 report the fact to the council, who shall thereupon designate a  
11 bank, or banks, in which he shall deposit said funds for the time  
12 being until some bank in said city will receive such deposits on  
13 such terms. Before receiving any such deposits such bank, or  
14 banks, shall give bond in such penalty as the council shall pre-  
15 scribe, and with sureties to be approved by said council, condi-  
16 tioned for the prompt payment whenever lawfully required of  
17 all the city moneys or parts thereof which may be deposited  
18 with them, which bonds shall be renewed at such times as the  
19 council may require.

#### ARTICLE XV.

##### *Paving and Sewers.*

Sec. 56. The council of the city of Bluefield may order any  
2 street or alley, or any part of any street or alley, to be paved or  
3 macadamized between the sidewalks with some suitable ma-  
4 terial, and if the street or alley has heretofore been paved or  
5 macadamized, the council shall have authority to order the  
6 same repaved or remacadamized, repaired or altered, and a  
7 sewer to be constructed thereunder, or to have such paving or  
8 repairing done without the construction of a sewer, or a sewer  
9 constructed without such paving being done, under such regu-  
10 lations as may be prescribed by ordinances, upon the lowest and  
11 best terms to be obtained by advertisements for bids therefor

12 by the council; and in the event that the council is of  
12-a the opinion that all of the bids offered upon said  
13 work are excessive, or for any other reason none of said bids are  
14 acceptable, then the council shall have power to construct said  
15 work by its street force, and two-thirds of the cost of such  
16 paving, repaving, altering, or repairing shall be paid for by the  
17 abutting property owners, and the whole cost of such sewer shall  
18 be paid for by the city. Two-thirds of the cost of such paving,  
19 repaving, or repairing shall be assessed against the lots, or the  
20 fractional parts of lots, and the owners thereof abutting or  
21 bounding on that part of the street or alley so paved, repaved,  
22 or altered in proportion to the length of frontage owned by  
23 each. One-third of such assessment shall be paid into the city  
24 treasury within thirty days from the completion of the work,  
25 and the remainder in two equal installments, in sixty and ninety  
26 days, respectively, from the completion of such work; and the  
27 other third of the cost of such paving, repaving, altering, or re-  
28 pairing shall be borne by the city. The intersection of streets  
29 or of a street and alley paved, repaved, altered, or repaired  
30 under this section shall be correspondingly paved, repaved,  
31 altered, or repaired at the sole expense of the city. *Provided,*  
32 *however,* that any street or alley within said city upon which is  
33 operated a street car track, the company operating said street  
34 railway shall pay the cost of paving, repaving, altering, or re-  
35 pairing the said street or alley between the tracks of said rail-  
36 way upon said street or alley, and one-half on each side thereof.  
37 *It is further provided,* that it shall be the duty of the said  
38 council, upon a petition of a majority of the property owners  
39 abutting on any street or alley, or any block between any street  
40 or alley, to have the same paved, repaved, altered, or repaired  
41 on the same terms and conditions as herein provided for in this  
42 section. The assessments made for the paving, repaving, alter-  
43 ing, or repairing as aforesaid shall be a lien on the lots, or parts  
44 of lots, upon which they are assessed, which lien may be en-  
45 forced by a suit in equity in the name of the city, in any court  
46 having jurisdiction thereof, or may be recovered in an action at  
47 law before any justice, or any court having jurisdiction; or said  
48 assessments may be returned delinquent and the lots chargeable  
49 with same may be sold for such delinquent assessments in the  
50 same manner and at the same time as is herein provided for the

51 return and sale of property in the city returned delinquent for  
52 the nonpayment of city taxes assessed against same.

53       Upon completion and acceptance of any paving, repaving,  
54 altering, or repairing contract, and upon the completion of the  
55 paving, repaving, alteration, or repairing of any street or alley  
56 done by the street force of the city, the council shall direct the  
57 recorder to immediately cause to be published a notice which  
58 shall name and describe the location of the streets or alleys upon  
59 which such paving, repaving, altering, or repairing shall have  
60 been made, giving the name or names of the owners of each lot  
61 abutting or bounding on such street or alley, if known, and if  
62 the name or names of the owner or owners of any such lot, or  
63 part of lot, are unknown, such lot shall be described with rea-  
64 sonable certainty for identification, and the fact that the name  
65 or names of the owner or owners are unknown shall also be  
66 stated; the number of feet that each lot, or fractional part of a  
67 lot, abuts on said street or alley shall be stated, as well as the  
68 amount assessed against the same.

69       Said notice shall require all the owners of lots abutting on  
70 the street or alley aforesaid to appear before the council at a  
71 meeting thereof within thirty days from the first publication of  
72 such notice, and show cause, if any they can, why the said  
73 assesment should not become final, which notice shall be pub-  
74 lished once a week for two successive weeks in some newspaper  
75 published in the said city.

76       The council, upon the request of any one or more, owners  
77 of said lots or parts of lots, shall appoint a day to hear grievances  
78 of said owner or owners, and they may alter or amend any as-  
79 sessment made against any such lot or lots, or the owner or own-  
80 ers thereof, for good cause which may be shown therefor. The  
81 recorder shall give notice to all persons claiming to be injured  
82 by said assessment of the time and place for holding said meet-  
83 ing, which shall be held within ten days after the expiration of  
84 the thirty days mentioned in the published notice above pro-  
85 vided for. The hearing may be adjourned from time to time.  
86 In case any of the owners of any such lots shall fail to appear  
87 before the council for the purpose of having such assessment  
88 corrected within the time aforesaid, the said assessment against  
89 such owner, or owners, shall become final. The findings of the  
90 said council shall be conclusive and final. The rights conferred

91 by this section are cumulative, and shall not be exhausted as to  
92 any particular street or alley by reason of having been once  
93 exercised.

94 The lien upon real estate created by virtue of this section  
95 shall be void as to any purchaser of any such real estate for  
96 value and without notice, who shall have purchased such real  
97 estate at any time after a period of twelve months has  
98 elapsed after the paving has been accepted by the city, unless  
99 an abstract of such assessment, giving the location of the real  
100 estate affected, the name of the owner or owners thereof, and  
101 the date and amount of the assessment shall have been first  
102 recorded in the office of the clerk of the county court of Mercer  
103 county in a well-bound book to be furnished by the city for the  
104 purpose and preserved in the said office; and it is hereby made  
105 the duty of the said county clerk to record such abstracts, the  
106 said clerk to be paid a fee of twenty-five cents by the said city  
107 for same.

Sec. 57. The council shall have the authority to regulate by  
2 ordinance the manner in which connections are to be made with  
3 the sewers of the said city by the owners of property therein,  
4 and shall have the authority to compel the owners of any prop-  
5 erty abutting upon a street or alley in which there is a sewer to  
6 connect their pipes therewith under the regulations prescribed  
7 by the council, and may charge such person or persons a reason-  
8 able amount therefor, to be affixed by the council by ordinance;  
9 and in case of the failure of the owner of any such property to  
10 so connect his sewer pipe with any such sewer, when required,  
11 the council may provide by ordinance such fines and penalties  
12 as in its discretion may be necessary to effect a compliance with  
13 its regulations. The amount fixed by the council for the con-  
14 nection with such sewer shall be paid into the city treasury to  
15 the credit of the fund to be used for sewers, and shall be used  
16 for no other purpose.

## ARTICLE XVI.

### *Refunding Bonded Indebtedness, Etc.*

Sec. 58. The council may refund the lawful bonded in-  
2 debtedness of said city by issuing bonds of the city, payable  
3 within twenty years, bearing no greater rate of interest than  
4 five per centum, but the indebtedness of the city shall not thereby

5 be increased without the consent of the voters of said city being  
6 first 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  
11 shall express on their face that they may be paid at any time  
12 after five years, at the pleasure of the city. A record shall be  
13 kept of all proceedings hereunder; *provided*, that nothing herein  
14 contained shall be construed to authorize an increase of the  
15 bonded indebtedness of said city beyond the amount now  
16 authorized by law.

#### ARTICLE XVII.

##### *Hospitals, Libraries, Etc.*

Sec. 59. The council shall have the authority to erect, buy,  
2 sell, and lease all buildings necessary for the use of the city  
3 government, and to provide for and regulate the same, and to  
4 establish and maintain public hospitals, libraries, and reading  
5 rooms, and to purchase books, papers, and manuscripts there-  
6 for, and to receive donations, gifts, or bequests for the same in  
7 trust or otherwise.

#### ARTICLE XVIII.

##### *Serving Notice.*

Sec. 60. Whenever any notice is required to be given, or  
2 any summons, warrant, or other process is required to be served,  
3 or otherwise executed, under the provisions of this act, it shall  
4 be sufficient if such notice, summons, warrant, or other process  
5 be executed by an officer of the police department of said city  
6 in the same way, or manner, in which the laws of the state  
7 prescribe for executing summonses and subpoenas by state offi-  
8 cers, unless otherwise provided by this act.

#### ARTICLE XIX.

##### *Licenses.*

Sec. 61. Whenever anything for which a state license is,  
2 or may be, required is to be done within said city, or within two  
3 miles of the corporate limits thereof, the council, as herein

4 provided, may by ordinance require a city license to be had for  
5 doing the same, the amount of which license shall be fixed by  
6 the council; in no case, however, to be less than the amount  
7 charged by the state for a license for doing the same thing,  
8 and may, in any case, require from the person licensed a bond,  
9 with sureties, and in such penalty, and with such conditions as  
10 it may deem proper, and the council on notice may revoke such  
11 license at any time if the condition of the said bond be broken.

12 The council may impose a license and assess a tax thereon  
13 on all wheeled vehicles for public hire, and upon all dogs kept  
14 within said corporate limits. The council may prescribe, im-  
15 pose, and enforce reasonable fines and penalties, including im-  
16 prisonment, under the order of the police judge of said city, or  
17 the persons lawfully exercising his functions, upon any person  
18 carrying on, or attempting to carry on, any business  
19 for which a city license is required without first obtaining a  
20 city license therefor, and paying the city license tax assessed  
21 thereon. All licenses provided for in this act shall be paid to  
22 the treasurer of the city; and for the purpose of enforcing the  
23 provisions of this section, the city shall have police jurisdiction  
24 for two miles beyond the corporate limits thereof.

25 The council shall have the power to make all regulations  
26 and pass all ordinances necessary and proper concerning the  
27 granting and revoking of licenses, but the public shall be given  
28 notice by publication for two issues in a newspaper of general  
29 circulation by any firm, person, or corporation desiring a license  
30 of any character.

## ARTICLE XX.

### *Nuisances.*

Sec. 62. The council of said city shall have authority to  
2 abate and remove all nuisances in said city. It may compel  
3 the owners, agents, assignees, occupants, or tenants of any lot,  
4 premises, property, building, or structure upon, or in which  
5 any nuisance may be, to abate and remove the same by orders  
6 therefor, and by ordinance provide a penalty for the violation  
7 of such orders.

8 Said council may also by its own officers, appointees, and  
9 employees abate and remove nuisances. It may by ordinance  
10 regulate the location, construction, repair, use, emptying, and



11 cleaning of all water closets, privies, cesspools, sinks, plumbing,  
12 drains, yards, lots, areaways, pens, stables, and other places  
13 where offensive, unsightly, unwholesome, objectionable, or dan-  
14 gerous substances or liquids are, or may, accumulate, and pro-  
15 vide suitable penalties for violations of such regulations, which  
16 may be enforced against the owner, agent, assignee, occupant, or  
17 tenant of any premises or structure where such violation may  
18 occur.

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

41 And in all cases where any tenant, occupant, or agent is re-  
42 quired to abate and remove any nuisance under the provisions  
43 of this section, or comply with the provisions of any such ordi-  
44 nance as is mentioned herein, the expense thereof may be de-  
45 ducted out of the accruing, or accrued, rent of said property,  
46 or amount due said owner from said agent, and such tenant,  
47 occupant, or agent may recover the amount so paid from the  
48 owner, unless otherwise especially agreed upon.

49 Any expense incurred by the council, as herein provided,  
50 in the manner aforesaid, may be collected in the manner herein

51 provided, notwithstanding the imposition of any other penalty  
52 or penalties upon any of the persons named herein, under any  
53 of the provisions of this act. The abatement or removal of any  
54 such nuisance by the council, at the expense of said city, as  
55 herein provided, shall be *prima facie* proof that the said notice  
56 to the owner, occupant, tenant, agent, or assignee was given as  
57 herein prescribed.

Sec. 63. The council 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 extend any sewer or  
4 system of sewerage, which the said city may construct, own, or  
5 control, to connect with such sewer or system of sewerage, all  
6 privies, ponds, water closets, cesspools, drains, or sinks located  
7 upon their respective properties or premises so that their con-  
8 tents may be made to empty into such sewer or system of sewer-  
9 age, and shall have the right to charge a reasonable amount for  
10 the right to connect to such sewer.

## ARTICLE XXI.

### *Sidewalks.*

Sec. 64. 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 portion thereof, in said city; to cause to be put down  
4 a suitable curb of brick, stone, or other material along and for  
5 the footways and sidewalks of the streets, alleys, or public  
6 squares, or portion thereof; and to order the construction, re-  
7 laying, and repair of sidewalks and gutters of such material  
8 and width, and in such manner as the council may reasonably  
8-a prescribe, by the owners or occupants of the lots, or parts  
9 of lots, facing upon said streets, alleys, and public squares, and  
10 in case of a failure or refusal of any such owners or occupants  
11 of the lots, or parts of lots, to construct, relay, or repair such  
12 sidewalks and gutters, when required, it shall be lawful for the  
13 council to have such sidewalks and gutters constructed, relaid,  
14 or repaired, and levy and collect the expense thereof, with one  
15 per centum per month interest added after demand of thirty  
16 days has been made by the treasurer of the city, from the said  
17 owner, owners, occupant, or occupants, or any of them; and in  
18 all cases of such assessment, whether for the construction, re-  
19 laying, or repairing of sidewalks, or gutters, payment thereof

20 shall be made to the treasurer within thirty days after the com-  
21 pletion of the work and demand made, and if not so paid, the  
22 council is hereby authorized to collect, or cause to be col-  
23 lected, the expense thereof, with one per centum per month  
24 interest added after the work has been completed and a de-  
25 mand of thirty days, and they shall have the power to collect,  
26 or cause to be collected, the same from said owner, owners,  
27 occupant, or occupants, or any of them, by distress and sale, in  
28 the same manner in which taxes levied upon real estate for the  
29 benefit of the said city are herein authorized to be collected,  
30 and in addition there shall be a lien upon the real estate against  
31 which any such assessment has been levied for the construction,  
31-a relaying, and repairing of sidewalks and gutters as herein pro-  
32 vided, which lien may be enforced by a suit in equity before any  
33 court having jurisdiction as other liens against real estate are  
34 enforced, and in addition to, and as an additional remedy, said  
35 expense shall be a lien upon the property against which any  
36 such assessment has been made, the same as taxes, and which  
37 lien may be enforced in all respects in the same manner as may  
38 be provided for the collection of city taxes assessed against real  
39 estate, and it shall be the duty of the council to cause to be  
40 certified to the clerk of the county court of Mercer county their  
41 order laying an assessment authorized by this section. The  
42 clerk of the county court of Mercer county is hereby required  
43 to record and index such assessments in the proper trust deed  
44 book in the name of each person against whose property assess-  
45 ments appear therein; *provided, however,* that a reasonable  
46 notice shall first be given to said owner or occupant, or their  
47 agent, that they are required to construct, relay, or repair such  
48 sidewalks or gutters. Such notice may be given by publication  
49 for not less than once a week for two consecutive weeks in any  
50 newspaper printed in said city; and in all cases where a tenant  
51 shall be required to construct, relay, or repair sidewalks or  
52 gutters in front of the property of his or her occupancy, the ex-  
53 pense of such construction, relaying, or repairing may be de-  
54 ducted out of the accruing rent of said property, and he may  
55 recover the amount so paid from the owner, unless otherwise  
56 especially agreed upon. The laying or construction of any such  
57 sidewalks by said city shall be *prima facie* proof that the said  
58 notice to the owner (resident or nonresident), or occupant, or  
59 their agent, was given as herein required.

## ARTICLE XXII.

*First Election and Present Officers.*

Sec. 65. The first election hereunder shall be held on the  
2 first Tuesday in June, one thousand nine hundred and nineteen,  
3 and the officers then elected shall begin their terms on the first  
4 day of July, one thousand nine hundred and nineteen, and  
5 thereafter all elections, except special elections, shall be held on  
6 the first Tuesday of June, in every second year thereafter; and  
7 the terms of office of the persons elected shall begin on the first  
8 day of July next after such election.

Sec. 66. The recorder, acting under state laws in so far  
2 as they are not in conflict with this act, shall perform such  
3 duties relating to all municipal elections held under the muni-  
4 cipal authority of said city, as the clerk of the county court of  
5 Mercer county performs, under state laws, in relation to state,  
6 county, and district elections in said county; and he shall like  
7 wise be the custodian of all ballots, tally sheets, etc., pertaining  
8 to all municipal elections.

*Existing Officers and Ordinances.*

Sec. 67. All valid ordinances and regulations passed and  
2 adopted by the board of affairs, or any former common council  
3 of the city of Bluefield, and not inconsistent with this act, shall  
4 be and remain in full force unless and until repealed.

Sec. 68. All provisions of general law governing the  
2 issuance and sale of bonds by municipalities and the investment  
3 of sinking funds shall be applicable to the issuance and sale of  
4 bonds and the investment of sinking funds by said city of Blue-  
5 field, except as herein otherwise provided. All the provisions  
6 of general law governing the levying and collecting of taxes for  
7 the use and benefit of said city of Bluefield, except as herein  
8 otherwise provided, and the provisions of general law requiring  
9 the making and publishing of estimates and expenditures in  
10 advance of the laying of levies therefor, and limiting the amount  
11 of such levies shall be enforced and complied with by the coun-  
12 cil of said city.

Sec. 69. All acts in conflict, or inconsistent with this act,  
2 to the extent of any such conflict, are hereby repealed.

**CHAPTER 22.**

(Senate Bill No. 222—Mr. Stewart.)

AN ACT to amend and re-enact sections four, five, six, seven, eight, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, seventy-one, seventy-three, seventy-four, seventy-seven, seventy-nine, eighty, one hundred and one, one hundred and twelve-a, one hundred and eighteen, one hundred and twenty-eight, one hundred and thirty-three, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty-one, one hundred and forty-nine, one hundred and fifty-two, one hundred and fifty-nine of article one of chapter ten of the acts of the legislature, regular session, of one thousand nine hundred and fifteen entitled, "An act to amend and re-enact chapter eleven of the acts of one thousand eight hundred and ninety-nine incorporating the city of Fairmont, as amended by chapter one hundred and forty-three of the acts of one thousand nine hundred and one, and as further amended by chapter eighty-one of the acts of one thousand nine hundred and thirteen, of the legislature of West Virginia; defining the corporate limits of said city, amending the present charter, providing for registration of voters and prescribing the manner of holding city elections therein, and to repeal all acts and parts of acts inconsistent with the provisions of this act;" and by adding nineteen sections to article one of said chapter ten, to be known as sections nineteen-a, nineteen-b, nineteen-c, nineteen-d, nineteen-e, nineteen-f, nineteen-g, nineteen-h, nineteen-i, nineteen-j, eighty-a, eighty-b, ninety-a, one hundred and seven-a, one hundred and nine-a, one hundred and fifteen-a, one hundred and forty-nine-a, one hundred and fifty-eight-a, one hundred and fifty-eight-b, one hundred and fifty-nine-a, and one hundred and fifty-nine-b, and repealing sections nine, ten, eleven, twelve, thirteen, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, seventy, eighty-two, one hundred and nineteen, one hundred and twenty-four, one hundred and twenty-

five, one hundred and twenty-six, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and forty, one hundred and forty-two, one hundred and forty-five, and one hundred and forty-eight of article one of chapter ten of the acts of one thousand nine hundred and fifteen, and sections one to two hundred and thirty-one, both inclusive, of article two of said chapter ten of the acts of one thousand nine hundred and fifteen.

[Passed February 15, 1919. In effect from passage. Became a law without the Governor's approval.]

SEC.		SEC.	
1.	Amending and re-enacting acts and parts of acts of the code relating to the city of Fairmont.	51.	
4.	Municipal authorities; corporate powers.	52.	
5.	Powers of the board of directors.	53.	
6.	Nominations and elections of the board of directors.	54.	
7.	Vacancies; how filled.	55.	
8.	Qualifications; members board of directors.	56.	Initiative; referendum; protest.
9.	Resignation or vacancy.	57.	
17.	Additional officers.	58.	
18.	Qualification of voters.	59.	
19.	Manner of holding elections.	60.	
19-a.	Registration of voters.	61.	
19-b.	Nomination of candidates.	62.	Ordinances.
19-c.	Statement of political allegiance.	63.	Conflicting ordinances.
19-d.	Nominating conventions; method of holding.	64.	Referendum on emergency measures.
19-e.	Primary elections.	65.	Referendum; preliminary action.
19-f.	Method of conducting primary election.	66.	Mayor; selection of.
19-g.	Appointment of executive political committees.	67.	Failure to select one of members; city attorney to act until.
19-h.	Offenses by voters; penalties.	71.	Meetings of the board of directors.
19-i.	False returns of election; penalty.	73.	Ordinance enactment.
19-j.	Nominations by certificates; method.	74.	Emergency measures.
20.	Election results and contested elections.	77.	Publication of ordinances.
21.	Oaths of officers.	79.	Investigations by the mayor.
22.	Bond of officers.	80.	Departments of city government, law and public welfare; public welfare; public highways; finance; water.
23.	Tennre of office of appointive officers.	80-a.	Designating heads of department government; assigning duties.
26.	Affirmative vote of three members of board of directors necessary; when.	80-b.	Public offices of director of departments.
27.	Notice for franchise.	90-a.	Employment of special counsel.
28.	Salaries of members board of directors.	101.	Department of highways; general powers and duties.
29.	Salaries of appointive officers.	107-a.	Collection of water rents.
43.	Recall elections; procedure.	109-a.	Department of water; general powers and duties.
44.	Petition papers.	112-a.	Authority to issue bonds for permanent improvement of streets, avenues, roads and alleys.
45.	Signers of recall petitions.	115-a.	Petitions in writing for improvement of streets, etc.
46.	Filing of papers.	118.	Authority to issue and sell bonds for payment of other bonds.
47.	Ordering recall election.	128.	Franchise and public utilities.
48.	Ballots for recall elections.	133.	Control of distribution of space occupied by public utilities.
49.	Failure of recall.	138.	Limitations on appropriations.
50.	Registration for recall election.	139.	Continuance of present officers and ordinances.
		141.	Continuance of contracts.
		149.	Granting license; revocation; fees.
		149-a.	Taxicabs and other vehicles.

## SEC.

152. Sidewalks and shade trees; assessments for; board may let work by contract; advertising contracts.

158-a. Indebtedness and bonds.

158-b. Bonds to be issued upon approval by vote of the people; form of ballot that may be used.

## SEC.

159. Terms of office to end; when.

159-a. This act not effective unless adopted by a majority of votes of the people; form of ballot to be voted.

159-b. Repealing all acts or parts of acts inconsistent.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That sections four, five, six, seven, eight, four-  
 2 teen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-  
 3 two, twenty-three, twenty-six, twenty-seven, twenty-eight, twenty-  
 4 nine, forty-three, forty-four, forty-five, forty-six, forty-seven,  
 5 forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-  
 6 four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty,  
 7 sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six,  
 8 sixty-seven, seventy-one, seventy-three, seventy-four, seventy-  
 9 seven, seventy-nine, eighty, one hundred and one, one hundred  
 10 and twelve-a, one hundred and eighteen, one hundred and twenty-  
 11 eight, one hundred and thirty-three, one hundred and thirty-  
 12 eight, one hundred and thirty-nine, one hundred and forty-one,  
 13 one hundred and forty-nine, one hundred and fifty-two, and one  
 14 hundred and fifty-nine of article one of chapter ten of the acts  
 15 of the legislature, regular session, one thousand nine hundred  
 16 and fifteen, be amended and re-enacted so to read as follows:

17 That nineteen additional sections be added to article one of  
 18 said chapter, to be known as sections nineteen-a to nineteen-j,  
 19 inclusive, eighty-a, eighty-b, ninety-a, one hundred and seven-a,  
 20 one hundred and nine-a, one hundred and fifteen-a, one hundred  
 21 and forty-nine-a, one hundred and fifty-eight-a, and one hundred  
 22 and fifty-eight-b, one hundred and fifty-nine-a, and one hundred  
 23 and fifty-nine-b to read as follows:

24 That sections nine, ten, eleven, twelve, thirteen, thirty-one,  
 25 thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-  
 26 seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, sev-  
 27 enty, eighty-two, one hundred and nineteen, one hundred and  
 28 twenty-four, one hundred and twenty-five, one hundred and  
 29 twenty-six, one hundred and twenty-nine, one hundred and thirty,  
 30 one hundred and thirty-one, one hundred and thirty-two, one  
 31 hundred and thirty-four, one hundred and thirty-five, one hun-  
 32 dred and thirty-six, one hundred and forty, one hundred and  
 33 forty-two, one hundred and forty-five, and one hundred and forty-  
 34 eight of article one of said chapter, and sections one to two hun-

35 dred and thirty-one, both inclusive, of article two of said chapter,  
36 be repealed.

*Municipal Authorities—Corporate Powers.*

Sec. 4. The municipal authorities of the city of Fairmont  
2 shall be four directors who shall constitute a board of directors  
3 and shall be known as the "board of directors of the city of Fair-  
4 mont." All the corporate powers of said city shall be vested in,  
5 and exercised by, the board of directors or under its authority,  
6 except as otherwise provided in this act.

*Powers of the Board of Directors.*

Sec. 5. The board of directors 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, sidewalks and gut-  
4 ters 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 bene-  
8 fited thereby such part of the expense thereof as shall be fixed  
9 by ordinance, except as hereinafter provided; to have control of  
10 all streets, avenues, roads, alleys and ground for public use in  
11 said city, and to regulate the use thereof and driving thereon,  
12 and to have the same kept in good order and free from obstruc-  
13 tion, pollution or litter on or over them; to have the right to  
14 control all bridges within said city, and the traffic passing there-  
15 over; to change the name of any street, avenue or road within  
16 said city, and to cause the renumbering of houses on any street,  
17 avenue or road therein; to regulate and determine the width of  
18 streets, sidewalks, or roads therein; to regulate and determine  
19 the width of streets, sidewalk, roads and alleys; to order and  
20 direct the curbing and paving of sidewalks, roads and footways  
21 for public use in said city to be done and kept clean and in  
22 good order by the owners of adjacent property; to prohibit and  
23 punish the abuse of animals; to restrain and punish vagrants,  
24 mendicants, beggars, tramps, prostitutes, drunken or disorderly  
25 persons within the city, and to provide for their arrest and  
26 manner of punishment; to prohibit and punish by fine the  
27 bringing into the city by steamboats, railroads or other carriers,  
28 of paupers or persons afflicted with contagious diseases; to con-  
29 trol and suppress disorderly houses, houses of prostitution or



30 ill-fame, houses of assignation, and gaming houses and to pun-  
31 ish gaming; to prohibit within said city or within one mile  
32 thereof slaughter houses, soap or glue factories and houses of  
33 like kind; to control the construction and repair of all houses,  
34 basements, walls, bridges, culverts and sewers, and to prescribe  
35 and enforce all reasonable regulations affecting the construc-  
36 tion of the same, and to require permits to be obtained for such  
37 buildings and structures, and plans and specifications thereof  
38 to be first submitted to a city architect or building inspector;  
39 to control the opening and construction of ditches, drains, sew-  
40 ers, cess-pools and gutters, and to deepen, widen and clear the  
41 same of stagnant water or filth, and to prevent obstruction  
42 therein, and to determine at whose expense the same shall be  
43 done; and to build and maintain fire station houses, police  
44 stations and jails, and to regulate the management thereof; to  
45 acquire, lay off, appropriate and control public grounds, squares  
46 and parks, either within or without the city limits as herein-  
47 after defined. And when the board of directors determine that  
48 any real estate is necessary to be acquired by said city for any  
49 such purpose, or for any public purpose, the power of eminent  
50 domain is hereby conferred upon said city, and it shall have the  
51 right to institute condemnation proceedings against the owner  
52 thereof in the same manner, to the same extent and upon the  
53 same conditions as such power is conferred upon public corpora-  
54 tions by chapter forty-two of the code of West Virginia of the  
55 edition of one thousand nine hundred and six, and as now  
56 amended; to purchase, sell, lease or contract for and take care  
57 of all public buildings and structures and real estate, including  
58 libraries and hospitals, deemed proper for use of such city; and  
59 for the protection of the public, to cause the removal of unsafe  
60 walls or buildings, and the filling of excavations; to prevent  
61 injury or annoyance to the business of individuals from any-  
62 thing dangerous, offensive or unwholesome; to abate and pro-  
63 hibit or cause to be abated and prohibited all nuisances and to  
64 that end and thereabout to summon witnesses and hear testi-  
65 mony; to regulate the keeping of gunpowder, gasoline, dyna-  
66 mite and other combustible or dangerous articles; to regulate,  
67 restrain or prohibit the use of firecrackers or other explosives  
68 or fireworks and all noises or performances which may be dan-  
69 gerous, annoying to persons or tend to frighten horses or other  
70 animals; to provide and maintain proper places for the burial

71 of the dead and to regulate interments therein upon such terms  
72 and conditions as to price and otherwise as may be determined,  
73 and to dispose of, discontinue and grant any cemetery; to pro-  
74 vide for shade and ornamental trees and the protection of the  
75 same; to provide for the making of division fences; to make  
76 proper regulation for guarding against danger or damage from  
77 fires; to provide for the poor of the city, and to that end may  
78 contract with the proper authorities of Marion county to keep  
79 and maintain the poor, or any number thereof, upon terms to  
80 be agreed upon; to build, own and maintain a home for the poor;  
81 to make reasonable regulations in regard to the use of the  
82 streets and alleys for street cars, railroad engines, automobiles,  
83 and auto trucks, cars, and to regulate the running and operation  
84 of the same so as to prevent injury to the public and to the  
85 public highways; to prohibit prize fighting, cock and dog fight-  
86 ing; to license, tax, regulate or prohibit theatres, motion picture  
87 shows, circuses, the exhibition of showmen and shows of any  
88 kind, and the exhibition of natural or artificial curiosities, cara-  
89 vans, menageries, and musical exhibitions and performances,  
90 and other things or business on which the state does or may  
91 exact a license tax; to organize and maintain fire companies  
92 and to provide necessary apparatus, engines and implements  
93 for the same; to regulate and control the kind and manner of  
94 plumbing and electric wiring for the protection of the health  
95 and safety of said city; to levy taxes on persons, property and  
96 licenses; to license and tax dogs and other animals, and regu-  
97 late, restrain and prohibit them and all other animals and fowls  
98 running at large; to provide revenue for the city, and appropri-  
99 ate the same to its expenses; to adopt rules for the transaction  
100 of business and for its own regulation and government; to  
101 promote the general welfare of the city and to protect the per-  
102 sons and property of citizens therein; to regulate and provide  
103 for the weighing of produce and other articles sold in said city,  
104 and to regulate the transportation thereof, and other things  
105 through the streets; to have the sole and exclusive right to  
106 grant, refuse, or revoke any and all licenses for the carrying  
107 on of any business within said city, on which the state exacts  
108 a license tax; to own and maintain a public market; to establish  
109 and regulate markets and to prescribe the time for holding the  
110 same, and what shall be sold in such markets and to acquire and  
111 hold property for market purposes; to regulate and prohibit

112 the placing of signs, billboards, posters and advertisements in,  
113 on or over the streets, alleys, sidewalks and public grounds of  
114 said city; to regulate, or prohibit the placing of signs, bill-  
115 boards, posters and advertisements on private property within  
116 said city; to preserve and protect the peace, order and safety  
117 and health of the city and its inhabitants, including the right  
118 to regulate the sale and use of cocaine, morphine, opium and  
119 poisonous drugs; to appoint and fix the place of holding city  
120 elections; to regulate the erection of gas works, telephone plants,  
121 electric light works or water works or ferry boats in the city,  
122 and to own, lease, erect, operate and maintain gas works, tele-  
123 phone plants, electric light works, water works, including water  
124 plants, reservoirs, filters, pumping stations, water pipe lines,  
125 mains, laterals and connections, including all appliances, acces-  
126 sories and connections required in and about the operation of a  
127 water system, and to sell and furnish water, gas and electric cur-  
128 rent to the city and the inhabitants thereof, and to persons and  
129 corporations within three miles of the corporate limits of the  
130 city, and for public use; to build, hold, purchase, own and operate  
131 toll bridges; to provide for the purity of water, milk, meats and  
132 provisions offered for sale in said city, and to that end provide  
133 for a system of inspecting the same, and making and enforcing  
134 rules for the regulation of their sale, and to prohibit the sale of  
135 any unwholesome or tainted milk, meats, fish, fruits, vegetables  
136 or the sale of milk containing water or other things not consti-  
137 tuting a part of pure milk; to provide for inspecting dairies and  
138 slaughter houses, whether in or outside of the city, where the  
139 milk and meat therefrom are offered for sale within said city;  
140 to prescribe and enforce ordinances and rules for the purpose  
141 of 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 violations 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 the payment of fines, penalties or costs  
149 under this act, who are otherwise unable to give bond to secure  
150 the payment of such fines and costs, or fail to discharge the  
151 same by putting them to work for the benefit of the city upon  
152 the streets or other places provided by said city, and to use such

153 means to prevent their escape while at work as the board of  
154 directors may deem expedient; and the board of directors may  
155 fix a reasonable rate per day as wages to be allowed such person  
156 until the fine and costs against him are thereby discharged; to  
157 compel the attendance at public meetings of the members of the  
158 board of directors; to have and exercise such additional rights,  
159 privileges and powers as are granted to municipalities by chap-  
160 ter forty-seven of the code of West Virginia of the edition of  
161 one thousand nine hundred and six, or as amended. For all  
162 such purposes, except that of taxation, the board of directors  
163 shall have jurisdiction, when necessary, for one mile beyond the  
164 corporate limits of said city, excepting any other municipal  
165 corporation or part thereof within said one mile limit. Said  
166 city of Fairmont as constituted by this act, shall retain, keep  
167 and succeed to all rights, privileges, property interest, claims  
168 and demands heretofore acquired by, vested in, or transferred  
169 to said city of Fairmont, as heretofore constituted.

170       And the board of directors shall have the right to establish,  
171 construct and maintain landings, ferries, wharves, and docks  
172 on any ground which does or shall belong to said city, or which  
173 it shall acquire, and to sell, lease, repair, alter, or remove any  
174 such landings, ferries, wharves, buildings or docks which have  
175 been or shall be constructed, and to levy and collect reasonable  
176 duty on vessels and other crafts coming to or using said land-  
177 ings, ferries, wharves, docks and buildings, and to preserve and  
178 protect the peace and good order at the same, and regulate the  
179 manner in which they shall be used and to have the sole right  
180 under state laws and in the same manner as now control county  
181 courts, to establish, construct, maintain, regulate and control all  
182 such wharves, docks, ferries and landings within the corporate  
183 limits of said city; to enter into an article of agreement with  
184 the county court of Marion county for joint action on behalf of  
185 the city of Fairmont or any portion thereof with the magisterial  
186 district or districts adjacent to said city of Fairmont, for the  
187 permanent improvement of streets and roads within said city or  
188 magisterial districts, said article of agreement may provide for  
189 the selling of bonds of said magisterial district or districts includ-  
190 ing the city of Fairmont, upon an affirmative vote of three-fifths  
191 of all the votes cast at a special election called for this purpose  
191-a by the authority of said county court.

192       The board of directors shall have power to construct and

193 maintain bridges and retaining walls in any part of the said  
194 city, including the power to construct and maintain a bridge or  
195 bridges over and across the Monongahela river, the West Fork  
196 river or the Tygarts Valley river.

197 The board of directors shall have power to prohibit the  
198 manufacture, sale, keeping or storing for sale in the city, or  
199 offering, or exposing for sale all liquors or absinthe or any drink  
200 compounded with absinthe in said city, subject to the provisions  
201 of law, and liquors as used in this act shall be construed to em-  
202 brace all malt vinous or spirituous liquors, wine, porter, ale, beer,  
203 or any other intoxicating drink, mixture or preparation of like  
204 nature; and all malt or brewed drinks, whether intoxicating or  
205 not, shall be deemed malt liquors within the meaning of this act;  
206 and all liquids, mixtures or preparations, whether patented or  
207 not, which shall produce intoxication, and all beverages contain-  
208 ing so much as one-half of one per centum of alcohol by volume  
209 shall be deemed spirituous liquors, and all shall be embraced in  
210 the word liquors as used in this act.

*Nominations and Election of the Board of Directors.*

Sec. 6. The first general municipal election for said city  
2 held hereunder shall be held on the second Tuesday of August,  
3 one thousand nine hundred and nineteen, at which time there  
4 shall be elected by the qualified voters of the whole city, four di-  
5 rectors, who shall constitute the said board of directors. All of  
6 the members of the board of directors elected at the said first  
7 general municipal election shall begin their term of office on the  
8 first day of September, one thousand nine hundred and nineteen  
9 and serve until the thirtieth day of June, one thousand nine hun-  
10 dred and twenty-three, and until a majority of their successors  
11 are elected and shall have qualified, and said members of the  
12 board of directors shall be elected from the city at large, except  
13 that no two directors of the same political party as hereinafter  
14 defined shall be elected from the same ward, and shall be nom-  
15 inated and voted for and elected by the electors of said city in the  
16 manner hereinafter prescribed. The next general municipal elec-  
17 tion for said city shall be held on the second Tuesday in June,  
18 one thousand nine hundred and twenty-three, and on the same  
19 day in every fourth year thereafter, at which there shall be elected  
20 by the qualified voters of the whole city, four directors, consti-  
21 tuting said board of directors; and all members of the board of

22 directors thereafter shall serve for a term of four years, and until  
23 a majority of their successors are elected and shall have qualified,  
24 except that no two directors of the same political party as herein-  
25 after defined shall be elected from the same ward, and shall be  
26 nominated and voted for and elected by the electors of said city in  
27 the manner hereinafter prescribed; the term of office of the mem-  
28 bers of the board of directors, except those elected at the first  
29 general municipal election held hereunder, shall begin on the  
30 first day of July next after the general municipal election and  
31 end on the thirtieth day of June in the fourth year thereafter

*Vacancies.*

Sec. 7. Vacancies in the board of directors shall be filled  
2 by the board of directors for the unexpired term, except vacancy  
3 resulting from a recall election.

*Qualifications.*

Sec. 8. Members of the board of directors shall be residents  
2 of the city having the qualifications of electors therein and shall  
3 be free holders, owning real estate in said city. No member of  
4 the board of directors of said city shall hold any other elective  
5 office, or have any other employment, which will interfere with  
6 the duties of his office as member of the board of directors, during  
7 his term of office; nor shall any member of the board of directors  
8 or employee of the city be interested in the profits or emoluments  
9 of any contract, job, work or services for the municipality. A  
10 member of the board of directors who shall cease to possess any  
11 of the qualifications herein required shall forthwith forfeit his  
12 office, and any such contract in which any member of the board  
13 of directors or any employee of the city is or may become interested  
14 shall be void. No more than two members of the board of directors  
15 elected or appointed shall belong to the same political party as  
16 defined by this act.

*Resignation or Vacancy.*

Sec. 14. If any person elected as a member of the board of  
2 directors fail to qualify as herein provided within thirty days  
3 after his said election, or shall after having been qualified, resign  
4 his office, or move from the city, or move into the same ward  
5 where another director of the same political party lives, his office  
6 shall be vacated, or if a vacancy in his office occur from any other

7 cause, except by recall election, the remaining members of said  
8 board of directors shall fill such vacancy for the unexpired term  
9 with some person qualified to hold said office. But said vacancy  
10 shall be filled by the appointment of a person openly and publicly  
11 recognized as belonging to and affiliated with the political party  
12 from which the person whose vacancy is to be filled was elected or  
13 appointed. *Provided, however,* the city executive committee of  
14 the political party from which the persons whose vacancy is to be  
15 filled was elected or appointed shall have the right to nominate  
16 one or more persons having the qualifications of a director and  
17 the board of directors shall fill such vacancy by the appointment  
18 of some person so nominated by such committee.

#### *Additional Officers.*

Sec. 17. In addition to the board of directors said city shall  
2 have a city clerk, city attorney, chief of police, chief of fire de-  
3 partment, city physician, city engineer, city health officer and  
4 such other officers and agents as the board of directors may create  
5 or employ. The appointment and removal of all appointive officers  
6 named or provided for in this section shall be vested in the board  
7 of directors.

#### *Qualification of Voters.*

Sec. 18. Every person qualified by law to vote for mem-  
2 bers of the legislature of the state, and who has been a resident of  
3 said city for sixty days preceding the day of election, and of the  
4 ward in which he offers to vote thirty days, shall be entitled to  
5 vote at all elections held in said city or by or under the corporate  
6 authorities thereof, and any such qualified voter shall be entitled  
7 to vote for two candidates for members of the board of directors,  
8 and no more, at any general municipal election.

#### *Manner of Holding Election.*

Sec. 19. The laws of the state of West Virginia governing  
2 the holding of elections, and the ascertaining of the result thereof,  
3 shall govern the conduct of the municipal elections hereunder, so  
4 far as applicable; except that the city clerk shall perform the  
5 duties required of the circuit and county clerks under the general  
6 election laws, and the board of directors shall perform the duties  
7 required of the county court under the general election laws.  
8 The board of directors shall divide, define and proclaim the elec-

9 tion precincts of the city and fix the boundaries thereof in the  
10 manner provided by law, and provide the commissioners of the  
11 election a map and pertinent description of such division and  
12 boundaries and of changes which, from time to time, are made  
13 by the board. And the voting precincts and voting places shall,  
14 as far as practical, conform to the voting precincts and voting  
15 places established by the county court of said Marion county for  
16 the holding of general elections, except that the board of directors  
17 shall have the power to change the place of voting in any precinct.

Sec. 19-a. The provisions of chapter six of the acts of the  
2 legislature of West Virginia,, extraordinary session one thousand  
3 nine hundred and sixteen, relating to the registration of voters,  
4 for the primary election in the year which a president of  
5 the United States is elected, are hereby adopted as and for the  
6 law regulating the registration of voters of the city; and the  
7 time therein fixed when the county court of each county shall  
8 hold a regular or special session in the year in which a presi-  
9 dent of the United States is to be elected for the appointment  
10 of registrars, the time therein fixed for the making of such  
11 registration, and the return thereon, and the time therein fixed  
12 at which such county court shall convene for the purpose of  
13 hearing any and all matters in relation to registration of voters,  
14 and the time therein fixed when the registrars shall sit for fur-  
15 ther amending, correcting and completing the registration of  
16 voters of their precincts, and the time therein fixed at which the  
17 county court shall convene for the purpose of adding to the  
18 list of voters, shall be and is the several times at which the board  
19 of directors shall sit for the same purposes and the registrars  
20 convene for the performance of the same duties under the pro-  
21 visions of this charter,—except that for the purposes of the  
22 first election held under the provision of this charter the board of  
23 affairs (board of affairs in the present instance) shall convene  
24 on the second Tuesday in June, one thousand nine hundred and  
25 nineteen, for the purpose of appointing and appoint such reg-  
26 istrars; the said registrars shall meet together on the third Thurs-  
27 day in June, one thousand nine hundred and nineteen, and pro-  
28 ceed to register the names of all the qualified voters in their  
29 respective precincts and shall endeavor to ascertain and register  
30 each and every qualified voter entitled to vote within the pre-  
31 cinct, and for this purpose shall visit the usual place of abode  
32 of each and every voter; the said registrars shall for the purpose



33 of amending, correcting and completing said registration sit to-  
34 gether at some convenient place within the voting precinct for  
35 two days commencing on the first Monday in July, one thousand  
36 nine hundred and nineteen, and they shall give notice of the  
37 time and place of the sitting for such registration and correc-  
38 tion by posting written or printed notices of the time and place  
39 of such sitting for five days prior thereto at not less than five  
40 of the most conspicuous places in said voting precincts, one of  
41 which shall be at the place of voting in said precinct; and said  
42 board of affairs shall convene on the fourth Monday in July,  
43 one thousand nine hundred and nineteen, for the purpose of  
44 hearing any and all matters as to the registration of voters, at  
45 which meeting said board of affairs shall examine the returns  
46 made to them by the registrars, and if they are satisfied that  
47 persons have been registered who are not entitled to vote they  
48 shall cause their names to be stricken from the list of voters, and  
49 if they shall find that persons named have been omitted by the  
50 registrars who should be registered, either because the same have  
51 been omitted or by reason of such persons having become en-  
52 titled to vote since such registration was made, the board shall  
53 cause their names to be registered as qualified voters.

54 And the duties by said chapter six of the acts of the legisla-  
55 ture, extraordinary session, one thousand nine hundred and six-  
56 teen, required therein to be performed by the county court shall  
57 be performed by the board of directors and the duties therein  
58 provided to be performed by the clerk of the county court shall  
59 be performed by the city clerk.

#### *Nomination of Candidates.*

Sec. 19-b. Candidates to be voted for at any municipal elec-  
2 tion for members of the board of directors may be nominated  
3 either by convention, or primary election. A political party for  
4 the purpose of this act shall be taken and construed to be an  
5 affiliation of electors representing a political party or organiza-  
6 tion, which at the last preceding municipal election polled for  
7 any one of its candidates for members of the board of directors at  
8 least twenty per centum of the total vote cast at said election by  
9 all parties, but for the purpose of the first election hereunder for  
10 members of the board of directors, no organization, either political  
11 or otherwise, shall be taken and deemed to be a political party  
12 unless it cast at the last general election for its candidate for

13 governor, a vote equal to twenty per centum of the whole vote  
14 cast for all the candidates for the office of governor, within the  
15 corporate limits of said city.

16 The city executive committee of any political party entitled  
17 to nominate candidates for the office of members of the board  
18 of directors shall determine sixty days prior to any municipal  
19 election at which members of the board of directors are to be  
20 elected, whether such political party will nominate its candidates  
21 by convention, or primary election. A city executive committee,  
22 composed of one member from each ward of said city, shall be  
23 appointed or elected by each political party making nominations  
24 of candidates for the office of members of the board of directors,  
25 and it shall be the duty of any such city executive committee  
26 representing any political party so appointed or elected to do and  
27 perform the duties required of it hereunder.

28 No person shall take any part in or vote in any convention or  
29 primary election who is not at the time a legal voter in the city,  
30 and who is not a known, recognized and openly declared member  
31 of the political party included and defined in the terms of the call  
32 under which such convention or primary election is held. And  
33 the executive committee of the political party calling such con-  
34 vention or primary election may require the persons or any of  
35 them taking part in and voting in such convention or primary  
36 election to take and file with the secretary of said convention or  
37 with the commissioners holding such primary election an affi-  
38 davit that the person so offering to vote is a qualified voter of  
39 the political party holding such convention or primary election.  
40 And the city executive committee of any political party shall have  
41 the right to adopt rules and regulations prescribing the qualifica-  
42 tions of any voter participating in any convention or primary elec-  
43 tion hereunder and shall have the authority to decide the quali-  
44 fications of any voter participating in any such convention or  
45 primary election hereunder and shall have the authority to decide  
46 the qualifications of any voter participating in any such convention  
47 or primary election of such political party.

48 No political party shall nominate more than two persons for  
49 the office of members of the board of directors, no two of whom  
50 shall be from the same ward, and there shall not be printed on any  
51 ticket of any ballot to be voted at any municipal election for the  
52 election of members of the board of directors more than two can-

53 didates of any political party for the office of members of the  
54 board of directors, and no person shall receive the nomination as  
55 a candidate for the office of member of the board of directors from  
56 more than one political party, and all candidates for the office  
57 of members of the board of directors shall be nominated by their  
58 respective political parties, either by convention or by primary  
59 as herein provided, twenty days prior to any municipal election, at  
60 which members of the board of directors are to be elected.

Sec. 19-c. Every person so nominated for the office of mem-  
2 ber of the board of directors, shall, within five days after his  
3 nomination has been certified by the political party making the  
4 nomination, make, under oath, and file with the city clerk, a state-  
5 ment of the political party to which he claims allegiance. If  
6 such person fails to make the oath, and file the same, as herein  
7 prescribed, the ballot commissioners shall not place his name on  
8 the ballot to be voted at the approaching municipal election.

9 In case of a vacancy, in a nomination, by death, resignation,  
10 or by failure to file said affidavit of allegiance within the time  
11 prescribed by law, the same shall be filled by the city executive  
12 committee of the political party making such nomination, and  
13 whenever any vacancy is so filled by such nomination, the chair-  
14 man and secretary of the city executive committee of the political  
15 party so filling such vacancy shall certify and file the same with  
16 the city clerk.

#### *Conventions.*

Sec. 19-d. A convention within the meaning of this act shall  
2 be deemed an organized assemblage of voters or delegates of any  
3 political party for the purpose of nominating candidates for the  
4 office of members of the board of directors, and such convention  
5 of any political party shall be called, and the basis of its represen-  
6 tation therein fixed, by its city executive committee; any conven-  
7 tion held for the purpose of making such nominations may nom-  
8 inate candidates for the office of members of the board of directors  
9 and members of its city executive committee; and when any  
10 nominations of any candidates for the office of members of the  
11 board of directors are made by a convention of any political party,  
12 it shall be the duty of the presiding officer and secretary of such  
13 convention to certify the same, and file, at least fifteen days prior  
14 to the municipal election, with the city clerk, a certificate of such

15 nominations, giving the names of the candidates, the office for  
16 which they are nominated, and the wards in which they reside.

*Primary Elections.*

Sec. 19-e. A primary election within the meaning of this  
2 act is an election held by the voters who are the members of any  
3 political party for the purpose of nominating candidates for the  
4 office of members of the board of directors; any primary election  
5 held by any political party for the purpose of making nomina-  
6 tions for the office of members of the board of directors may  
7 nominate candidates for the office of members of the board of  
8 directors and members of its city executive committee; and when  
9 any nominations of any political party of candidates for the  
10 office of members of the board of directors are made by any pri-  
11 mary election as herein specified, it shall be the duty of the chair-  
12 man and secretary of the city executive committee representing  
13 such political party for which the nominations were made, to  
14 certify the same and file, at least fifteen days prior to the municipal  
15 election, with the city clerk, a certificate giving the names of  
16 such candidates, the office for which nominated, and the wards in  
17 which they reside.

Sec. 19-f. Any primary election held by any political party  
2 for the nomination of candidates for the office of members of the  
3 board of directors may be called by a written or printed notice by  
4 the city executive committee of such political party, specifying  
5 that the same is to be held in accordance with the provisions of  
6 this charter in relation thereto, and the provisions thereof shall  
7 apply to the conduct and proceedings of any such primary elec-  
8 tion; the call for any such primary election shall designate the  
9 name of the city executive committee which calls the same, and  
10 the purpose for which it is called, and the call shall name the  
11 time, place or places at which such election is to be held, and, fully,  
12 the purposes thereof, and the city executive committee of any  
13 political party calling such primary election may appoint three  
14 commissioners of election and two clerks for each voting precinct,  
15 who are to conduct such primary election, and the city executive  
16 committee shall designate the places at which such primary elec-  
17 tion is to be held and the mode in which the votes shall be taken,  
18 recorded and announced; at any such primary election the votes  
19 shall be taken by ballot and all votes cast at such election shall  
20 be deposited in a ballot box prepared for the purpose, and in the

21 mode to be provided in the call for such primary election, and the  
22 city shall bear the expense of all primary elections held by any  
23 political party under the provisions hereof for the nomination of  
24 candidates of such political party for the office of members of the  
25 board of directors.

Sec. 19-g. The city executive committee of any political  
2 party shall be appointed by such political party, either in con-  
3 vention, or by election at any primary election, and for the pur-  
4 poses of the first election hereunder for the office of members of  
5 the board of directors, any political party may appoint its city  
6 executive committee by a mass convention held for the purpose  
7 at least sixty days prior to the first municipal election to be held  
8 hereunder.

#### *Offenses By Voters.*

Sec. 19-h. Whoever shall vote at any such convention, or  
2 primary election, for the nomination of candidates to be supported  
3 at any municipal election, or for the appointment of any city  
4 executive committee of any political party, not being at the time  
5 a legal voter in the city; whoever so votes, being a legal voter, but  
6 who is not a known, recognized, theretofore openly declared,  
7 member of the political party included and defined in the terms  
8 of the call under which any such convention or primary election  
9 is held; whoever shall vote or attempt to vote more than once at  
10 any such convention or primary election; whoever shall vote or  
11 attempt to vote upon any name not his own in such convention  
12 or primary election; whoever shall either use or receive any money  
13 or other thing of value to influence any vote or ballot at any such  
14 convention, or primary election; whoever shall cast or vote any  
15 such ballot at such convention or primary election after having  
16 received or is to receive money, or anything of value, for or in  
17 consideration of such vote or ballot, shall be guilty of a misde-  
18 meanor, and shall be punished by fine of not more than two hun-  
19 dred and fifty dollars, or by imprisonment in the county jail for  
20 not more than six months, or in the discretion of the court, by both  
21 fine and imprisonment.

#### *False Returns.*

Sec. 19-i. Whoever shall knowingly make any false count  
2 of the ballots or votes cast in any such convention or primary elec-  
3 tion, or any false statement or declaration of the result of any

4 such vote or ballot, knowing such count or statement to be false,  
5 or whoever shall wilfully alter, deface, or destroy such vote or bal-  
6 lot cast at any such convention or primary election, or the evidence  
7 of any such vote or ballot, shall be guilty of a misdemeanor, and  
8 shall be punished by a fine not to exceed five hundred dollars, or  
9 by imprisonment in the county jail for a period not exceeding six  
10 months or in the discretion of the court, by both fine and impris-  
11 onment.

#### *Nominations By Certificates.*

Sec. 19-j. Members of the board of directors may be nomin-  
2 ated otherwise than by conventions or primary elections. In such  
3 case, a certificate shall be signed by the qualified voters within  
4 the corporate limits of said city to a number equal to ten per  
5 centum of the entire vote cast at the last general municipal elec-  
6 tion, and for the purpose of nominating candidates for members  
7 of the board of directors to be voted for at the first general muni-  
8 cipal election to be held hereunder, a certificate shall be signed  
9 by the qualified voters of said city to a number equal to ten  
10 per centum of the entire vote cast at the last general election for  
11 all candidates for governor, within the corporate limits of said  
12 city. No voter signing such certificate shall be counted unless  
13 his street residence and postoffice shall be designated thereon.  
14 Such certificate shall state the names of the candidates, and the  
15 wards in which they reside, respectively, and that such candidates  
16 are legally qualified to hold the office of members of the board  
17 of directors; and that the subscribers to said certificate desire and  
18 are legally qualified to vote for such candidate for members of  
19 the board of directors; and said certificate shall designate, by  
20 not more than five words, a brief name of the political party or  
21 organization which said candidates for members of the board of  
22 directors named in said certificates represent; and the signatures  
23 to such certificate need not be appended to any one paper; but to  
24 each separate paper there shall be an affidavit of the circulator  
25 thereof, stating the number of subscribers to such paper, and that  
26 each signature appended thereto was made in his presence and is  
27 the genuine signature of the person whose name it purports to  
28 be; and not more than two candidates for members of the board  
29 of directors shall be nominated by the subscribers to any certifi-  
30 cate; and no person who has participated in the nomination of

31 candidates for members of the board of directors by any political  
32 party by convention or primary election or by other certificate  
33 shall be counted.

34 Such certificates may be in the following form or to the fol-  
35 lowing effect, to-wit:

36 State of West Virginia,

37 City of Fairmont, ss:

38 This is to certify that we, the undersigned, qualified voters  
39 resident within the corporate limits of the city of Fairmont, West  
40 Virginia, do hereby make the following nominations for mem-  
41 bers of the board of directors of the city of Fairmont, to-wit:

42 ..... , Residence.....Ward;

43 ..... , Residence.....Ward.

44 And we further certify that each of said candidates is legally  
45 qualified to hold the office of member of the board of directors for  
46 which he is nominated, and that we desire, and are legally quali-  
47 fied, to vote for said candidates; and that we have not nor will  
48 we hereafter, participate in the nomination of any other candi-  
49 dates of any political party, organization or by other certificates,  
50 for members of the board of directors to be voted for at the ap-  
51 proaching general municipal election. The name of the political  
52 party or organization which said candidates represent is.....  
53 .....

54 Signature Street Address Postoffice Address

55 (Name of Voter) (Describe It) (Name It)

56 Certificates for nominations of candidates for members of  
57 the board of directors shall, on or before twenty days, before the  
58 regular municipal election be filed with the city clerk, and each  
59 candidate so nominated by certificate as in this section provided,  
60 shall make, under oath, and file the same with the city clerk, a  
61 statement of the political party or organization to which he claims  
62 allegiance; and the voters who have subscribed to any certificate  
63 of nominations, whereby candidates for members of the board  
64 of directors are nominated, and wherein a political party or or-  
65 ganization is named, shall, on or before fifteen days before any  
66 general municipal election select a city executive committee as  
67 herein defined, composed of one member from each ward of said  
68 city.

*Election Results and Contested Elections.*

Sec. 20. The four candidates receiving the greatest number

2 of votes for the board of directors at any regular municipal elec-  
3 tion shall be declared elected and if two or more candidates re-  
4 ceive an equal number of votes, the canvassing board, before whom  
5 the said election returns shall have been canvassed, shall decide  
6 between them according to the intent and provisions of this act,  
7 but only two of such candidates of the same political party shall  
8 be declared elected. All contested elections shall be heard and  
9 determined by the board of directors, and the contests shall be  
10 made and heard and conducted in the manner and as provided for  
11 such contests for county and district offices; and the board of  
12 directors shall conduct its proceedings in such cases as nearly as  
13 practicable in conformity with the proceedings of the county  
14 court in such cases.

15 If two or more directors elected at any regular municipal  
16 election fail or neglect to qualify within the time provided in  
17 this act, the offices to which they were elected shall be declared  
18 vacated, and the then said board of directors (board of affairs in  
19 the first instance), shall appoint members of said board of direc-  
20 tors to fill the vacancies caused by said directors elect failing or  
21 neglecting to qualify; but such vacancies on the said board of  
22 directors shall be filled by the appointment of persons according  
23 to the intent of this act; not more than two members of the said  
24 board shall belong to the same political party; and any person  
25 appointed to fill any such vacancy shall be by the appointment of  
26 a person openly and publicly recognized as belonging to and  
27 affiliated with the political party from which the person whose  
28 vacancy is to be filled was elected; *provided, however,* the city  
29 executive committee of the political party from which the person  
30 whose vacancy is to be filled was elected shall have the right to  
31 nominate persons having the qualifications of a director and the  
32 board of directors (board of affairs in the first instance) shall  
33 fill any such vacancy by the appointment of some person nomin-  
34 ated by such committee as aforesaid.

#### *Oaths of Officers.*

Sec. 21. 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  
4 impartially discharge the duties of their respective offices, to the  
5 best of their skill and judgment; that they will not administer



6 their respective offices with the aim to benefit any political party;  
7 that they will not during their term of office become pecuniarily  
8 interested directly or indirectly, in any contract with the city, or  
9 the purchase of any supplies therefor. When the officer shall have  
10 made such oath in writing and filed the same with the city clerk,  
11 and shall have given the bond required of and accepted from  
12 him, he shall be considered as having qualified for the office to  
13 which he was elected or appointed; *provided*, that if any person  
14 elected to the office of board of directors shall not qualify for  
15 said office as herein prescribed within thirty days after he shall  
16 have been officially declared elected thereto, said office shall *ipso*  
17 *facto* become vacant, and said vacancy shall be filled in the manner  
18 provided for in this act.

#### *Bond of Officers.*

Sec. 22. Each member of the board of directors and the  
2 city clerk, city attorney, city physician, chief of police, chief of  
3 fire department and heads of departments, shall, before entering  
4 upon the discharge of their duties, give an official bond, con-  
5 ditioned for the faithful performance of their respective duties as  
6 prescribed in this act or any ordinance now or hereafter passed,  
7 in amounts as follows: Each director five thousand dollars, except  
8 the director of finance, who shall give bond in the penalty of  
9 sixty-five thousand dollars; the city clerk, three thousand dol-  
10 lars; the city attorney, city physician, chief of police, and the  
11 chief of the fire department, each one thousand dollars.

12 The board of directors may require additional bond from any  
13 of said appointive officers, and may likewise require a bond in  
14 whatever sum they may fix, of any other appointive officer. All  
15 bonds of appointive officers shall, before their acceptance, be  
16 approved by the board of directors; and the bonds of the directors  
17 shall be approved by the retiring board of directors, (board of  
18 affairs in the first instance). All other bonds of whatsoever kind  
19 shall not be accepted until first approved by the board of direc-  
20 tors. The minutes of the meeting of the board shall show all  
21 matters touching the consideration or approval of all bonds, and  
22 when said bonds are approved and accepted they shall be recorded  
23 by the city clerk in a well bound book kept by him at his office  
24 for that purpose, which book shall be open to public inspection;  
25 and the recordation of such bonds as aforesaid shall be *prima facie*  
26 proof of their correctness, and they, as so recorded, shall be ad-

27 mitted as evidence in all the courts of this state. The city clerk  
28 shall be the custodian of all bonds, except those given by him,  
29 and as to them, the city treasurer shall be custodian.

30 All bonds, obligations or other writing taken in pursuance  
31 of any provisions of this act shall be made payable to "the city of  
32 Fairmont," and the respective persons, and their heirs, executors,  
33 administrators and assigns bound thereby shall be subject to the  
34 same proceedings on said bonds, obligations and other writings,  
35 for enforcing the conditions of the terms thereof, by motion or  
36 otherwise, before any court of record held in and for the county  
37 of Marion, that collectors of county levies and other sureties  
38 are or shall be subject to on their bonds for enforcing the pay-  
39 ment of the county levies.

Sec. 23. All appointive officers shall hold their offices for  
2 the term of four years (unless sooner removed as herein provided),  
3 and until their successors are appointed and qualified. No ap-  
4 pointive officer of the city shall hold two official offices with the  
5 city at the same time, nor shall become the employe of the city  
6 in any other capacity except by the consent of the board of direc-  
7 tors shown by resolution.

Sec. 26. No franchise or ordinance shall be passed, and no  
2 contract shall be awarded, nor any money appropriated for any  
3 purpose in a greater sum than one hundred dollars, and no ap-  
4 pointments of any officers shall be made, nor any vacancy in  
5 office declared without the affirmative vote of at least three mem-  
6 bers of the board of directors.

#### *Notice For Franchise.*

Sec. 27. Publication of notice to present franchise and other  
2 preliminaries prescribed by the laws of the state relating thereto  
3 shall be had in the manner prescribed by the state laws, before the  
4 board of directors shall act on any such franchise.

#### *Salaries.*

Sec. 28. The members of the board of directors shall each  
2 receive two thousand five hundred dollars per annum. All sal-  
3 aries shall be paid monthly, as the services shall have been ren-  
4 dered.

#### *Salaries of Appointive Officers.*

Sec. 29. The salaries of all appointive officers shall be fixed

2 by the board of directors and paid monthly, as the services shall  
3 have been rendered. The salary of the city clerk shall not ex-  
4 ceed one thousand eight hundred dollars per year; the salary of  
5 the city physician shall not exceed seven hundred and fifty dollars  
6 per year; the salary of the city attorney shall not exceed one  
7 thousand five hundred dollars per year; the salary of the chief  
8 of police shall not exceed one thousand eight hundred dollars  
9 per year; the salary of the chief of the fire department shall not  
10 exceed one thousand eight hundred dollars per year; the salary  
11 of the city engineer shall not exceed one thousand eight hundred  
12 dollars per year; the salary of no other appointive officer or agent  
13 not herein specifically limited shall exceed one thousand five hun-  
14 dred dollars per year; *provided, however*, that whenever the United  
15 States census of said city shall show its population to be as much  
16 as twenty thousand people then the board of directors may by  
17 ordinance provide an increase in all salaries including their own  
18 not to exceed twenty-five per cent.

#### *Recall Elections.*

Sec. 43. Any or all members of the board of directors  
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  
6 officer or officers be submitted to the electors shall be filed with  
7 the city clerk. Such petition for the recall of any or all of the  
8 board of directors shall be signed by at least thirty-five per cent  
9 of the total number of registered voters in the municipality. The  
10 signatures to such petitions need not be appended to any one  
11 paper.

Sec. 44. Petition papers shall be procured only from the  
2 clerk of the board of directors, who shall keep a sufficient number  
3 of such blank petitions on file for distribution as herein provided.  
4 Prior to the issuance of such petition papers an affidavit shall  
5 be made by one or more qualified electors and filed with the city  
6 clerk, stating the name and office of the officer or officers sought  
7 to be removed. The clerk of the board of directors upon issuing  
8 any such petition papers to an elector shall enter in a record, to  
9 be kept in his office, the name of the elector to whom issued, the  
10 date of such issuance, and the number of papers issued, and shall  
11 certify on such papers the name of the elector to whom issued

12 and the date issued. No petition papers so issued shall be ac-  
13 cepted as part of the petition unless it bears such certificate of  
14 the clerk, and unless it be filed as provided herein.

Sec. 45. Each signer of a recall petition shall sign his name  
2 in ink, or indelible pencil, and shall place thereon after his name  
3 his 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  
6 that each signature appended to the paper was made in his pres-  
7 ence and is the genuine signature of the person whose name it  
8 purports to be.

Sec. 46. All papers comprising a recall petition shall be  
2 filed with the clerk as one instrument within thirty days after  
3 the filing with the clerk of the affidavit stating the names and  
4 office of the officers sought to be removed.

Sec. 47. The clerk shall at once submit the recall petition  
2 to the board of directors, and shall notify the officer sought to be  
3 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  
9 such period; but if no such election be held within such period,  
10 the board shall call a special recall election to be held within the  
11 time aforesaid.

Sec. 48. The ballots at such recall election shall conform to  
2 the following requirements:

3 With respect to each person whose removal is sought the  
4 question shall be submitted, "Shall (name of person) be re-  
5 moved from the office of (name of office) by recall?"

6 Immediately following each such question there shall be  
7 printed on the ballots the two propositions, in the order set  
8 forth: •

9 For the recall of (name of person).

10 Against the recall of (Name of person).

11 Immediately to the left of the proposition shall be placed a  
12 square in which the electors, by making a cross mark (x), may  
13 vote either of such propositions. Under said questions shall be  
14 placed the names of candidates to fill the vacancy or vacancies.

15 The name of the officer or officers whose removal is sought shall  
16 not appear on the ballot as a candidate or candidates to succeed  
17 himself or themselves.

18 Before any such recall election for the removal of directors  
19 shall be had, there shall be nominated candidates to fill the  
20 vacancy or vacancies, the nominations therefor to be made in the  
21 manner as herein provided for the nomination of candidates for  
22 the general municipal election, and a certificate of such nomina-  
23 tions shall be filed with the clerk twenty days prior to the date  
24 fixed for holding such recall election.

Sec. 49. 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 re-  
7 call petition, be deemed removed from office.

Sec. 50. No recall petition shall be filed against a director  
2 within six months after he takes his office, nor in case of an officer  
3 re-elected in a recall election, until six months after that election.  
4 At each recall election or any special election the registrars who  
5 made the registration of the voters for the last preceding general  
6 election shall sit one day at their respective voting precincts two  
7 weeks prior to any recall election or any special election for cor-  
8 recting, amending and adding to the registration, and at any  
9 recall election or any special election for said city the board of  
10 directors shall sit one day one week prior to such election for the  
11 correcting, amending and adding to such registration, and no  
12 voter shall vote at such recall elections or any special election  
13 unless he has been duly registered as aforesaid.

#### *Initiation; Referendum and Protest.*

Sec. 51. Any proposed ordinance may be submitted to the  
2 board of directors, by petition signed by at least ten per cent of  
3 the total number of registered voters in the municipality. All  
4 petition papers, circulated with respect to any proposed ordinance,  
5 shall be uniform in character, and shall contain the proposed  
6 ordinance in full, and have printed or written thereon the names  
7 and addresses of at least five electors who shall be officially re-  
8 garded as filing the petition, and shall constitute a committee of  
9 the petitioners for the purposes hereinafter named.

Sec. 52. Each signer of a petition shall sign his name in ink  
2 or indelible pencil and shall place on the petition paper after his  
3 name his place of residence by street and number. The signa-  
4 tures to any such petition paper need not all be appended to one  
5 paper, but to each such paper there shall be attached an affidavit  
6 by the circulator thereof, stating the number of signers to such  
7 part of the petition, and that each signature appended to one  
8 paper is the genuine signature of the person whose name it pur-  
9 ports to be and was made in the presence of the affiant.

Sec. 53. All papers comprising a petition shall be filed with  
2 the city clerk as one instrument, and when so filed the clerk shall  
3 submit the proposed ordinance to the board of directors at its  
4 next regular meeting. Provision shall be made for public hear-  
5 ings upon the proposed ordinance.

Sec. 54. The board of directors shall at once proceed to con-  
2 sider it, and shall take final action thereon within thirty days  
3 from the date of submission. If the board rejects the proposed  
4 ordinance, or passes it in a form different from that set forth in  
5 the petition, the committee of the petitioners may require that it  
6 be submitted to a vote of the electors in its original form or that  
7 it be submitted to a vote of the electors with any proposed change,  
8 addition, or amendment, if a petition for such election is pre-  
9 sented bearing additional signatures of fifteen per cent of the  
10 electors of the city.

Sec. 55. When an ordinance proposed by petition is to be  
2 submitted to a vote of the electors, the committee of the petition-  
3 ers shall certify that fact and the proposed ordinance to the clerk  
4 within twenty days after the final action on such proposed ordin-  
5 ance by the board of directors.

Sec. 56. Upon receipt of the certificates and certified copy  
2 of the proposed ordinance, the clerk shall certify the fact to the  
3 board at its next regular meeting. If an election is to be held  
4 not more than six months nor less than thirty days after the re-  
5 ceipt of the clerk's certificate by the board, such proposed ordin-  
6 ance shall then be submitted to a vote of the electors. If no such  
7 election is to be held within the time aforesaid, the board shall  
8 provide for submitting the proposed ordinance to the electors at a  
9 special election.

Sec. 57. The ballots used when voting upon any such pro-  
2 posed ordinance shall state the title of the ordinance to be voted

3 on and below it the two propositions, "For the ordinance," and  
4 "Against the ordinance." Immediately at the left of each propo-  
5 sition there shall be a square in which, by making a cross (x),  
6 the voter may vote for or against the proposed ordinance. If a  
7 majority of the electors voting on any such proposed ordinance  
8 shall vote in favor thereof, it shall thereupon become an ordi-  
9 nance of the city.

Sec. 58. Proposed ordinances for repealing any existing  
2 ordinance or ordinances in whole or in part, may be submitted to  
3 the board of directors as provided in the preceding sections for  
4 initiating ordinances. Initiated ordinances adopted by the elec-  
5 tors shall be published and may be amended or repealed by the  
6 board as in the case of other ordinances.

Sec. 59. No ordinance passed by the board, unless it be an  
2 emergency measure, shall go into effect until fifteen days after its  
3 final passage by the board of directors. If at any time within  
4 said fifteen days, a petition signed by twenty-five per cent. of the  
5 total number of registered voters in the municipality be filed with  
6 the clerk of the board of directors requesting that any such  
7 ordinance be repealed or submitted to a vote of the electors, it  
8 shall not become operative until the steps indicated herein have  
9 been taken.

Sec. 60. The city clerk shall deliver the petition to the  
2 board, which shall proceed to reconsider the ordinance. If, upon  
3 such reconsideration, the ordinance be not entirely repealed, the  
4 board shall provide for submitting it to a vote of the electors,  
5 and in so doing the board shall be governed by the provisions of  
6 sections fifty-five, fifty-six and fifty-seven hereof, respecting the  
7 time of submission and of the manner of voting on ordinances  
8 proposed to the board by petition. If, when submitting to a  
9 vote of the electors, any such ordinance be not approved by a  
10 majority of those voting thereon, it shall be deemed repealed.

Sec. 61. Referendum petitions need not contain the text of  
2 the ordinances, the repeal of which is sought, but shall be sub-  
3 ject in all other respects to the requirements for petitions sub-  
4 mitting proposed ordinances to the board. Ballots used in refer-  
5 endum elections shall conform in all respects to those provided  
6 for in section fifty-seven of this charter.

#### *Ordinances.*

Sec. 62. Ordinances submitted to the board of directors

2 by initiative petition, and passed by the board without change, or  
3 passed in an amended form and not required to be submitted to a  
4 vote of the electors by the committee of the petitioners, shall be  
5 subject to the referendum in the same manner as other ordin-  
6 ances.

#### *Conflicting Ordinances.*

Sec. 63. If the provisions of two or more ordinances adopted  
2 or approved at the same election conflict, the ordinances receiving  
3 the highest affirmative vote shall prevail.

#### *Referendum on Emergency Measures.*

Sec. 64. Ordinances passed as emergency measures shall be  
2 subject to referendum in like manner as other ordinances, except  
3 that they shall go into effect at the time indicated in such ordin-  
4 ances. If, when submitted to a vote of the electors, an emergency  
5 measure be not approved by a majority of those voting thereon,  
6 it shall be considered repealed as regards any further action there-  
7 under; but such measure so repealed shall be deemed sufficient  
8 authority for payment in accordance with the ordinance, of any  
9 expense incurred previous to the referendum vote thereon.

#### *Referendum; Preliminary Action.*

Sec. 65. In case a petition be filed requiring that a measure  
2 passed by the board of directors providing for an expenditure  
3 of money, a bond issue, or a public improvement be submitted to  
4 a vote of the electors, all steps preliminary to such actual expen-  
5 diture, actual issuance of bonds, or actual execution of a contract  
6 for such improvement may be taken prior to the election.

#### *Mayor.*

Sec. 66. The board of directors shall select by vote the  
2 mayor from and among its own members at its first meeting.

Sec. 67. But should the board fail to select the mayor  
2 within ten days after the beginning of their term of office, then  
3 the members of said board shall decide by casting lots, which one  
4 of them shall be the mayor, and until such decision shall have been  
5 made as to what one of said members of the board of directors  
6 shall be the mayor, the city attorney shall be the acting mayor  
7 of the city, with the powers and duties, and salary of mayor,



8 while he so acts, except he shall not vote upon any question arising  
9 or coming before the board of directors and the members of the  
10 board of directors shall receive no salary until the mayor shall  
11 have been selected, their salary beginning with the date of such  
12 selection.

#### *Meetings of the Board.*

Sec. 71. At ten o'clock A. M., on the first Monday in July  
2 following a regular municipal election, the board of directors shall  
3 meet at the usual place for holding the meeting of the legislative  
4 body of the city, except that the first meeting of the board of  
5 directors under this charter shall be held on the first Monday  
6 in September, one thousand nine hundred and nineteen. There-  
7 after the board shall meet at such times as may be prescribed by  
8 ordinance or resolution, except that they shall meet not less than  
9 once each week. The mayor or two members of the board if  
10 directors may call special meetings of the board upon at least  
11 six hours' written notice to each member of the board of direc-  
12 tors served personally on each member; and may publish like  
13 notice of the time and purpose of said meeting, by publishing  
14 said notice at least once in all the daily newspapers published  
15 in said city. All meetings of the board of directors shall be public  
16 and any citizen shall have access to the minutes and records  
17 thereof at all reasonable times. The board shall determine its  
18 own rules and order of business and shall keep a journal of its  
19 proceedings.

#### *Ordinance Enactment.*

Sec. 73. Each proposed ordinance or resolution shall be in-  
2 troduced in written or printed form, and shall not contain more  
3 than one subject, which shall be clearly stated in the title; but  
4 general appropriation ordinances may contain the various sub-  
5 jects and accounts for which moneys are to be appropriated. The  
6 enacting clauses of all ordinances passed by the board shall be,  
7 "Be it ordained by the board of directors of the city of Fairmont."  
8 No ordinance, unless it be declared an emergency measure  
9 shall be passed on the day on which it shall have been introduced,  
10 unless so ordered by an affirmative vote of all the members of the  
11 board of directors.  
12 No ordinance or resolution or section thereof shall be re-

13 vised or amended, unless the new ordinance or resolution contain  
14 the entire ordinance or resolution or section revised or amended  
15 and the original ordinance, resolution, section or sections so  
16 amended shall be repealed.

*Emergency Measures.*

Sec. 74. All ordinances and resolutions shall be in effect  
2 from and after fifteen days from the date of their passage by the  
3 board of directors, except as otherwise provided in this charter.  
4 The board may, by an affirmative vote of not less than three mem-  
5 bers, pass emergency measures to take effect at the time indicated  
6 therein. An emergency measure is an ordinance or resolution for  
7 the immediate preservation of the public peace, property, health  
8 or safety, or providing for the usual daily operation of a muni-  
9 cipal department, in which the emergency is set forth and de-  
10 fined in a preamble thereto. Ordinances appropriating money  
11 may be passed as emergency measures; but no measure making  
12 a grant, renewal or extension of a franchise or other special privi-  
13 lege shall ever be passed as an emergency measure.

*Publication of Ordinances.*

Sec. 77. Every ordinance or resolution upon its final passage  
2 shall be recorded in a book kept for that purpose, and shall be  
3 authenticated by the signature of the presiding officer and the city  
4 clerk. Every ordinance or resolution shall be published at least  
5 once within five days after its final passage in all daily news-  
6 papers of opposite politics published in the city of Fairmont.

*Investigations by the Mayor.*

Sec. 79. The mayor without notice may cause the affairs of  
2 any department or the conduct of any officer or employe to be  
3 examined or investigated.

*Departments of City Government.*

Sec. 80. In order to better dispense the business of the city,  
2 and assign more in detail the members of the board of directors,  
3 the government of said city is hereby divided into four depart-  
4 ments, to-wit:

5 (a) The department of law and public welfare, under which  
6 shall be included the departments of fire, police, law, health and  
7 charity.

8 (b) The department of public highways, under which shall  
9 be included the streets, alleys, storm sewers, surface drainage,  
10 wharves, bridges, public buildings and grounds.

11 (c) The department of finance, under which shall be in-  
12 cluded all finances of the city, water rents and taxation.

13 (d) The department of water, under which shall be in-  
14 cluded the city's water system and sanitary sewers.

Sec. 80-a. The board of directors shall at the first regular  
2 meeting of the board of directors following their election and  
3 qualifications, designate the mayor and each of the other direc-  
4 tors at the head of one of the said departments of government,  
5 except the mayor shall be at the head of the department of law  
6 and public welfare, and the director thus assigned shall be styled  
7 the director of that department and he shall have the immediate  
8 care and supervision of his department but subject always to the  
9 control of the board of directors. The business and the labors  
10 incident thereto of each of the departments shall be that which  
11 properly falls within the scope of the particular department, but,  
12 which, in detail, may be fixed from time to time by the board of  
13 directors. The head of each department shall see to the perform-  
14 ance of all the business coming within his department or which  
15 may be referred thereto or to any officer thereunder, from time to  
16 time.

Sec. 80-b. The director of each department shall keep a  
2 public office in the city building at which he may be found or  
3 communicated with during stated hours, to be fixed by him for  
4 the convenience of the public, unless his official duties call him  
5 elsewhere.

Sec. 90-a. The board of directors shall have the right when-  
2 ever the exigencies of the business of the municipality make the  
3 same necessary to employ special counsel to assist the city at-  
4 torney.

#### DEPARTMENT OF HIGHWAYS.

##### *General Powers and Duties.*

Sec. 101. Subject to the supervision and control of the  
2 board in all matters the director of public highways shall manage  
3 and have charge of the construction, improvement, repair and  
4 maintenance of streets, alleys, sidewalks, lanes, bridges, viaducts  
5 and all other public highways; or storm sewers, surface drainage,

6 ditches, culverts, canals, streams and water courses; of boulevards, squares and other public places and ground belonging to the city or dedicated to the public use. He shall manage market houses and shall have charge of the making and preservation of all surface maps, plans, drawings and estimates for such public works; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to this department.

Sec. 107-a. The director of the finance shall have charge of the collection of all water rents and all finances connected with the city's water system.

#### DEPARTMENT OF WATER.

##### *General Powers and Duties.*

Sec. 109-a. Subject to the supervision and control of the board in all matters, the director of the department of water shall manage and have charge of the construction, improvement, repair, maintenance and operation of the water system owned and controlled by said city, and he shall manage, control, and have supervision over all sanitary sewers, and shall be in charge of the construction, improvement, repair and extension of all sanitary sewers; he shall have charge of the water works; he shall manage the sewage disposal plants and farms; he shall preserve all contracts, papers, maps plans, tools and appliances belonging to the city and pertaining to this department.

Sec. 112-a. Said city of Fairmont 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 city, 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 improvements for which said city is authorized to sell said bonds but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds payable in two, four, six, eight and ten years respectively, from the date of their issue, and shall bear interest not to exceed six per cent. per annum, payable annually or semi-annually; and the assessments as pro-

15 vided for and required to be paid herein shall be applied to the  
16 liquidation of said bonds and interest thereon, and if, by reason of  
17 the penalties collected with the delinquent assessments, there be  
18 any balance after the payment of the bonds and all accrued in-  
19 terests and costs, it shall be turned into the city treasury to the  
20 credit of the interest and sinking fund of the city.

21 But the said city shall not become indebted in any manner  
22 or for any purpose to an amount including existing indebtedness,  
23 in the aggregate exceeding five per cent. of the value of all taxable  
24 property therein as provided in section 158-a of this act, and for  
25 that purpose in estimating "existing indebtedness," special assess-  
26 ment bonds representing the cost of paving or other permanent  
27 improvements of streets, roads or alleys, or the construction of  
28 sewers, or the acquiring or taking of land for such purposes and  
29 the cost of which is assessed against the abutting property on  
30 such avenues, streets, roads or alleys, or especially benefited  
31 property adjacent thereto, or on such owner, shall not be included;  
32 and likewise the amount in any sinking fund or the amount in-  
33 vested therefor as provided by law, for the payment of outstanding  
34 bonds, shall not be included in the estimate or existing indebted-  
35 ness; *provided*, that the aggregate of its debts of every kind what-  
36 soever, including such special street permanent improvement  
37 bonds, or sewer bonds shall not exceed five per cent. of the value of  
38 all taxable property therein.

Sec. 115-a. Upon the petition in writing of the owners of  
2 not less than one-half in lineal feet of property abutting on any  
3 avenue, street or alley, or portion thereof, in said city asking the  
4 board of directors to grade, curb, pave, or macadamize or other-  
5 wise permanently improve such avenue, street or alley, or portion  
6 thereof, and offering in said petition to have their said property  
7 proportionately assessed with the entire cost of the paving, grading,  
8 curbing or macadamizing or other permanent improvement of  
9 such avenue, street or alley, or portion thereof, so paved or other-  
10 wise permanently improved as petitioned for, the board of direc-  
11 tors may order such avenue, street or alley, or portion thereof, to  
12 be paved, or otherwise permanently improved as petitioned for,  
13 and assess the entire cost thereof to and require the same to be  
14 paid by the owners of the land, lots or fractional parts of the lots  
15 fronting or abutting on such avenue, street or alley, or portion  
16 thereof, so improved; and the board of directors in doing the

17 work so petitioned for shall be governed by the provision of sec-  
18 tions one hundred and eleven, one hundred and twelve, one hun-  
19 dred and thirteen and one hundred and fourteen hereof relating to  
20 paving or otherwise permanently improving avenues, streets or  
21 alleys, assessing the cost thereof to the abutting property owners,  
22 and providing for and enforcing payment for the same, except,  
23 that the entire cost of the said work may be assessed to and re-  
24 quired to be paid by the owners of the land, lots or fractional parts  
25 of the lots fronting or abutting on such avenue, street or alley so  
26 improved, instead of two-thirds of such cost, as in said sections  
27 provided.

Sec. 118. It shall be lawful for the city of Fairmont to issue  
2 and sell its bonds, as provided in this act for the sale of other  
3 paving and sewer bonds, to pay the city's part of the cost of the  
4 construction of said sewers and the paving or other permanent  
5 improvements of said streets and alleys, as required by this act;  
6 and said city may levy taxes, in addition to all other taxes, author-  
7 ized by law, to pay such bonds and interest thereon; *provided*,  
8 that the total indebtedness of the city for all purposes shall not  
9 exceed five per centum of the total value of all taxable property  
10 therein, notwithstanding anything herein, or statute or act of the  
11 legislature to the contrary.

12 It is especially provided that no bonds shall be issued under  
13 the provisions of this act, unless and until the questions of issuing  
14 said bonds shall have first been submitted to a vote of the people  
15 of said city, and shall have received three-fifths of all votes cast  
16 at said election for and against the same. But all bonds shall be  
17 issued and elections authorizing the same shall be held, pursuant  
18 to section one hundred and fifty-eight-*b* of this act.

*Franchises and Public Utilities; Grant.*

Sec. 128. The board of directors may, by ordinance, grant  
2 permission to any individual, company or corporation to construct  
3 and operate a public utility in, over and under the streets, alleys  
4 and public grounds of the city under the provisions of law ap-  
5 plicable thereto. No franchise shall be considered an emergency  
6 measure. And the board of directors may, by ordinance, renew  
7 any franchise to construct and operate a public utility in, under  
7-*a* and over the streets, alleys and public grounds of the city; and  
8 the board of directors may by ordinance, grant to any individual,  
9 company or corporation operating a public utility the right to

10 extend the appliances and services of such utility, but the right  
11 to use and maintain any such extension shall expire with the  
12 original grant of the utility or any renewal thereof.

Sec. 133. The board of directors shall at all times control  
2 the distribution of space in, over, under or across all streets or  
3 public grounds, occupied by public utility fixtures. All rights  
4 hereafter granted for the construction and operation of public  
5 utilities shall be subject to the continuing right of the board to  
6 require such reconstruction, relocation, change or discontinuance  
7 of the appliances used by the utility in such streets or public  
8 grounds as shall in the opinion of the board be necessary in the  
9 public interest.

*Limitations of Appropriations.*

Sec. 138. At the close of each fiscal year the unincumbered  
2 balance of each appropriation shall revert to the respective fund  
3 from which it was appropriated, and shall be subject to future  
4 appropriation. Any accruing revenue of the city, not appropriated  
5 as hereinbefore provided, and any balances at any time remaining  
6 after the purposes of the appropriation shall have been satisfied,  
7 may from time to time be appropriated by the board, to such uses  
8 as will not conflict with any uses for which specially such revenues  
9 accrued.

*Continuance of Present Officers and Ordinances.*

Sec. 139. All persons holding appointive positions or em-  
2 ployment with said city at the time this act goes into effect, shall  
3 continue in office, and in the performance of their duties, until  
4 provisions shall have been otherwise made in accordance with the  
5 provisions of this act for the performance or discontinuance of  
6 the duties of any such office. When such provision shall have  
7 been made the term of any such officer shall expire.

8 All the valid ordinances enacted by and now in force in the  
9 city of Fairmont as heretofore constituted, shall remain in full  
10 force and effect within the territory, except when the same are in  
11 conflict or inconsistent with this act, until the members of the  
12 board of directors as provided for in this act shall have been  
13 elected at the first election thereunder and a majority thereof  
14 shall have qualified, and upon the election and qualification of a  
15 majority of said directors said ordinances shall *ipso facto* extend  
16 to and over the whole of the city of Fairmont, as embraced in

17 section two of its charter, and shall, on and from said time, be  
18 and remain in full force and effect in the city of Fairmont as  
19 constituted by this act or until repealed or amended by said board  
20 of directors.

#### *Continuance of Contracts.*

Sec. 141. All contracts entered into by the city, or for its  
2 benefits, prior to the taking effect of this act, shall continue in  
3 full force and effect. All public work begun prior to the taking  
4 effect of this act shall be continued and perfected hereunder.  
5 Public improvements for which legislative steps shall have been  
6 taken under laws in force at the time this act takes effect may be  
7 carried to completion in accordance with the provisions of such  
8 laws. The municipal corporation herein created shall take all the  
9 rights and be subject to all the liabilities of the municipal cor-  
10 poration which it succeeds, or of which it is but a continuation.

#### *Licenses.*

Sec. 149. Concerning anything for which a state license  
2 is required to be done within the said county, the board of direc-  
3 tors may require a city license therefor, and may impose a tax  
4 thereon for the use of the city; and the board of directors shall  
5 have the power to grant, refuse or revoke any such license or  
6 the licenses of owners or keepers of hotels, carts or wagons  
7 drays, and every other description of wheeled carriages kept or  
8 used for hire in said city, and to levy and collect tax thereon,  
9 and to subject the same to such regulations as the interest and  
10 convenience of the inhabitants of said city, in the opinion of the  
11 board of directors may require.

#### *Taxi Cabs.*

Sec. 149-a. The board of directors shall have power to  
2 control and regulate by ordinance, all taxi cabs, automobiles and  
3 vehicles of like motive power engaged in the transportation of  
4 passengers for hire over the streets, alleys and public grounds of  
5 said city, and may require bond from the owners thereof for  
6 their faithful compliance with said ordinances and the rules and  
7 regulations made by the board in pursuance thereof.



*Sidewalks and Shade Trees.*

Sec. 152. The board of directors is authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads and alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plat of ground on either side of the sidewalks between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of lands or lots abutting upon any such avenues, streets, roads or alleys who shall desire to lay any such sidewalk, curb or gutter, or plant any such shade trees, shall make application to the board of directors for such permission, and the board of directors shall thereupon cause the grade and curb line of the avenue, street, road or alley upon which such land or lot abuts to be established and located by the city engineer, and such owners or occupiers of such lands or lots shall thereupon have the right to lay any such sidewalk, curb or gutter or plant any such shade trees, but only upon and in conformity to the grade and curb line so established and located by the city engineer, and in the manner prescribed by the board of directors; and the board of directors shall have the right to prescribe the kind of shade trees to be planted and the manner of planting the same. The said city may lay such sidewalk, gutter or curb, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The

40 amount so assessed against any land or lot shall also be a debt  
41 against the owner of such land or lot, which may be collected as  
42 other debts are collected, in any court having jurisdiction, and  
43 shall be due and payable in ninety days from the completion  
44 and acceptance of such work as certified to by the board of  
45 directors, with six per cent. interest thereon from the date of  
46 such record acceptance.

47 And in ascertaining the amount to be assessed against  
48 any corner lot for the cost of laying any such sidewalk and  
49 planting trees in front or alongside thereof, the board may  
50 assess the total cost of laying such sidewalk, and planting trees,  
51 in front or alongside said lot and extended to the curb or gutter  
52 of the intersections of the avenues, streets, roads or alleys at  
53 that point.

54 When such work is done by the city, and not let to con-  
55 tract, the board shall certify such assessments to the treasurer  
56 of the city for collection, who shall account for the same as  
57 directed by the board or by ordinances, and the treasurer shall  
58 accept payment, when tendered, of the amount of said assess-  
59 ment with interest to the date of payment, and unless said as-  
60 sessment shall have been paid within ninety days from the  
61 date of such assessments, then a copy of such report shall be  
62 certified by the city clerk to the clerk of the county court of  
63 Marion county, who is hereby required to record and index the  
64 same in the proper trust deed book in the name of the person  
65 against whose property assessments appear therein. If any  
66 such assessment shall not be paid when due, the board of direc-  
67 tors shall cause to be enforced the payment of said assessment  
68 and interest in all respects herein provided for the collection  
69 of taxes due the city; and said assessments shall be a lien upon  
70 the property liable therefor, the same as for taxes, which lien  
71 may be enforced in the same manner as provided for the sale of  
72 property for the non-payment of taxes and tax liens; and the  
73 liens herein provided for shall have priority over all other liens  
74 except those for taxes and assessments due the state and county,  
75 and shall be on a parity with taxes and assessments due the  
76 city. When such assessment shall have been paid in full, and  
77 a lien therefor shall be of record in the county clerk's office,  
78 the treasurer shall execute and deliver to the owner of said prop-

79 erty a release of said lien, which may be recorded in the office  
80 of the county clerk as other releases of liens are recorded.

81 The board may, if it so elect, let said work to contract, and  
82 certificates may be issued for the amount of said assessments  
83 which may be sold to the contractor doing the work, or other  
84 persons, in full of the total cost, in the same manner as pro-  
85 vided for paving certificates in section one hundred and eleven  
86 herein; *provided*, the city, in negotiating and selling such cer-  
87 tificates, shall not be held as guarantor or in any way liable  
88 for payment therefor, except upon the direct action of the  
89 board of directors as expressed by resolution or record before  
90 such sale. Said certificates, to be signed by the mayor and  
91 clerk or other person or persons designated of record by the  
92 board, shall bear date as of the time when such work is accepted  
92-a and certified by the board of directors, and shall be due and  
93 payable in ninety days from date thereof, with six per cent.  
94 interest. When the board shall have received said work, it  
95 shall at the same time make said assessments upon written re-  
96 port; and at the end of ninety days from date thereof, upon the  
97 demand in writing filed with the city clerk, of the holder or  
98 holders of the unpaid certificates issued to cover said assess-  
99 ments, said clerk shall certify a copy of said report, only in so  
100 far as it relates to the owners against whom said exhibit cer-  
101 tificates remain unpaid, to the clerk of the county court of  
102 Marion county, who shall record and index the same as other  
103 liens of like kind are recorded and indexed, and the same shall  
104 be and remain a lien upon the real estate against which said  
105 assessments are made, as set out in said certified report, and  
106 said lien may be enforced, in the name of the holder of such  
107 certificate in the same manner as set out in section one hun-  
108 dred and eleven of this act.

109 Before letting such work to contract, the board shall ad-  
110 vertise the same once a week for two successive weeks in all  
111 the daily newspapers published in the city of Fairmont, setting  
112 out the time and place for receiving proposals for such work  
113 and referring to the plans and specifications made therefor;  
114 and the city reserves the right, whether stated in such notice or  
115 not, to refuse any and all bids for the work. The fact that such  
116 contract shall be awarded for said work shall be *prima facie*  
117 proof that said notice was given as required herein. Such

118 lien, as represented by certificate, may be released of record, as  
119 provided for in section one hundred and eleven herein; and in  
120 no event shall such assessment be and remain a lien of record  
121 for a longer period than one year from the date set out in said  
122 certified report so recorded in the office of the county clerk,  
123 unless at the end of said one year period a suit shall be pending  
124 for the enforcement of said lien, or the amount thereof, shall,  
125 in some way, be involved in a suit pending at the end of said  
126 one year period.

127 All such work, whether done by the city direct, or through  
128 contractors, shall be done under the supervision of the street  
129 department of the city or some person designated for the pur-  
130 pose by the board of directors.

131-2 If the owner or occupier of any such lot or land shall be  
133 required by the board to lay or relay, clean or repair any such  
134 sidewalk, curb or gutter, or shall be required to grade the space  
135 on either side of the sidewalk between the street curb and the  
136 property line, and keep the same sodded and free from weeds  
137 or obstruction or otherwise in good condition and repair, written  
138 or published notice shall be given to such owner or occupier in  
139 the manner provided by ordinance or resolution adopted by  
140 the board, and the neglect or refusal of such owner or occupier  
141 to do the work, in the manner and within the time required  
142 by the board, as set out or referred to in said notice shall be  
143 an offense and may be punished as provided by ordinance; and  
144 after the expiration of the time set out in said notice for the  
145 doing of said work, and the same remains undone, the board  
146 may do or cause to be done, said work and assess and collect  
147 the cost thereof in the manner, upon either plan, and to the  
148 full extent set out in this section.

#### *Indebtedness and Bonds.*

Section 158-a. The city of Fairmont, 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 pur-  
4 pose, to an amount, including existing indebtedness, in the aggre-  
5 gate, exceeding five per centum on the value of taxable property  
6 therein, to be ascertained by the last assessment for state and  
7 county taxes, previous to the incurring of such indebtedness; nor  
8 without, at the same time providing for the collection of a direct

9 annual tax sufficient to pay annually or semi-annually, the in-  
10 terest on such debt and the principal thereof, within and not  
11 exceeding thirty-four years; and the city of Fairmont is hereby  
11-a authorized and allowed, notwithstanding anything herein, or any  
12 other statute or act of the legislature to the contrary, to become  
13 indebted in an amount, including existing indebtedness, in the  
14 aggregate, not to exceed five per centum of the value of the tax-  
15 able property therein ascertained as aforesaid, and to issue bonds  
16 therefor for the purpose of locating, grading, draining, paving  
17 and permanently improving the streets and alleys and public  
18 grounds, parks and play grounds therein, and of con-  
18-a structing and repairing the bridges and retaining walls  
19 therein, and of sewerage the city, and the terms "sew-  
20 ering" being used in its comprehensive sense so as to  
21 include mains, laterals, connections, traps, incinerating and dis-  
22 posal plants, and other necessary and convenient accessories to  
23 a modern, sanitary and efficient sewerage system, and for the  
24 purpose of leasing, purchasing or erecting, owning, maintaining  
25 and operating a system of water works, gas plants to produce  
26 artificial gas, with distributing system; and electric power  
27 plants for the generation of electricity for electric current, fuel,  
28 heat and light with the necessary transmission systems, for the  
29 city and the inhabitants and industries thereof, and the inhab-  
30 itants and industries of any territory adjacent to the territory  
31 of the city of Fairmont, which the board of directors may from  
32 time to time agree to supply from the city water works, gas  
33 plants or power plants as provided for in this or any other act  
34 of the legislature, and of building municipal halls, hospitals, libra-  
35 ries and other public buildings and of refunding outstanding  
36 bonds, and of funding existing and floating indebtedness of said  
37 city.

Sec. 158-b. The board of directors shall have power to  
2 issue bonds of the city for one or more purposes authorized by  
3 this charter or by the laws of the state. Before issuing any such  
4 bonds, except the bonds mentioned in section one hundred and  
5 twelve of this act, the board of directors shall by ordinance sub-  
6 mit all questions connected with the same to the vote of the  
7 people, and no such bonds shall be issued unless the proposition  
8 for their issuance shall receive three-fifths of all the votes cast  
9 for and against the same. Such ordinance shall state the pur-

10 pose or purposes for which bonds are to be issued, and the amount  
 11 to be appropriated to each such purpose. The ballot voted at  
 12 such election shall be in the following form :

13			For the issuance of bonds under ordinance adopted
14			-----, 19---
15			Against the issuance of bonds under ordinance
16			adopted ----- 19---

17 Said ballot shall be voted or marked in the manner prescribed  
 18 by law. Said ordinance shall specify the maturities of said bonds  
 19 and the rate of interest thereon, not exceeding six per centum,  
 19-a per annum, payable annually or semi-annually, said bonds shall  
 20 be made payable in not less than one year and within and not ex-  
 21 ceeding thirty-four years from the date of their issuance, and said  
 22 ordinance shall provide for a direct annual tax, sufficient, with other  
 23 revenue applicable thereto, to pay the interest and maturing  
 24 principal of said bonds within and not exceeding thirty-four  
 25 years. If any part of such bonds shall be issued to refund any out-  
 25-a standing bonds, the amount of such bonds to be issued to refund  
 26 such outstanding bonds shall be stated in such ordinance. Notice of  
 27 the submission of such proposition shall be given by a proclama-  
 28 tion of the mayor, reciting and embodying said ordinance and  
 29 appointing a day on which an election shall be held by the quali-  
 30 fied voters of such city to vote for or against such proposition  
 31 for the issuance of such bonds pursuant to said ordinance. Said  
 32 proclamation shall be published in all daily newspapers in said  
 33 city for at least once a week for two successive weeks previous  
 34 to the day of such election. No other publication of such ordi-  
 35 nance shall be required. Such election shall be conducted, can-  
 36 vassed and the results ascertained in all respects according to  
 37 the laws governing elections for county and district officers. If,  
 38 upon the canvass of such election, it shall be found that three-  
 39 fifths of all the votes cast for and against the said bond issue  
 40 have been cast in favor of the issuance of said bonds, the mayor  
 41 shall issue a proclamation determining such fact, which procla-  
 42 mation shall be published in all daily newspapers of said city.  
 43 Such proclamation shall state the amount, date and maturities  
 44 of such bonds, and the purpose or purposes for which they are  
 45 to be issued, that all questions connected with the same have  
 46 been submitted to the qualified voters of the city, and that three-  
 47 fifths of all the votes cast for and against the issuance of such

47-a bonds have been cast in favor of their issuance, that a direct  
48 annual tax sufficient to pay the interest and the maturing prin-  
49 cipal of such bonds has been duly authorized and that said bonds  
50 will be issued bearing the date named in said proclamation. After  
51 the publication as aforesaid of any proclamation in the form  
52 above prescribed, and after the delivery of and payment for the  
53 said bonds therein specified, such proclamation shall constitute  
54 the final declaration and conclusive evidence of the facts so re-  
55 cited, and the validity of such election, or of the ordinance or  
56 other proceedings calling such election, or authorizing such bonds,  
57 shall not be called into question in any act or proceeding involv-  
58 ing the validity of such bonds or of any tax to pay the interest  
59 thereon, and the principal thereof, anything herein or in any  
60 other statute, or act of the legislature to the contrary notwith-  
61 standing. Notice of the sale of such bonds shall be published  
62 at least once a week for two weeks prior thereto in a financial  
63 paper published in the city of New York, in the state of New  
64 York, in all daily newspapers published in said city, and in such  
65 other paper or papers as the board of directors may direct, and  
66 such bonds shall not be sold at less than their par value.

*Terms of Office to End.*

Sec. 159. The term of office of the mayor, the board of  
2 affairs and the common council of said city of Fairmont shall  
3 cease and determine whenever the members, or a majority of the  
4 members, of the board of directors have been elected and qualified  
5 and entered upon the discharge of their official duties as provided  
6 in this act.

Sec. 159-a. This act shall not be effective unless the same  
2 shall first be submitted to the voters of said city at a special elec-  
3 tion called for the purpose and adopted by a majority of votes  
4 cast at said election. Said election shall be held on the second  
5 Tuesday in June, one thousand nine hundred and nineteen, and  
6 this act shall be published in all daily newspapers published in  
7 said city once at least ten days preceding said special election.  
8 Said special election shall be conducted in the regular manner  
8-a for regular municipal elections by the board of affairs then in  
9 office in said city; *provided, however*, that the commissioners of  
10 said election shall be appointed by the judge of the circuit court  
11 of Marion county. If this act is ratified or adopted at said special  
12 election it shall then go into effect.

13 The ballots to be voted at said election shall be printed upon  
14 plain, substantial white paper and shall be in the following form:

15 CITY OF FAIRMONT.

16 *Charter Amendments Election.*

17 Indicate by a cross (X) in the square how you desire to vote.

18 [ ] For adoption of new charter amendments.

19 [ ] Against adoption of new charter amendments.

Sec. 159-b. All other acts and parts of acts coming within  
2 the purview of this act and inconsistent with this act are hereby  
3 repealed.

## CHAPTER 23.

(Senate Bill No. 192—Mr. Coalter.)

AN ACT to amend and re-enact chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, incorporating the city of Hinton, as amended by chapter one hundred and twenty-one of acts of one thousand nine hundred and one and chapter fifteen of the acts of one thousand nine hundred and fifteen of the legislature of West Virginia; to extend the limits of said city and define the powers thereof; and to repeal all acts and parts of acts inconsistent herewith; and an act to create and establish the independent school district of Hinton, in the county of Summers, and submitting the question to a vote of the people.

[Passed February 21, 1919. In effect from passage. Became a law without the Governor's approval.]

SEC.	SEC.
1. The city of Hinton; city corporate and body politic.	14. Hearings of charges against members of board of affairs; proof of charges; removals; filling vacancies.
2. Corporate limits described; city of Avls included.	15. Section 6 of article 4 of the constitution applied in removals.
3. City wards.	16. Rules for government of common council.
4. Municipal authorities.	17. Department of city government.
5. Corporate powers.	18. Providing for heads of departments.
6. Board of affairs; duties and powers.	19. Public offices to be maintained.
7. Common council; how composed; additional ward may be created.	20. Mayor.
8. President of the common council.	21. To cast lots in case of tie.
9. City clerk <i>ex-officio</i> clerk of the common council.	22. Vacancy in office of mayor; how filled.
10. Members of common council entering upon their duties.	23. Duties and powers of the mayor.
11. Failure to qualify; vacancies; how filled.	24. Duties and powers of commissioner charged with department of finance, taxation and streets.
12. Vacancy in office of president; how filled.	
13. Right of veto conferred upon common council.	



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| <p><b>Sec.</b><br/>25. Duties and power of commissioner charged with department of records, public buildings and grounds.</p> <p>26. Duties and powers of commissioner charged with department of law.</p> <p>27. Additional officers; how appointed.</p> <p>28. Qualification of voters.</p> <p>29. Registration of voters.</p> <p>30. Nomination of candidates; convention; primary election or petition may be employed.</p> <p>31. Nomination to fill vacancies.</p> <p>32. Statement, by candidate, of political belief.</p> <p>33. Election of officers; commissioners; fixing date of elections.</p> <p>34. Election of members of common council.</p> <p>35. Eligibility to office.</p> <p>36. Results of election.</p> <p>37. In case of tie vote in election.</p> <p>38. Candidates elected must be of opposing political parties.</p> <p>39. Method of holding election.</p> <p>40. Contested elections.</p> <p>41. Oaths of officers.</p> <p>42. Bonds of officers.</p> <p>43. Terms and salaries of officers.</p> <p>44. Terms of appointive officers.</p> <p>45. Salaries of commissioners; payable monthly; forfeiture of salary.</p> <p>46. Fixing salaries of appointive officers.</p> <p>47. Day laborers.</p> <p>48. Duties of appointive officers.</p> <p>49. Meetings of the board of affairs.</p> <p>50. Special meetings.</p> <p>51. Vote; how taken.</p> <p>52. Keeping of minutes of meetings.</p> <p>53. Meetings of the common council.</p> <p>54. Special meetings.</p> <p>55. Attendance of witnesses; punishing contempts, etc.</p> <p>56. Quorum. board of affairs and common council.</p> <p>57. Filling vacancies in office of commissioner.</p> <p>58. Absence of officers.</p> <p>59. Cannot hold other office.</p> <p>60. Appointive officers cannot hold two offices.</p> <p>61. Purchase of supplies for city government.</p> <p>62. Police Judge and other officers.</p> <p>63. Vote on franchise, ordinances, officers, contracts.</p> <p>64. Franchise; when effective.</p> <p>65. Ordinance; when effective.</p> <p>66. Veto of franchise.</p> <p>67. Tie vote on passage of franchise.</p> <p>68. Publication of notices relative to franchises.</p> <p>69. Style of ordinance.</p> <p>70. License; when required; fees for, etc.</p> <p>71. Nuisances; abatement and removal of.</p> <p>72. May require sewerage connections.</p> <p>73. Sidewalks and shade trees; construction and repair of; requirements that may be made of property holders; assessments for payment.</p> <p>74. Taxes, levies, assessments; method of levy and collection of taxes.</p> | <p><b>Sec.</b><br/>76. Annual tax on real estate and personal property.</p> <p>77. Taxes a lien on real estate; duties of the clerk in levying and collection of taxes.</p> <p>78. Keeping in repair roads outside the corporate limits.</p> <p>79. Assessment of capitation tax.</p> <p>80. Depositing of city funds.</p> <p>81-a. Paving of streets, roads and alleys.</p> <p>82-a. Authority to issue bonds for specified purposes.</p> <p>83. Payment by land-owners for portion of paving.</p> <p>84. Authority of board of affairs in regard to payment for paving.</p> <p>85. Paving upon petition in writing of property owners.</p> <p>86. Sewer construction; rules and regulations governing.</p> <p>87. Release of liens.</p> <p>88. Further right regarding issuing and sale of bonds.</p> <p>88-a. Water works; may issue bonds for.</p> <p>89. Cost of improvements to include cost of assessment, preliminary survey, printing, publishing, etc.</p> <p>90. Describing lots and lands abutting upon improvements.</p> <p>91. Publication of notice of assessment upon completion of improvement.</p> <p>92. Charges against persons holding position in police department.</p> <p>93. Code of laws and ordinances.</p> <p>94. Non-partisan administration.</p> <p>95. Service of notice.</p> <p>96. Board of affairs successors to council.</p> <p>97. Joint meeting of municipal officers of cities of Hinton and Avls for calling of special election; method of holding such elections.</p> <p>98. Existing ordinances and records to obtain until new shall have been adopted.</p> <p>100. City clerk custodian of records and papers.</p> <p>101. Acts and parts of acts inconsistent with this act repealed.</p> <p>102. Independent district of Hinton; schools.</p> <p>103. Board of education.</p> <p>104. Appointment of school commissioners by board of affairs; term of office.</p> <p>105. Election of school commissioners or members of board of education.</p> <p>106. Method of holding elections.</p> <p>107. Nomination of candidates.</p> <p>108. Statement by candidate of political affiliation.</p> <p>109. Vacancy on board of education; how filled.</p> <p>110. Board of education a corporation; powers and duties.</p> <p>111. Organization of board at first meeting; election of president and secretary.</p> <p>112. Salaries of president and secretary of the board.</p> <p>113. Meetings of the board of education; regular and special.</p> <p>114. Making of estimates and laying of levies.</p> |
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<p>Sec. 115. Duty of board of education to provide all necessary lands, buildings, furnitures, fixtures, apparatus and appliances to maintain schools.</p> <p>116. Exclusive control of schools of the district.</p> <p>117. Schools for colored youth; board shall establish and maintain.</p> <p>118. Appointment of teachers, principals and substitute teachers; compensation.</p> <p>119. Superintendent of schools of district; duties and powers; removal from office; what for; vacancy, how filled; salary of superintendent.</p>	<p>Sec. 120. Pupils entitled to enter high school; non-resident pupils may enter upon payment of fee.</p> <p>121. Provisions for special election under supervision of the board of education; date of election; style of ballot to be voted; injury to school houses or school property; penalties.</p> <p>122. Inconsistent provisions of general school law void.</p> <p>123. Authorizing special elections for ratification or rejection of this act; date of election; style of ballot.</p>
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*Be it enacted by the Legislature of West Virginia:*

That chapter fifteen of the acts of one thousand nine hundred and fifteen entitled: An act to amend and re-enact chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, incorporating the city of Hinton, as amended by chapter one hundred and twenty-one of acts of one thousand nine hundred and one of the legislature of West Virginia, be amended and re-enacted to read as follows:

#### ARTICLE I.

##### *The City of Hinton.*

Section 1. That part of the county of Summers, included 2 in the limits hereafter mentioned in sections two and three is 3 hereby made a city corporate and body politic by the name of 4 "The city of Hinton" and as such shall have perpetual succes- 5 sion and a common seal and by that name may sue and be sued, 6 plead and be impleaded, purchase, lease, sell, and hold or own 7 real estate and personal property necessary to the purposes of 8 said corporation.

##### *Corporate Limits.*

Sec. 2. The corporation territorial limits of "The city of 2 Hinton" shall be as follows, to-wit: Beginning at a stone post, 3 corner for the lands of the Hinton heirs and the Central Land 4 Company of West Virginia, now owned by the Hinton Water. 5 Light and Supply company, also corner for the corporation lines 6 of the cities of Hinton and Avis, said stone post being marked 7 "C. & O."; thence leaving said post north forty-six east four 8 thousand six hundred twenty feet to a beech on Grimmitt's (now 9 Brier's) branch, thence north forty-three west one thousand six

10 hundred seventeen feet, crossing the Chesapeake and Ohio rail-  
11 way's right of way to the edge of New river, at the mouth of  
12 said Brier's branch; thence same course across New river to the  
13 Raleigh county line; thence up New river with said Raleigh  
14 county line to the corner of same at the mouth of Madams creek;  
15 thence continuing up said New river at normal water line and  
16 meanders of said river to a point opposite the south line of  
17 the property of the Hinton-Bellevue Realty company, the same  
18 being the south line of Riddleberger street in the town of Belle-  
19 point; thence crossing New river to said south line of Riddle-  
20 berger street, and with said street to the county road; thence in  
21 a direct line to the Bellepoint reservoir; thence from and in-  
22 cluding said reservoir in a straight and direct line southeasterly  
23 to the northwest corner of the upper county bridge across Green-  
24 brier river, about one mile from the mouth of said river, and  
25 thence from said north-west corner of the bridge in a straight and  
26 direct line to a stone marked "C. & O.," and now a corner for the  
27 corporation line for the said cities of Hinton and Avis, being  
28 the place of beginning, and shall include all of the territory now  
29-30 in the cities of Hinton and Avis and all of the territory included  
31 in the village of Bellepoint and outlying territory as hereinbefore  
32 set out, bounded and described, and also all of the portions of  
33 the rivers, islands, roads, railroads and railway tracks and rights  
34 of ways, and all other rights of ways, lying outside as well as  
35 inside of said cities of Hinton and Avis or the said village of  
36 Bellepoint, or the additional outlying territory, as hereinbefore  
37 set out and bounded as the new territorial limits of the city of  
38 Hinton. And shall contain all of the territory now embraced  
39 in the present city of Hinton, city of Avis, village of Bellepoint,  
40 as shown by its map and plan, and the additional outlying terri-  
41 tory adjacent to the village of Bellepoint, as hereinbefore set out,  
42 bounded and described as the new territorial limits of "The city  
43 of Hinton."

Sec. 3. The territory of the said city of Hinton shall con-  
2 sist of seven wards, six of which shall be as they are now con-  
3 stituted in the cities of Hinton and Avis, and the seventh ward  
4 shall include the boundary above the sixth ward, now part of the  
5 city of Avis, and the exterior line of the said city of Hinton, in-  
6 cluding the village of Bellepoint and the adjacent outlying terri-  
7 tory included in the boundary as hereinbefore set out and de-

8 scribed. It is *provided, however*, that the board of affairs, here-  
9 inafter provided for, after the expiration of two years from the  
10 time this act takes effect, may by ordinance fix the boundaries  
11 and increase or decrease the number of wards.

#### ARTICLE II.

##### *Municipal Authorities.*

Sec. 4. The municipal authorities of the city of Hinton  
2 shall be four commissioners, who shall constitute a board of af-  
3 fairs, (and common council hereinafter provided for in article  
4 three) and shall be known as the "board of affairs of the city of  
5 Hinton."

##### *Corporate Powers.*

Sec. 5. All corporate powers of said city shall be vested in  
2 and exercised by the board of affairs, or under its authority, ex-  
3 cept as otherwise provided in this act.

##### *Powers of Board of Affairs.*

Sec. 6. The board of affairs of said city shall have and are  
2 hereby granted power to have said city surveyed; to open, va-  
3 cate, broaden, change grade of, and pave streets, side walks and  
4 gutters for public use, and to alter, improve, embellish and  
5 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 bene-  
8 fited thereby such part of the expense thereof as shall be fixed  
9 by ordinance except as hereinafter provided; to have control  
10 of all streets, avenues, roads, alleys and grounds for public use  
11 in said city, and to regulate the use thereof and driving thereon,  
12 and to have the same kept in good order and free from obstruc-  
13 tion, pollution or litter on or over them; to change name of any  
14 street, avenue or road within said city, and to cause the re-  
15 numbering of houses on any street, avenue or road therein; to  
16 regulate and determine the width of streets, sidewalks, roads  
17 and alleys; to order and direct the curbing and paving of side-  
18 walks and footways for public use in said city to be done and  
19 kept clean and in good order by the owners of adjacent prop-  
20 erty; to prohibit and punish the abuse of animals; to restrain  
21 and punish vagrants, mendicants, beggars, tramps, prostitutes,

22 drunken or disorderly persons within the city, and to provide  
23 for their arrest and manner of punishment; to prohibit and  
24 punish by fine the bringing into the city by railroads or other  
25 carriers, of paupers or persons afflicted with contagious dis-  
26 eases; to control and suppress disorderly houses, houses of pros-  
27 titution, of ill-fame, houses of assignation, and gaming houses  
28 or any part thereof, and to punish gaming; to prohibit within  
29 said city or within one mile thereof slaughter houses, soap or  
30 glue factories and houses of like kind; to control the construc-  
31 tion and repair of all houses, basements, walls, culverts and  
32 sewers, and to prescribe and enforce all reasonable regulations  
33 affecting the construction of the same, and to require permits  
34 to be obtained for such buildings and structures, and plans and  
35 specifications thereof to be first submitted to a city architect or  
36 building inspector; to control the opening and construction of  
37 ditches, drains, sewers, cesspools and gutters, and to deepen,  
38 widen and clear the same of stagnant water or filth, and to pre-  
39 vent obstruction therein, and to determine at whose expense the  
40 same shall be done; and to build and maintain fire station  
41 houses, police stations and police courts, and to regulate the  
42 management thereof; to acquire, lay off, appropriate and con-  
43 trol public grounds, squares and parks, either within or without  
44 the city limits as hereinafter defined, and when the board of  
45 affairs determine that any real estate is necessary to be acquired  
46 by said city for any such purpose, or for any public purpose,  
47 the power of eminent domain is hereby conferred upon said  
48 city, and it shall have the right to institute condemnation pro-  
49 ceedings against the owner thereof in the same manner, to the  
50 same extent and upon the same conditions as such power is  
51 conferred upon public corporations by chapter forty-two of the  
52 code of West Virginia of the edition of one thousand nine hun-  
53 dred and six, and as now amended; to purchase, sell, lease or  
54 contract for and take care of all public buildings and structures  
55 and real estate including libraries and hospitals, deemed proper  
56 for use of such city; and, for the protection of the public, to  
57 cause the removal of unsafe walls or buildings, and the filling of  
58 excavations; to prevent injury or annoyance to the business of  
59 individuals from anything dangerous, offensive or unwhole-  
60 some; to abate or cause to be abated all nuisances and to that  
61 end and thereabout to summon witnesses and hear testimony;

62 to regulate the keeping of gunpowder, gasoline, dynamite and  
63 other combustible or dangerous articles; to regulate, restrain  
64 or prohibit the use of firecrackers or other explosives or fire-  
65 works and all noises or performances which may be dangerous,  
66 annoying to persons or tend to frighten horses or other animals;  
67 to provide and maintain proper places for the burial of the  
68 dead and to regulate interments therein upon such terms and  
69 conditions as to price and otherwise as may be determined; to  
70 provide for shade and ornamental trees and the protection of  
71 the same; to provide for the making of division fences; to make  
72 proper regulation for guarding against danger or damage from  
73 fires; to provide for the poor of the city, and to that end may  
74 contract with the proper authorities of Summers county to keep  
75 and maintain the poor, or any number thereof, upon terms to  
76 be agreed upon; to make suitable and proper regulations in  
77 regard to the use of the streets and alleys for street cars, rail-  
78 road engines and cars, and to regulate the running and opera-  
79 tion of the same so as to prevent injury, inconvenience or an-  
80 noyance to the public; to prohibit prize fighting, cock and dog  
81 fighting; to license, tax, regulate or prohibit theatres, circuses,  
82 the exhibition of showmen and shows of any kind and the ex-  
83 hibition of natural or artificial curiosities, caravans, menageries  
84 and musical exhibitions and performances, and other things or  
85 business on which the state does or may exact a license tax; to  
86 organize and maintain fire companies and to provide necessary  
87 apparatus, engine and implements for the same; to regulate and  
88 control the kind and manner of plumbing and electric wiring  
89 for the protection of the health and safety of said city; to levy  
90 taxes on persons, property and licenses; to license and tax dogs  
91 and other animals and regulate, restrain and prohibit them and  
92 all other animals and fowls running at large; to provide revc-  
93 nue for the city and appropriate the same to its expenses; to  
94 adopt rules for the transaction of business and for its own regu-  
95 lation and government; to promote the general welfare of the  
96 city and to protect the persons and property of citizens therein;  
97 to regulate and provide for the weighing of produce and other  
98 articles sold in said city and to regulate the transportation  
99 thereof, and other things through the streets; to have the sole  
100 and exclusive right to grant, refuse or revoke any and all licenses  
101 for the carrying on of any business within said city on which

102 the state exacts a license tax; to establish and regulate markets  
103 and to prescribe the time for holding the same and what shall  
104 be sold in such markets, and to acquire and hold property for  
105 market purposes; to regulate the placing of signs, billboards,  
106 posters and advertisements in, on or over the streets, alleys, side-  
107 walks and public grounds of said city; to preserve and protect  
108 the peace, order, safety and health of the city and its inhabi-  
109 tants, including the right to regulate the sale and use of cocaine,  
110 morphine, opium and poisonous drugs; to appoint and fix the  
111 places of holding city elections; to erect, own, lease, au-  
112 thorize the erection of gas works, electric light works or  
113 water works or ice plants, in or near the city, and to  
114 operate the same and sell the products or service thereof,  
115 and to do any and all things necessary and incidental to the con-  
116 duct of such business, including the right in any franchise  
117-121 hereafter granted; to provide for the purity of water,  
122 milk, meats and provisions offered for sale in said city,  
123 and to that end provide for a system of inspecting the same and  
124 making and enforcing rules for the regulation of their sale, and  
125 to prohibit the sale of any unwholesome or tainted milk, meats,  
126 fish, fruit, vegetables, or the sale of milk containing water or  
127 other things not constituting a part of pure milk; to provide  
128 for inspecting dairies and slaughter houses whether in or out-  
129 side of the city, where the milk and meat therefrom are offered  
130 for sale within said city; to prescribe and enforce ordinances  
131 and rules for the purpose of protecting the health, property,  
132 lives, decency, morality and good order of the city and its in-  
133 habitants, and to protect places or divine worship in and about  
134 the premises where held, and to punish violations of such or-  
135 dinances even if the offense under and against the same shall  
136 constitute offenses under the law of the state of West Virginia  
137 or the common law; to provide for the employment and safe  
138 keeping of persons who may be committed in default of the pay-  
139 ment of fines, penalties or costs under this act, who are other-  
140 wise unable or fail to discharge the same, by putting them to  
141 work for the benefit of the city upon the streets or other places  
142 provided by said city, and to use such means to prevent their  
143 escape while at work as the board of affairs may deem expedi-  
144 ent; and the board of affairs may fix a reasonable rate per day  
145 as wages to be allowed such persons until the fine and costs

146 against them are thereby discharged; to compel the attendance  
147 at public meetings of the members of the board of affairs; to  
148 have and exercise such additional rights, privileges and powers  
149 as are granted to municipalities by chapter forty-seven of the  
150 code of West Virginia of the edition of one thousand nine hun-  
151 dred and six. For all such purposes, except that of taxation,  
152 the board of affairs shall have jurisdiction, when necessary, for  
153 one mile beyond the corporate limits of said city in all direc-  
154 tions. Said city of Hinton as constituted by this act, shall re-  
155 tain, keep and succeed to all rights, privileges, property, in-  
156 terests, claims and demands heretofore acquired by, vested in  
157 or transferred to said city of Hinton and said city of Avis, as  
158 heretofore constituted.

159 And the board of affairs shall have the right to enter into  
160 an article of agreement with the county court of Summers  
161 county for joint action on behalf of the city of Hinton or any  
162 portion thereof with the magisterial district or districts adjacent  
163 to said city of Hinton, for the permanent improvement of streets  
164 and roads within said city or magisterial districts. Said ar-  
165 ticles of agreement may provide for the selling of bonds of said  
166 magisterial district or districts including the city of Hinton, as  
167 constituted under this act, or any portion thereof upon an af-  
168 firmative vote of three-fifths of all the votes cast at a special  
169 election called for this purpose by the authority of said county  
170 court.

#### ARTICLE III.

##### *Common Council.*

Sec. 7. The city of Hinton shall have an additional board to  
2 that provided for in Article II of this act to be known and styled  
3 "the common council of the city of Hinton," and which shall be  
4 composed of two persons from each ward in said city, and who  
5 shall be voted for and elected by the qualified voters of each ward  
6 respectively and in the manner hereinafter prescribed; *provided*,  
7 that two councilmen at large shall be elected from the territory  
8 now known as the city of Avis, and comprising the fifth and sixth  
9 wards of the City of Hinton as herein constituted; that is to say  
10 from the fifth and sixth wards of said city in addition to the two  
11 councilmen provided for in each of said wards two additional  
12 councilmen are to be elected, which will make the total number



13 of councilmen from these two said wards six, and the total number  
14 of councilmen in the new city of Hinton, sixteen. It is here pro-  
15 vided that an additional ward may be created in the territory now  
16 comprised in the fifth and sixth wards upon a petition presented  
17 to the board of affairs and council of the city of Hinton, when  
18 signed by fifteen per cent of the voters of said wards. In the  
19 event that a new ward is created in the territory now comprised  
20 in the fifth and sixth wards the provisions herein for the election  
21 of two councilmen at large from said wards becomes null and void.

Sec. 8. The common council shall, at its first meeting after  
2 a majority of the newly elected members thereof shall have qual-  
3 ified, elect one of its members president of the body, whose term  
4 of office shall run with the term of the members of the body  
5 electing him.

Sec. 9. The commissioner charged with the duties of the  
2 city clerk shall be *ex-officio* clerk of the common council, and  
3 shall perform such duties pertaining thereto as the common coun-  
4 cil may require of him.

Sec. 10. Whenever a majority of the newly elected members  
2 of the common council 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 councils of the city of Hinton and the city of  
5 Avis.

Sec. 11. If any persons elected to the common council fail  
2 to qualify as herein provided within ten days after his said elec-  
3 tion, or shall, after having qualified, resign from the council or  
4 move from the ward in which he was elected, his office shall be  
5 vacated, and the common council shall, by a majority vote of the  
6 members voting thereon, fill such vacancy for the unexpired term  
7 with some person from the same ward and of the same political  
8 party as the person whose vacancy of office is being filled.

Sec. 12. The common council shall, likewise by a majority  
2 vote of the members voting thereon, fill any vacancy in the office  
3 of president of its body by electing another member of the council  
4 to the office of president for the unexpired term.

Sec. 13. The right to veto any franchise or ordinance passed  
2 by the board of affairs is hereby conferred upon the common  
3 council, in the manner prescribed in article twelve of this act.  
4 Such veto shall be by a majority vote of all the members elected  
5 to said council (except as prescribed in section seventy-six of this

6 act), and the vote thereon shall be taken by roll call of the mem-  
7 bers and entered of record in the minutes of the meeting.

Sec. 14. The common council shall have the right to hear,  
2 consider and act on charges against any member of the board of  
3 affairs, and after having heard proof of such charges, may remove  
4 such commissioner and declare his office vacant by two-thirds of  
5 all the members elected on said board, and the vote thereon shall  
6 be by roll call of the members and entered of record in the minutes  
7 of the meeting. But before such commissioner shall be put on trial  
8 on said charges, he shall have at least ten days' written notice of  
9 the nature of said charges, and the time and place of a hearing  
10 thereon before said common council. In the common council, after  
11 hearing of said charges, shall remove said commissioner from  
12 office, thereby declaring a vacancy in his said office of commis-  
13 sioner, it shall through its president or otherwise, cause its action  
14 thereabout to be at once certified to the board of affairs.

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 common council shall make proper rules for its  
2 government not contrary or inconsistent with any of the provi-  
3 sions of this act or the authority vested in the board of affairs;  
4 and it shall cause a record of its meeting and proceedings to be  
5 kept and recorded by its clerk in a well bound book, which shall  
6 remain in the custody and at the office of the commissioner  
7 charged with the duties of city clerk, open to public inspection.  
8 The minutes of the meetings and proceedings of said council, after  
9 recordation and when signed by its president, shall be admitted  
10 as evidence in any court of record in this state.

#### ARTICLE IV.

##### *Departments of City Government.*

Sec. 17. In order to better dispatch the business of the city,  
2 and assign more in detail the duties of the members of the board  
3 of affairs, the government of said city is hereby divided into four  
4 departments, to-wit:

- 5 Department of fire, police, health and charity;
- 6 Department of finance, taxation and streets;
- 7 Department of records, public buildings and grounds;

8 Department of law.

2 Sec. 18. The mayor shall be the commissioner as herein-  
3 after provided in section twenty of article five, and shall be  
4 charged with the department of fire, police, health and charity;  
5 the commissioner receiving the highest number of votes of the  
6 opposite political party to that of the mayor shall be the commis-  
7 sioner in charge of the department of finance, taxation and  
8 streets; the commissioner receiving the next highest number of  
9 votes to that of the mayor and the same political party as the  
10 mayor shall be the commissioner in charge of the department of  
11 records, public buildings and grounds; and the fourth and re-  
12 maining commissioner and of the opposite political party to that  
13 of the mayor shall be the commissioner in charge of the depart-  
14 ment of law, and the commissioners thus assigned shall be styled  
15 the commissioner of his department and he shall have the imme-  
16 diate care and supervision of his department but subject always  
17 to the control of the board of affairs. The business and the labors  
18 incident thereto of each of the departments shall be that which  
19 properly falls within the scope of the particular department. The  
20 head of each department shall see to the performance of all the  
21 business coming within his department or which may be referred  
22 thereto or to any officer thereunder, from time to time.

2 Sec. 19. The commissioner of each department shall keep a  
3 public office in the city at which he may be found or communi-  
4 cated with during stated hours to be fixed by him for the con-  
5 venience of the public, unless his official duties call him elsewhere.

#### ARTICLE V.

##### *Commissioners' Duties and Powers.*

2 Sec. 20. The commissioner receiving the greatest number of  
3 votes at the general election for members of the board of affairs  
4 shall, by reason thereof, be the mayor of the city.

2 Sec. 21. If two or more commissioners shall receive an  
3 equal number of votes at such election they shall decide by casting  
4 lots which of them shall be mayor, and until such decision shall  
5 have been made the city attorney shall be the acting mayor of the  
6 city with the powers and duties and salary of mayor while he so  
7 acts, except he shall not vote on any question arising or coming  
8 before the board of affairs.

Sec. 22. A vacancy in the office of mayor shall be filled for 2 the unexpired term by the board of affairs by the election thereto 3 of some member of their board; *provided*, that if such appoint- 4 ment be made at a time when there is also a vacancy on the board 5 of affairs, said appointment shall hold only until the vacancy on 6 the board of affairs shall have been filled, when the full member- 7 ship of the board of affairs shall appoint some member of its 8 board to the office of mayor for the unexpired term.

Sec. 23. The mayor shall have and exercise all rights, pow- 2 ers and duties of mayor conferred by the constitution and laws 3 of this state, and all those conferred by the terms of this act, and 4 no other. He shall be the presiding officer of the board of affairs, 5 and he, in the capacity of commissioner, shall have the right to 6 vote on any question arising before the board, but he, in the ca- 7 pacity of presiding officer of the board, shall not have any vote by 8 which to decide a question on which there is a tie vote. He shall 9 be the executive officer of the city, and shall see, except as herein 10 otherwise provided, that the laws and ordinances of the city and 11 resolutions and orders of the board of affairs are enforced, and 12 that the peace and good order of the city are preserved, and that 13 the persons and property therein are protected. He shall per- 14 form such other duties, if they be not inconsistent with the duties 15 of the office of mayor or commissioner, as the board of affairs may 16 from time to time prescribe.

Sec. 24. The commissioner charged with the department of 2 finance, taxation and streets, shall have and exercise all the rights, 3 powers and duties that have heretofore been assigned to the ser- 4 geant, the assessor and street commissioners, by the old charter 5 and amendments thereto of the city of Hinton, and in addition he 6 shall perform such other duties as shall properly come in his de- 7 partment either by this charter or the laws of the state.

Sec. 25. The commissioner charged with the department of 2 records, public buildings and grounds, shall have and exercise all 3 the rights, powers and duties now conferred and required by the 4 present charter of the city of Hinton of the recorder, and shall 5 perform such duties as herein required by the city clerk, and such 6 other duties as shall be necessary for the proper discharge of his 7 department as herein provided by the statute laws of the state, 8 or as the board of affairs may from time to time prescribe.

Sec. 26. The commissioner charged with the department of

2 law shall have and exercise all the rights, powers and duties of  
3 the police judge as herein provided and as may be conferred by  
4 the constitution and laws of this state, and by the terms of this act.

#### ARTICLE VI.

##### *Additional Officers.*

Sec. 27. In addition to the municipal authorities mentioned  
2 in section four of this act, said city shall have a city attorney,  
3 chief of police, chief of fire department, health officer, and such  
4 other officers and agents as the board of affairs may from time  
5 to time create or employ. The election of all appointive officers  
6 named or provided for in this section shall be vested in the board  
7 of affairs, subject to the approval of common council.

#### ARTICLE VII.

##### *Qualification of Voters.*

Sec. 28. 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 said 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.

##### *Registration of Voters.*

Sec. 29. The board of affairs shall by ordinance provide for  
2 such regulations for registration of voters as may be necessary  
3 to comply with state laws.

#### ARTICLE VIII.

##### *Nomination of Candidates.*

Sec. 30. Candidates to be voted for at any municipal election  
2 for members of the board of affairs and members of the common  
3 council may be nominated by convention, primary or petition in  
4 the manner and under the provisions now or hereafter prescribed  
5 by state laws relating thereto. *Provided, however,* that no political  
6 party shall nominate more than three persons for the office of  
7 members of the board of affairs, no two of whom shall be from the

8 same ward, and no more than two persons in each ward of the city  
9 for the office of members of the common council. If any certificate  
10 of nomination, or any petition for nomination, of candidates for  
11 either the board of affairs or the common council shall contain  
12 more names than prescribed in this section for such office, then the  
13 ballot commissioners shall take the first three names for the board  
14 of affairs and the first two names for common council as the  
15 nominees of such party for said respective offices. And, *provided*,  
16 *further*, that there shall not be printed on any ticket or any ballot  
17 to be voted at any municipal election for the election of officers of  
18 the city more than three names for the office of members of the  
19 board of affairs nor more than two names for the office of members  
20 of the common council.

Sec. 31. In case of nomination of candidates to be voted  
2 for to fill vacancies on the board of affairs, no political party shall  
3 nominate more than double the number to be elected and such  
4 nominations shall be certified, and the names of the nominees  
5 printed on the ballot, in the manner prescribed in section thirty,  
6 herein.

Sec. 32. Every person so nominated for the office of com-  
2 missioner, shall, within five days after his nomination has been  
3 certified by the political party making the nomination or a peti-  
4 tion therefor shall have been filed, make, under oath, and file with  
5 the city clerk, a statement of the political party to which he  
6 claims allegiance, and, if nominated by two or more parties, he  
7 shall state to which of them he belongs. If such person fail to  
8 make the oath, and file the same, as herein prescribed, the ballot  
9 commissioner shall not place his name on the ballot to be voted  
10 at the approaching election.

#### ARTICLE IX.

##### *Election of Officers.*

Sec. 33. On the second Tuesday of December one thousand  
2 nine hundred and nineteen, and on the same day in every second  
3 year thereafter, there shall be elected by the qualified voters of  
4 the whole city four commissioners, who shall hold their offices  
5 from the time of their qualification on and from the first day of  
6 the next succeeding month for the term of two years, and until  
7 their successors are elected and a majority thereof shall have quali-  
8 fied.

Sec. 34. At the same election at which commissioners shall  
2 be elected, there shall also be elected by the qualified voters of  
3 each ward of the city two members of the common council who  
4 shall at the time be residents of the ward from which they are  
5 elected, and who shall hold their offices from the time of their  
6 qualification on and from the first day of the next succeeding  
7 month for the term of two years, and until their successors are  
8 elected and a majority thereof have qualified.

Sec. 35. No person shall be eligible to the office of commis-  
2 sioner or member of the common council except he be a  
3 citizen entitled to vote at the election at which commissioners are  
4 elected, and be a free-holder owning real estate within the city or  
5 assessed with personal property to the value of fifty dollars.

Sec. 36. Not more than two persons whose names appear on  
2 any ticket of the ballot being voted at an election for members of  
3 the board of affairs shall be elected to said office. The four candi-  
4 dates receiving the greatest number of votes shall be declared  
5 elected; *provided*, that not more than two of the four candidates  
6 receiving the greatest number of votes shall be of the same po-  
7 litical party, and if more than two candidates of the same political  
8 party receive the greatest number of votes then the two of such  
9 party receiving the greatest number of votes shall be declared  
10 elected, and the votes for the other candidates of said party for  
11 said office shall be disregarded and the two candidates of other  
12 political parties voted for at said election who receive the next  
13 greatest vote shall be declared elected. And *provided, further*, that  
14 two of the members of the board of affairs shall be residents of  
15 the city of Hinton as constituted prior to this act must belong to  
16 different political parties, and the remaining two members of the  
17 board of affairs shall be residents of the additional territory herein  
18 included within the bounds of the city of Hinton.

Sec. 37. If the two or more candidates receive an equal num-  
2 ber of votes for commissioner or member of the common council,  
3 the canvassing board, before whom said election returns shall have  
4 been canvassed, shall decide between them according to the pro-  
5 visions an intent of this act as to eligibility of candidates and po-  
6 litical parties and tickets to which they belong.

Sec. 38. Not more than one person whose name appears on  
2 the ticket of any party being voted at an election for members of  
3 the common council shall be elected to said office. The two can-  
4 didates receiving the greatest number of votes shall be declared

5 elected, *provided*, that not more than one of the two candidates  
6 receiving the greatest number of votes shall be of the same po-  
7 litical party.

Sec. 39. All elections of whatsoever kind, held under this  
2 act shall be conducted, returned and the result thereof ascertained  
3 and declared in the manner prescribed by the laws of the state  
4 relating to elections in so far as they are not in conflict or incon-  
5 sistent with the provisions of the act.

#### *Contested Elections.*

Sec. 40. All contested elections shall be heard and decided  
2 by the board of affairs for the time being, and the contest shall  
3 be made and conducted in the same manner as provided for in  
4 such contest for county and district offices; and the board of affairs  
5 shall conduct its proceedings in such cases as nearly as practicable  
6 in conformity with the proceedings of the county court in such  
7 cases.

#### *Oaths of Officers.*

Sec. 41. All officers, elective and appointive, shall take 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 best  
5 of their skill and judgment; and that they will not administer  
7 their respective offices with the aim to benefit any political party;  
8 and, in the case of commissioners, they shall add in their oath  
9 that they will not during their term of office pecuniarily inter-  
10 terested directly or indirectly, in any contract with the city, or the  
11 purchase of any supplies therefor. When the officer shall have  
12 made such oath in writing and filed the same with the city clerk,  
13 and shall have given the bond required of and accepted from him,  
14 he shall be considered as having qualified for the office to which  
15 he was elected or appointed; *provided*, that if any person elected  
16 to the office of commissioner shall not qualify for said office as  
17 herein prescribed within ten days after he shall have been officially  
18 declared elected thereto, said office shall *ipso facto* become vacant,  
19 and said vacancy shall be filled in the manner provided for in this  
20 act.

#### *Bonds of Officers.*

Sec. 42. Each member of the board of affairs, chief of police



2 and chief of fire department, shall, before entering upon the dis-  
3 charge of their duties, give an official bond, conditioned for the  
4 faithful performance of their respective duties as prescribed in this  
5 act or any ordinance now or hereafter passed, in amounts as fol-  
6 lows:

7       The commissioner exercising the powers of mayor, two thou-  
8 sand dollars; the commissioner exercising the power of sergeant,  
9 assessor and street foreman, ten thousand dollars; the commis-  
10 sioner exercising the powers of city clerk, *et cetera*, one thousand  
11 five hundred dollars; the commissioner exercising the powers of po-  
12 lice judge, *et cetera*, five hundred dollars.

13       The board of affairs may require additional bond from any of  
14 said appointive officers, and may likewise require a bond in what-  
15 ever sum they may fix, of any other appointive officer. All bonds  
16 of appointive officers shall, before their acceptance, be approved  
17 by the board of affairs; and the bonds of the commissioners shall  
18 be approved by the retiring board of affairs, (common council in  
19 the first instance.) All other bonds of whatsoever kind shall not  
20 be accepted until first approved by the board of affairs. The min-  
21 utes of the meeting of the board shall show all matters touching  
22 the consideration or approval of all bonds, and when said bonds  
23 are approved and accepted they shall be recorded by the city clerk  
24 in a well bound book kept by him at his office for that purpose,  
25 which book shall be open to public inspection; and the recordation  
26 of such bonds as aforesaid shall be *prima facie* proof of their cor-  
27 rectness, and they, as so recorded, shall be admitted as evidence  
28 in all the courts of this state. The city clerk shall be the custodian  
29 of all bonds, except those given by him, and as to them the mayor  
30 shall be custodian.

31       All bonds, obligations or other writing taken in pursuance of  
32 any provisions of this act shall be made payable to "the city of  
33 Hinton" and the respective persons, and their heirs, executors, ad-  
34 ministrators and assigns bound thereby, shall be subject to the  
35 same proceedings on said bonds, obligations and other writings,  
36 for enforcing the conditions of the terms thereof, by motion or  
37 otherwise, before any court of record held in and for the county  
38 of Summers, that collectors of county levies and other sureties  
39 are or shall be subject to on their bonds for enforcing the pay-  
40 ment of the county levies.

*Term and Salary of Officers.*

Sec. 43. The term of office of a member of the board of  
2 affairs and a member of the common council shall be for two  
3 years, commencing on the first day of January next after the gen-  
4 eral election, and ending on the thirty-first day of December in  
5 the first year thereafter, that is, the first year after said year,  
6 and until their successors are elected and qualified.

Sec. 44. All appointive officers shall hold for the term of two  
2 years (unless sooner removed by and at the pleasure of the board  
3 of affairs) and until their successors are appointed and qualified.

Sec. 45. The salary of the commissioners shall be as follows:  
2 The commissioner charged with the duties of the department  
3 of fire, police, health and charity, shall receive a salary not to ex-  
4 ceede seven hundred and twenty dollars per annum; the commis-  
5 sioner designated and charged with the duties of the department  
6 of finance, taxation and streets, shall receive a salary not exceeding  
7 seven hundred dollars per annum, and two per cent. commission  
8 on all taxes and licenses collected except taxes paid by public  
9 service corporations, on which he shall receive no commission, un-  
10 less the salary and commission from other taxes and licenses  
11 shall not be sufficient to make his yearly compensation fifteen  
12 hundred dollars, and in that event he shall be allowed so much  
13 commission on the taxes received from public service corporations  
14 to make his yearly compensation fifteen hundred dollars, but in  
15 no event shall the commission exceed two per cent. of the amount  
16 of taxes and licenses collected, whether the compensation amounts  
17 to fifteen hundred dollars per year or not; the commis-  
18 sioner charged with the duties of the department of records shall  
19 receive a salary of not exceeding the sum of three hundred and  
20 sixty dollars per year, and the commissioner charged with the du-  
21 ties of the department of law shall receive a salary not exceeding  
22 three hundred and sixty dollars per year; each and all of the  
23 salaries herein provided shall be payable monthly as their services  
24 shall have been rendered. *Provided, however,* that if the board  
25 of affairs fail or refuse to make their appointments of all appoint-  
26 ive officers for a period of thirty days, said commissioners there-  
27 after, and until such appointments shall have been made, shall for-  
28 feit their salary; and the mayor, city clerk and treasurer, or the  
29 commissioners charged with their respective duties, shall take offi-  
30 cial notice of such failure to fill said appointive offices, and shall  
31 not issue any order for nor otherwise pay to the commissioners

32 their salary for the period of their failure to make said appoint-  
33 ments.

Sec. 46. The board of affairs may by ordinance fix the sala-  
2 ries of all appointive officers, which shall be subject to the veto of  
3 the common council, as provided in section thirteen.

Sec. 47. Laborers by the day and those doing special work  
2 may be paid by the board of affairs without fixing the price there-  
3 for by ordinance.

#### *Duties of Appointive Officers.*

Sec. 48. The duties, in addition to those prescribed herein,  
2 of all appointive officers named or authorized in this act, shall  
3 be prescribed by the board of affairs.

### ARTICLE X.

#### *Meetings of Board of Affairs.*

Sec. 49. The board of affairs shall meet at some place pro-  
2 vided for that purpose at least once each month on a stated day  
3 and at any hour fixed by ordinance or rules governing the board.

Sec. 50. 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 meeting;  
6 and no business, except that stated in said notice, shall be con-  
7 sidered or acted upon at said meeting. All meetings of the board  
8 shall be open to the public.

#### *How Vote Taken.*

Sec. 51. The vote upon any question or motion before the  
2 board of affairs may be *viva voce* when unanimous; but if the  
3 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.

#### *Minutes of the Meeting.*

Sec. 52. The city clerk shall be *ex-officio* clerk of the board  
2 of affairs. Said board shall cause detailed minutes of its meetings  
3 and proceedings to be kept by the clerk in a well bound book for

4 that purpose, which shall remain in the custody of the city clerk  
5 at his office and open to public inspection. The minutes of every  
6 regular or special meeting shall be read publicly at the next reg-  
7 ular meeting of the board, and after being corrected shall be  
8 signed by the mayor and city clerk, and if thus recorded and  
9 signed, they shall be admitted as evidence in any court of record  
10 in this state.

*Meetings of the Common Council.*

Sec. 53. The common council shall meet bi-monthly the first  
2 Monday of the month, at an hour and at a place to be fixed by  
3 it by the rules governing its body.

Sec. 54. Special meetings of the common council may be  
2 called by its president, or any nine members thereof, or by the  
3 board of affairs, or by the mayor, by a notice published in two  
4 daily newspapers of the city of opposite politics, on three consec-  
5 tive days, stating the time and object of the meeting. The hold-  
6 ing of a special meeting of the common council shall be *prima*  
7 *facie* evidence that the said notice required therefor was given as  
8 prescribed in this section.

9 Each member of the common council shall receive the sum  
10 of two dollars for each and every meeting of the council, either  
11 regular or special, at which he is in attendance.

*Attendance of Witnesses, Punishing Contempts, Et cetera.*

Sec. 55. The board of affairs and the common council in the  
2 exercise of their respective powers, and the performance of their  
3 respective duties, as prescribed by this act and by the laws of the  
4 state, shall have the power to enforce the attendance of witnesses,  
5 the production of books and papers, and the power to administer  
6 oaths in the same manner and with like effect, and under the same  
7 penalties, as notaries public, justices of the peace, and other offi-  
8 cers of the state authorized to administer oaths under state laws;  
9 and said board of affairs and said common council shall have such  
10 power to punish for contempt as is conferred on county courts  
11 by section thirteen of chapter thirty-one of the code. All process  
12 necessary to enforce the powers conferred by this act on the board  
13 of affairs and common council shall be signed by the mayor (or  
14 acting mayor), and the president of the common council, respect-  
15 ively, and shall be executed by any member of the police force.

*Quorum.*

Sec. 56. A majority of the members of the board of affairs  
2 and a majority of the members of the common council shall be  
3 necessary for the transaction of business before said respective  
4 boards.

*.Filling Vacancies in Office of Commissioner.*

Sec. 57. Whenever a vacancy or vacancies, from any cause  
2 whatever, shall occur in the office of commissioner, and the time  
3 for a regular municipal election, as provided for in section thirty-  
4 three herein, is not within one year therefrom, then the board of  
5 affairs shall call a special election at which the qualified voters of  
6 the city shall fill such vacancy or vacancies by the election of some  
7 person or persons thereto; but the person or persons so elected  
8 must be eligible to hold said office, and shall be of the same  
9 political party as the person he succeeds in office.  
10 Such special election shall be governed by laws of the state  
11 relating to elections and as prescribed in this act for regular elec-  
12 tions.

Sec. 58. If there shall occur at any one time more than two  
2 vacancies on the board of affairs, the common council, by a ma-  
3 jority vote of all the members elected thereto, shall fill such vacan-  
4 cies for the time being, but the person so appointed shall be of  
5 the same political party as the commissioner whose office was  
6 vacated and is being filled; and in no event shall such appointment  
7 be made so as to give any political party a majority on the board  
8 of affairs; *provided*, before any such appointment shall become  
9 final the person so appointed shall make and file the oath required  
10 by section thirty-two of this act; and after the filing of said oath  
11 the common council may, if it so elects, by a majority vote of all  
12 members elected thereto, recall said appointments, or any one  
13 thereof, and such appointment from that time shall be void and  
14 of no effect, and the vacancy caused thereby shall be filled in the  
15 same manner and under the conditions prescribed in the first in-  
16 stance.

17 Commissioners thus appointed by the common council to  
18 fill vacancies on the board of affairs, shall, before entering upon  
19 the discharge of their duties, take the oath required of other offi-  
20 cers of the city, and give the required official bond; and they shall  
21 hold their said offices only until their successors shall have been

22 elected and qualified as prescribed in section fifty-seven of this act.

*Absence of Officers.*

Sec. 59. When any member of the board of affairs, or any  
2 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  
4 his office, the board of affairs, in case of the absence of a commis-  
5 sioner, may designate another commissioner to attend to the duties  
6 of such absent commissioner in addition to his duties already  
7 devolving upon him in the capacity of commissioner; and in case  
8 of the absence of any appointive officer, the board may appoint  
9 some other officer of the city or other person to perform the duties  
10 of such officer, during his absence, either with or without the  
11 salary, in whole or in part, of such absent officer.

*Cannot Hold Any Other Office.*

Sec. 60. The members of the board of affairs shall not hold  
2 any other city office, except as prescribed in this act, nor be an  
3 employe of the city in any other capacity with a compensation,  
4 nor hold any other office or position, with or without compensa-  
5 tion, which may interfere with the faithful discharge of their  
6 duties as commissioner.

Sec. 61. No appointive officer of the city shall hold two  
2 official offices with the city at the same time, or shall become the  
3 employe of the city in any other capacity, without first having  
4 the consent of the board of affairs.

*Purchasing Supplies.*

Sec. 62. The board of affairs shall purchase all the supplies  
2 for the departments of the city government at the lowest price  
3 possible considering the quality and grade of the supplies desired.  
4 And when practicable, the board shall advertise by reasonable  
5 notice in at least two daily newspapers of opposite politics, for  
6 bids on supplies to be furnished, and shall award contract therein  
7 (unless all bids are rejected), to the lowest bidder, taking from  
8 such bidder a written contract and bond therein, to be approved  
9 by the board, for the faithful performance of said contract.

ARTICLE XI.

*Police Judge and Other Officers.*

Sec. 63. All persons elected or appointed to the offices named

2 in this act shall be conservators of the peace within said city,  
3 and they, and any other officer provided for under this act, may  
4 be given authority of police officers by the board of affairs.

5 The commissioner herein charged with the powers and duties  
6 of police judge shall be *ex-officio*, a justice of the peace, with au-  
7 thority to issue warrants or other process for all offenses committed  
8 within the police jurisdiction of the city of Hinton of which a  
9 justice of the peace has jurisdiction under the state laws, and  
10 for all violations of any city ordinances; in order to preserve the  
11 peace and good order of the city, and protect the persons and  
12 property therein, riotous and disorderly persons in the city may  
13 be arrested and detained before issuing any warrant therefor. The  
14 police judge may, without fees or other compensation, commit  
15 persons charged with felony or misdemeanor to jail, or take bond  
16 for their appearance before the grand jury of the circuit court of  
17 Summers county; and he shall have power to issue executions  
18 for all fines, penalties and costs imposed by him. And he may  
19 require the immediate payment thereof, and in default of such  
20 payment, may commit the person so in default to jail unless the  
21 fine and penalty and costs shall be paid or satisfied, and to be em-  
22 ployed during imprisonment as provided by this act. Any person  
23 sentenced to imprisonment, or any person or corporation  
24 assessed with a fine, shall be allowed to appeal from said decision  
25 of the police judge in the same manner and under the same con-  
26 dition as appeals are allowed from a justice of the peace, condi-  
27 tioned that the person proposing to appeal will perform and satisfy  
28 any judgment which may be recovered against him by the circuit  
29 court on such appeal. If such appeal be taken, the warrant of  
30 arrest, the transcript of the judgment, the appeal bonds and other  
31 papers of the case shall forthwith be delivered by the police judge  
32 to the clerk of the circuit court, and said circuit court shall proceed  
33 to try the case as upon indictment or presentment, and render  
34 such judgment, including that of costs, as the law and evidence  
35 may demand.

#### ARTICLE XII.

##### *Vote on Franchises, Ordinances, Officers, Et cetera.*

Sec. 64. No franchise or ordinance shall be passed, and no  
2 contract shall be awarded, nor any money appropriated for any  
3 one purpose in a greater sum than twenty-five dollars, and no  
4 appointments of any officer shall be made, nor any vacancy in

5 office declared without the affirmative vote of at least three mem-  
6 bers of the board of affairs.

Sec. 65. When any franchise shall have passed the board  
2 of affairs it shall not become effective until after the next regu-  
3 lar meeting time of the common council, or a special meeting  
4 time of said body called to act on such franchise, and not then  
5 if said common council at such meeting time expresses its veto  
6 to said franchise, as provided in section thirteen of this act.

Sec. 66. If any ordinance passes the board of affairs, it  
2 shall become effective as therein prescribed, unless vetoed by  
3 the common council at its next regular meeting time, or special  
4 meeting time called to act on said ordinance.

Sec. 67. Whenever the common council shall express its  
2 veto of any franchises or ordinance passed by the board of affairs,  
3 it shall not later than the second day thereafter, cause such  
4 franchise or ordinance, with its veto thereof and its written  
5 reasons therefor, addressed to the board of affairs, to be trans-  
6 mitted to the city clerk, and the city clerk shall submit the same  
7 to the board of affairs, at its regular meeting, or special meet-  
8 ing called for that purpose, which shall be noted in the min-  
9 utes of said meeting; but a failure to transmit such franchise  
10 or ordinance within said time shall not render such veto void.  
11 If the franchise or ordinance shall be changed and again passed  
12 by the board of affairs, it shall be treated as a new or original  
13 ordinance and subject to the veto power of the common council.

Sec. 68. If there shall be a tie vote on the passage of any  
2 franchise before the board of affairs, the mayor shall at once  
3 transmit such franchise, with a written statement that the vote  
4 on the passage of the same before the board of affairs was a tie,  
5 to the president of the common council, who shall lay the same  
6 before said common council at its next regular meeting time  
7 thereafter, or prior special meeting time called for that purpose.  
8 If upon consideration of said franchise by the common council  
9 a majority of all the members elected to said common council  
10 shall vote for the passage of said franchise as transmitted from  
11 the board of affairs, it shall be considered passed and adopted,  
12 and shall become effective as prescribed by the terms thereof.

13 The common council, through its president or otherwise,  
14 after the expiration of the time for the consideration of said  
15 franchise, shall at once transmit the same, with the action of the



16 common council, if any, addressed to the board of affairs, to the  
17 city clerk who shall call the same to the attention of the board  
18 of affairs at their next regular meeting, or special meeting called  
19 for the purpose, at which shall be noted in the minutes the action  
20 of the common council on said franchise.

Sec. 69. Publication of notice to present franchise, and  
2 other preliminaries prescribed by the laws of the state relating  
3 thereto, shall be had in the manner prescribed by state laws before  
4 the board of affairs shall act on any such franchise; but the  
5 passage of any franchise shall be *prima facie* proof that such  
6 notice was given as prescribed by law.

7 The word "franchise," whenever used in this act, shall in-  
8 clude every special privilege in, under and over the streets, high-  
9 ways and public grounds of the city which does not belong to  
10 the citizens generally by common right.

Sec. 70. The style of any ordinance enacted by the board of  
2 affairs, shall be, "Be it ordained by the board of affairs of the  
3 city of Hinton."

#### ARTICLE XIII.

##### *Licenses.*

2 required to be done within the said county, the board of affairs  
3 may require a city license therefor, and may impose a tax thereon  
4 for the use of the city; and the board of affairs shall have the  
5 power to grant, refuse or revoke any such license of owners or  
6 keepers of hotels, carts or wagons, drays, and every other descrip-  
7 tion of wheeled carriages kept or used for hire in said city, and to  
8 levy and collect tax thereon, and to subject the same to such regu-  
9 lations as the interest and convenience of the inhabitants of said  
10 city, in the opinion of the board of affairs, may require. The board  
11 of affairs, may, at its election, require from the person so licensed  
12 a bond, with approved security, payable to the said city in such  
13 penalty, and with such conditions, as it may think proper, and  
14 may revoke such license at any time if the condition of the bond is  
15 broken; and the board of affairs shall have authority to subject  
16 any person or persons, who, without having paid the tax im-  
17 posed by the board of affairs for the privilege, shall do any act  
18 or follow any employment or business in the said city upon which  
19 the said board is or shall be authorized to impose a tax, to any

20 fine or imprisonment which it is or may be authorized to impose  
21 or inflict for the enforcement of its ordinances; *provided*, that the  
22 board of affairs under limit hereby made shall not fix the license  
23 tax on automobiles at more than five dollars on each car or  
24 machine.

*Nuisances.*

Sec. 72. The board of affairs of said city shall have authority  
2 to abate and remove all nuisances in said city. It may compel the  
3 owners, agents, assignees, occupants or tenants, of any lot, prem-  
4 ises, property, building or structure, upon or in which any nuis-  
5 ance may be, to abate and remove the same by orders therefor,  
6 and by ordinance provided for the violation of such orders.

7 Said board of affairs may also by its own officers, appointees  
8 and employes, abate and remove nuisances. It may by ordinance,  
9 regulate the location, construction, repair, use, emptying and  
10 cleaning of all water closets, privies, cesspools, sinks, plumbing,  
11 drains, yards, pens, stables, and other places, where offensive or  
12 dangerous substances, or liquids are, or may accumulate, and pro-  
13 vide suitable penalties for the violation of such regulations, which  
14 may be enforced against the owner, agents, assignee, occupant or  
15 tenant, of any premises or structure where such violation may  
16 occur.

17 If the owner, agent, tenant, assignee, or occupant of any  
18 such premises, lot, property, building, or structure, as is men-  
19 tioned herein, shall fail or refuse to abate or remove any such  
20 nuisance, as mentioned herein, or to comply with the provisions  
21 of any such ordinance, and the regulations herein contained, the  
22 said board of affairs may have said nuisance abated or the pro-  
23 visions of said ordinance or ordinances carried out, after reason-  
24 able notice to said owner, occupant, tenant, agent or assignee of  
25 its intentions so to do, and collect the expense thereof with one  
26 per centum per month interest added from the date of said notice,  
27 from the owner, occupant, tenant, agent or assignee by distress  
28 or sale, in the same manner in which taxes levied upon real estate  
29 for the benefit of said city are herein authorized to be collected,  
30 and the expense shall remain a lien upon said lot, or part of lot,  
31 the same as taxes levied upon real estate in said city; which lien  
32 may be enforced by a suit in equity before any court having  
33 jurisdiction, as other liens against real estate are enforced, and in

34 case of non-resident owners of real estate such notices may be  
35 served upon any tenant, occupant, assignee or rental agent, or  
36 by publication thereof for not less than two consecutive weeks in  
37 two newspapers of opposite politics, published in said city.

38 And in all cases where any tenant, occupant or agent is re-  
39 quired to abate and remove any nuisance under the provisions of  
40 this section, or comply with the provisions of any such ordinance  
41 as is mentioned herein, the expense thereof may be deducted out  
42 of the accruing or accrued rent of said property, or amount due  
43 said owner from said agent, and such tenant, occupant or agent  
44 may recover the amount so paid from the owner, unless other-  
45 wise especially agreed upon.

46 Any expense incurred by the board of affairs, as herein pro-  
47 vided, in the manner aforesaid, may be collected in the manner  
48 herein provided, notwithstanding the imposition of any other  
49 penalty or penalties upon any of the persons named herein, under  
50 any of the provisions of this act. The abatement or removal of  
51 any such nuisance by the board of affairs at the expense of said  
52 city, as herein provided, shall be *prima facie* proof that the said  
53 notice to the owner, occupant, tenant, agent or assignee, was  
54 given as herein prescribed.

Sec. 73. The board of affairs may require all owners, ten-  
2 ants, 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 privies, water closets, cesspools, drains, or sinks located upon  
6 their respective properties or premises so that their contents may  
7 be made to empty into such sewer or system of sewerage.

#### *Sidewalks and Shade Trees.*

Sec. 74. The board of affairs are authorized and empowered  
2 to cause to be put down a suitable curb of brick, stone or other  
3 material along and for the footways and sidewalks of the ave-  
4 nues, streets, roads or alleys of said city, and to order and cause  
5 the laying or relaying or repair of sidewalks and gutters of such  
6 material and widths as the board may determine, and the plant-  
7 ing or replanting of and caring for shade trees along said ave-  
8 nues, streets and roads at such points and in such manner as the  
9 board may determine, and to require the owners or occupiers of  
10 the land or lots or parts of lots facing upon said avenues, streets,

11 roads or alleys to keep such sidewalks clean and in good repair,  
12 and to grade the plot of ground on either side of the sidewalk be-  
13 tween the street curb and the property line and keep the same  
14 sodded with grass and free of weeds and obstructions and other-  
15 wise in good condition and repair. The owners or occupiers of  
16 the land or lots abutting upon such avenues, streets, roads or  
17 alleys shall not lay any such side walk, curb or gutter, or plant  
18 any such shade trees, unless specially required to do so by reso-  
19 lution adopted by said board, and then only in the manner pre-  
20 scribed by said board, but said city may lay such sidewalk, curb  
21 or gutter and plant or replant and care for said shade trees, or  
22 may let said work to contract, and in either case the total cost  
23 of said work, or such part thereof as the board may direct, shall  
24 be charged upon and against the land or lots abutting upon such  
25 avenue, street, road or alley, which assessment shall be and re-  
26 main a lien upon said land or lots the same as taxes levied upon  
27 real estate in said city, which lien may be enforced by a suit in  
28 equity before any court having jurisdiction as other liens against  
29 real estate are enforced. The amount so assessed against any  
30 land or lot shall also be a debt against the owner of such land or  
31 lot, which may be collected as other debts are collected, in any  
32 court having jurisdiction, and shall be due and payable in ninety  
33 days from the completion and acceptance of such work as cer-  
34 tified to by the board of affairs, with six per cent interest thereon  
35 from the date of such record acceptance. And in ascertaining  
36 the amount to be assessed against any corner lot for the cost of  
37 laying any such sidewalk and planting trees in front or along-  
38 side thereof, the board may assess the total cost of laying such  
39 sidewalk, and planting trees, in front or alongside said lot and  
40 extended to the curb or gutter of the intersection of the ave-  
41 nues, streets, roads or alleys at that point.

42 When such work is done by the city, and not let to contract,  
43 the board shall certify such assessments to the commissioner  
44 charged with the duties of sergeant, etc., of the city for collec-  
45 tion, who shall account for the same as directed by the board  
46 or by ordinance, and the sergeant shall accept payment, when  
47 tendered, of the amount of said assessment with interest to the  
48 date of payment, and unless said assessments shall have been  
49 paid within ninety days from the date of such assessment, then  
50 a copy of such report shall be certified by the city clerk to the

51 clerk of the county court of Summers county, who is hereby re-  
52 quired to record and index the same in the proper trust deed  
53 book in the name of each person against whose property assess-  
54 ments appears therein. If any such assessment shall not be paid  
55 when due, the board of affairs shall cause to be enforced the pay-  
56 ment of said assessment and interest in all respects as herein  
57 provided for the collection of taxes due the city; and said as-  
58 sessment shall be a lien upon the property liable therefor, the  
59 same as taxes, which lien may be enforced in the same manner  
60 as provided for the sale of property for the non-payment of taxes  
61 and tax liens; and the liens herein provided for shall have pri-  
62 ority over all other liens except those for taxes due the state and  
63 county, and shall be on a parity with taxes and assessments due  
64 the city. When such assessment shall have been paid in full,  
65 and a lien therefor shall be of record in the county clerk's of-  
66 fice, the sergeant shall execute and deliver to the owner of said  
67 property a release of said lien, which may be recorded in the  
68 office of the county clerk as other releases of liens are recorded.

69 The board may, if it so elect, let said work to contract, and  
70 certificates may be issued for the amount of said assessments  
71 which may be sold to the contractor doing the work, or other  
72 persons, in full of the total cost, in the same manner as pro-  
73 vided for paving certificates in section eighty-four herein; *pro-*  
74 *vided*, the city, in negotiating and selling such certificates, shall  
75 not be held as guarantor or in any way liable for payment there-  
76 for, except upon the direct action of the board of affairs as ex-  
77 pressed by resolution of record before such sale. Said certifi-  
78 cates to be signed by the mayor and city clerk or other person  
79 or persons designated of record by the board, shall bear date as  
80 of the time when such work is accepted and certified by the  
81 board of affairs, and shall be due and payable in ninety days  
82 from date hereof, with six per cent. interest. When the board  
83 shall have received said work, it shall at the same time make  
84 said assessments upon written report; and at the end of ninety  
85 days from date thereof, upon the demand in writing filed with the  
86 city clerk of the holder or holders of the unpaid certificates issued  
87 to cover said assessments, said city clerk shall certify a copy of  
88 said report, only in so far as it relates to the owners against  
89 whom said exhibited certificates remain unpaid, to the clerk of  
90 the county court of Summers county, who shall record and index

91 the same as other liens of like kind are recorded and indexed,  
92 and the same shall be and remain a lien upon the real estate  
93 against which said assessments are made, as set out in said cer-  
94 tified report, and said lien may be enforced, in the name of the  
95 holder of such certificate in the same manner as set out in sec-  
96 tion eighty-four in this act.

97 Before letting such work to contract, the board shall adver-  
98 tise the same once a week for two consecutive weeks in two  
99 newspapers of opposite politics published in the city of Hinton,  
100 or in one paper in case publication cannot be had in two such  
101 newspapers, setting out the time and place for receiving pro-  
102 posals for such work and referring to the specifications made  
103 therefor; and the city reserves the right, whether stated in such  
104 notice or not, to refuse any and all bids for the work. On re-  
105 fusual of said papers to publish said notice at reasonable rates,  
106 the board may, by resolution, direct how such notice may be  
107 given. The fact that such contract shall be awarded for said  
108 work shall be *prima facie* proof that said notice was given as  
109 required herein. Such lien, as represented by certificate, may  
110 be released of record in the office of the county clerk in the same  
111 manner as paving liens, represented by certificate, are released  
112 of record, as provided for in section eighty-seven herein; and in  
113 no event shall such assessment be and remain a lien of record  
114 for a longer period than one year from the date set out in said  
115 certified report so recorded in the office of the county clerk, un-  
116 less at the end of said one year period a suit shall be pending  
117 for the enforcement of said lien, or the amount thereof shall,  
118 in some way, be involved in a suit pending at the end of said  
119 one year period.

120 All such work, whether done by the city direct, or through  
121 contractors, shall be under the supervision of the street depart-  
122 ment of the city or some person designated for that purpose by  
123 the board of affairs.

124 If the owner or occupier of any such lot or land shall be  
125 required by the board to lay or relay, clean or repair any such  
126 sidewalk, curb or gutter, or shall be required to grade the space  
127 on either side of the side walk between the street curb and the  
128 property line, and keep the same sodded and free from weeds or  
129 obstruction, and otherwise in good condition and repair, written  
130 or published notice shall be given to such owner or occupier in

131 the manner provided by ordinance or resolution adopted by the  
132 board and the neglect or refusal of such owner or occupier to do  
133 the work, in the manner and within the time required by the  
134 board, as set out or referred to in said notice, shall be an of-  
135 fense and may be punished as provided by ordinance; and after  
136 the expiration of the time set out in said notice for the doing  
137 of said work, and the same remains undone, the board may do  
138 or cause to be done, said work and assess and collect the cost  
139 thereof in the manner, upon either plan, and to the full extent  
140 set out in this section.

#### ARTICLE XIV.

##### *Taxes, Levies, Assessments, Et cetera.*

Sec. 75. The board of affairs shall annually, before the levy-  
2 ing of taxes provided for and authorized by this act, ascertain the  
3 total expense of said city to be provided for by levy for the fiscal  
4 year in which said levy is made, and it shall ascertain the sum of  
5 money necessary to pay interest accruing on the bonded indebted-  
6 ness of said city, and to provide the necessary sinking funds, and  
7 what amounts it shall expend for the support of its various de-  
8 partments, and for the improvements of its streets, alleys, avenues  
9 and public grounds, or for its contingent expenses; and before  
10 making such levy it shall apportion the rate thereof among the  
11 several funds so ascertained and provided for, which apportion-  
12 ment shall be spread upon the records of said board and a copy of  
13 a statement thereof shall annually be published by direction of  
14 said board as soon as the same is recorded, in at least two newspa-  
15 pers of said city of opposite politics. And for the purpose of pay-  
16 ing the interest on the present bonded indebtedness, and creating a  
17 sinking fund to pay off such indebtedness when due, that is now  
18 owed by the city of Hinton and the city of Avis before the enact-  
19 ing of this act the territory now comprising the city of Hinton and  
19-a the territory now comprising the city of Avis shall each  
20 constitute a separate special levy district in which separate  
20-a levy districts, a separate levy shall be annually laid by  
21 said board of commissioners to pay the interest and create a sink-  
22 ing fund in said respective districts to pay off and discharge the  
23 said bonded indebtedness of each of said cities respectively, and  
24 as soon as such indebtedness has been paid by such special levy  
25 aforesaid annually laid until said indebtedness of that district

26-27 shall also be abolished, so that the bonded indebtedness of each  
28 of the municipal corporations, namely: Hinton and Avis, the  
29 territory of each being embraced and included in this act, with the  
30 accrued and accruing interest against each, shall be provided for  
31 and paid out of levies on property and taxable subjects of each,  
32 within the boundaries of said corporations respectively, as they  
33 were respectively just prior to the passage of this act; and said  
34 boundaries shall be observed and recognized in making levies and  
35 assessments for the payment of said bonds and interest as sepa-  
36 arate taxable districts for said purposes only; and the territory em-  
37 braced in this act, not within the boundaries of either of said  
38 former municipalities, shall not become liable or taxed to pay any  
39 part of the said indebtedness or interest thereon of either of said  
40 corporations.

Sec. 76. The board of affairs shall have the authority to  
2 levy and collect an annual tax on real estate and personal property  
3 in said city, and to impose a license and assess a tax thereon on  
4 wheeled vehicles for public hire and upon all dogs kept within said  
5 city, and to impose a tax upon all other subjects of taxation un-  
6 der the several laws of the state which taxes shall be uniform with  
7 respect to persons and property within the jurisdiction of said  
8 city, and shall only be levied on such property, real, personal and  
9 mixed, and on capital, on which the state imposes a tax; *pro-*  
10 *vided*, that no greater levy shall be laid by said board of affairs  
11 on the taxable property of said city than is now permitted to be  
12 laid under the state law relating to municipalities, except, how-  
13 ever, that the said board of affairs may, by the unanimous vote  
14 of its members, by ordinance, lay an additional levy not to exceed  
15 forty-five cents on the hundred dollars of all the taxable property  
16 within said city, but said ordinance laying said additional levy  
17 shall not become effective or operative if two-fifths of all the mem-  
18 bers elected to the common council shall express a veto to said or-  
19 dinance in the manner prescribed in article three of this act.

Sec. 77. All taxes assessed upon real estate within the said  
2 city shall remain a lien thereon from the time the same are so  
3 assessed, which shall have a 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 now or  
7 may hereafter be provided by law for the enforcement of liens and  
8 levies for county taxes, or in such manner as the board of affairs



9 may by ordinance prescribe. And in levying of taxes and collec-  
10 tion thereof, and the return of property delinquent for non-pay-  
11 ment of taxes, the duties of the city clerk shall be similar to the  
12 duties of the county clerk of Summers county in that behalf;  
13 the duties of the sergeant in collection of taxes, licenses and  
14 moneys due the city and accounting for the same and the return  
15 of property delinquent for the non-payment of taxes, shall be sim-  
16 ilar to the duties of the sheriff of Summers county; except the  
17 board of affairs may make such regulations and ordinances pre-  
18 scribing the duties of the city clerk and sergeant and their manner  
19 of performances as the board may deem necessary. And  
20 the board shall, through itself and such officers and  
21 employees as it may appoint or employ under such reg-  
22 ulations and ordinances as it may enact not contrary to the  
23 laws of this state), having such authority and power as may be  
24 necessary for the levying and collection of taxes, tithables, fines,  
25 licenses, sewer and paving assessments owing the city, with power  
26 and authority to enforce the collection of such fines by impris-  
27 onment in the city or county jail.

Sec. 78. No taxes or levies shall be assessed upon or col-  
2 lected from the taxable persons or property within the corporate  
3 limits of said city, for the construction, improvement or keeping  
4 in repair of roads outside of said corporate limits, except as pro-  
5 vided for in section six, article two of this act. And neither the  
6 county court of Summers county, nor the authorities of the district  
7 or districts in which said city is situated, shall have or exercise  
8 jurisdiction within the corporate limits with relation to the roads,  
9 streets, and alleys, except by article of agreement provided for in  
10 section six, article two of this act, but the same shall be and re-  
11 main under the exclusive jurisdiction and control of the municipi-  
12 pal authorities of said city, and said city shall be liable only for  
13 the construction, improvement, repair and good order of the roads,  
14 streets and alleys in its corporate limits.

Sec. 79. There shall be a tax of one dollar annually assessed  
2 on each and every male inhabitant of said city, over twenty-one  
3 years of age up to fifty years, by the board of affairs, and the same  
4 shall be set out and included in the personal property books against  
5 every such inhabitant, and shall be collected by the city treasurer  
6 or other officer of the city acting in lieu thereof and under the  
7 authority of the board of affairs, at the time of collecting other  
8 levies and taxes. All money collected under this section shall go

9 into the street fund to be expended upon the streets, alleys, side-  
10 walks, drains, gutters and bridges of said city.

*Depositing City Funds.*

Sec. 80. It shall be the duty of the commissioner charged  
2 with the duties of the sergeant to keep all funds of the city in  
3 some bank or banks within said city which shall pay two per cent.  
4 or more per annum interest on such deposits, payable quarterly,  
5 based on the average daily balance of such funds in all accounts.  
6 If no bank within said city is willing at any time to receive de-  
7 posits of the sergeant and to pay such interest thereon, the sergeant  
8 shall report this fact to the board of affairs who shall thereupon  
9 designate a bank or banks in which he shall deposit said funds  
10 for the time being and until some bank in said city will receive  
11 such deposits said bank or banks shall give bond in the penalty  
12 prescribed by the board of affairs, and with sureties to be approved  
13 by said board, conditioned for the prompt payment, whenever law-  
14 fully required, of all the city moneys, or parts thereof which may  
15 be deposited with them, which bonds shall be renewed at such  
16 times as the board of affairs may require.

*Street Paving.*

Sec. 81-(a). The board of affairs of the city of Hinton  
2 may order and cause any avenue, street, road, or alley therein to  
3 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 material, or to be graded  
6 and curbed or recurbed and paved or repaved as aforesaid, or to  
7 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 (a) 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 affairs, of such grading, curb-  
15 ing and paving, or macadamizing, or other permanent improve-  
16 ments, of any of the avenues, streets, roads and alleys as afore-  
17 said, from and including the curb of either side thereof to the  
18 middle thereof, and the cost, or any part thereof, of purchasing  
19 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  
25 side of such portion of any avenue, street, road or alley so paved.  
26 opened, widened or improved in such proportion of the total cost  
27 as the frontage in feet of his abutting land bears to the total  
28 frontage of all the land so abutting on said avenue, street, road or  
29 alley or portion thereof opened, widened, paved or improved as  
30 aforesaid, but the cost of such paving or improvement of said  
31 avenue, street, road or alley (not including opening or widening)  
32 shall not include any portion or amount paid for the paving or  
33 improvement of the intersection of avenues, streets, roads or  
34 alleys, unless the work to be done, and the payment made there-

35 for, as especially otherwise provided therein, as follows, to-wit:

36 (c) Upon petition in writing of the owners of not less than  
37 one-half in lienal feet of property abutting upon any avenue,  
38 street, road or alley in said city, asking the city to grade, curb,  
39 pave, or macadamize or otherwise to permanently improve, such  
40 avenue, street, road or alley, and offering in said petition to have  
41 their property so abutting as aforesaid assessed not only with  
42 their part of the cost of such improvement abutting upon their  
43 property, as therein otherwise provided, but also offering to have  
44 their said property proportionately assessed with the total cost  
45 of the paving, grading and curbing, or macadamizing or other  
46 permanent improvement, of the intersections of the avenue,  
47 street, road or alley so paved or otherwise permanently improved.  
48 as petitioned for, the board of affairs may order such work to be  
49 done, as heretofore provided in this section, and the total cost  
50 thereof, including cost of intersection, to be charged to and paid  
51 by the owners of the property abutting on such avenue, street,  
52 road or alley, and that the paving assessment or certificate made  
53 or issued to cover the cost of paving, grading and curbing or  
54 otherwise permanently improving such intersections shall be made  
55 a separate and one of the last assessments or certificates due  
56 against him and their property so assessed; and the city may as-  
57 sume the payment of such assessment or certificate covering the  
58 cost of such intersections, or may reimburse the property owners  
59 paying the same out of its general levies for streets, but there shall  
60 be no legal obligation on the city to do so.

61 (d) The city itself may do such work and charge and col-  
62 lect the cost thereof in the manner set out in section eighty-two

63 herein. The decision of the city to do such work may be without  
64 notice or after the publication of the notice mentioned in this  
65 section, or after the rejection of all bids for the doing of the  
66 work.

67 (e) The cost of grading, curbing and paving, or otherwise  
68 improving, the intersections, or parts of intersections, of avenues,  
69 streets, roads or alleys, on the plans adopted by the board of  
70 affairs for such work, shall be paid by the city except as otherwise  
71 provided in paragraph (c) of this section.

72 (f) And if any such avenues, streets, roads or alleys be oc-  
73 cupied by street car tracks or tracks of other railroads the cost of  
74 said improvement of the space between the rails and two addi-  
75 tional feet outside of each rail shall be assessed to and borne and  
76 paid entirely by the person or company owning or operating such  
77 street car or other railway line, unless otherwise provided by the  
78 franchise of such street car or other railway company granted  
79 previous to the passage of this act.

80 (g) *Provided*, the board of affairs, if they so elect, may  
81 order and cause any avenue, street, road or alley, public park or  
82 public place to be widened, graded or changed in grade and  
83 curbed and recurbed, and paved or repaved, with brick, concrete,  
84 asphalt or other suitable materials, or macadamized, or otherwise  
85 permanently improved, including the construction of the retain-  
86 ing walls, sewers, drains, water pipes, water dam and water  
87 courses, in connection therewith, and may purchase land, or con-  
88 demn land as provided in this act, for any public avenue, street,  
89 road or alley, or part thereof, for park or other public purpose  
90 and the board may assess all or any part of the entire cost of  
91 such improvement (or taking of land, or both) upon the abut-  
92 ting, adjacent, contiguous or other lots or land especially bene-  
93 fitted by such improvements.

94 The board of affairs, when they decide to order the improve-  
95 ments under this plan, shall, by ordinance or resolution before  
96 doing the same fix the total amount of the special benefits to be  
97 derived from such improvements to the abutting, adjacent, con-  
98 tiguous and other specially benefited land or lot so assessed,  
99 setting out the names of the owners, the amount of the special  
100 benefits, and the approximate amount of the total cost of the  
101 proposed improvements; and the board may, in fixing such as-  
102 sessment, take into consideration the assessed value of the lot or

103 land as fixed, for the last assessment year, for state and county  
104 purposes.

105 (h) When the board of affairs shall deem it expedient and  
106 proper to cause any avenue, street, road or alley, or any portion  
107 thereof, in such city, to be graded, or graded and paved, curbed  
108 or macadamized, or otherwise permanently improved, or land to  
109 be acquired or taken for street purposes, as provided in (a) of  
110 this section, or shall deem it expedient and proper to cause the  
111 construction of any public sewer in or under any such avenue,  
112 street, road or alley, or land or easement therein to be acquired  
113 or taken therefor, or elsewhere, as provided in section eighty-six  
114 of this act, they shall by ordinance or resolution, order the work  
115 done, stating the method of payment thereof, and, if it be let to  
116 contract, notice shall be in the following manner, to-wit:

117 (i) The notice for bids or proposals for doing such im-  
118 provements, either for street improvements or the construction  
119 of sewers, shall be published for at least fifteen days in two news-  
120 papers of opposite politics, or in one newspaper if two such news-  
121 papers be not published in the city. If the publication of the  
122 notice cannot be procured in any newspaper in said city at rea-  
123 sonable rates, then said notice may be given in the manner di-  
124 rected by the board. Said notice shall state where and how the  
125 bids or proposals shall be made; and whether so stated in the  
126 notice or not, the city may reject any and all bids, for such pro-  
127 posed work. Before advertising for bids on the work, the city  
128 shall approve and adopt plans and specifications therefor, and  
129 the advertisement for bids, and the contract awarded thereon,  
130 shall refer to such plans and specifications. The fact that such  
131 contract shall be let for said work shall be *prima facie* proof that  
132 the notice mentioned above was given as required therein.

133 (j) The cost of said paving, macadamizing or other per-  
134 manent improvement may be paid in one or two ways (to be  
135 specified by ordinance by the board of affairs), either as set out  
136 in section eighty-two or in section eighty four of this act.

137 (k) If the abutting land on any such avenue, street, road  
138 or alley, sought to be improved as aforesaid, or in which a sewer  
139 is ordered laid, is not laid off into lots by a map or record, the  
140 board of affairs, may, for the purpose of making the assessments  
141 provided for in this section and section eighty-six therein, lay  
142 off such lands into lots of such size as the board deems advisable  
143 for the purpose of laying a proper assessment against such land.

Sec. 82. (a) Said city of Hinton is hereby authorized to  
2 issue its bonds for the purpose of providing for the cost of grading,  
3 paying and curbing, or macadamizing, or otherwise permanently  
4 improving the avenues, streets, roads and alleys of the said city,  
5 in anticipation of special assessment to be made upon the property  
6 abutting upon the avenues, streets, roads and alleys so improved.  
7 Said bonds may be in such an amount as shall be sufficient to pay  
8 the entire costs and expenses of said improvements for which such  
9 special assessments are to be levied; and the said city is author-  
10 ized to sell said bonds, but not below the par value thereof, and  
11 said bonds shall bear interest not to exceed six per cent. per an-  
12 num, payable annually; and in the issuance and sale of said bonds  
13 the said city shall be governed by the restrictions and limitations  
14 of the constitution of this state, and the restrictions and limitations  
15 of the laws of this state, relating to the issuance and sales of  
16 bonds, so far as such state laws are not in conflict with the provis-  
17 ions of this act; and the assessments as provided for and required  
18 to be paid herein shall be applied to the liquidation of said bonds  
19 and interest thereon, and if, by reason of the penalties collected  
20 with the delinquent assessments, there be any balance after the  
21 payment of the bonds and all accrued interest and costs, it shall be  
22 turned into the city treasury to the credit of the interest and sink-  
23 ing fund of the city.

24 But said city 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 of the value of  
27 all the 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, macadamizing,  
30 or otherwise permanently improving the avenues, streets, roads,  
31 and alleys therein, or constructing sewers therein or elsewhere, or  
32 acquiring or taking land or easement therein for street and sewer  
33 purposes, as provided for in this act, and for that purpose in esti-  
34 mating "existing indebtedness," special assessment bonds repre-  
35 senting the cost of paving or other permanent improvements of  
36 streets, roads or alleys, or the construction of sewers, or acquiring  
37 or taking land for such purposes, and the cost of which is assessed  
38 against the abutting property on such avenues, streets, roads or  
39 alleys, or especially benefited property adjacent thereto, or on such  
40 owner, shall not be included; and likewise the amount in any sink-  
41 ing fund, or the amount invested therefor as provided by law, for

42 the payment of outstanding bonds, shall not be included in the  
43 estimate of existing indebtedness; *provided*, that the aggregate of  
44 its debt of every kind whatsoever, including such special street  
45 permanent improvement bonds, or sewer bonds, shall not exceed five  
46 per centum of the value of all taxable property therein.

47 (b) And it shall be the duty of the board of affairs to im-  
48 mediately certify such assessments to the sergeant for collection,  
49 as herein provided; and for the purpose of facilitating the collec-  
50 tion of such assessments against the properties herein, the board  
51 of affairs may issue assessment certificates, with interest coupons  
52 attached thereto, to be delivered to and charged against the city  
53 sergeant who shall collect the same, and as such certificate and  
54 coupons are paid he shall deliver the cancelled certificates to the  
55 party paying the same. A copy of said order shall be certified by  
56 the city clerk to the clerk of the county court of Summers county,  
57 who is hereby required to index the same in the proper trust deed  
58 book in the name of each person against whose property assess-  
59 ments appear therein.

60 (c) The amounts so assessed against said abutting lots and  
61 owners thereof, respectively, shall be paid in ten payments, as fol-  
62 lows, that is to say, one-tenth of said amount, together with inter-  
63 est on the whole assessment for one year, shall be paid into the  
64 city treasury of the city before the first day of the following Jan-  
65 uary; and alike one-tenth part, together with interest for one year  
66 upon the whole amount remaining unpaid before the first day of  
67 January in each succeeding year hereafter, until all shall have  
68 been paid. Each of said installments of one-tenth shall bear in-  
69 terest at six per centum per annum payable annually from the  
70 date of assessment. *Provided, however*, that the owner of any  
71 land, so assessed for the cost of the paving of said avenue, street  
72 road or alley, shall have the right at any time to anticipate and  
73 pay the whole of such unpaid assessment and interest thereon until  
74 the first day of the following January, and have the lien against  
75 the property so assessed released as hereinafter provided.

76 (d) If any such assessment shall not be paid when due, the  
77 board of affairs shall cause to be enforced the payment of said  
78 assessment and interest in all respects as herein provided for the  
79 collection of taxes due the city; and said assessments shall be a  
80 lien upon the property liable therefor the same as for taxes, which  
81 lien may be enforced in the same manner as provided for the sale  
82 of property for the payment of taxes and tax liens; and the liens

83 herein provided for shall have priority over all other liens except  
84 those for taxes due the state and the county, and shall be on a  
85 parity with taxes and assessments for the city.

86 (e) When all of said assesments for grading, paving and  
87 curbing, or macadamizing, or other permanent improvements shall  
88 be paid in full to the sergeant, he shall deliver to the owner of  
89 said property a release of the lien therefor, which may be recorded  
90 in the office of the clerk of the county court as other releases of  
91 liens are recorded.

92 Under this plan for the payment of the cost of such perma-  
93 nent improvements of avenues, streets, roads and alleys, and the  
94 construction of sewers, the contractor (if the work is let to con-  
95 tract) shall look only to the city for the payment of the work,  
96 and in no sense to the abutting land owners.

97 (f) The board of affairs may contract for such paving (in-  
98 cluding grading and curbing), or other said improvements to be  
99 as aforesaid, and may acquire or take land for street purposes, as  
100-101 aforesaid, and may, if the board so elect, stipulate that the  
102 costs thereof, in whole or in part, shall be paid in installments by  
103 the abutting property owners, as provided in (a) of section eighty-  
104 one, or specifically benefited property owners, as provided in (g)  
105 of said section, in five equal installments, to be evidenced by five  
106 paving certificates issued therefor, payable in thirty days and  
107 one, two, three and four years, respectively, after the date of  
108 their issue, and shall bear interest not to exceed six per centum  
109 per annum, payable annually, which certificate, to be signed by  
110 the mayor and the clerk, or other person or persons designated of  
111 record by the board, may be sold, either to the contractor doing  
112 the paving or other of said improvements, or to any other person,  
113 and which shall cover the entire cost of such work, or the cost of  
114 acquiring or taking land for street purposes, including the cost  
115 of surveys, notices and other things pertaining thereto; *provided*,  
116 the city in negotiating and selling such certificates, shall not be  
117 held as guarantor or in any way liable for payment thereof, ex-  
118 cept upon the direct action of the board of affairs as expressed  
119 by resolution of record before such sale. And the certificates  
120 covering the amount of the assessment shall be paid by the owner  
121 of the land, lot or fractional part thereof, so assessed for the  
122 cost of said improvement on such avenue, street, road or alley so  
123 paved or improved, of land acquired or taken, as aforesaid. The  
124 amount specified in said assessment certificate shall be a lien as



125 aforesaid in the hands of the holder thereof upon the lands, lot or  
126 part of lot so assessed, and shall also be a debt against the owner  
127 of such real estate, and said amount shall draw interest from the  
128 date of said certificate, payable annually, and the payment of the  
129 debt may be enforced as provided by law for the collection of  
130 other debts, or such lien may be enforced as provided in this act  
131 in the name of the holder of such certificates.

132 After a contract has been made by the board to pave or other-  
133 wise permanently improve any public road, avenue, street, or alley  
134 in said city under this act, and the paving or other permanent  
135 improvements, or any stipulated part thereon, has been completed,  
136 or the cost of acquiring or taking land, as aforesaid, has been  
137 ascertained, the board shall assess the amount each lot shall bear  
138 and shall make a written report, stating the number of lots and  
139 the blocks or tracts of land when not laid off into lots and the  
140 names of the owners such lots or land when known, and the  
141 amount assessed thereon, and when the said board approves said  
142 report, or modifies it and then approves it, a copy of said report  
143 so adopted by the board, when certified to by the city clerk, of  
144 said city, may be recorded in the clerk's office of the county court  
145 of Summers county in a trust deed book, and shall be a continuing  
146 tax lien upon the lot or land against which the assessment is made  
147 until the certificates as aforesaid are paid. except as otherwise  
148 provided in section eighty-seven of this act, and the clerk shall  
149 index the same in the name of each lot or land owner mentioned  
150 therein.

Sec. 83. 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,  
4 if 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 improvement of intersections of avenues, streets or alleys.

11 The amount of assessment to be paid by the owner of the lot, or  
12 road or alley, or portion thereof, shall have been completed, under  
13 the contract awarded therefor, the board of affairs shall cause the  
14 several frontages abutting thereon to be measured, and cause the  
15 assessment upon each owner of land abutting thereon to be calcu-

16 lated, showing the proper amount to be determined as provided  
17 in the foregoing plan; and the said board of affairs shall enter the  
18 same together with the description of the lots of land as to loca-  
19 tion, frontage and ownership, upon its record, and direct on its  
20 records that such owners and lots be assessed and chargeable with  
21 the amounts so ascertained to be borne by them, respectively, and  
22 when so approved and entered of record the same shall be and  
23 constitute an assessment against said owners and lots for such  
24 respective amounts.

Sec. 84. The board of affairs may, if they so elect, cause  
2 the costs of any such grading, paving, curbing or macadamizing  
3 or other permanent improvements, to be paid in the following  
4 manner, to-wit:

5 Whenever the board of affairs shall contract for such paving  
6 or other permanent improvement to be done, and that it shall be  
7 paid in installments by the property owners, fronting on such  
8 streets, avenues, or alleys as aforesaid, the board may cause the  
9 mayor and city clerk to issue to the contractor doing the paving,  
10 or other said improvement, a certificate for each installment of  
11 the amount of assessment to be paid by the owner of the lot, or  
12 fractional part thereof, fronting on such street, avenue, road or  
13 alley; and the amount specified in said assessment certificate shall  
14 be a lien as aforesaid in the hands of the holder thereof, upon the  
15 lot or part of lot fronting on the street, avenue, road or alley so  
16 improved, and said amount shall draw interest from the date of  
17 said assessment, and the payment may be enforced as set out in  
18 this act, in the name of the holder of such certificate; and after  
19 a contract has been made by the board to pave or otherwise per-  
20 manently improve any public highway, street or alley in said city,  
21 under this act, and paving or other permanent improvements, or  
22 any stipulated part thereof, has been completed, the said board  
23 shall assess the amount each lot shall pay for the improvement so  
24 made, and shall make a written report, stating the number of lots  
25 and the blocks and the names of the owners of such lots when  
26 known and the amount assessed thereon; and when the said board  
27 approves said report, or modifies it and then approves it, a copy of  
28 said report, so adopted by the board, when certified to by the city  
29 clerk of said city, may be recorded in the clerk's office of the  
30 county court of Summers county, in the trust deed book, and shall  
31 be a continuing tax lien upon the lot against which the assessment  
32 is made, until the certificates as aforesaid are paid, and the clerk

33 shall index the same in the name of each lot owner mentioned  
34 therein; and upon the presentation by the lot owner of all the  
35 certificates issued as aforesaid against the lot owner, the clerk of  
36 said court shall mark upon the margin of the book in which said  
37 certified report is recorded, that the lien is released as to the  
38 lot mentioned in the certificate produced.

39 The board of affairs may order any such avenue, street, road  
40 or alley, between the curbs and between designated points, to be  
41 graded or graded and paved or otherwise permanently improved  
42 in the manner authorized and provided in section eighty-one  
43 hereof, and may order proper curbs or stone, cement or other suit-  
44 able material to be set on both sides of the avenue, street or alley so  
45 paved or improved, and the entire cost of grading, paving and set-  
46 ting curbs may be assessed to the owners of the lots or fractional  
47 parts of the lots fronting or bounding on such avenue, street or  
48 alley between such designated points in proportion to the distance  
49 so fronting or bounding owned by each, except the cost of inter-  
50 section, which shall be borne and paid by the city. The cost of  
51 such grading, paving and setting of curbs to be borne by the abut-  
52 ting owners as herein provided, shall be paid in installments as  
53 provided in section eighty-two hereof, and shall become liens and  
54 be enforceable as provided by section eighty-two hereof and the work  
55 hereby authorized to be done by the board of affairs and the as-  
56 sessment therefor, hereby authorized to be made, shall be subject  
57 to sections eighty-one and eighty-two hereof, and the board shall  
58 proceed in relation thereto in accordance with said sections  
59 eighty-one and eighty-two.

Sec. 85. Upon the petition in writing of the owners of not  
2 less than one-half in lineal feet of property abutting upon any  
3 avenue, street or alley in said city asking the board of affairs to  
4 grade, curb, pave or macadamize or otherwise permanently improve  
5 such avenue, street or alley, and offering in said petition to have  
6 their property so abutting as aforesaid assessed not only with their  
7 part of the cost of such improvements abutting upon their property  
8 as provided for in section eighty-one of this act, but also offering  
9 to have their said property proportionately assessed with the total  
10 cost of the paving, grading, curbing or macadamizing or other  
11 permanent improvements of the intersection of the avenue, street  
12 or alley so paved or otherwise permanently improved as petitioned  
13 for, the board of affairs may order such avenue, street or alley to  
14 be paved or otherwise permanently improved as provided in section

15 eighty-one herein and the paving certificates issued to cover such  
16 intersection shall be made separate and the last certificate due  
17 against them and their property so agreed to be assessed; and the  
18 city may pay such last mentioned certificate, or may re-imburse  
19 the property owners paying the same, out of the general levy for  
20 streets and wharves, but there shall be no legal obligations on said  
21 city to do so.

*Sewer Construction.*

Sec. 86. The board of affairs of said city are authorized and  
2 empowered to order and cause to be constructed in said city, of  
3 part within and part outside the limits of said city, any public  
4 sewer, either main or lateral, or both, by contract, or direct by  
5 the city, for the benefit of said city or any part thereof, and to  
6 purchase land or easement therein, or to condemn land or ease-  
7 ment therein, in the manner provided in this act, for such sewer;  
8 and when the board shall order the construction of any such sewer  
9 or any part thereof in said city, the owners of the property abut-  
10 ting thereon, or abutting upon an avenue, street, road or alley, in  
11 which such sewer shall be constructed, or abutting on any land or  
12 easement therein specially procured for the purpose of the con-  
13 struction of a sewer therein, may be charged with all or any part  
14 of the cost thereof, including the cost of such sewer at and across  
15 intersections at avenues, streets, roads and alleys adjacent thereto.  
16 If said work is let to contract, the provision of (i) of section  
17 eighty-one shall apply.

18 When said sewer is completed in any block, or between two  
19 designated points, the board of affairs shall cause a report to be  
20 made in writing, setting out the total cost of such sewer and  
21 a description of the lots or lands as to location, frontage and  
22 ownership liable therefor, including the cost of acquiring or  
23 taking land or easement therein for such purposes and cost of sur-  
24 veys, notices, etc., therefor, together with the amount chargeable  
25 against each lot or piece of land and the owner thereof. If any  
26 lot fronts on two streets, or on a street and a road, or on a street  
27 (or road) and alley, in which a sewer is constructed, it may be  
28 assessed on both said street, or street and road, or street and alley.  
29 Said board shall enter an order upon its records setting forth the  
30 location and owner of each lot or piece of land, and the amount of  
31 said sewer assessments there against, calculated in the same way  
32 as provided for street paving in (g) of section eighty-one herein.

33 The entry of such order shall constitute and be an assessment for  
34 such proportionate amount so fixed therein against said respective  
35 lots and land and the owners thereof; and said board shall there-  
36 upon certify the same to the treasurer for collection; and for the  
37 purpose of facilitating the collection of such assessments against  
38 the properties herein, the board of affairs may issue assessment  
39 certificates, with interest coupons attached thereto, to be deliv-  
40 ered to and charged against the city treasurer who shall collect the  
41 same, and as such certificates and coupons are paid he shall  
42 deliver the cancelled certificates to the party paying the same; and  
43 the city clerk shall file a certified copy of said order with the  
44 clerk of the county court of Summers county, who shall record  
45 same in the proper trust deed book and index the same in the  
46 name of each owner of any lot or land thus charged with said  
47 assessment and the assessments so made shall constitute and be  
48 a lien upon said lots or land, respectively, which shall have prior-  
49 ity over all other liens except those for taxes due the state and  
50 county, and shall be on a parity with other taxes and assessments  
51 due the city.

52 The amounts so assessed against said abutting lots of land,  
53 and which shall be a lien there against, shall be collected in the  
54 manner provided in this act for the collection of paving liens.  
55 Said assessments shall be divided into three installments, each  
56 for one-third of the amount thereof, and the first due and pay-  
57 able in thirty days, the second in one year, and the third in two  
58 years, from the time of certifying the same to the sergeant except  
59 as hereinafter provided in this section, all bearing interest at six  
60 per centum per annum from such date, payable annually; and  
61 the board of affairs may issue sewer certificates thereon, as of  
62 said date, as further evidence of said indebtedness and lien there-  
63 for, and said certificates may be sold or negotiated, at not less  
64 than par and without any kind of discount, to the contractors  
65 doing such work, or other person if the board deem it expedient;  
66 *provided*, the city in negotiating and selling such certificates shall  
67 not be held as guarantor or in any way liable for payment thereof,  
68 except upon the direct action of the board of affairs as expressed  
69 by resolution of record before such sale. But the owner of the  
70 land or lot so assessed may at any time anticipate and pay  
71 such assessment or certificate with interest thereon on the whole  
72 unpaid amount until the time when the next certificate shall  
73 become due. If such assessment shall not exceed fifteen dollars,

74 it shall be in one amount, due and payable thirty days from date;  
75 if more than fifteen dollars and less than thirty dollars, then in  
76 two installments of equal payments, due and payable in thirty  
77 days and one year, respectively, from date; and if more than  
78 thirty dollars, then in three equal installments and payable as first  
79 aforesaid.

80 *Provided*, the board of affairs may, if they so elect, order  
81 and cause the construction of any such sewer, and may acquire or  
82 take land or easement therein, either in or outside said city, or  
83 both, for said sewer purposes, and assess all or any part of the  
84 cost thereof upon and against the abutting, adjacent, contiguous  
85 and other lots of land especially benefited by the construction of  
86 such sewer, and said assessment shall be a lien upon such lots or  
87 lands, and a debt against the owners thereof for the amount so  
88 charged against them respectively, which debt may be collected  
89 as provided by law for the collection of other debts of like kind,  
90 and which lien may be enforced in the same manner as provided  
91 for the enforcement of paving liens in this act.

92 The board of affairs, when they decide to order the construc-  
93 tion of the sewer under this plan, shall, before doing the same  
94 fix, by ordinance or resolution, the total amount of the special  
95 benefits to be derived from such improvements to the abutting,  
96 adjacent, contiguous, and other specially benefited land or lots  
97 so assessed, setting out the names of the owners, the amount of  
98 the special benefits, and the approximate amount of the total  
99 cost of the proposed sewer, and the board may, in fixing such  
100 assessments, take into consideration the assessed value of the  
101 lots or land as fixed, for the last assessment year, for state and  
102 county purposes.

#### *Release of Liens.*

Sec. 87. In addition to the provisions for the release of  
2 said assessment liens, either for street paving or other permanent  
3 street improvements, or construction of sewers, as elsewhere set  
4 out in this act, on the presentation by the land or lot owner of  
5 any of the certificates issued as aforesaid against him or his pre-  
6 decessor in title to such lot, and clerk of the county court shall  
7 mark upon the margin of the trust deed book at which said cer-  
8 tified report is recorded, that the lien is released to the land or  
9 lot mentioned in such certificate to the extent of the amount of the  
10 certificates thus exhibited; and the county clerk shall thereupon

11 write across the face of each of said certificates the date of their  
12 production to him for the release of lien and shall sign his name  
13 thereto in his official capacity for which he shall receive in ad-  
14 vance a fee of twenty-five cents for each certificate so marked,  
15 from the person demanding the release of the lien aforesaid; but  
16 if more than one of the serial certificates against the land or lot  
17 or lots shall be produced at the same time, the fee of the county  
18 clerk shall not exceed twenty-five cents for the release of the liens  
19 as to all the certificates thus produced and relating to the same  
20 real estate.

21 *Provided*, that the owner of any lot or land against which  
22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county clerk an affidavit, or some  
24 person for such owner shall make and produce such affidavit, set-  
25 ting out therein that such certificate (or certificates) has been paid  
26 in full, and after diligent search, cannot be found, said county clerk  
27 shall, upon the payment of a fee of twenty-five cents, file and  
28 preserve said affidavit as a public document and shall forthwith  
29 note the release of said lien to the extent of said lost certificate  
30 (or certificates) and the lots or land against which it is a lien  
31 upon the margin of the trust deed book, as aforesaid, and noting  
32 therewith the filing of said affidavit, which shall operate as a re-  
33 lease of such lien to the extent of such marginal notation. If  
34 the affidavit so filed be false, the person making oath and sub-  
35 scribing thereto shall be guilty of a felony, and upon conviction  
36 thereof shall be fined not to exceed five hundred dollars, or sen-  
37 tenced to be confined in the penitentiary for a term of not more  
38 than one year, or both, in the discretion of the court passing  
39 sentence.

40 *Provided, further*, that any paving or sewer lien, which may be  
41 created in consequence of the provisions of this act, or any lien,  
42 which may have heretofore been created in consequence of any  
43 act of which this is an amendment, for an assessment, the last  
44 payment of which is not yet due, shall not, under any circum-  
45 stances, be a lien against the lot or land or fractional part of  
46 the lot or land, against which it may have been assessed and  
47 made a lien, for a longer period than one year after the last as-  
48 sessment or certificate of the same date and group, representing  
49 such lien, shall have become due and payable, unless some suit  
50 or action, at the termination of said one year period, shall be

51 pending for the enforcement of such lien, or unless the amount  
52 of the lien or some part thereof is in some way involved in a suit  
53 or action pending at the end of said one year period; and further,  
54 that no such paving or sewer lien heretofore placed to record in  
55 said county court clerk's office for an assessment, the last payment  
56 of which is past due, shall remain or be a lien against the real  
57 estate therein described for a longer period than one year from  
58 the time this act takes effect, unless a suit shall be pending at  
59 the end of each one year period for the enforcement of said lien,  
60 or the amount thereof shall in some way be involved in some ac-  
61 tion then pending.

62 All of the assessment certificates, which may be issued under  
63 the provisions of the act, shall be made payable at the office of  
64 the treasurer, who shall receive payments thereon when due, if  
65 tendered to him, and interest thereon from the date of such pay-  
66 ments shall cease. The treasurer shall keep a separate and special  
67 account of all said sums of money received by him, and he shall  
68 hold said money in trust for the persons who thereafter deliver  
69 to the treasurer for cancellation any and all certificates on which  
70 said treasurer has received full payment as aforesaid; but the  
71 owner of said certificates shall not be entitled to interest on said  
72 sum after the date of payment thereof to the treasurer. When  
73 the whole amount of any such assessment lien shall have been  
74 paid to the treasurer as aforesaid, or the treasurer shall be con-  
75 vinced that all of the paving or sewer certificates against any  
76 land, lot or fractional part of lot, shall have been paid in full,  
77 he shall, when demanded, execute a release of said lien in the  
78 manner hereinbefore provided for the release of paying liens.  
79 If the city shall have no person for treasurer, the sergeant, un-  
80 less some other person is designated by ordinance, which the  
81 board of affairs is hereby authorized to enact, shall perform the  
82 duties here required to be performed by the treasurer.

Sec. 88. It shall be lawful for said city of Hinton to issue  
2 and sell its bonds, as provided in this act for the sale of other  
3 paving and sewer bonds, to pay the city's part of the cost of the  
4 construction of said sewers and the paving or other permanent  
5 improvements of streets and alleys, as required by this act; and  
6 said city may levy taxes, in addition to all other taxes, author-  
7 ized by law, to pay such bonds and interest thereon; *provided,*  
8 that the total indebtedness of the city for all purposes shall not



9 exceed five per centum of the total value of all taxable property  
10 therein.

11 It is especially provided that no bonds shall be issued under  
12 the provisions of this act, unless and until the question of issuing  
13 said bonds shall have first been submitted to a vote of the peo-  
14 ple of said city, and shall have received three-fifths of all votes  
15 cast at said election for and against the same. The board of  
16 affairs of said city may provide by ordinance for submitting  
17 to the people at any regular election, or special election called  
18 for that purpose, the question of whether or not said city shall  
19 be authorized to issue bonds for the purpose specified in this act;  
20 but the ordinance relating to the issuance of said bonds, and the  
21 submission of the same to the vote of the people, need not specify  
22 in detail the location of the improvements contemplated to be paid  
23 out of said aggregate issue authorized thereby; and if at such  
24 election the people, by their vote thereon, shall authorize the issu-  
25 ance of said bonds, said board of affairs may order the sale of  
26 same, as needed for said improvements, dealing with all the re-  
27 quirements set forth in this act; and notwithstanding the pro-  
28 visions of sections two, three and six of chapter forty-seven-a of  
29 the code, it shall be sufficient description of the purpose for which  
30 said election is held for the ordinance calling the same, or sub-  
31 mitting said question to a vote at any general election, if it shall  
32 recite that it authorizes the board of affairs to issue bonds for the  
33 purpose of grading, paving, curbing, sewerage, or otherwise per-  
34 manently improving the streets, roads and alleys of said city, at  
35 such times as to the board of affairs shall seem fit or expedient.

36 The provisions of chapter forty-seven-a of the code, concern-  
37 ing bond election, shall, so far as they are not in conflict with the  
38 provisions of this chapter, apply to the bond election and special  
39 bond election herein provided for.

Sec. 88-a. For the purpose of leasing, purchasing or erect-  
2 ing, owning, maintaining and operating a system of water works  
3 for the city and the inhabitants and industries thereof, and the  
4 territory of the city of Hinton which the board of affairs may from  
5 time to time agree to supply from the city water works, as pro-  
6 vided for in this or any other act of the legislature, said city of  
7 Hinton is hereby authorized to issue and sell its bonds, which  
8 shall bear interest not to exceed six per cent. per annum, interest  
9 payable annually, by which to procure funds for such purpose,

10 and for said purpose the city may issue and sell its bonds to an  
11 amount equal to two and one-half per centum on the taxable  
12 property therein in addition to the aggregate of its debts for all  
13 other purposes, and of every kind whatsoever; *provided*, that the  
14 total indebtedness of said city for all purposes shall not exceed  
15 five per centum of the total value of all taxable property  
16 therein.

17 But the said city shall not make such issue and sale of bonds  
18 without at the same time providing for the collection of a direct  
19 annual tax sufficient to pay annually the interest on such debt and  
20 the principal thereof within and not exceeding thirty years, and  
21 for the purpose of aiding in the payment of any bonds issued un-  
22 der the provisions of this act, to enable the city to lease, own, op-  
23 erate and maintain a water works and system, the board of af-  
24 fairs of the city are hereby authorized to lay a levy of not exceed-  
25 ing ten cents on the one hundred dollars valuation of all taxable  
26 property in the city, which said levy may be in addition to the  
27 aggregate of all other levies authorized by law; and any revenue  
28 derived from said water works over and above the expense of op-  
29 erating and maintaining the same, shall be applied to the pay-  
30 ment of the bonds issued therefor.

Sec. 89. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall include the cost  
3 and expenses of making the assessments, the expenses of the pre-  
4 liminary and other surveys, and of printing and publishing all  
5 notices required to be published, and serving the notices on prop-  
6 erty owners, and the cost of construction.

7 Proceedings with respect to improvements shall be liberally  
8 construed by the board of affairs and the courts, to secure a speedy  
9 completion of the work at a reasonable cost and the speedy col-  
10 lection of the assessments after the time has elapsed for their  
11 payments, and merely immaterial objection in such cases shall be  
12 disregarded.

Sec. 90. 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 bounding and abutting upon said improvement 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 in which said lots are situate; and this rule of description

7 shall apply in all proceedings in which lots or lands are to be  
8 charged with a special assessment.

Sec. 91. When work shall have been completed on any ave-  
2 nue, street, road or alley, or part thereof, as provided in section  
3 seventy-four or section eighty-one, or the construction of any sew-  
4 er or other work shall have been completed on any avenue,  
5 street, road or alley, or part thereof, or elsewhere, as provided in  
6 section eighty-six, and said assessments thereagainst shall have  
7 been calculated as provided in this act, the board of affairs 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,  
11 that an assessment under this act is about to be made against the  
12 property so assessed and the owners thereof, mentioning the kind  
13 of 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,  
17 and 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 cor-  
20 rected, upon the records. If the publication in the newspapers  
21 aforesaid cannot be had at reasonable rates, the notice may be  
22 given in some other manner designated of record by the board.  
23 The fact that said assessment shall have been entered of record,  
24 as provided by this act, shall be *prima facie* proof that the no-  
25 tice mentioned herein was given as prescribed in this section.

Sec. 92. The board of affairs shall hear and determine all  
2 charges against any officer or person holding a position in the po-  
3 lice department and the fire department, after ten days' written  
4 notice to the accused of the charges preferred against him, and the  
5 time and place of hearing on said charges, and an opportunity to  
6 the accused to have been heard, at such meeting, in his defense.  
7 After thus hearing said charges the board may, by a vote of three  
8 of its members, sustain the same, and by like vote may reprimand  
9 or suspend or dismiss said accused person from the service of the  
10 city. Upon the making of such charges, and pending the trial  
11 thereon, the board, by a majority vote, or the mayor, if in his  
12 judgment the provocation is sufficient, may suspend the accused  
13 officer, and if he be hereafter found guilty on the charge preferred,

14 and by reason thereof dismissed, or suspended, he shall draw no  
15 salary during the period of either of his suspensions.

*Code of Laws, Et cetera*

Sec. 93. The board of affairs may adopt by ordinance, a code  
2 of laws and ordinances, which when adopted shall be printed in  
3 book form, or it may be adopted as a whole after it is printed,  
4 and said code shall be the law and ordinances of said city, and  
5 shall be received as such in all the courts of this state and the  
6 laws, ordinances, franchises and rules when printed therein shall  
7 be *prima facie* proof of their correctness.

*Non-Partisan Administration.*

Sec. 94. The object and aim of this act is to procure an hon-  
2 est and efficient administration of the affairs of the city of Hin-  
3 ton, free from partisan distinction or control; and the municipal  
4 authorities of the city and courts of the state shall construe this  
5 act with that aim in view.

*Service of Notice.*

Sec. 95. 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 the city in the  
6 same way or manner in which the laws of the state prescribe for  
7 executing summons and subpoenas by state officers, unless otherwise  
8 provided by this act.

*Board of Affairs Successors to Council.*

Sec. 96. The board of affairs (together with the common  
2 council) provided for in this act, and their successors in office,  
3 shall be held and deemed, in law and in fact, the successors of the  
4 board of affairs and the common council of the city of Hinton and  
5 the mayor and common council of the city of Avis.

Sec. 97. The board of affairs and city council of the  
2 city of Hinton and the common council of the city of Avis,  
2-a as constituted before this act becomes effective, shall at a  
3 joint meeting of said municipal bodies to be held in the city  
4 building in the city of Hinton on the 15th day of November, nine-  
5 teen hundred and nineteen, call a special election to be held on the

6 second Tuesday in December, nineteen hundred and nineteen, for  
7 the election of commissioners and members of the council of the  
8 city of Hinton, as herein provided. Said joint body shall appoint  
9 the election officers to conduct said election and do any and all  
10 things necessary pertaining to the proper conduct of said election.  
11 Said nominations shall be made and said special election shall  
12 be conducted and held in the manner herein set forth and provided  
13 for regular elections by the council then in office in said city of  
14 Hinton, and in all manner according to the provisions of the laws  
15 of the state relating to such matters and not in conflict with the  
16 provisions of this act.

17 And the common council of the city of Hinton and the com-  
18 mon council of the city of Avis, as constituted before this act be-  
19 comes effective, is hereby made the canvassing board and before  
20 which at a joint meeting the election returns of said first election  
21 under this act shall be canvassed, and the result thereof declared  
22 in the manner prescribed by this act and by the state laws for  
23 like purposes, relating to municipal elections, and it shall be the  
24 imperative duty of said common councils to declare the result of  
25 said election within the time now provided by law, and by the char-  
26 ter and provisions of the city ordinances of the city of Hinton,  
27 and shall designate the commissioners of the several departments as  
28 herein provided for, and in the manner herein provided. And  
29 thereafter, the board of affairs shall be *ex-officio* the board of can-  
30 vassers, and as such perform said duty.

31 The members of the board of affairs and members of the  
32 common council elected at the first election held under the pro-  
33 visions of section ninety-seven, shall begin their term of office on  
34 the first day of January, one thousand nine hundred and twenty  
35 and they shall hold their respective offices until the thirty-  
36 first day of December, one thousand nine hundred and twenty-one  
37 or until their successors are elected and qualified.

38 If at any time a commissioner is a candidate for re-election  
39 to said office, the common council may appoint some person of  
40 the same political party to act in his stead on the canvassing board,  
41 or if two or more commissioners are candidates for re-election,  
42 the common council may appoint a person for each candidate for  
43 re-election to act in his stead on the canvassing board, and the  
44 person or persons so appointed shall, with the other members of  
45 the board, if any, who are not candidates for re-election, canvass  
46 the returns of said election and make declaration of the result

47 thereof; and in that event each commissioner who is a candidate  
48 for re-election, shall not have anything to do with the canvass  
49 of said election returns or the making of the declaration of the  
50 result thereof.

51 The city clerk, acting under state laws in so far as they are  
52 not in conflict with this act, shall perform such duties relating to  
53 all municipal elections held under the municipal authorities of  
54 said city as the clerk of the county court of Summers county  
55 performs, under state laws, in relation to state, county and dis-  
56 trict elections in said county and he shall likewise be the custo-  
57 dian of all ballots, tally sheets, etc., pertaining to all municipal  
58 elections.

#### *Existing Ordinances and Records.*

Sec. 98. The ordinances of the city of Hinton and the ordi-  
2 nances of the city of Avis, which are in existence at the time this  
3 act goes into effect, and which are not inconsistent with each  
4 other, and not inconsistent with the provisions of this act, shall  
5 be and remain in force until new ordinances shall have been  
6 adopted hereunder. *Provided, however,* that the present stock  
7 laws and ordinances prevailing in the city of Avis, as now con-  
8 stituted, shall remain in full force and effect and not subject to  
9 repeal or change by new ordinances. However, the said stock  
10 ordinances in the city of Avis may be changed, altered or repealed  
11 if three-fifths of the voters of said city of Avis, as now constituted,  
12 and comprising the fifth and sixth wards of the city of Hinton  
13 under this act, shall so vote in the affirmative at any city election.

Sec. 100. The city clerk, except as may be otherwise pre-  
2 scribed by the board of affairs, shall be the custodian of all the  
3 records and papers pertaining to the city of Hinton, and said  
4 records and papers shall be kept by him at his office and open to  
5 public inspection.

Sec. 101. All other acts and parts of acts coming within the  
2 purview of this act and inconsistent herewith are hereby re-  
3 pealed.

#### ARTICLE XV.

##### *Schools.*

Sec. 102. That in the event of a majority of the votes cast at  
2 an election which shall be held as hereinafter provided, on the  
3 twenty-seventh day of May, one thousand nine hundred and nine-

4 teen, in the district of Greenbrier in the county of Summers, be  
5 in favor thereof, the territory included within the boundaries of  
6 the city of Hinton, as bounded and designated in section two of  
7 the act, shall constitute and be and the same is hereby created  
8 and made an independent school district, to be known as the "In-  
9 dependent District of Hinton in the county of Summers."

Sec. 103. There shall be a board of education of said district  
2 to consist of four school commissioners, who shall be elected as  
3 herein after provided, and who shall be citizens entitled to vote  
4 at the municipal election in the city of Hinton at which they  
5 are elected, and either freeholders, owning real estate within  
6 said district, or persons having a child or children residing within  
7 said district who are entitled to attend school therein.

Sec. 104. There shall be appointed by the board of affairs of  
2 the city of Hinton at a regular meeting of said board, held prior to  
3 the first day of July, one thousand nine hundred and nineteen, or  
4 as soon thereafter as practicable, four school commissioners or  
5 members of the board of education of said district, not more than  
6 two of whom shall be members of the same political party, and  
7 who shall be otherwise qualified as herein provided, whose term  
8 of office shall begin on the first day of July, one thousand nine  
9 hundred and nineteen, and who shall hold their respective offices  
10 until the first day of July, one thousand nine hundred and twenty-  
11 two, or until their successors are elected and qualified as herein-  
12 after provided.

Sec. 105. There shall be elected by the qualified voters of  
2 said district at the regular municipal election to be held in the  
3 city of Hinton on the second Tuesday in December, one thousand  
4 nine hundred and twenty-one, four school commissioners or mem-  
5 bers of the board of education of said district, two members of  
6 said board of education shall be elected for the term of two years  
7 and two members of said board of education for the term of four  
8 years; the two persons of opposite politics receiving the highest  
9 number of votes for school commissioner at said election shall be  
10 declared elected for the full term of four years, and the two per-  
11 sons of opposite politics receiving the next highest number of  
12 votes for said office at said election shall be declared elected for  
13 the short term of two years; and each two years thereafter at the  
14 regular election for municipal officers of said city, there shall be  
15 elected, by the qualified voters of said city, two school commis-

16 sioners, or members of the board of education, for the full term  
17 of four years. Their term of office shall commence on the first  
18 day of July next after their election, and they shall hold their  
19 said office for the term of four years and until their successors  
20 shall have been elected and qualified. *Provided*, that, after the  
21 first election of the said board of education as herein provided  
22 for, not more than one person whose name appears on the ticket  
23 of any party being voted at an election for members of said board  
24 of education shall be elected to said office. The two candidates  
25 of opposite politics receiving the greatest number of votes shall  
26 be declared elected, it being the intention of this act to make and  
27 keep said board of education non-partisan, and that no political  
28 party, at any time, shall have on said board of education more  
29 than one-half of the members to be elected thereto.

Sec. 106. The election for members of said board of educa-  
2 tion shall be held, returned and the result thereof ascertained and  
3 declared in the same manner and under the supervision of the  
4 same authorities as provided for the election of commissioners  
5 of the board of affairs of the city of Hinton.

Sec. 107. Candidates to be voted for at any election for  
2 members of the said board of education may be nominated at the  
3 same time and in the same manner that candidates for members of  
4 the board of affairs of said city are nominated, except that no  
5 political party may nominate more than two persons for said  
6 office to be voted for at the same election and that no candidate  
7 shall be nominated who is a resident of the same ward in said  
8 city in which either of the holdover members of said board of  
9 education resides.

Sec. 108. Every person so nominated for the office of school  
2 commissioner, shall, within five days after his nomination has been  
3 certified by the political party making the nomination or a petition  
4 thereof shall have been filed, make, under oath, and file with the  
5 city clerk, a statement of the political party to which he claims  
6 allegiance, and if nominated by two or more parties, he shall state  
7 to which of them he belongs. If such person fail to make th<sup>e</sup> oath,  
8 and file the same, as herein provided, the ballot commissioners  
9 shall not place his name on the ballot to be voted at the approach-  
10 ing election.

Sec. 109. If a vacancy occurs on the board of education it  
2 shall be filled by said board by the appointment thereto of some



3 eligible person from the same ward of the city and from the same  
4 political party as the member whose vacancy is being filled, and  
5 the person so appointed shall hold said office for the unexpired  
6 term and until his successor is elected and qualified.

Sec. 110. The board of education of said independent dis-  
2 trict shall be a corporation by the name of "The Board of Educa-  
3 tion of the Independent District of Hinton in the county of  
4 Summers," and as such may sue and be sued, plead and be im-  
5 pleaded, contract and be contracted with; may purchase and hold  
6 such real estate and personal property as it may deem necessary  
7 for the purposes of education in said district, and may receive  
8 and hold any gift, grant or donation, devise or bequest for the  
9 benefit of the schools in said district; and shall succeed and be  
10 substituted to the rights of the former board of education of the  
11 district of Greenbrier in the county of Summers in so far as re-  
12 lates to or in any way affects the school or schools or school prop-  
13 erty located within the boundaries of said independent district,  
14 and may prosecute and maintain any and all suits and proceed-  
15 ings now pending or which might have been brought and prose-  
16 cuted in the name of such former board of education of the dis-  
17 trict of Greenbrier for the recovery of any money or property or  
18 damage to any property located within the boundaries of said  
19 independent district, due to or vested in said former board of  
20 education, and shall also be liable in its corporate capacity for  
21 all claims and demands legally existing against said former board  
22 of education of which it is successor, in so far as the same re-  
23 lates to the schools or school property located within the boun-  
24 daries of said independent district. The title to all school prop-  
25 erty, both real and personal, located within the boundaries of said  
26 independent district is hereby vested in said board of education  
27 of said independent district and its successors.

Sec. 111. Annually, at the first meeting of the said board of  
2 education, which is hereby required to be held on the first Monday  
3 in July of each year, or as soon thereafter as practicable, the said  
4 board of education shall organize by electing one of its members  
5 president and one of its members secretary, who shall perform the  
6 duties required by the general school law of their respective of-  
7 fices and such additional duties as are herein required or as may  
8 be prescribed by said board of education. Each member of said

9 board of education shall have one vote and only one vote upon  
10 any question or motion before said board.

Sec. 112. The salary of the member of said board of educa-  
2 tion acting as president, as herein provided, shall be forty dollars  
3 per year; the salary of the member of said board of education act-  
4 ing as secretary, as herein provided, shall be fixed by the board of  
5 education at the time of his appointment as such secretary, pro-  
6 vided that said salary shall not exceed the sum of one hundred and  
7 fifty dollars per year; and the salary of each of the other mem-  
8 bers of said board shall be thirty dollars per year. *Provided,*  
9 that each member of said board shall have deducted from his sal-  
10 ary as herein provided the sum of two dollars for each regular  
11 meeting of said board which he fails to attend. Said salaries  
12 shall be payable out of the building fund of said district.

Sec. 113. Said board of education shall hold regular or  
2 stated meetings at such times and places as the board may appoint,  
3 and special meetings of said board may be called by the presi-  
4 dent, or at the request of any member, by the secretary. No busi-  
5 ness shall be transacted at a special meeting, except it be mentioned  
6 in the call for such special meeting, which call shall be in writing  
7 and be recorded by the secretary in the record of the proceedings  
8 of said meeting. Three members of said board of education  
9 shall constitute a quorum for the transaction of business at any  
10 meeting of said board, provided that all members of said board  
11 shall have had notice of the time, place and purposes of any  
12 special meeting called by the president or secretary as herein  
13 provided.

Sec. 114. It shall be the duty of the board of education of  
2 the Independent district of Hinton in the county of Summers, an-  
3 nually, at the same time and in the same manner now provided, or  
4 that may hereafter be provided by the general school law of this  
5 state, for the ascertaining and making of estimates and fixing and  
6 laying of levies by the boards of education of the various school  
7 districts within the state for the support of the free schools there-  
8 in, to ascertain and make such estimates of the amounts necessary  
9 for the support of the schools within said independent district,  
10 and to determine, fix and lay such levies on the property located  
11 within said independent district for the support of the schools  
12 therein. It shall be the duty of the board of education of said  
13 Independent district of Hinton, annually, at such meeting to

14 levy as many cents on each one hundred dollars of the valuation  
15 of the taxable property of the district, according to the last as-  
16 sessment thereof, as will produce the amount shown by the esti-  
17 mate of said board to be necessary to be levied for building fund  
18 purposes, and levy in like manner the amount necessary, after  
19 deducting the sum receivable from the general school fund of  
20 this state, for teachers' fund purposes, to continue the schools in  
21 session in said independent district for the minimum term of eight  
22 months in the graded or grammar schools and for the minimum  
23 term of nine months in the high school or high schools; and to  
24 levy and provide sufficient funds for all purposes to keep said  
25 schools in session for the full minimum term as herein provided;  
26 and the board of education of said independent district is hereby  
27 authorized and empowered to lay a levy in addition to the levies  
28 authorized by the general school law of the state sufficient for all  
29 purposes to conduct the school of said independent district for  
30 the term fixed.

Sec. 115. It shall be the duty of said board of education to  
2 provide by purchase, leasing, building, or otherwise all necessary  
3 school buildings, grounds, furniture and fixtures, apparatus and  
4 appliances, and all other necessary supplies, which it deems nec-  
5 essary to maintain the schools and for the education of the chil-  
6 dren of school age within said independent district, and to keep  
7 the school property in said district in good repair and to supply  
8 the school buildings therein with proper fuel or heat and light  
9 and other things necessary for the comfort and convenience of  
10 said schools, and pay the cost of the same out of the building fund  
11 of said district.

Sec. 116. It shall be the duty of said board of education  
2 to establish and cause to be taught in said independent school dis-  
3 trict such schools, including a high school or high schools, as it may  
4 deem necessary for the proper instruction of all children of school  
5 age residing therein. Said board of education shall have exclusive  
6 control of all the schools within said district; shall, with the ap-  
7 proval of the superintendent of said schools, prescribe the subjects  
8 to be taught in the high school and other schools of said district;  
9 shall have power to make all necessary rules and regulations for the  
10 government of said schools, for the admission of pupils therein, and  
11 for the exclusion of any and all pupils whose attendance would be  
12 dangerous to the health or detrimental to the morals of said

13 schools. Said board may, with the approval of the superintendent,  
14 prescribe and adopt an uniform line of text-books for the use of the  
15 schools of said district, and may furnish such books and stationery  
16 and other supplies necessary to make the system efficient, and pay  
17 the cost of the same out of the building fund of said district.

Sec. 117. The board of education of said district shall provide  
2 and maintain one or more graded or grammar schools for the edu-  
3 cation of the colored youth of the district, and shall establish, pro-  
4 vide and maintain a high school for the education of the colored  
5 youth who have completed the grammar school course, if in the  
6 opinion of the board there are a sufficient number of such colored  
7 youth residing within the district to justify the maintenance of  
8 such high school; *provided*, that in no case shall such high school be  
9 maintained where the average daily attendance of the same is less  
10 than ten pupils. Said schools shall be under the same supervision  
11 and direction, have the same length of term and receive the same  
12 attention in all particulars and details as the schools provided for  
13 the education of the white youth of the district. But, in no case  
14 shall the white and colored youth of said district be required or  
15 permitted to attend the same school, or schools in the same build-  
16 ing, or use, or occupy the same school library at the same time.

Sec. 118 The board of education of said district shall appoint,  
2 as hereinafter provided, all teachers and principals, and provide  
3 substitute teachers when necessary, for the public schools within  
4 said district, and fix their compensation. The said teachers and  
5 principals shall be subject in all respect to the rules and regulations  
6 adopted by the board and superintendent of schools, and they may  
7 be removed by said board of education for incompetency, neglect of  
8 duty, gross immorality, or whenever from any cause it shall appear  
9 to said board that their removal is for the best interest of the  
10 schools of said district. The said board may also employ janitors  
11 and custodians of their school buildings and fix their compensa-  
12 tion, and may remove any such janitors whenever it shall appear  
13 to said board, from any cause, that their removal is for the best  
14 interest of the schools of said district.

Sec. 119. Annually, at the first meeting, or as soon after as  
2 circumstances will allow, the board shall elect a superintendent of  
3 schools for the district and fix his salary; *provided*, that nothing  
4 in this act shall prevent the board from contracting with such  
5 superintendent for a longer period than one year should it so de-  
6 sire. Such superintendent shall be known as, "The Superintend-

7 ent of Schools of Hinton Independent School District," and in  
8 addition to the duties prescribed in this act shall have such powers  
9 and perform such duties as the board shall direct.

10 The superintendent of schools may be removed from office at  
11 any time for incompetency, neglect of duty, immorality, or for any  
12 palpable violation of law. But he shall not be removed except upon  
13 charges preferred in writing by a school commissioner. A copy of  
14 such charges and notice of the time and place set for hearing shall  
15 be delivered to him at least five days before the time set for such  
16 hearing, and he shall be allowed to present any evidence of his  
17 innocence he may desire, and be heard in his own defense. A  
18 vacancy in the office of superintendent of schools shall be filled by  
19 the board of education by appointment, whenever such vacancy  
20 shall occur.

21 It shall be the duty of the superintendent of schools annually,  
22 at the first regular meeting of the board or as soon thereafter as  
23 possible to recommend to the board a sufficient number of teachers  
24 and principals to fill the schools of the district.

25 The board of education may refuse to appoint any or all of  
26 the persons so recommended and may require the superintendent  
27 of schools to recommend others, but no teacher, principal or super-  
28 visor shall be employed except upon the recommendation of the  
29 superintendent of schools; *provided*, that should the superintendent  
30 of schools within a reasonable time after being required to do so,  
31 fail or refuse to recommend a sufficient number of persons, under  
32 this section, to fill vacancies, the board of education may proceed to  
33 fill such vacancies without his recommendation.

34 It shall be the duty of the superintendent of schools with the  
35 approval of the board of education, to prescribe the branches to  
36 be taught in the high schools of the district, to carry out the provi-  
37 sions of the course of study prescribed by the state board of educa-  
38 tion and to supplement the high school course thus prescribed  
39 and to adopt it to the high schools of the district; to prescribe  
40 regulations for the examinations and graduation of pupils, to pre-  
41 scribe conditions for admission of pupils to the high schools, to  
42 have prepared questions for the examination of such pupils, to  
43 issue certificates to such pupils as are deemed worthy to be admitted  
44 to high schools, to keep a register of all certificates issued, to se-  
45 lect courses of reading to be pursued by the teachers of the district,  
46 to select books for the school libraries, to acquaint himself with  
47 the best methods in the schools of other cities; and to this end the

48 board of education may appropriate such sums out of the building  
49 fund of the district as it may deem proper to pay his traveling  
50 expenses, to prepare and have printed all necessary forms to be  
51 used in the district, to make such annual report to the board of  
52 education as it shall require, to provide suitable certificates for  
53 graduates of the grammar schools and diplomas for graduates  
54 from the high schools and prescribe the manner and circumstances  
55 under which the same may be conferred, to arrange with other  
56 schools and colleges for the recognition of work done in the dis-  
57 trict.

58 The salary of the superintendent of schools may be paid out  
59 of either the teachers' fund or the building fund, or both.

Sec. 120. No pupil shall be entitled to enter the high school,  
2 or high schools, of said district until the superintendent of said  
3 schools shall have satisfied himself that the said pupil has made due  
4 proficiency in the grades of grammar schools of said district.  
5 Pupils who are non-residents of the district may be allowed to  
6 attend the schools of the said independent district upon payment  
7 of such tuition as is provided by the general school law or as the  
8 board of education may prescribe; *provided*, that all pupils residing  
9 within the district of Greenbrier in the county of Summers, out-  
10 side the limits of said independent districts, who have completed  
11 the free school course of said district, shall be admitted to the  
12 high school, or high schools, of said independent district without  
13 the payment of such tuition.

Sec. 121. The special election required to be held by section  
2 one hundred and two of this act shall be held under the supervision  
3 of the board of education of the district of Greenbrier in the county  
4 of Summers. The said board of education shall prepare or cause to  
5 be prepared a notice, stating that the question of ratifying the  
6 act of the legislature of the state of West Virginia creating the in-  
7 dependent district of Hinton in the county of Summers out of  
8 part of the territory embraced in the district of Greenbrier in said  
9 county will be submitted to the voters of said Greenbrier district at  
10 a special election to be held on the fourth Tuesday in May, one  
11 thousand nine hundred and nineteen, at not less than three voting  
12 places in said district, (to be specified in said notice), which no-  
13 tice shall be signed by the president and secretary of said  
13-a board and be posted at least ten days before said election at the  
14 voting places designated by said board for the purposes of said  
15 election. Said notice shall also be published once a week for two

16 weeks prior to said election in two newspapers of opposite poli-  
17 tics published in Summers county. The said board of education  
18 of the district of Greenbrier shall designate the voting places for  
19 said election, appoint commissioners and poll clerks to conduct  
20 the same, ascertain the result thereof, and pay the expenses thereof  
21 out of the building fund of said district.

22 The ballot to be voted at said election shall be printed upon  
23 plain white paper and the following form:

23-a *School District Election.*

24 Indicate how you desire to vote by a cross in the square.

25 [        ] For ratification of Hinton Independent District.

26 [        ] Against ratification of Hinton Independent District.

27 If any person or persons shall mar, deface, or otherwise in-  
28 jure any school house, out building, fence, furniture, or other  
29 property of the district, the person or persons so offending shall  
30 be liable to prosecution before the police judge of the city of Hin-  
31 ton or any justice of the peace within the district; and upon con-  
32 viction shall be subject to a fine of not less than five dollars and  
33 costs of prosecution; and if the amount of damage shall exceed  
34 five dollars, the person or persons convicted of the offence shall be  
35 liable for the full amount thereof.

36 If the injury be done by a minor, the parent or guardian of  
37 said minor shall be liable for the damages as aforesaid. It shall be  
38 the duty of the board of education of said independent district to  
39 ascertain, if possible, by whom such an offence was committed  
40 and when satisfied thereon, to cause the party or parties to be  
41 arrested, and tried for the offence, in the name and on behalf of  
42 the board of education of said district; and all fines for dam-  
43 ages collected by virtue of this section shall be paid into the dis-  
44 trict treasury to the credit of the building fund of said district.

Sec. 122. All provisions of the general school law of the state,  
2 and all laws and acts heretofore existing, which are in any man-  
3 ner inconsistent with the provisions of the act, shall be void within  
4 the said independent district; otherwise the said general school  
5 law shall remain in full force and effect in said independent dis-  
6 trict, as elsewhere in the state.

Sec. 123. A special election shall be held within thirty days  
2 from the passage of this act under the supervision of the county  
3 court of Summers county at which there shall be submitted to the  
4 legal voters residing within the territory of the city of Hinton as

5 bound and designated in section two of this act the question of the  
6 ratification or rejection of this act, said election to be held in  
7 accordance with the general laws of this state governing the holding  
8 of elections for the laying of special tax levies by the county courts  
9 of this state. The said county court being hereby given full powers  
10 to hold, conduct, and ascertain the result of said election and  
11 certify the same to the board of affairs of the city of Hinton. The  
12 ballot to be voted at said election shall be printed upon plain  
13 white paper in the following form:

14                   BALLOT ON CITY OF HINTON CHARTER

15 [ ] For ratification of charter.

16 [ ] Against ratification of charter.

17       If a majority of the votes cast be for ratification, then this  
18 act shall be in force on and after the date on which the results  
19 of said special election are declared by the county court, otherwise  
20 this act shall be void on and after said date.



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